

FIRST REGULAR SESSION

SENATE BILL NO. 189

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Pre-filed December 7, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0785S.01I

AN ACT

To repeal sections 288.036, 288.060, 288.120, 288.122, and 288.330, RSMo, and to enact in lieu thereof five new section 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Section A. Sections 288.036, 288.060, 288.120, 288.122, and 288.330, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 288.036, 288.060, 288.120, 288.122, and 288.330, to read as follows:

288.036. 1. "Wages" means all remuneration, payable or paid, for personal services including commissions and bonuses and, except as provided in subdivision (7) of this section, the cash value of all remuneration paid in any medium other than cash. Gratuities, including tips received from persons other than the employing unit, shall be considered wages only if required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 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 required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306(b). Vacation pay, **termination pay, severance pay** and holiday pay shall be considered as wages for the week with respect to which it is payable. **The total amount of wages derived from severance pay, if paid to an insured in a lump sum, shall be pro-rated on a weekly basis at the rate of pay received by the insured at the time of termination for the purposes of determining unemployment benefits eligibility.** The term "wages" shall not include:

(1) The amount of any payment made (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 payment) to, or on behalf of, an individual under a plan or system established by
20 an employing unit which makes provision generally for individuals performing
21 services for it or for a class or classes of such individuals, on account of:

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

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

28 (c) Death;

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

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

37 (a) From or to a trust described in 26 U.S.C. 401(a) which is exempt from
38 tax pursuant to 26 U.S.C. 501(a) at the time of such payment unless such
39 payment is made to an employee of the trust as remuneration for services
40 rendered as such an employee and not as a beneficiary 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 Code
43 (26 U.S.C.A. Sec. 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. Sec. 3101) upon an individual with respect to remuneration paid to an
48 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. Sec. 3306 shall
56 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 and
59 for domestic service as defined in subsection 13 of section 288.034, only cash
60 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
75 section 288.330, less the principal, interest, and administrative expenses related
76 to any credit instrument issued under section 288.030, and less the principal,
77 interest, and administrative expenses related to any financial agreements under
78 subdivision (17) of subsection 2 of section 288.330. When the average balance of
79 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 for
85 the subsequent calendar year shall be decreased by five hundred dollars. In no
86 event, however, shall the state taxable wage base increase beyond twelve
87 thousand five hundred dollars, or decrease to less than seven thousand
88 dollars. For calendar year 2009, the tax wage base shall be twelve thousand five
89 hundred dollars. For calendar year 2010 and each calendar year thereafter, in
90 no event shall the state taxable wage base increase beyond thirteen thousand

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

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

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

5 3. Each eligible insured worker who is partially unemployed in any week
6 shall be paid for such week a partial benefit. Such partial benefit shall be an
7 amount equal to the difference between his or her weekly benefit amount and
8 that part of his or her wages for such week in excess of twenty dollars, and, if
9 such partial benefit amount is not a multiple of one dollar, such amount shall be
10 reduced to the nearest lower full dollar amount. For calendar year 2007 and each
11 year thereafter, such partial benefit shall be an amount equal to the difference
12 between his or her weekly benefit amount and that part of his or her wages for
13 such week in excess of twenty dollars or twenty percent of his or her weekly
14 benefit amount, whichever is greater, and, if such partial benefit amount is not
15 a multiple of one dollar, such amount shall be reduced to the nearest lower full
16 dollar amount. [Termination pay, severance pay or] Pay received by an eligible
17 insured worker who is a member of the organized militia for training or duty
18 authorized by Section 502(a)(1) of Title 32, United States Code, shall not be
19 considered wages for the purpose of this 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. [The maximum total amount of benefits
29 payable to any insured worker during any benefit year shall not exceed twenty

30 times his or her weekly benefit amount, or thirty-three and one-third percent of
31 his or her wage credits, whichever is the lesser.] For the purpose of this section,
32 wages shall be counted as wage credits for any benefit year, only if such benefit
33 year begins subsequent to the date on which the employing unit by whom such
34 wages were paid has become an employer. The wage credits of an individual
35 earned during the period commencing with the end of a prior base period and
36 ending on the date on which he or she filed an allowed initial claim shall not be
37 available for benefit purposes in a subsequent benefit year unless, in addition
38 thereto, such individual has subsequently earned either wages for insured work
39 in an amount equal to at least five times his or her current weekly benefit
40 amount or wages in an amount equal to at least ten times his or her current
41 weekly benefit amount.

42 **5. The duration of benefits payable to any insured worker during**
43 **any benefit year shall be limited to:**

44 **(1) Twenty weeks if the Missouri average unemployment rate is**
45 **nine percent or higher;**

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

48 **(3) Eighteen weeks if the Missouri average unemployment rate**
49 **is eight percent up to and including eight and one half percent;**

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

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

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

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

58 **(8) Thirteen weeks if the Missouri average unemployment rate**
59 **is below six percent.**

60 **As used in this subsection, the phrase "Missouri average unemployment**
61 **rate" means the average of the seasonally adjusted statewide**
62 **unemployment rates as published by the United States Department of**
63 **Labor, Bureau of Labor Statistics, for the time periods of January first**
64 **through March thirty-first and July first through September**
65 **thirtieth. The average of the seasonally adjusted statewide**

66 unemployment rates for the time period of January first through March
67 thirty-first shall be effective on and after July first of each year and
68 shall be effective through December thirty-first. The average of the
69 seasonally adjusted statewide unemployment rates for the time period
70 of July first through September thirtieth shall be effective on and after
71 January first of each year and shall be effective through June thirtieth;
72 and

73 (9) The provisions of this subsection shall become effective
74 January 1, 2018.

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

82 [6.] 7. The division is authorized to cancel any benefit warrant remaining
83 outstanding and unpaid one year after the date of its issuance and there shall be
84 no liability for the payment of any such benefit warrant thereafter.

85 [7.] 8. The division may establish an electronic funds transfer system to
86 transfer directly to claimants' accounts in financial institutions benefits payable
87 to them pursuant to this chapter. To receive benefits by electronic funds transfer,
88 a claimant shall satisfactorily complete a direct deposit application form
89 authorizing the division to deposit benefit payments into a designated checking
90 or savings account. Any electronic funds transfer system created pursuant to this
91 subsection shall be administered in accordance with regulations prescribed by the
92 division.

93 [8.] 9. The division may issue a benefit warrant covering more than one
94 week of benefits.

95 [9.] 10. Prior to January 1, 2005, the division shall institute procedures
96 including, but not limited to, name, date of birth, and Social Security verification
97 matches for remote claims filing via the use of telephone or the internet in
98 accordance with such regulations as the division shall prescribe. At a minimum,
99 the division shall verify the Social Security number and date of birth when an
100 individual claimant initially files for unemployment insurance benefits. If
101 verification information does not match what is on file in division databases to

102 what the individual is stating, the division shall require the claimant to submit
 103 a division-approved form requesting an affidavit of eligibility prior to the payment
 104 of additional future benefits. The division of employment security shall
 105 cross-check unemployment compensation applicants and recipients with Social
 106 Security Administration data maintained by the federal government at least
 107 weekly. The division of employment security shall cross-check at least monthly
 108 unemployment compensation applicants and recipients with department of
 109 revenue drivers license databases.

288.120. 1. On each June thirtieth, or within a reasonable time thereafter
 2 as may be fixed by regulation, the balance of an employer's experience rating
 3 account, except an employer participating in a shared work plan under section
 4 288.500, shall determine his contribution rate for the following calendar year as
 5 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%
-2.0	-1.0	3.8%
-1.0	0	3.6%
0	2.5	2.7%
2.5	3.5	2.6%
3.5	4.5	2.5%
4.5	5.0	2.4%
5.0	5.5	2.3%
5.5	6.0	2.2%
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%

2. Using the same mathematical principles used in constructing the table provided in subsection 1 of this section, the following table has been constructed. The contribution rate for the following calendar year of any employer participating in a shared work plan under section 288.500 during the current calendar year or any calendar year during a prior three-year period shall be determined from the balance in such employer's experience rating account as of the previous June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, from 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
- -	-27.0	9.0%
-27.0	-26.0	8.8%
-26.0	-25.0	8.6%
-25.0	-24.0	8.4%
-24.0	-23.0	8.2%
-23.0	-22.0	8.0%
-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
 116 subsection 2 of this section, until such time as his account has been chargeable
 117 with benefits for the period of time sufficient to enable him to qualify for a
 118 computed rate on the same basis as other employers participating in shared work
 119 plans.

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

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

288.122. On October first of each calendar year, if the average balance,

2 less any federal advances, of the unemployment compensation trust fund of the
 3 four preceding quarters (September thirtieth, June thirtieth, March thirty-first
 4 and December thirty-first of the preceding calendar year) is more than [six]
 5 **seven** hundred **twenty** million dollars, then each employer's contribution rate
 6 calculated for the four calendar quarters of the succeeding calendar year shall be
 7 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%.

13 Notwithstanding the table in this section, if the balance in the unemployment
 14 insurance compensation trust fund as calculated in this section is more than
 15 [seven] **eight** hundred [fifty] **seventy** million dollars, the percentage of decrease
 16 of the employer's contribution rate calculated for the four calendar quarters of the
 17 succeeding calendar year shall be no greater than ten percent for any employer
 18 whose calculated contribution rate under section 288.120 is six percent or 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
 4 excess of such sums. The governor is authorized to apply for an advance to the
 5 state unemployment fund and to accept the responsibility for the repayment of
 6 such advance in order to secure to this state and its citizens the advantages
 7 available 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**,
21 and the commissioner of administration. The board shall have all powers
22 necessary to effectuate its purposes including, without limitation, the power to
23 provide a seal, keep records of its proceedings, and provide for professional
24 services. The governor shall serve as chair, the lieutenant governor shall serve
25 as vice chair, and the commissioner of administration shall serve as
26 secretary. Staff support for the board shall be provided by the commissioner of
27 administration.

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

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

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

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

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

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

54 (5) The board shall provide for the payment of the principal of the credit
55 instruments, any redemption premiums, the interest on the credit instruments,

56 and the costs attributable to the credit instruments being issued or outstanding
57 as provided in this chapter. Unless the board directs otherwise, the credit
58 instrument shall be repaid in the same time frame and in the same amounts as
59 would be required for loans issued pursuant to 42 U.S.C. Section 1321; however,
60 in no case shall credit instruments be outstanding for more than ten years.

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

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

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

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

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

88 (9) The board may prescribe the form, details, and incidents of the credit
89 instruments and make such covenants that in its judgment are advisable or
90 necessary to properly secure the payment thereof. If such credit instruments
91 shall be authenticated by the bank or trust company acting as registrar for such

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

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

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

121 (12) As determined necessary by the board the proceeds of the credit
122 instruments less the cost of issuance shall be placed in the state's unemployment
123 compensation fund and may be used for the purposes for which that fund may
124 otherwise be used. If those net proceeds are not placed immediately in the
125 unemployment compensation fund they shall be held in the special employment
126 security fund in an account designated for that purpose until they are transferred
127 to the unemployment compensation fund provided that the proceeds of refunding

128 credit instruments may be placed in an escrow account or such other account or
129 instrument as determined necessary by the board.

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

144 (14) To the extent this section conflicts with other laws the provisions of
145 this section prevail. This section shall not be subject to the provisions of sections
146 23.250 to 23.298.

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

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

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

162 (b) The board is authorized to enter financial agreements with any lender
163 for the purposes set forth in subdivision (1) of this subsection, or to refinance

164 other financial agreements in whole or in part, upon the approval of the simple
165 majority of the members of the board of a resolution authorizing such financial
166 agreements, with no other proceedings required. In no instance shall the
167 outstanding obligation under any financial agreement continue for more than ten
168 years. Repayment of obligations to lenders shall be made from the special
169 employment security fund, section 288.310, subject to appropriation by the
170 general assembly.

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

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

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

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

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

200 authorized by resolution of the board and the provisions of section 108.175 shall
201 not apply to such financing agreements.

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

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

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

216 4. [For purposes of this section, as contained in senate substitute no. 2 for
217 senate committee substitute for house substitute for house committee substitute
218 for house bill nos. 1268 and 1211, ninety-second general assembly, second regular
219 session, the revisor of statutes shall renumber subdivision (16) of subsection 2 of
220 such section as subdivision (17) of such subsection and renumber subdivision (17)
221 of subsection 2 of such section as subdivision (16) of such subsection.]
222 **Notwithstanding any other law to the contrary, in the event that the**
223 **amount of moneys owed by the fund for total advancements by the**
224 **federal government exceeds three hundred million dollars, the board**
225 **shall be required to meet to consider authorizing the issuance, sale, and**
226 **delivery of credit instruments pursuant to this section for the entire**
227 **amount of the debt owed.**

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

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