

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 673

AN ACT

To repeal sections 288.060, 288.122, and 288.330, RSMo,
and to enact in lieu thereof three new sections
relating to employment security.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 288.060, 288.122, and 288.330, RSMo,
2 are repealed and three new sections enacted in lieu thereof, to
3 be known as sections 288.060, 288.122, and 288.330, to read as
4 follows:

5 288.060. 1. All benefits shall be paid through employment
6 offices in accordance with such regulations as the division may
7 prescribe.

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

11 3. Each eligible insured worker who is partially unemployed
12 in any week shall be paid for such week a partial benefit. Such
13 partial benefit shall be an amount equal to the difference
14 between his or her weekly benefit amount and that part of his or
15 her wages for such week in excess of twenty dollars, and, if such
16 partial benefit amount is not a multiple of one dollar, such
17 amount shall be reduced to the nearest lower full dollar amount.
18 For calendar year 2007 and each year thereafter, such partial

1 benefit shall be an amount equal to the difference between his or
2 her weekly benefit amount and that part of his or her wages for
3 such week in excess of twenty dollars or twenty percent of his or
4 her weekly benefit amount, whichever is greater, and, if such
5 partial benefit amount is not a multiple of one dollar, such
6 amount shall be reduced to the nearest lower full dollar amount.
7 Termination pay, severance pay or pay received by an eligible
8 insured worker who is a member of the organized militia for
9 training or duty authorized by Section 502(a)(1) of Title 32,
10 United States Code, shall not be considered wages for the purpose
11 of this subsection.

12 4. The division shall compute the wage credits for each
13 individual by crediting him or her with the wages paid to him or
14 her for insured work during each quarter of his or her base
15 period or twenty-six times his or her weekly benefit amount,
16 whichever is the lesser. In addition, if a claimant receives
17 wages in the form of termination pay or severance pay and such
18 payment appears in a base period established by the filing of an
19 initial claim, the claimant may, at his or her option, choose to
20 have such payment included in the calendar quarter in which it
21 was paid or choose to have it prorated equally among the quarters
22 comprising the base period of the claim. [The maximum total
23 amount of benefits payable to any insured worker during any
24 benefit year shall not exceed twenty times his or her weekly
25 benefit amount, or thirty-three and one-third percent of his or
26 her wage credits, whichever is the lesser.] For the purpose of
27 this section, wages shall be counted as wage credits for any
28 benefit year, only if such benefit year begins subsequent to the

1 date on which the employing unit by whom such wages were paid has
2 become an employer. The wage credits of an individual earned
3 during the period commencing with the end of a prior base period
4 and ending on the date on which he or she filed an allowed
5 initial claim shall not be available for benefit purposes in a
6 subsequent benefit year unless, in addition thereto, such
7 individual has subsequently earned either wages for insured work
8 in an amount equal to at least five times his or her current
9 weekly benefit amount or wages in an amount equal to at least ten
10 times his or her current weekly benefit amount.

11 5. The duration of benefits payable to any insured worker
12 during any benefit year shall be limited to:

13 (1) Twenty weeks if the Missouri average unemployment rate
14 is nine percent or higher;

15 (2) Nineteen weeks if the Missouri average unemployment
16 rate is between eight and one half percent and nine percent;

17 (3) Eighteen weeks if the Missouri average unemployment
18 rate is eight percent up to and including eight and one half
19 percent;

20 (4) Seventeen weeks if the Missouri average unemployment
21 rate is between seven and one half percent and eight percent;

22 (5) Sixteen weeks if the Missouri average unemployment rate
23 is seven percent up to and including seven and one half percent;

24 (6) Fifteen weeks if the Missouri average unemployment rate
25 is between six and one half percent and seven percent;

26 (7) Fourteen weeks if the Missouri average unemployment
27 rate is six percent up to and including six and one half percent;

28 and

1 (8) Thirteen weeks if the Missouri average unemployment
2 rate is below six percent;

3
4 As used in this subsection, the phrase "Missouri average
5 unemployment rate" means the average statewide unemployment rate
6 during the three months of the most recent third calendar year
7 quarter.

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

16 [6.] 7. The division is authorized to cancel any benefit
17 warrant remaining outstanding and unpaid one year after the date
18 of its issuance and there shall be no liability for the payment
19 of any such benefit warrant thereafter.

20 [7.] 8. The division may establish an electronic funds
21 transfer system to transfer directly to claimants' accounts in
22 financial institutions benefits payable to them pursuant to this
23 chapter. To receive benefits by electronic funds transfer, a
24 claimant shall satisfactorily complete a direct deposit
25 application form authorizing the division to deposit benefit
26 payments into a designated checking or savings account. Any
27 electronic funds transfer system created pursuant to this
28 subsection shall be administered in accordance with regulations

1 prescribed by the division.

2 [8.] 9. The division may issue a benefit warrant covering
3 more than one week of benefits.

4 [9.] 10. Prior to January 1, 2005, the division shall
5 institute procedures including, but not limited to, name, date of
6 birth, and Social Security verification matches for remote claims
7 filing via the use of telephone or the internet in accordance
8 with such regulations as the division shall prescribe. At a
9 minimum, the division shall verify the Social Security number and
10 date of birth when an individual claimant initially files for
11 unemployment insurance benefits. If verification information
12 does not match what is on file in division databases to what the
13 individual is stating, the division shall require the claimant to
14 submit a division-approved form requesting an affidavit of
15 eligibility prior to the payment of additional future benefits.
16 The division of employment security shall cross-check
17 unemployment compensation applicants and recipients with Social
18 Security Administration data maintained by the federal government
19 at least weekly. The division of employment security shall
20 cross-check at least monthly unemployment compensation applicants
21 and recipients with department of revenue drivers license
22 databases.

23 288.122. On October first of each calendar year, if the
24 average balance, less any federal advances, of the unemployment
25 compensation trust fund of the four preceding quarters (September
26 thirtieth, June thirtieth, March thirty-first and December
27 thirty-first of the preceding calendar year) is more than [six]
28 seven hundred twenty million dollars, then each employer's

1 contribution rate calculated for the four calendar quarters of
2 the succeeding calendar year shall be decreased by the percentage
3 determined from the following table:

4 Balance in Trust Fund		5 Percentage
6 More Than	Equal to or Less Than	of Decrease
7 <u>[\$600,000,000]</u>	<u>\$720,000,000</u>	<u>[\$750,000,000]</u> <u>\$870,000,000</u> 7%
8 <u>[\$750,000,000]</u>	<u>\$870,000,000</u>	12%.

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

17 288.330. 1. Benefits shall be deemed to be due and payable
18 only to the extent that moneys are available to the credit of the
19 unemployment compensation fund and neither the state nor the
20 division shall be liable for any amount in excess of such sums.
21 The governor is authorized to apply for an advance to the state
22 unemployment fund and to accept the responsibility for the
23 repayment of such advance in order to secure to this state and
24 its citizens the advantages available under the provisions of
25 federal law.

26 2. (1) The purpose of this subsection is to provide a
27 method of providing funds for the payment of unemployment
28 benefits or maintaining an adequate fund balance in the

1 unemployment compensation fund, and as an alternative to
2 borrowing or obtaining advances from the federal unemployment
3 trust fund or for refinancing those loans or advances.

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

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

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

24 a. No officer or employee of this state shall be deemed to
25 have forfeited or shall forfeit his or her office or employment
26 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

1 performance of their duties under this subsection, but each
2 commissioner shall be reimbursed from the funds of the commission
3 for his or her actual and necessary expenses incurred in carrying
4 out his or her official duties under this subsection.

5 (c) In the event that any of the board members or officers
6 of the board whose signatures or facsimile signatures appear on
7 any credit instrument shall cease to be board members or officers
8 before the delivery of such credit instrument, their signatures
9 or facsimile signatures shall be valid and sufficient for all
10 purposes as if such board members or officers had remained in
11 office until delivery of such credit instrument.

12 (d) Neither the board members executing the credit
13 instruments of the board nor any other board members shall be
14 subject to any personal liability or accountability by reason of
15 the issuance of the credit instruments.

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

27 (5) The board shall provide for the payment of the
28 principal of the credit instruments, any redemption premiums, the

1 interest on the credit instruments, and the costs attributable to
2 the credit instruments being issued or outstanding as provided in
3 this chapter. Unless the board directs otherwise, the credit
4 instrument shall be repaid in the same time frame and in the same
5 amounts as would be required for loans issued pursuant to 42
6 U.S.C. Section 1321; however, in no case shall credit instruments
7 be outstanding for more than ten years.

8 (6) The board may irrevocably pledge money received from
9 the credit instrument and financing agreement repayment surcharge
10 under subsection 3 of section 288.128, and other money legally
11 available to it, which is deposited in an account authorized for
12 credit instrument repayment in the special employment security
13 fund, provided that the general assembly has first appropriated
14 moneys received from such surcharge and other moneys deposited in
15 such account for the payment of credit instruments.

16 (7) Credit instruments issued under this section shall not
17 constitute debts of this state or of the board or any agency,
18 political corporation, or political subdivision of this state and
19 are not a pledge of the faith and credit of this state, the board
20 or of any of those governmental entities and shall not constitute
21 an indebtedness within the meaning of any constitutional or
22 statutory limitation upon the incurring of indebtedness. The
23 credit instruments are payable only from revenue provided for
24 under this chapter. The credit instruments shall contain a
25 statement to the effect that:

26 (a) Neither the state nor the board nor any agency,
27 political corporation, or political subdivision of the state
28 shall be obligated to pay the principal or interest on the credit

1 instruments except as provided by this section; and

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

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

13 (9) The board may prescribe the form, details, and
14 incidents of the credit instruments and make such covenants that
15 in its judgment are advisable or necessary to properly secure the
16 payment thereof. If such credit instruments shall be
17 authenticated by the bank or trust company acting as registrar
18 for such by the manual signature of a duly authorized officer or
19 employee thereof, the duly authorized officers of the board
20 executing and attesting such credit instruments may all do so by
21 facsimile signature provided such signatures have been duly filed
22 as provided in the uniform facsimile signature of public
23 officials law, sections 105.273 to 105.278, when duly authorized
24 by resolution of the board, and the provisions of section 108.175
25 shall not apply to such credit instruments. The board may
26 provide for the flow of funds and the establishment and
27 maintenance of separate accounts within the special employment
28 security fund, including the interest and sinking account, the

1 reserve account, and other necessary accounts, and may make
2 additional covenants with respect to the credit instruments in
3 the documents authorizing the issuance of credit instruments
4 including refunding credit instruments. The resolutions
5 authorizing the issuance of credit instruments may also prohibit
6 the further issuance of credit instruments or other obligations
7 payable from appropriated moneys or may reserve the right to
8 issue additional credit instruments to be payable from
9 appropriated moneys on a parity with or subordinate to the lien
10 and pledge in support of the credit instruments being issued and
11 may contain other provisions and covenants as determined by the
12 board, provided that any terms, provisions or covenants provided
13 in any resolution of the board shall not be inconsistent with the
14 provisions of this section.

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

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

26 (12) As determined necessary by the board the proceeds of
27 the credit instruments less the cost of issuance shall be placed
28 in the state's unemployment compensation fund and may be used for

1 the purposes for which that fund may otherwise be used. If those
2 net proceeds are not placed immediately in the unemployment
3 compensation fund they shall be held in the special employment
4 security fund in an account designated for that purpose until
5 they are transferred to the unemployment compensation fund
6 provided that the proceeds of refunding credit instruments may be
7 placed in an escrow account or such other account or instrument
8 as determined necessary by the board.

9 (13) The board may enter into any contract or agreement
10 deemed necessary or desirable to effectuate cost-effective
11 financing hereunder. Such agreements may include credit
12 enhancement, credit support, or interest rate agreements
13 including, but not limited to, arrangements such as municipal
14 bond insurance; surety bonds; tax anticipation notes; liquidity
15 facilities; forward agreements; tender agreements; remarketing
16 agreements; option agreements; interest rate swap, exchange, cap,
17 lock or floor agreements; letters of credit; and purchase
18 agreements. Any fees or costs associated with such agreements
19 shall be deemed administrative expenses for the purposes of
20 calculating the credit instrument and financing agreement
21 repayment surcharge under subsection 3 of section 288.128. The
22 board, with consideration of all other costs being equal, shall
23 give preference to Missouri-headquartered financial institutions,
24 or those out-of-state-based financial institutions with at least
25 one hundred Missouri employees.

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

1 (15) If the United States Secretary of Labor holds that a
2 provision of this subsection or of any provision related to the
3 levy or use of the credit instrument and financial agreement
4 repayment surcharge does not conform with a federal statute or
5 would result in the loss to the state of any federal funds
6 otherwise available to it the board, in cooperation with the
7 department of labor and industrial relations, may administer this
8 subsection, and other provisions related to the credit instrument
9 and financial agreement repayment surcharge, to conform with the
10 federal statute until the general assembly meets in its next
11 regular session and has an opportunity to amend this subsection
12 or other sections, as applicable.

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

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

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

1 assembly.

2 (c) Financial agreements entered into under this
3 subdivision shall not constitute debts of this state or of the
4 board or any agency, political corporation, or political
5 subdivision of this state and are not a pledge of the faith and
6 credit of this state, the board or of any of those governmental
7 entities and shall not constitute an indebtedness within the
8 meaning of any constitutional or statutory limitation upon the
9 incurring of indebtedness. The financial agreements are payable
10 only from revenue provided for under this chapter. The financial
11 agreements shall contain a statement to the effect that:

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

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

21 (d) Neither the board members executing the financial
22 agreements nor any other board members shall be subject to any
23 personal liability or accountability by reason of the execution
24 of such financial agreements.

25 (e) The board may prescribe the form, details and incidents
26 of the financing agreements and make such covenants that in its
27 judgment are advisable or necessary to properly secure the
28 payment thereof provided that any terms, provisions or covenants

1 provided in any such financing agreement shall not be
2 inconsistent with the provisions of this section. If such
3 financing agreements shall be authenticated by the bank or trust
4 company acting as registrar for such by the manual signature of a
5 duly authorized officer or employee thereof, the duly authorized
6 officers of the board executing and attesting such financing
7 agreements may all do so by facsimile signature provided such
8 signatures have been duly filed as provided in the uniform
9 facsimile signature of public officials law, sections 105.273 to
10 105.278, when duly authorized by resolution of the board and the
11 provisions of section 108.175 shall not apply to such financing
12 agreements.

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

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

21 3. In event of the suspension of this law, any unobligated
22 funds in the unemployment compensation fund, and returned by the
23 United States Treasurer because such Federal Social Security Act
24 is inoperative, shall be held in custody by the treasurer and
25 under supervision of the division until the legislature shall
26 provide for the disposition thereof. In event no disposition is
27 made by the legislature at the next regular meeting subsequent to
28 suspension of said law, then all unobligated funds shall be

1 returned ratably to those who contributed thereto.

2 4. For purposes of this section, as contained in senate
3 substitute no. 2 for senate committee substitute for house
4 substitute for house committee substitute for house bill nos.
5 1268 and 1211, ninety-second general assembly, second regular
6 session, the revisor of statutes shall renumber subdivision (16)
7 of subsection 2 of such section as subdivision (17) of such
8 subsection and renumber subdivision (17) of subsection 2 of such
9 section as subdivision (16) of such subsection.

10 5. Notwithstanding any other law to the contrary, in the
11 event that the amount of moneys owed by the fund for total
12 advancements by the federal government exceeds three hundred
13 million dollars, the board shall be required to meet to consider
14 authorizing the issuance, sale, and delivery of credit
15 instruments pursuant to this section for the entire amount of the
16 debt owed.

17 6. If credit instruments are issued under subsection 5 of
18 this section, the interest assessment required under section
19 288.128 shall continue to be paid and used to fully finance such
20 instruments and shall be paid at the same rate applicable at the
21 time of issuance for all subsequent years until the credit
22 instruments are fully financed.