

FIRST REGULAR SESSION

HOUSE BILL NO. 288

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZPATRICK.

0301H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 288.036, 288.060, 288.120, 288.122, and 288.330 as enacted by house bill no. 150, ninety-eighth general assembly, first regular session, sections 288.036, 288.120, and 288.122 as enacted by house bill no. 1456, ninety-third general assembly, second regular session, section 288.060 as enacted by house bill no. 163, ninety-sixth general assembly, first regular session, and section 288.330 as enacted by house bill no. 1075, ninety-fifth general assembly, first regular session, and to enact in lieu thereof five new sections relating to employment security.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 288.036, 288.060, 288.120, 288.122, and 288.330 as enacted by
2 house bill no. 150, ninety-eighth general assembly, first regular session, sections 288.036,
3 288.120, and 288.122 as enacted by house bill no. 1456, ninety-third general assembly, second
4 regular session, section 288.060 as enacted by house bill no. 163, ninety-sixth general assembly,
5 first regular session, and section 288.330 as enacted by house bill no. 1075, ninety-fifth general
6 assembly, first regular session, are repealed and five new sections enacted in lieu thereof, to be
7 known as sections 288.036, 288.060, 288.120, 288.122, and 288.330, to read as follows:

2 ~~[288.036. 1. "Wages" means all remuneration, payable or paid, for~~
3 ~~personal services including commissions and bonuses and, except as provided in~~
4 ~~subdivision (7) of this section, the cash value of all remuneration paid in any~~
5 ~~medium other than cash. Gratuities, including tips received from persons other~~
6 ~~than the employing unit, shall be considered wages only if required to be reported~~
7 ~~as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section~~
8 ~~3306, and shall be, for the purposes of this chapter, treated as having been paid~~
 ~~by the employing unit. Severance pay shall be considered as wages to the extent~~

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section
10 3306(b). Vacation pay, termination pay, severance pay and holiday pay shall be
11 considered as wages for the week with respect to which it is payable. The total
12 amount of wages derived from severance pay, if paid to an insured in a lump
13 sum, shall be prorated on a weekly basis at the rate of pay received by the insured
14 at the time of termination for the purposes of determining unemployment benefits
15 eligibility. The term "wages" shall not include:

16 ~~_____ (1) The amount of any payment made (including any amount paid by an~~
17 ~~employing unit for insurance or annuities, or into a fund, to provide for any such~~
18 ~~payment) to, or on behalf of, an individual under a plan or system established by~~
19 ~~an employing unit which makes provision generally for individuals performing~~
20 ~~services for it or for a class or classes of such individuals, on account of:~~

21 ~~_____ (a) Sickness or accident disability, but in case of payments made to an~~
22 ~~employee or any of the employee's dependents this paragraph shall exclude from~~
23 ~~the term wages only payments which are received pursuant to a workers'~~
24 ~~compensation law; or~~

25 ~~_____ (b) Medical and hospitalization expenses in connection with sickness or~~
26 ~~accident disability; or~~

27 ~~_____ (c) Death;~~

28 ~~_____ (2) The amount of any payment on account of sickness or accident~~
29 ~~disability, or medical or hospitalization expenses in connection with sickness or~~
30 ~~accident disability, made by an employing unit to, or on behalf of, an individual~~
31 ~~performing services for it after the expiration of six calendar months following~~
32 ~~the last calendar month in which the individual performed services for such~~
33 ~~employing unit;~~

34 ~~_____ (3) The amount of any payment made by an employing unit to, or on~~
35 ~~behalf of, an individual performing services for it or his or her beneficiary;~~

36 ~~_____ (a) From or to a trust described in 26 U.S.C. Section 401(a) which is~~
37 ~~exempt from tax pursuant to 26 U.S.C. Section 501(a) at the time of such~~
38 ~~payment unless such payment is made to an employee of the trust as~~
39 ~~remuneration for services rendered as such an employee and not as a beneficiary~~
40 ~~of the trust; or~~

41 ~~_____ (b) Under or to an annuity plan which, at the time of such payments,~~
42 ~~meets the requirements of Section 404(a)(2) of the Federal Internal Revenue~~
43 ~~Code (26 U.S.C.A. Section 404);~~

44 ~~_____ (4) The amount of any payment made by an employing unit (without~~
45 ~~deduction from the remuneration of the individual in employment) of the tax~~
46 ~~imposed pursuant to Section 3101 of the Federal Internal Revenue Code (26~~
47 ~~U.S.C.A. Section 3101) upon an individual with respect to remuneration paid to~~
48 ~~an employee for domestic service in a private home or for agricultural labor;~~

49 ~~_____ (5) Remuneration paid in any medium other than cash to an individual~~
50 ~~for services not in the course of the employing unit's trade or business;~~

51 ~~(6) Remuneration paid in the form of meals provided to an individual in~~
52 ~~the service of an employing unit where such remuneration is furnished on the~~
53 ~~employer's premises and at the employer's convenience, except that remuneration~~
54 ~~in the form of meals that is considered wages and required to be reported as~~
55 ~~wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306~~
56 ~~shall be reported as wages as required thereunder;~~

57 ~~(7) For the purpose of determining wages paid for agricultural labor as~~
58 ~~defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034~~
59 ~~and for domestic service as defined in subsection 13 of section 288.034, only~~
60 ~~cash wages paid shall be considered;~~

61 ~~(8) Beginning on October 1, 1996, any payment to, or on behalf of, an~~
62 ~~employee or the employee's beneficiary under a cafeteria plan, if such payment~~
63 ~~would not be treated as wages pursuant to the Federal Unemployment Tax Act.~~

64 ~~2. The increases or decreases to the state taxable wage base for the~~
65 ~~remainder of calendar year 2004 shall be eight thousand dollars, and the state~~
66 ~~taxable wage base in calendar year 2005, and each calendar year thereafter, shall~~
67 ~~be determined by the provisions within this subsection. On January 1, 2005, the~~
68 ~~state taxable wage base for calendar year 2005, 2006, and 2007 shall be eleven~~
69 ~~thousand dollars. The taxable wage base for calendar year 2008 shall be twelve~~
70 ~~thousand dollars. The state taxable wage base for each calendar year thereafter~~
71 ~~shall be determined by the average balance of the unemployment compensation~~
72 ~~trust fund of the four preceding calendar quarters (September thirtieth, June~~
73 ~~thirtieth, March thirty-first, and December thirty-first of the preceding calendar~~
74 ~~year), less any outstanding federal Title XII advances received pursuant to section~~
75 ~~288.330, less the principal, interest, and administrative expenses related to any~~
76 ~~credit instrument issued under section 288.030, and less the principal, interest,~~
77 ~~and administrative expenses related to any financial agreements under~~
78 ~~subdivision (17) of subsection 2 of section 288.330. When the average balance~~
79 ~~of the unemployment compensation trust fund of the four preceding quarters~~
80 ~~(September thirtieth, June thirtieth, March thirty-first, and December thirty-first~~
81 ~~of the preceding calendar year), as so determined is:~~

82 ~~(1) Less than, or equal to, three hundred fifty million dollars, then the~~
83 ~~wage base shall increase by one thousand dollars; or~~

84 ~~(2) Six hundred fifty million or more, then the state taxable wage base~~
85 ~~for the subsequent calendar year shall be decreased by five hundred dollars. In~~
86 ~~no event, however, shall the state taxable wage base increase beyond twelve~~
87 ~~thousand five hundred dollars, or decrease to less than seven thousand dollars.~~
88 ~~For calendar year 2009, the tax wage base shall be twelve thousand five hundred~~
89 ~~dollars. For calendar year 2010 and each calendar year thereafter, in no event~~
90 ~~shall the state taxable wage base increase beyond thirteen thousand dollars, or~~
91 ~~decrease to less than seven thousand dollars.~~

92

93 ~~For any calendar year, the state taxable wage base shall not be reduced to less~~
94 ~~than that part of the remuneration which is subject to a tax under a federal law~~
95 ~~imposing a tax against which credit may be taken for contributions required to be~~
96 ~~paid into a state unemployment compensation trust fund. Nothing in this section~~
97 ~~shall be construed to prevent the wage base from increasing or decreasing by~~
98 ~~increments of five hundred dollars.]~~
99

288.036. 1. "Wages" means all remuneration, payable or paid, for personal services
2 including commissions and bonuses and, except as provided in subdivision (7) of this [section]
3 **subsection**, the cash value of all remuneration paid in any medium other than cash. Gratuities,
4 including tips received from persons other than the employing unit, shall be considered wages
5 only if required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26
6 U.S.C. Section [3306] **3301, et seq., as amended**, and shall be, for the purposes of this chapter,
7 treated as having been paid by the employing unit. Severance pay shall be considered as wages
8 to the extent required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section
9 3306(b). Vacation pay, **termination pay, severance pay**, and holiday pay shall be considered
10 as wages for the week with respect to which it is payable. **The total amount of wages derived**
11 **from severance pay, if paid to an insured in a lump sum, shall be prorated on a weekly**
12 **basis at the rate of pay received by the insured at the time of termination for the purposes**
13 **of determining unemployment benefits eligibility.** The term "wages" shall not include:

14 (1) The amount of any payment made (including any amount paid by an employing unit
15 for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of,
16 an individual under a plan or system established by an employing unit which makes provision
17 generally for individuals performing services for it or for a class or classes of such individuals,
18 on account of:

19 (a) Sickness or accident disability, but in case of payments made to an employee or any
20 of the employee's dependents this paragraph shall exclude from the term wages only payments
21 which are received pursuant to a workers' compensation law; or

22 (b) Medical and hospitalization expenses in connection with sickness or accident
23 disability; or

24 (c) Death;

25 (2) The amount of any payment on account of sickness or accident disability, or medical
26 or hospitalization expenses in connection with sickness or accident disability, made by an
27 employing unit to, or on behalf of, an individual performing services for it after the expiration
28 of six calendar months following the last calendar month in which the individual performed
29 services for such employing unit;

30 (3) The amount of any payment made by an employing unit to, or on behalf of, an
31 individual performing services for it or his or her beneficiary:

32 (a) From or to a trust described in 26 U.S.C. Section 401(a) which is exempt from tax
33 pursuant to 26 U.S.C. Section 501(a) at the time of such payment unless such payment is made
34 to an employee of the trust as remuneration for services rendered as such an employee and not
35 as a beneficiary of the trust;

36 (b) Under or to an annuity plan which, at the time of such payments, meets the
37 requirements of Section 404(a)(2) of the Federal Internal Revenue Code (26 U.S.C.A. Section
38 404);

39 (4) The amount of any payment made by an employing unit (without deduction from the
40 remuneration of the individual in employment) of the tax imposed pursuant to Section 3101 of
41 the Federal Internal Revenue Code (26 U.S.C.A. Section 3101) upon an individual with respect
42 to remuneration paid to an employee for domestic service in a private home or for agricultural
43 labor;

44 (5) Remuneration paid in any medium other than cash to an individual for services not
45 in the course of the employing unit's trade or business;

46 (6) Remuneration paid in the form of meals provided to an individual in the service of
47 an employing unit where such remuneration is furnished on the employer's premises and at the
48 employer's convenience, except that remuneration in the form of meals that is considered wages
49 and required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C.
50 Section ~~[3306]~~ **3301, et seq., as amended**, shall be reported as wages as required thereunder;

51 (7) For the purpose of determining wages paid for agricultural labor as defined in
52 paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for domestic service as
53 defined in subsection 13 of section 288.034, only cash wages paid shall be considered;

54 (8) Beginning on October 1, 1996, any payment to, or on behalf of, an employee or the
55 employee's beneficiary under a cafeteria plan, if such payment would not be treated as wages
56 pursuant to the Federal Unemployment Tax Act.

57 2. The increases or decreases to the state taxable wage base for the remainder of calendar
58 year 2004 shall be eight thousand dollars, and the state taxable wage base in calendar year 2005,
59 and each calendar year thereafter, shall be determined by the provisions within this subsection.
60 On January 1, 2005, the state taxable wage base for calendar year 2005, 2006, and 2007 shall be
61 eleven thousand dollars. The taxable wage base for calendar year 2008 shall be twelve thousand
62 dollars. The state taxable wage base for each calendar year thereafter shall be determined by the
63 average balance of the unemployment compensation trust fund of the four preceding calendar
64 quarters (September thirtieth, June thirtieth, March thirty-first, and December thirty-first of the
65 preceding calendar year), less any outstanding federal Title XII advances received pursuant to

66 section 288.330, less the principal, interest, and administrative expenses related to any credit
 67 instrument issued under section [288.030] **288.330**, and less the principal, interest, and
 68 administrative expenses related to any financial agreements under subdivision (17) of subsection
 69 2 of section 288.330. When the average balance of the unemployment compensation trust fund
 70 of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first, and
 71 December thirty-first of the preceding calendar year), as so determined is:

72 (1) Less than, or equal to, three hundred fifty million dollars, then the wage base shall
 73 increase by one thousand dollars; or

74 (2) Six hundred fifty million or more, then the state taxable wage base for the subsequent
 75 calendar year shall be decreased by five hundred dollars. In no event, however, shall the state
 76 taxable wage base increase beyond twelve thousand five hundred dollars, or decrease to less than
 77 seven thousand dollars. For calendar year 2009, the tax wage base shall be twelve thousand five
 78 hundred dollars. For calendar year 2010 and each calendar year thereafter, in no event shall the
 79 state taxable wage base increase beyond thirteen thousand dollars, or decrease to less than seven
 80 thousand dollars.

81

82 For any calendar year, the state taxable wage base shall not be reduced to less than that part of
 83 the remuneration which is subject to a tax under a federal law imposing a tax against which
 84 credit may be taken for contributions required to be paid into a state unemployment
 85 compensation trust fund. Nothing in this section shall be construed to prevent the wage base
 86 from increasing or decreasing by increments of five hundred dollars.

2 ~~[288.060. 1. All benefits shall be paid through employment offices in
 accordance with such regulations as the division may prescribe.]~~

3 ~~2. Each eligible insured worker who is totally unemployed in any week
 shall be paid for such week a sum equal to his or her weekly benefit amount.]~~

4 ~~3. Each eligible insured worker who is partially unemployed in any week
 shall be paid for such week a partial benefit. Such partial benefit shall be an
 5 amount equal to the difference between his or her weekly benefit amount and that
 6 part of his or her wages for such week in excess of twenty dollars, and, if such
 7 partial benefit amount is not a multiple of one dollar, such amount shall be
 8 reduced to the nearest lower full dollar amount. For calendar year 2007 and each
 9 year thereafter, such partial benefit shall be an amount equal to the difference
 10 between his or her weekly benefit amount and that part of his or her wages for
 11 such week in excess of twenty dollars or twenty percent of his or her weekly
 12 benefit amount, whichever is greater, and, if such partial benefit amount is not a
 13 multiple of one dollar, such amount shall be reduced to the nearest lower full
 14 dollar amount. Pay received by an eligible insured worker who is a member of
 15 the organized militia for training or duty authorized by Section 502(a)(1) of Title
 16
 17~~

18 ~~32, United States Code, shall not be considered wages for the purpose of this~~
19 ~~subsection.~~

20 ~~4. The division shall compute the wage credits for each individual by~~
21 ~~crediting him or her with the wages paid to him or her for insured work during~~
22 ~~each quarter of his or her base period or twenty-six times his or her weekly~~
23 ~~benefit amount, whichever is the lesser. In addition, if a claimant receives wages~~
24 ~~in the form of termination pay or severance pay and such payment appears in a~~
25 ~~base period established by the filing of an initial claim, the claimant may, at his~~
26 ~~or her option, choose to have such payment included in the calendar quarter in~~
27 ~~which it was paid or choose to have it prorated equally among the quarters~~
28 ~~comprising the base period of the claim. For the purpose of this section, wages~~
29 ~~shall be counted as wage credits for any benefit year, only if such benefit year~~
30 ~~begins subsequent to the date on which the employing unit by whom such wages~~
31 ~~were paid has become an employer. The wage credits of an individual earned~~
32 ~~during the period commencing with the end of a prior base period and ending on~~
33 ~~the date on which he or she filed an allowed initial claim shall not be available~~
34 ~~for benefit purposes in a subsequent benefit year unless, in addition thereto, such~~
35 ~~individual has subsequently earned either wages for insured work in an amount~~
36 ~~equal to at least five times his or her current weekly benefit amount or wages in~~
37 ~~an amount equal to at least ten times his or her current weekly benefit amount.~~

38 ~~5. The duration of benefits payable to any insured worker during any~~
39 ~~benefit year shall be limited to:~~

40 ~~(1) Twenty weeks if the Missouri average unemployment rate is nine~~
41 ~~percent or higher;~~

42 ~~(2) Nineteen weeks if the Missouri average unemployment rate is~~
43 ~~between eight and one-half percent and nine percent;~~

44 ~~(3) Eighteen weeks if the Missouri average unemployment rate is eight~~
45 ~~percent up to and including eight and one-half percent;~~

46 ~~(4) Seventeen weeks if the Missouri average unemployment rate is~~
47 ~~between seven and one-half percent and eight percent;~~

48 ~~(5) Sixteen weeks if the Missouri average unemployment rate is seven~~
49 ~~percent up to and including seven and one-half percent;~~

50 ~~(6) Fifteen weeks if the Missouri average unemployment rate is between~~
51 ~~six and one-half percent and seven percent;~~

52 ~~(7) Fourteen weeks if the Missouri average unemployment rate is six~~
53 ~~percent up to and including six and one-half percent;~~

54 ~~(8) Thirteen weeks if the Missouri average unemployment rate is below~~
55 ~~six percent.~~

56
57 ~~As used in this subsection, the phrase "Missouri average unemployment rate"~~
58 ~~means the average of the seasonally adjusted statewide unemployment rates as~~
59 ~~published by the United States Department of Labor, Bureau of Labor Statistics;~~
60 ~~for the time periods of January first through March thirty-first and July first~~

61 through September thirtieth. The average of the seasonally adjusted statewide
62 unemployment rates for the time period of January first through March thirty-first
63 shall be effective on and after July first of each year and shall be effective
64 through December thirty-first. The average of the seasonally adjusted statewide
65 unemployment rates for the time period of July first through September thirtieth
66 shall be effective on and after January first of each year and shall be effective
67 through June thirtieth; and

68 ~~(9) The provisions of this subsection shall become effective January 1,~~
69 ~~2016.~~

70 ~~6. In the event that benefits are due a deceased person and no petition has~~
71 ~~been filed for the probate of the will or for the administration of the estate of such~~
72 ~~person within thirty days after his or her death, the division may by regulation~~
73 ~~provide for the payment of such benefits to such person or persons as the division~~
74 ~~finds entitled thereto and every such payment shall be a valid payment to the~~
75 ~~same extent as if made to the legal representatives of the deceased.~~

76 ~~7. The division is authorized to cancel any benefit warrant remaining~~
77 ~~outstanding and unpaid one year after the date of its issuance and there shall be~~
78 ~~no liability for the payment of any such benefit warrant thereafter.~~

79 ~~8. The division may establish an electronic funds transfer system to~~
80 ~~transfer directly to claimants' accounts in financial institutions benefits payable~~
81 ~~to them pursuant to this chapter. To receive benefits by electronic funds transfer,~~
82 ~~a claimant shall satisfactorily complete a direct deposit application form~~
83 ~~authorizing the division to deposit benefit payments into a designated checking~~
84 ~~or savings account. Any electronic funds transfer system created pursuant to this~~
85 ~~subsection shall be administered in accordance with regulations prescribed by the~~
86 ~~division.~~

87 ~~9. The division may issue a benefit warrant covering more than one week~~
88 ~~of benefits.~~

89 ~~10. Prior to January 1, 2005, the division shall institute procedures~~
90 ~~including, but not limited to, name, date of birth, and Social Security verification~~
91 ~~matches for remote claims filing via the use of telephone or the internet in~~
92 ~~accordance with such regulations as the division shall prescribe. At a minimum,~~
93 ~~the division shall verify the Social Security number and date of birth when an~~
94 ~~individual claimant initially files for unemployment insurance benefits. If~~
95 ~~verification information does not match what is on file in division databases to~~
96 ~~what the individual is stating, the division shall require the claimant to submit a~~
97 ~~division-approved form requesting an affidavit of eligibility prior to the payment~~
98 ~~of additional future benefits. The division of employment security shall~~
99 ~~cross-check unemployment compensation applicants and recipients with Social~~
100 ~~Security Administration data maintained by the federal government at least~~
101 ~~weekly. The division of employment security shall cross-check at least monthly~~
102 ~~unemployment compensation applicants and recipients with department of~~
103 ~~revenue drivers license databases.]~~

288.060. 1. All benefits shall be paid through employment offices in accordance with such regulations as the division may prescribe.

2. Each eligible insured worker who is totally unemployed in any week shall be paid for such week a sum equal to his or her weekly benefit amount.

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. ~~Termination pay, severance pay or~~ Pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

4. The division shall compute the wage credits for each individual by crediting him or her with the wages paid to him or her for insured work during each quarter of his or her base period or twenty-six times his or her weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in the form of termination pay or severance pay and such payment appears in a base period established by the filing of an initial claim, the claimant may, at his or her option, choose to have such payment included in the calendar quarter in which it was paid or choose to have it prorated equally among the quarters comprising the base period of the claim. ~~The maximum total amount of benefits payable to any insured worker during any benefit year shall not exceed twenty times his or her weekly benefit amount, or thirty-three and one-third percent of his or her wage credits, whichever is the lesser.~~ For the purpose of this section, wages shall be counted as wage credits for any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has become an employer. The wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which he or she filed an allowed initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned either wages for insured work in an amount equal to at least five times his or her current weekly benefit amount or wages in an amount equal to at least ten times his or her current weekly benefit amount.

36 **5. (1) The duration of benefits payable to any insured worker during any benefit**
37 **year shall be limited to:**

38 **(a) Twenty weeks if the Missouri average unemployment rate is nine percent or**
39 **higher;**

40 **(b) Nineteen weeks if the Missouri average unemployment rate is between eight and**
41 **one-half percent and nine percent;**

42 **(c) Eighteen weeks if the Missouri average unemployment rate is eight percent up**
43 **to and including eight and one-half percent;**

44 **(d) Seventeen weeks if the Missouri average unemployment rate is between seven**
45 **and one-half percent and eight percent;**

46 **(e) Sixteen weeks if the Missouri average unemployment rate is seven percent up**
47 **to and including seven and one-half percent;**

48 **(f) Fifteen weeks if the Missouri average unemployment rate is between six and**
49 **one-half percent and seven percent;**

50 **(g) Fourteen weeks if the Missouri average unemployment rate is six percent up to**
51 **and including six and one-half percent; and**

52 **(h) Thirteen weeks if the Missouri average unemployment rate is below six percent.**

53 **(2) As used in this subsection, the phrase "Missouri average unemployment rate"**
54 **means the average of the seasonally adjusted statewide unemployment rates as published**
55 **by the United States Department of Labor, Bureau of Labor Statistics, for the time periods**
56 **of January first through March thirty-first and July first through September thirtieth.**
57 **The average of the seasonally adjusted statewide unemployment rates for the time period**
58 **of January first through March thirty-first shall be effective on and after July first of each**
59 **year and shall be effective through December thirty-first. The average of the seasonally**
60 **adjusted statewide unemployment rates for the time period of July first through September**
61 **thirtieth shall be effective on and after January first of each year and shall be effective**
62 **through June thirtieth.**

63 **(3) The provisions of this subsection shall become effective on January 1, 2018.**

64 **6. In the event that benefits are due a deceased person and no petition has been filed for**
65 **the probate of the will or for the administration of the estate of such person within thirty days**
66 **after his or her death, the division may by regulation provide for the payment of such benefits**
67 **to such person or persons as the division finds entitled thereto and every such payment shall be**
68 **a valid payment to the same extent as if made to the legal representatives of the deceased.**

69 **[6-] 7. The division is authorized to cancel any benefit warrant remaining outstanding**
70 **and unpaid one year after the date of its issuance and there shall be no liability for the payment**
71 **of any such benefit warrant thereafter.**

72 [7.] 8. The division may establish an electronic funds transfer system to transfer directly
 73 to claimants' accounts in financial institutions benefits payable to them pursuant to this chapter.
 74 To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct
 75 deposit application form authorizing the division to deposit benefit payments into a designated
 76 checking or savings account. Any electronic funds transfer system created pursuant to this
 77 subsection shall be administered in accordance with regulations prescribed by the division.

78 [8.] 9. The division may issue a benefit warrant covering more than one week of
 79 benefits.

80 [9.] 10. Prior to January 1, 2005, the division shall institute procedures including, but
 81 not limited to, name, date of birth, and Social Security verification matches for remote claims
 82 filing via the use of telephone or the internet in accordance with such regulations as the division
 83 shall prescribe. At a minimum, the division shall verify the Social Security number and date of
 84 birth when an individual claimant initially files for unemployment insurance benefits. If
 85 verification information does not match what is on file in division databases to what the
 86 individual is stating, the division shall require the claimant to submit a division-approved form
 87 requesting an affidavit of eligibility prior to the payment of additional future benefits. The
 88 division of employment security shall cross-check unemployment compensation applicants and
 89 recipients with Social Security Administration data maintained by the federal government at least
 90 weekly. The division of employment security shall cross-check at least monthly unemployment
 91 compensation applicants and recipients with department of revenue drivers license databases.

~~[288.120. 1. On each June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, the balance of an employer's experience rating account, except an employer participating in a shared work plan under section 288.500, shall determine his contribution rate for the following calendar year as determined by the following table:~~

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll Equals or Exceeds	Less Than	Contribution Rate
- -	-12.0	6.0%
-12.0	-11.0	5.8%
-11.0	-10.0	5.6%
-10.0	-9.0	5.4%
-9.0	-8.0	5.2%
-8.0	-7.0	5.0%
-7.0	-6.0	4.8%
-6.0	-5.0	4.6%
-5.0	-4.0	4.4%
-4.0	-3.0	4.2%
-3.0	-2.0	4.0%

20	-2.0	-1.0	3.8%
21	-1.0	0	3.6%
22	0	2.5	2.7%
23	2.5	3.5	2.6%
24	3.5	4.5	2.5%
25	4.5	5.0	2.4%
26	5.0	5.5	2.3%
27	5.5	6.0	2.2%
28	6.0	6.5	2.1%
29	6.5	7.0	2.0%
30	7.0	7.5	1.9%
31	7.5	8.0	1.8%
32	8.0	8.5	1.7%
33	8.5	9.0	1.6%
34	9.0	9.5	1.5%
35	9.5	10.0	1.4%
36	10.0	10.5	1.3%
37	10.5	11.0	1.2%
38	11.0	11.5	1.1%
39	11.5	12.0	1.0%
40	12.0	12.5	0.9%
41	12.5	13.0	0.8%
42	13.0	13.5	0.6%
43	13.5	14.0	0.4%
44	14.0	14.5	0.3%
45	14.5	15.0	0.2%
46	15.0	-	0.0%

47 ~~2. Using the same mathematical principles used in constructing the table~~
 48 ~~provided in subsection 1 of this section, the following table has been constructed.~~
 49 ~~The contribution rate for the following calendar year of any employer~~
 50 ~~participating in a shared work plan under section 288.500 during the current~~
 51 ~~calendar year or any calendar year during a prior three-year period shall be~~
 52 ~~determined from the balance in such employer's experience rating account as of~~
 53 ~~the previous June thirtieth, or within a reasonable time thereafter as may be fixed~~
 54 ~~by regulation, from the following table:~~

55	Percentage the Employer's Experience Rating		
56	Account is to that Employer's Average Annual Payroll		
57	Equals or Exceeds	Less Than	Contribution Rate
58	-	-27.0	9.0%
59	-27.0	-26.0	8.8%
60	-26.0	-25.0	8.6%
61	-25.0	-24.0	8.4%
62	-24.0	-23.0	8.2%

63	-23.0	-22.0	8.0%
64	-22.0	-21.0	7.8%
65	-21.0	-20.0	7.6%
66	-20.0	-19.0	7.4%
67	-19.0	-18.0	7.2%
68	-18.0	-17.0	7.0%
69	-17.0	-16.0	6.8%
70	-16.0	-15.0	6.6%
71	-15.0	-14.0	6.4%
72	-14.0	-13.0	6.2%
73	-13.0	-12.0	6.0%
74	-12.0	-11.0	5.8%
75	-11.0	-10.0	5.6%
76	-10.0	-9.0	5.4%
77	-9.0	-8.0	5.2%
78	-8.0	-7.0	5.0%
79	-7.0	-6.0	4.8%
80	-6.0	-5.0	4.6%
81	-5.0	-4.0	4.4%
82	-4.0	-3.0	4.2%
83	-3.0	-2.0	4.0%
84	-2.0	-1.0	3.8%
85	-1.0	0	3.6%
86	0	2.5	2.7%
87	2.5	3.5	2.6%
88	3.5	4.5	2.5%
89	4.5	5.0	2.4%
90	5.0	5.5	2.3%
91	5.5	6.0	2.2%
92	6.0	6.5	2.1%
93	6.5	7.0	2.0%
94	7.0	7.5	1.9%
95	7.5	8.0	1.8%
96	8.0	8.5	1.7%
97	8.5	9.0	1.6%
98	9.0	9.5	1.5%
99	9.5	10.0	1.4%
100	10.0	10.5	1.3%
101	10.5	11.0	1.2%
102	11.0	11.5	1.1%
103	11.5	12.0	1.0%
104	12.0	12.5	0.9%
105	12.5	13.0	0.8%

106	13.0	13.5	0.6%
107	13.5	14.0	0.4%
108	14.0	14.5	0.3%
109	14.5	15.0	0.2%
110	15.0	-	0.0%

111 ~~3. Notwithstanding the provisions of subsection 2 of section 288.090, any~~
 112 ~~employer participating in a shared work plan under section 288.500 who has not~~
 113 ~~had at least twelve calendar months immediately preceding the calculation date~~
 114 ~~throughout which his account could have been charged with benefits shall have~~
 115 ~~a contribution rate equal to the highest contribution rate in the table in subsection~~
 116 ~~2 of this section, until such time as his account has been chargeable with benefits~~
 117 ~~for the period of time sufficient to enable him to qualify for a computed rate on~~
 118 ~~the same basis as other employers participating in shared work plans.~~

119 ~~4. Employers who have been taxed at the maximum rate pursuant to this~~
 120 ~~section for two consecutive years shall have a surcharge of one-quarter percent~~
 121 ~~added to their contribution rate calculated pursuant to this section. In the event~~
 122 ~~that an employer remains at the maximum rate pursuant to this section for a third~~
 123 ~~or subsequent year, an additional surcharge of one-quarter percent shall be~~
 124 ~~annually assessed, but in no case shall the surcharge authorized in this subsection~~
 125 ~~cumulatively exceed one percent. Additionally, if an employer continues to~~
 126 ~~remain at the maximum rate pursuant to this section an additional surcharge of~~
 127 ~~one-half percent shall be assessed. In no case shall the total surcharge assessed~~
 128 ~~to any employer exceed one and one-half percent in any given year.~~

129 ~~5. For a period of sixty days beginning October 16, 2015, an employer~~
 130 ~~who reasonably believes that he or she has been assigned an erroneous experience~~
 131 ~~rating as a result of the purchase of a company shall have the right to file a timely~~
 132 ~~appeal for recovery of overpayments for the last five years due to such erroneous~~
 133 ~~assignment.]~~

134

288.120. 1. On each June thirtieth, or within a reasonable time thereafter as may be
 2 fixed by regulation, the balance of an employer's experience rating account, except an employer
 3 participating in a shared work plan under section 288.500, shall determine his contribution rate
 4 for the following calendar year as determined by the following table:

	Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
	Equals or Exceeds	Less Than	Contribution Rate
8	- -	-12.0	6.0%
9	-12.0	-11.0	5.8%
10	-11.0	-10.0	5.6%
11	-10.0	-9.0	5.4%
12	-9.0	-8.0	5.2%

13	-8.0	-7.0	5.0%
14	-7.0	-6.0	4.8%
15	-6.0	-5.0	4.6%
16	-5.0	-4.0	4.4%
17	-4.0	-3.0	4.2%
18	-3.0	-2.0	4.0%
19	-2.0	-1.0	3.8%
20	-1.0	0	3.6%
21	0	2.5	2.7%
22	2.5	3.5	2.6%
23	3.5	4.5	2.5%
24	4.5	5.0	2.4%
25	5.0	5.5	2.3%
26	5.5	6.0	2.2%
27	6.0	6.5	2.1%
28	6.5	7.0	2.0%
29	7.0	7.5	1.9%
30	7.5	8.0	1.8%
31	8.0	8.5	1.7%
32	8.5	9.0	1.6%
33	9.0	9.5	1.5%
34	9.5	10.0	1.4%
35	10.0	10.5	1.3%
36	10.5	11.0	1.2%
37	11.0	11.5	1.1%
38	11.5	12.0	1.0%
39	12.0	12.5	0.9%
40	12.5	13.0	0.8%
41	13.0	13.5	0.6%
42	13.5	14.0	0.4%
43	14.0	14.5	0.3%
44	14.5	15.0	0.2%
45	15.0	- -	0.0%

46 2. Using the same mathematical principles used in constructing the table provided in
 47 subsection 1 of this section, the following table has been constructed. The contribution rate for
 48 the following calendar year of any employer participating in a shared work plan under section

49 288.500 during the current calendar year or any calendar year during a prior three-year period
 50 shall be determined from the balance in such employer's experience rating account as of the
 51 previous June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, from
 52 the following table:

53	Percentage the Employer's Experience Rating		
54	Account is to that Employer's Average Annual Payroll		
55	Equals or Exceeds	Less Than	Contribution Rate
56	- -	-27.0	9.0%
57	-27.0	-26.0	8.8%
58	-26.0	-25.0	8.6%
59	-25.0	-24.0	8.4%
60	-24.0	-23.0	8.2%
61	-23.0	-22.0	8.0%
62	-22.0	-21.0	7.8%
63	-21.0	-20.0	7.6%
64	-20.0	-19.0	7.4%
65	-19.0	-18.0	7.2%
66	-18.0	-17.0	7.0%
67	-17.0	-16.0	6.8%
68	-16.0	-15.0	6.6%
69	-15.0	-14.0	6.4%
70	-14.0	-13.0	6.2%
71	-13.0	-12.0	6.0%
72	-12.0	-11.0	5.8%
73	-11.0	-10.0	5.6%
74	-10.0	-9.0	5.4%
75	-9.0	-8.0	5.2%
76	-8.0	-7.0	5.0%
77	-7.0	-6.0	4.8%
78	-6.0	-5.0	4.6%
79	-5.0	-4.0	4.4%
80	-4.0	-3.0	4.2%
81	-3.0	-2.0	4.0%
82	-2.0	-1.0	3.8%
83	-1.0	0	3.6%
84	0	2.5	2.7%

85	2.5	3.5	2.6%
86	3.5	4.5	2.5%
87	4.5	5.0	2.4%
88	5.0	5.5	2.3%
89	5.5	6.0	2.2%
90	6.0	6.5	2.1%
91	6.5	7.0	2.0%
92	7.0	7.5	1.9%
93	7.5	8.0	1.8%
94	8.0	8.5	1.7%
95	8.5	9.0	1.6%
96	9.0	9.5	1.5%
97	9.5	10.0	1.4%
98	10.0	10.5	1.3%
99	10.5	11.0	1.2%
100	11.0	11.5	1.1%
101	11.5	12.0	1.0%
102	12.0	12.5	0.9%
103	12.5	13.0	0.8%
104	13.0	13.5	0.6%
105	13.5	14.0	0.4%
106	14.0	14.5	0.3%
107	14.5	15.0	0.2%
108	15.0	--	0.0%

109 3. Notwithstanding the provisions of subsection 2 of section 288.090, any employer
 110 participating in a shared work plan under section 288.500 who has not had at least twelve
 111 calendar months immediately preceding the calculation date throughout which his account could
 112 have been charged with benefits shall have a contribution rate equal to the highest contribution
 113 rate in the table in subsection 2 of this section, until such time as his account has been chargeable
 114 with benefits for the period of time sufficient to enable him to qualify for a computed rate on the
 115 same basis as other employers participating in shared work plans.

116 4. Employers who have been taxed at the maximum rate pursuant to this section for two
 117 consecutive years shall have a surcharge of one-quarter percent added to their contribution rate
 118 calculated pursuant to this section. In the event that an employer remains at the maximum rate
 119 pursuant to this section for a third or subsequent year, an additional surcharge of one-quarter
 120 percent shall be annually assessed, but in no case shall the surcharge authorized in this subsection

121 cumulatively exceed one percent. Additionally, if an employer continues to remain at the
 122 maximum rate pursuant to this section an additional surcharge of one-half percent shall be
 123 assessed. In no case shall the total surcharge assessed to any employer exceed one and one-half
 124 percent in any given year.

125 **5. For a period of sixty days beginning with the effective date of this section, an**
 126 **employer who reasonably believes that he or she has been assigned an erroneous**
 127 **experience rating as a result of the purchase of a company shall have the right to file a**
 128 **timely appeal for recovery of overpayments for the last five years due to such erroneous**
 129 **assignment.**

~~288.122. On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is more than seven hundred twenty million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be decreased by the percentage determined from the following table:~~

Balance in Trust Fund		Percentage of Decrease
More Than	Equal to or Less Than	
\$720,000,000	\$870,000,000	7%
\$870,000,000		12%

~~Notwithstanding the table in this section, if the balance in the unemployment insurance compensation trust fund as calculated in this section is more than eight hundred seventy million dollars, the percentage of decrease of the employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be no greater than ten percent for any employer whose calculated contribution rate under section 288.120 is six percent or greater.]~~

288.122. On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is more than ~~[six]~~ **seven** hundred ~~twenty~~ million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be decreased by the percentage determined from the following table:

Balance in Trust Fund		Percentage of Decrease
More Than	Equal to or Less Than	
[\$600,000,000] \$720,000,000	[\$750,000,000] \$870,000,000	7%
[\$750,000,000] \$870,000,000		12%.

12 Notwithstanding the table in this section, if the balance in the unemployment insurance
13 compensation trust fund as calculated in this section is more than ~~[seven]~~ **eight** hundred ~~[fifty]~~
14 **seventy** million dollars, the percentage of decrease of the employer's contribution rate calculated
15 for the four calendar quarters of the succeeding calendar year shall be no greater than ten percent
16 for any employer whose calculated contribution rate under section 288.120 is six percent or
17 greater.

~~[288.330. 1. Benefits shall be deemed to be due and payable only to the
2 extent that moneys are available to the credit of the unemployment compensation
3 fund and neither the state nor the division shall be liable for any amount in excess
4 of such sums. The governor is authorized to apply for an advance to the state
5 unemployment fund and to accept the responsibility for the repayment of such
6 advance in order to secure to this state and its citizens the advantages available
7 under the provisions of federal law.]~~

~~8 _____ 2. (1) The purpose of this subsection is to provide a method of providing
9 funds for the payment of unemployment benefits or maintaining an adequate fund
10 balance in the unemployment compensation fund, and as an alternative to
11 borrowing or obtaining advances from the federal unemployment trust fund or for
12 refinancing those loans or advances.]~~

~~13 _____ (2) For the purposes of this subsection, "credit instrument" means any
14 type of borrowing obligation issued under this section, including any bonds,
15 commercial line of credit note, tax anticipation note or similar instrument.]~~

~~16 _____ (3) (a) There is hereby created for the purposes of implementing the
17 provisions of this subsection a body corporate and politic to be known as the
18 "Board of Unemployment Fund Financing". The powers of the board shall be
19 vested in five board members who shall be the governor, lieutenant governor,
20 attorney general, director of the department of labor and industrial relations, and
21 the commissioner of administration. The board shall have all powers necessary
22 to effectuate its purposes including, without limitation, the power to provide a
23 seal, keep records of its proceedings, and provide for professional services. The
24 governor shall serve as chair, the lieutenant governor shall serve as vice chair,
25 and the commissioner of administration shall serve as secretary. Staff support for
26 the board shall be provided by the commissioner of administration.]~~

~~27 _____ (b) Notwithstanding the provisions of any other law to the contrary:~~

~~28 _____ a. No officer or employee of this state shall be deemed to have forfeited
29 or shall forfeit his or her office or employment by reason of his or her acceptance
30 of an appointment as a board member or for his or her service to the board;~~

~~31 _____ b. Board members shall receive no compensation for the performance of
32 their duties under this subsection, but each commissioner shall be reimbursed
33 from the funds of the commission for his or her actual and necessary expenses
34 incurred in carrying out his or her official duties under this subsection.]~~

~~35 _____ (c) In the event that any of the board members or officers of the board
36 whose signatures or facsimile signatures appear on any credit instrument shall~~

37 ~~cease to be board members or officers before the delivery of such credit~~
38 ~~instrument, their signatures or facsimile signatures shall be valid and sufficient~~
39 ~~for all purposes as if such board members or officers had remained in office until~~
40 ~~delivery of such credit instrument.~~

41 ~~————— (d) Neither the board members executing the credit instruments of the~~
42 ~~board nor any other board members shall be subject to any personal liability or~~
43 ~~accountability by reason of the issuance of the credit instruments.~~

44 ~~————— (4) The board is authorized, by offering for public negotiated sale, to~~
45 ~~issue, sell, and deliver credit instruments, bearing interest at a fixed or variable~~
46 ~~rate as shall be determined by the board, which shall mature no later than ten~~
47 ~~years after issuance, in the name of the board in an amount determined by the~~
48 ~~board. Such credit instruments may be issued, sold, and delivered for the~~
49 ~~purposes set forth in subdivision (1) of this subsection. Such credit instrument~~
50 ~~may only be issued upon the approval of a resolution authorizing such issuance~~
51 ~~by a simple majority of the members of the board, with no other proceedings~~
52 ~~required.~~

53 ~~————— (5) The board shall provide for the payment of the principal of the credit~~
54 ~~instruments, any redemption premiums, the interest on the credit instruments, and~~
55 ~~the costs attributable to the credit instruments being issued or outstanding as~~
56 ~~provided in this chapter. Unless the board directs otherwise, the credit instrument~~
57 ~~shall be repaid in the same time frame and in the same amounts as would be~~
58 ~~required for loans issued pursuant to 42 U.S.C. Section 1321; however, in no case~~
59 ~~shall credit instruments be outstanding for more than ten years.~~

60 ~~————— (6) The board may irrevocably pledge money received from the credit~~
61 ~~instrument and financing agreement repayment surcharge under subsection 3 of~~
62 ~~section 288.128, and other money legally available to it, which is deposited in an~~
63 ~~account authorized for credit instrument repayment in the special employment~~
64 ~~security fund, provided that the general assembly has first appropriated moneys~~
65 ~~received from such surcharge and other moneys deposited in such account for the~~
66 ~~payment of credit instruments.~~

67 ~~————— (7) Credit instruments issued under this section shall not constitute debts~~
68 ~~of this state or of the board or any agency, political corporation, or political~~
69 ~~subdivision of this state and are not a pledge of the faith and credit of this state,~~
70 ~~the board or of any of those governmental entities and shall not constitute an~~
71 ~~indebtedness within the meaning of any constitutional or statutory limitation~~
72 ~~upon the incurring of indebtedness. The credit instruments are payable only from~~
73 ~~revenue provided for under this chapter. The credit instruments shall contain a~~
74 ~~statement to the effect that:~~

75 ~~————— (a) Neither the state nor the board nor any agency, political corporation,~~
76 ~~or political subdivision of the state shall be obligated to pay the principal or~~
77 ~~interest on the credit instruments except as provided by this section, and~~

78 ~~————— (b) Neither the full faith and credit nor the taxing power of the state nor~~
79 ~~the board nor any agency, political corporation, or political subdivision of the~~

80 state is pledged to the payment of the principal, premium, if any, or interest on
81 the credit instruments.

82 ~~————— (8) The board pledges and agrees with the owners of any credit
83 instruments issued under this section that the state will not limit or alter the rights
84 vested in the board to fulfill the terms of any agreements made with the owners
85 or in any way impair the rights and remedies of the owners until the credit
86 instruments are fully discharged.~~

87 ~~————— (9) The board may prescribe the form, details, and incidents of the credit
88 instruments and make such covenants that in its judgment are advisable or
89 necessary to properly secure the payment thereof. If such credit instruments shall
90 be authenticated by the bank or trust company acting as registrar for such by the
91 manual signature of a duly authorized officer or employee thereof, the duly
92 authorized officers of the board executing and attesting such credit instruments
93 may all do so by facsimile signature provided such signatures have been duly
94 filed as provided in the uniform facsimile signature of public officials law,
95 sections 105.273 to 105.278, when duly authorized by resolution of the board,
96 and the provisions of section 108.175 shall not apply to such credit instruments.
97 The board may provide for the flow of funds and the establishment and
98 maintenance of separate accounts within the special employment security fund,
99 including the interest and sinking account, the reserve account, and other
100 necessary accounts, and may make additional covenants with respect to the credit
101 instruments in the documents authorizing the issuance of credit instruments
102 including refunding credit instruments. The resolutions authorizing the issuance
103 of credit instruments may also prohibit the further issuance of credit instruments
104 or other obligations payable from appropriated moneys or may reserve the right
105 to issue additional credit instruments to be payable from appropriated moneys on
106 a parity with or subordinate to the lien and pledge in support of the credit
107 instruments being issued and may contain other provisions and covenants as
108 determined by the board, provided that any terms, provisions or covenants
109 provided in any resolution of the board shall not be inconsistent with the
110 provisions of this section.~~

111 ~~————— (10) The board may issue credit instruments to refund all or any part of
112 the outstanding credit instruments issued under this section including matured but
113 unpaid interest. As with other credit instruments issued under this section, such
114 refunding credit instruments may bear interest at a fixed or variable rate as
115 determined by the board.~~

116 ~~————— (11) The credit instruments issued by the board, any transaction relating
117 to the credit instruments, and profits made from the sale of the credit instruments
118 are free from taxation by the state or by any municipality, court, special district,
119 or other political subdivision of the state.~~

120 ~~————— (12) As determined necessary by the board the proceeds of the credit
121 instruments less the cost of issuance shall be placed in the state's unemployment
122 compensation fund and may be used for the purposes for which that fund may~~

123 otherwise be used. If those net proceeds are not placed immediately in the
124 unemployment compensation fund they shall be held in the special employment
125 security fund in an account designated for that purpose until they are transferred
126 to the unemployment compensation fund provided that the proceeds of refunding
127 credit instruments may be placed in an escrow account or such other account or
128 instrument as determined necessary by the board.

129 ~~(13) The board may enter into any contract or agreement deemed~~
130 ~~necessary or desirable to effectuate cost-effective financing hereunder. Such~~
131 ~~agreements may include credit enhancement, credit support, or interest rate~~
132 ~~agreements including, but not limited to, arrangements such as municipal bond~~
133 ~~insurance; surety bonds; tax anticipation notes; liquidity facilities; forward~~
134 ~~agreements; tender agreements; remarketing agreements; option agreements;~~
135 ~~interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and~~
136 ~~purchase agreements. Any fees or costs associated with such agreements shall~~
137 ~~be deemed administrative expenses for the purposes of calculating the credit~~
138 ~~instrument and financing agreement repayment surcharge under subsection 3 of~~
139 ~~section 288.128. The board, with consideration of all other costs being equal,~~
140 ~~shall give preference to Missouri-headquartered financial institutions, or those~~
141 ~~out-of-state-based financial institutions with at least one hundred Missouri~~
142 ~~employees.~~

143 ~~(14) To the extent this section conflicts with other laws the provisions of~~
144 ~~this section prevail. This section shall not be subject to the provisions of sections~~
145 ~~23.250 to 23.298.~~

146 ~~(15) If the United States Secretary of Labor holds that a provision of this~~
147 ~~subsection or of any provision related to the levy or use of the credit instrument~~
148 ~~and financial agreement repayment surcharge does not conform with a federal~~
149 ~~statute or would result in the loss to the state of any federal funds otherwise~~
150 ~~available to it the board, in cooperation with the department of labor and~~
151 ~~industrial relations, may administer this subsection, and other provisions related~~
152 ~~to the credit instrument and financial agreement repayment surcharge, to conform~~
153 ~~with the federal statute until the general assembly meets in its next regular~~
154 ~~session and has an opportunity to amend this subsection or other sections, as~~
155 ~~applicable.~~

156 ~~(16) Nothing in this chapter shall be construed to prohibit the officials of~~
157 ~~the state from borrowing from the government of the United States in order to~~
158 ~~pay unemployment benefits under subsection 1 of this section or otherwise.~~

159 ~~(17) (a) As used in this subdivision the term "lender" means any state or~~
160 ~~national bank.~~

161 ~~(b) The board is authorized to enter financial agreements with any lender~~
162 ~~for the purposes set forth in subdivision (1) of this subsection, or to refinance~~
163 ~~other financial agreements in whole or in part, upon the approval of the simple~~
164 ~~majority of the members of the board of a resolution authorizing such financial~~
165 ~~agreements, with no other proceedings required. In no instance shall the~~

166 ~~outstanding obligation under any financial agreement continue for more than ten~~
167 ~~years. Repayment of obligations to lenders shall be made from the special~~
168 ~~employment security fund, section 288.310, subject to appropriation by the~~
169 ~~general assembly.~~

170 ~~(c) Financial agreements entered into under this subdivision shall not~~
171 ~~constitute debts of this state or of the board or any agency, political corporation,~~
172 ~~or political subdivision of this state and are not a pledge of the faith and credit of~~
173 ~~this state, the board or of any of those governmental entities and shall not~~
174 ~~constitute an indebtedness within the meaning of any constitutional or statutory~~
175 ~~limitation upon the incurring of indebtedness. The financial agreements are~~
176 ~~payable only from revenue provided for under this chapter. The financial~~
177 ~~agreements shall contain a statement to the effect that:~~

178 ~~a. Neither the state nor the board nor any agency, political corporation,~~
179 ~~or political subdivision of the state shall be obligated to pay the principal or~~
180 ~~interest on the financial agreements except as provided by this section, and~~

181 ~~b. Neither the full faith and credit nor the taxing power of the state nor~~
182 ~~the board nor any agency, political corporation, or political subdivision of the~~
183 ~~state is pledged to the payment of the principal, premium, if any, or interest on~~
184 ~~the financial agreements.~~

185 ~~(d) Neither the board members executing the financial agreements nor~~
186 ~~any other board members shall be subject to any personal liability or~~
187 ~~accountability by reason of the execution of such financial agreements.~~

188 ~~(e) The board may prescribe the form, details and incidents of the~~
189 ~~financing agreements and make such covenants that in its judgment are advisable~~
190 ~~or necessary to properly secure the payment thereof provided that any terms,~~
191 ~~provisions or covenants provided in any such financing agreement shall not be~~
192 ~~inconsistent with the provisions of this section. If such financing agreements~~
193 ~~shall be authenticated by the bank or trust company acting as registrar for such~~
194 ~~by the manual signature of a duly authorized officer or employee thereof, the duly~~
195 ~~authorized officers of the board executing and attesting such financing~~
196 ~~agreements may all do so by facsimile signature provided such signatures have~~
197 ~~been duly filed as provided in the uniform facsimile signature of public officials~~
198 ~~law, sections 105.273 to 105.278, when duly authorized by resolution of the~~
199 ~~board and the provisions of section 108.175 shall not apply to such financing~~
200 ~~agreements.~~

201 ~~(18) The commission may issue credit instruments to refund all or any~~
202 ~~part of the outstanding borrowing issued under this section including matured but~~
203 ~~unpaid interest.~~

204 ~~(19) The credit instruments issued by the commission, any transaction~~
205 ~~relating to the credit instruments, and profits made from the issuance of credit are~~
206 ~~free from taxation by the state or by any municipality, court, special district, or~~
207 ~~other political subdivision of the state.~~

208 ~~3. In event of the suspension of this law, any unobligated funds in the~~
 209 ~~unemployment compensation fund, and returned by the United States Treasurer~~
 210 ~~because such Federal Social Security Act is inoperative, shall be held in custody~~
 211 ~~by the treasurer and under supervision of the division until the legislature shall~~
 212 ~~provide for the disposition thereof. In event no disposition is made by the~~
 213 ~~legislature at the next regular meeting subsequent to suspension of said law, then~~
 214 ~~all unobligated funds shall be returned ratably to those who contributed thereto.~~
 215 ~~4. Notwithstanding any other law to the contrary, in the event that the~~
 216 ~~amount of moneys owed by the fund for total advancements by the federal~~
 217 ~~government exceeds three hundred million dollars, the board shall be required to~~
 218 ~~meet to consider authorizing the issuance, sale, and delivery of credit instruments~~
 219 ~~pursuant to this section for the entire amount of the debt owed.~~
 220 ~~5. If credit instruments are issued under subsection 4 of this section, the~~
 221 ~~interest assessment required under section 288.128 shall continue to be paid and~~
 222 ~~used to fully finance such instruments and shall be paid at the same rate~~
 223 ~~applicable at the time of issuance for all subsequent years until the credit~~
 224 ~~instruments are fully financed.]~~
 225

288.330. 1. Benefits shall be deemed to be due and payable only to the extent that
 2 moneys are available to the credit of the unemployment compensation fund and neither the state
 3 nor the division shall be liable for any amount in excess of such sums. The governor is
 4 authorized to apply for an advance to the state unemployment fund and to accept the
 5 responsibility for the repayment of such advance in order to secure to this state and its citizens
 6 the advantages available under the provisions of federal law.

7 2. (1) The purpose of this subsection is to provide a method of providing funds for the
 8 payment of unemployment benefits or maintaining an adequate fund balance in the
 9 unemployment compensation fund, and as an alternative to borrowing or obtaining advances
 10 from the federal unemployment trust fund or for refinancing those loans or advances.

11 (2) For the purposes of this subsection, "credit instrument" means any type of borrowing
 12 obligation issued under this section, including any bonds, commercial line of credit note, tax
 13 anticipation note or similar instrument.

14 (3) (a) There is hereby created for the purposes of implementing the provisions of this
 15 subsection a body corporate and politic to be known as the "Board of Unemployment Fund
 16 Financing". The powers of the board shall be vested in five board members who shall be the
 17 governor, lieutenant governor, attorney general, director of the department of labor and industrial
 18 relations, and the commissioner of administration. The board shall have all powers necessary
 19 to effectuate its purposes including, without limitation, the power to provide a seal, keep records
 20 of its proceedings, and provide for professional services. The governor shall serve as chair, the
 21 lieutenant governor shall serve as vice chair, and the commissioner of administration shall serve

22 as secretary. Staff support for the board shall be provided by the commissioner of
23 administration.

24 (b) Notwithstanding the provisions of any other law to the contrary:

25 a. No officer or employee of this state shall be deemed to have forfeited or shall forfeit
26 his or her office or employment by reason of his or her acceptance of an appointment as a board
27 member or for his or her service to the board;

28 b. Board members shall receive no compensation for the performance of their duties
29 under this subsection, but each commissioner shall be reimbursed from the funds of the
30 commission for his or her actual and necessary expenses incurred in carrying out his or her
31 official duties under this subsection.

32 (c) In the event that any of the board members or officers of the board whose signatures
33 or facsimile signatures appear on any credit instrument shall cease to be board members or
34 officers before the delivery of such credit instrument, their signatures or facsimile signatures
35 shall be valid and sufficient for all purposes as if such board members or officers had remained
36 in office until delivery of such credit instrument.

37 (d) Neither the board members executing the credit instruments of the board nor any
38 other board members shall be subject to any personal liability or accountability by reason of the
39 issuance of the credit instruments.

40 (4) The board is authorized, by offering for public negotiated sale, to issue, sell, and
41 deliver credit instruments, bearing interest at a fixed or variable rate as shall be determined by
42 the board, which shall mature no later than ten years after issuance, in the name of the board in
43 an amount determined by the board. Such credit instruments may be issued, sold, and delivered
44 for the purposes set forth in subdivision (1) of this subsection. Such credit instrument may only
45 be issued upon the approval of a resolution authorizing such issuance by a simple majority of the
46 members of the board, with no other proceedings required.

47 (5) The board shall provide for the payment of the principal of the credit instruments,
48 any redemption premiums, the interest on the credit instruments, and the costs attributable to the
49 credit instruments being issued or outstanding as provided in this chapter. Unless the board
50 directs otherwise, the credit instrument shall be repaid in the same time frame and in the same
51 amounts as would be required for loans issued pursuant to 42 U.S.C. Section 1321; however, in
52 no case shall credit instruments be outstanding for more than ten years.

53 (6) The board may irrevocably pledge money received from the credit instrument and
54 financing agreement repayment surcharge under subsection 3 of section 288.128, and other
55 money legally available to it, which is deposited in an account authorized for credit instrument
56 repayment in the special employment security fund, provided that the general assembly has first

57 appropriated moneys received from such surcharge and other moneys deposited in such account
58 for the payment of credit instruments.

59 (7) Credit instruments issued under this section shall not constitute debts of this state or
60 of the board or any agency, political corporation, or political subdivision of this state and are not
61 a pledge of the faith and credit of this state, the board or of any of those governmental entities
62 and shall not constitute an indebtedness within the meaning of any constitutional or statutory
63 limitation upon the incurring of indebtedness. The credit instruments are payable only from
64 revenue provided for under this chapter. The credit instruments shall contain a statement to the
65 effect that:

66 (a) Neither the state nor the board nor any agency, political corporation, or political
67 subdivision of the state shall be obligated to pay the principal or interest on the credit instruments
68 except as provided by this section; and

69 (b) Neither the full faith and credit nor the taxing power of the state nor the board nor
70 any agency, political corporation, or political subdivision of the state is pledged to the payment
71 of the principal, premium, if any, or interest on the credit instruments.

72 (8) The board pledges and agrees with the owners of any credit instruments issued under
73 this section that the state will not limit or alter the rights vested in the board to fulfill the terms
74 of any agreements made with the owners or in any way impair the rights and remedies of the
75 owners until the credit instruments are fully discharged.

76 (9) The board may prescribe the form, details, and incidents of the credit instruments and
77 make such covenants that in its judgment are advisable or necessary to properly secure the
78 payment thereof. If such credit instruments shall be authenticated by the bank or trust company
79 acting as registrar for such by the manual signature of a duly authorized officer or employee
80 thereof, the duly authorized officers of the board executing and attesting such credit instruments
81 may all do so by facsimile signature provided such signatures have been duly filed as provided
82 in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, when
83 duly authorized by resolution of the board, and the provisions of section 108.175 shall not apply
84 to such credit instruments. The board may provide for the flow of funds and the establishment
85 and maintenance of separate accounts within the special employment security fund, including
86 the interest and sinking account, the reserve account, and other necessary accounts, and may
87 make additional covenants with respect to the credit instruments in the documents authorizing
88 the issuance of credit instruments including refunding credit instruments. The resolutions
89 authorizing the issuance of credit instruments may also prohibit the further issuance of credit
90 instruments or other obligations payable from appropriated moneys or may reserve the right to
91 issue additional credit instruments to be payable from appropriated moneys on a parity with or
92 subordinate to the lien and pledge in support of the credit instruments being issued and may

93 contain other provisions and covenants as determined by the board, provided that any terms,
94 provisions or covenants provided in any resolution of the board shall not be inconsistent with the
95 provisions of this section.

96 (10) The board may issue credit instruments to refund all or any part of the outstanding
97 credit instruments issued under this section including matured but unpaid interest. As with other
98 credit instruments issued under this section, such refunding credit instruments may bear interest
99 at a fixed or variable rate as determined by the board.

100 (11) The credit instruments issued by the board, any transaction relating to the credit
101 instruments, and profits made from the sale of the credit instruments are free from taxation by
102 the state or by any municipality, court, special district, or other political subdivision of the state.

103 (12) As determined necessary by the board the proceeds of the credit instruments less
104 the cost of issuance shall be placed in the state's unemployment compensation fund and may be
105 used for the purposes for which that fund may otherwise be used. If those net proceeds are not
106 placed immediately in the unemployment compensation fund they shall be held in the special
107 employment security fund in an account designated for that purpose until they are transferred to
108 the unemployment compensation fund provided that the proceeds of refunding credit instruments
109 may be placed in an escrow account or such other account or instrument as determined necessary
110 by the board.

111 (13) The board may enter into any contract or agreement deemed necessary or desirable
112 to effectuate cost-effective financing hereunder. Such agreements may include credit
113 enhancement, credit support, or interest rate agreements including, but not limited to,
114 arrangements such as municipal bond insurance; surety bonds; tax anticipation notes; liquidity
115 facilities; forward agreements; tender agreements; remarketing agreements; option agreements;
116 interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and purchase
117 agreements. Any fees or costs associated with such agreements shall be deemed administrative
118 expenses for the purposes of calculating the credit instrument and financing agreement
119 repayment surcharge under subsection 3 of section 288.128. The board, with consideration of
120 all other costs being equal, shall give preference to Missouri-headquartered financial institutions,
121 or those out-of-state-based financial institutions with at least one hundred Missouri employees.

122 (14) To the extent this section conflicts with other laws the provisions of this section
123 prevail. This section shall not be subject to the provisions of sections 23.250 to 23.298.

124 (15) If the United States Secretary of Labor holds that a provision of this subsection or
125 of any provision related to the levy or use of the credit instrument and financial agreement
126 repayment surcharge does not conform with a federal statute or would result in the loss to the
127 state of any federal funds otherwise available to it the board, in cooperation with the department
128 of labor and industrial relations, may administer this subsection, and other provisions related to

129 the credit instrument and financial agreement repayment surcharge, to conform with the federal
130 statute until the general assembly meets in its next regular session and has an opportunity to
131 amend this subsection or other sections, as applicable.

132 (16) Nothing in this chapter shall be construed to prohibit the officials of the state from
133 borrowing from the government of the United States in order to pay unemployment benefits
134 under subsection 1 of this section or otherwise.

135 (17) (a) As used in this subdivision the term "lender" means any state or national bank.

136 (b) The board is authorized to enter financial agreements with any lender for the
137 purposes set forth in subdivision (1) of this subsection, or to refinance other financial agreements
138 in whole or in part, upon the approval of the simple majority of the members of the board of a
139 resolution authorizing such financial agreements, with no other proceedings required. In no
140 instance shall the outstanding obligation under any financial agreement continue for more than
141 ten years. Repayment of obligations to lenders shall be made from the special employment
142 security fund, section 288.310, subject to appropriation by the general assembly.

143 (c) Financial agreements entered into under this subdivision shall not constitute debts
144 of this state or of the board or any agency, political corporation, or political subdivision of this
145 state and are not a pledge of the faith and credit of this state, the board or of any of those
146 governmental entities and shall not constitute an indebtedness within the meaning of any
147 constitutional or statutory limitation upon the incurring of indebtedness. The financial
148 agreements are payable only from revenue provided for under this chapter. The financial
149 agreements shall contain a statement to the effect that:

150 a. Neither the state nor the board nor any agency, political corporation, or political
151 subdivision of the state shall be obligated to pay the principal or interest on the financial
152 agreements except as provided by this section; and

153 b. Neither the full faith and credit nor the taxing power of the state nor the board nor any
154 agency, political corporation, or political subdivision of the state is pledged to the payment of
155 the principal, premium, if any, or interest on the financial agreements.

156 (d) Neither the board members executing the financial agreements nor any other board
157 members shall be subject to any personal liability or accountability by reason of the execution
158 of such financial agreements.

159 (e) The board may prescribe the form, details and incidents of the financing agreements
160 and make such covenants that in its judgment are advisable or necessary to properly secure the
161 payment thereof provided that any terms, provisions or covenants provided in any such financing
162 agreement shall not be inconsistent with the provisions of this section. If such financing
163 agreements shall be authenticated by the bank or trust company acting as registrar for such by
164 the manual signature of a duly authorized officer or employee thereof, the duly authorized

165 officers of the board executing and attesting such financing agreements may all do so by
166 facsimile signature provided such signatures have been duly filed as provided in the uniform
167 facsimile signature of public officials law, sections 105.273 to 105.278, when duly authorized
168 by resolution of the board and the provisions of section 108.175 shall not apply to such financing
169 agreements.

170 (18) The commission may issue credit instruments to refund all or any part of the
171 outstanding borrowing issued under this section including matured but unpaid interest.

172 (19) The credit instruments issued by the commission, any transaction relating to the
173 credit instruments, and profits made from the issuance of credit are free from taxation by the
174 state or by any municipality, court, special district, or other political subdivision of the state.

175 3. In event of the suspension of this law, any unobligated funds in the unemployment
176 compensation fund, and returned by the United States Treasurer because such Federal Social
177 Security Act is inoperative, shall be held in custody by the treasurer and under supervision of the
178 division until the legislature shall provide for the disposition thereof. In event no disposition is
179 made by the legislature at the next regular meeting subsequent to suspension of said law, then
180 all unobligated funds shall be returned ratably to those who contributed thereto.

181 4. ~~[For purposes of this section, as contained in senate substitute no. 2 for senate~~
182 ~~committee substitute for house substitute for house committee substitute for house bill nos. 1268~~
183 ~~and 1211, ninety-second general assembly, second regular session, the revisor of statutes shall~~
184 ~~renumber subdivision (16) of subsection 2 of such section as subdivision (17) of such subsection~~
185 ~~and renumber subdivision (17) of subsection 2 of such section as subdivision (16) of such~~
186 ~~subsection]~~ **Notwithstanding any other law to the contrary, in the event that the amount of**
187 **moneys owed by the fund for total advancements by the federal government exceeds three**
188 **hundred million dollars, the board shall be required to meet to consider authorizing the**
189 **issuance, sale, and delivery of credit instruments in accordance with this section for the**
190 **entire amount of the debt owed.**

191 5. **If credit instruments are issued under subsection 4 of this section, the interest**
192 **assessment required under section 288.128 shall continue to be paid and used to fully**
193 **finance such instruments and shall be paid at the same rate applicable at the time of**
194 **issuance for all subsequent years until the credit instruments are fully financed.**

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