

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 665
AN ACT

To repeal section 288.132, RSMo, and section 288.036 as enacted by house bill no. 150, ninety-eighth general assembly, first regular session, section 288.036 as enacted by house bill no. 1456, ninety-third general assembly, second regular session, section 288.060 as enacted by house bill no. 150, ninety-eighth general assembly, first regular session, and section 288.060 as enacted by house bill no. 163, ninety-sixth general assembly, first regular session, and to enact in lieu thereof five new sections relating to employment security, with an effective date for certain sections and an emergency clause for a certain section.

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

Section A. Section 288.132, RSMo, and section 288.036 as
2 enacted by house bill no. 150, ninety-eighth general assembly,
3 first regular session, section 288.036 as enacted by house bill
4 no. 1456, ninety-third general assembly, second regular
5 session, section 288.060 as enacted by house bill no. 150,
6 ninety-eighth general assembly, first regular session, and
7 section 288.060 as enacted by house bill no. 163, ninety-sixth
8 general assembly, first regular session, are repealed and five
9 new sections enacted in lieu thereof, to be known as sections
10 288.036, 288.060, 288.132, 288.133, and 288.552, to read as
11 follows:

[288.036. 1. "Wages" means all
2 remuneration, payable or paid, for personal
3 services including commissions and bonuses and,
4 except as provided in subdivision (7) of this
5 section, the cash value of all remuneration paid
6 in any medium other than cash. Gratuities,
7 including tips received from persons other than

8 the employing unit, shall be considered wages
9 only if required to be reported as wages
10 pursuant to the Federal Unemployment Tax Act, 26
11 U.S.C. Section 3306, and shall be, for the
12 purposes of this chapter, treated as having been
13 paid by the employing unit. Severance pay shall
14 be considered as wages to the extent required
15 pursuant to the Federal Unemployment Tax Act, 26
16 U.S.C. Section 3306(b). Vacation pay,
17 termination pay, severance pay and holiday pay
18 shall be considered as wages for the week with
19 respect to which it is payable. The total
20 amount of wages derived from severance pay, if
21 paid to an insured in a lump sum, shall be
22 prorated on a weekly basis at the rate of pay
23 received by the insured at the time of
24 termination for the purposes of determining
25 unemployment benefits eligibility. The term
26 "wages" shall not include:

27 (1) The amount of any payment made
28 (including any amount paid by an employing unit
29 for insurance or annuities, or into a fund, to
30 provide for any such payment) to, or on behalf
31 of, an individual under a plan or system
32 established by an employing unit which makes
33 provision generally for individuals performing
34 services for it or for a class or classes of
35 such individuals, on account of:

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

42 (b) Medical and hospitalization expenses
43 in connection with sickness or accident
44 disability; or

45 (c) Death;

46 (2) The amount of any payment on account
47 of sickness or accident disability, or medical
48 or hospitalization expenses in connection with
49 sickness or accident disability, made by an
50 employing unit to, or on behalf of, an
51 individual performing services for it after the
52 expiration of six calendar months following the
53 last calendar month in which the individual
54 performed services for such employing unit;

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

59 (a) From or to a trust described in 26
60 U.S.C. Section 401(a) which is exempt from tax
61 pursuant to 26 U.S.C. Section 501(a) at the time
62 of such payment unless such payment is made to
63 an employee of the trust as remuneration for
64 services rendered as such an employee and not as
65 a beneficiary of the trust; or

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

70 (4) The amount of any payment made by an
71 employing unit (without deduction from the
72 remuneration of the individual in employment) of
73 the tax imposed pursuant to Section 3101 of the
74 Federal Internal Revenue Code (26 U.S.C.A.
75 Section 3101) upon an individual with respect to
76 remuneration paid to an employee for domestic
77 service in a private home or for agricultural
78 labor;

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

83 (6) Remuneration paid in the form of meals
84 provided to an individual in the service of an
85 employing unit where such remuneration is
86 furnished on the employer's premises and at the
87 employer's convenience, except that remuneration
88 in the form of meals that is considered wages
89 and required to be reported as wages pursuant to
90 the Federal Unemployment Tax Act, 26 U.S.C.
91 Section 3306 shall be reported as wages as
92 required thereunder;

93 (7) For the purpose of determining wages
94 paid for agricultural labor as defined in
95 paragraph (b) of subdivision (1) of subsection
96 12 of section 288.034 and for domestic service
97 as defined in subsection 13 of section 288.034,
98 only cash wages paid shall be considered;

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

104 2. The increases or decreases to the state
105 taxable wage base for the remainder of calendar
106 year 2004 shall be eight thousand dollars, and
107 the state taxable wage base in calendar year
108 2005, and each calendar year thereafter, shall
109 be determined by the provisions within this
110 subsection. On January 1, 2005, the state
111 taxable wage base for calendar year 2005, 2006,
112 and 2007 shall be eleven thousand dollars. The
113 taxable wage base for calendar year 2008 shall
114 be twelve thousand dollars. The state taxable
115 wage base for each calendar year thereafter
116 shall be determined by the average balance of
117 the unemployment compensation trust fund of the
118 four preceding calendar quarters (September
119 thirtieth, June thirtieth, March thirty-first,
120 and December thirty-first of the preceding
121 calendar year), less any outstanding federal
122 Title XII advances received pursuant to section
123 288.330, less the principal, interest, and
124 administrative expenses related to any credit

125 instrument issued under section 288.030, and
126 less the principal, interest, and administrative
127 expenses related to any financial agreements
128 under subdivision (17) of subsection 2 of
129 section 288.330. When the average balance of
130 the unemployment compensation trust fund of the
131 four preceding quarters (September thirtieth,
132 June thirtieth, March thirty-first, and December
133 thirty-first of the preceding calendar year), as
134 so determined is:

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

138 (2) Six hundred fifty million or more,
139 then the state taxable wage base for the
140 subsequent calendar year shall be decreased by
141 five hundred dollars. In no event, however,
142 shall the state taxable wage base increase
143 beyond twelve thousand five hundred dollars, or
144 decrease to less than seven thousand dollars.
145 For calendar year 2009, the tax wage base shall
146 be twelve thousand five hundred dollars. For
147 calendar year 2010 and each calendar year
148 thereafter, in no event shall the state taxable
149 wage base increase beyond thirteen thousand
150 dollars, or decrease to less than seven thousand
151 dollars.

152 For any calendar year, the state taxable wage
153 base shall not be reduced to less than that part
154 of the remuneration which is subject to a tax
155 under a federal law imposing a tax against which
156 credit may be taken for contributions required
157 to be paid into a state unemployment
158 compensation trust fund. Nothing in this
159 section shall be construed to prevent the wage
160 base from increasing or decreasing by increments
161 of five hundred dollars.]

288.036. 1. "Wages" means all remuneration, payable
2 or paid, for personal services including commissions and
3 bonuses and, except as provided in subdivision (7) of this
4 [section] subsection, the cash value of all remuneration
5 paid in any medium other than cash. Gratuities, including
6 tips received from persons other than the employing unit,
7 shall be considered wages only if required to be reported as
8 wages pursuant to the Federal Unemployment Tax Act, 26
9 U.S.C. Section [3306] 3301, et seq., as amended, and shall
10 be, for the purposes of this chapter, treated as having been
11 paid by the employing unit. [Severance pay shall be
12 considered as wages to the extent required pursuant to the

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

23 (1) The amount of any payment made (including any
24 amount paid by an employing unit for insurance or annuities,
25 or into a fund, to provide for any such payment) to, or on
26 behalf of, an individual under a plan or system established
27 by an employing unit which makes provision generally for
28 individuals performing services for it or for a class or
29 classes of such individuals, on account of:

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

35 (b) Medical and hospitalization expenses in connection
36 with sickness or accident disability; or

37 (c) Death;

38 (2) The amount of any payment on account of sickness
39 or accident disability, or medical or hospitalization
40 expenses in connection with sickness or accident disability,
41 made by an employing unit to, or on behalf of, an individual
42 performing services for it after the expiration of six
43 calendar months following the last calendar month in which
44 the individual performed services for such employing unit;

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

48 (a) From or to a trust described in 26 U.S.C. Section
49 401(a) which is exempt from tax pursuant to 26 U.S.C.
50 Section 501(a) at the time of such payment unless such
51 payment is made to an employee of the trust as remuneration
52 for services rendered as such an employee and not as a
53 beneficiary of the trust; or

54 (b) Under or to an annuity plan which, at the time of
55 such payments, meets the requirements of Section 404(a)(2)
56 of the Federal Internal Revenue Code (26 U.S.C.A. Section
57 404);

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

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

68 (6) Remuneration paid in the form of meals provided to
69 an individual in the service of an employing unit where such
70 remuneration is furnished on the employer's premises and at
71 the employer's convenience, except that remuneration in the
72 form of meals that is considered wages and required to be
73 reported as wages pursuant to the Federal Unemployment Tax
74 Act, 26 U.S.C. Section 3306 shall be reported as wages as
75 required thereunder;

76 (7) For the purpose of determining wages paid for
77 agricultural labor as defined in paragraph (b) of

78 subdivision (1) of subsection 12 of section 288.034 and for
79 domestic service as defined in subsection 13 of section
80 288.034, only cash wages paid shall be considered;

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

85 2. The increases or decreases to the state taxable
86 wage base for the remainder of calendar year 2004 shall be
87 eight thousand dollars, and the state taxable wage base in
88 calendar year 2005, and each calendar year thereafter, shall
89 be determined by the provisions within this subsection. On
90 January 1, 2005, the state taxable wage base for calendar
91 year 2005, 2006, and 2007 shall be eleven thousand dollars.
92 The taxable wage base for calendar year 2008 shall be twelve
93 thousand dollars. The state taxable wage base for each
94 calendar year thereafter shall be determined by the average
95 balance of the unemployment compensation trust fund of the
96 four preceding calendar quarters (September thirtieth, June
97 thirtieth, March thirty-first, and December thirty-first of
98 the preceding calendar year), less any outstanding federal
99 Title XII advances received pursuant to section 288.330,
100 less the principal, interest, and administrative expenses
101 related to any credit instrument issued under section
102 ~~[288.030]~~ 288.330, and less the principal, interest, and
103 administrative expenses related to any financial agreements
104 under subdivision (17) of subsection 2 of section 288.330.
105 When the average balance of the unemployment compensation
106 trust fund of the four preceding quarters (September
107 thirtieth, June thirtieth, March thirty-first, and December
108 thirty-first of the preceding calendar year), as so
109 determined is:

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

113 (2) Six hundred fifty million or more, then the state
114 taxable wage base for the subsequent calendar year shall be
115 decreased by five hundred dollars. In no event, however,
116 shall the state taxable wage base increase beyond twelve
117 thousand five hundred dollars, or decrease to less than
118 seven thousand dollars. For calendar year 2009, the tax
119 wage base shall be twelve thousand five hundred dollars.
120 For calendar year 2010 and each calendar year thereafter, in
121 no event shall the state taxable wage base increase beyond
122 thirteen thousand dollars, or decrease to less than seven
123 thousand dollars.

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

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

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

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

20 difference between his or her weekly benefit
21 amount and that part of his or her wages for
22 such week in excess of twenty dollars or twenty
23 percent of his or her weekly benefit amount,
24 whichever is greater, and, if such partial
25 benefit amount is not a multiple of one dollar,
26 such amount shall be reduced to the nearest
27 lower full dollar amount. Pay received by an
28 eligible insured worker who is a member of the
29 organized militia for training or duty
30 authorized by Section 502(a)(1) of Title 32,
31 United States Code, shall not be considered
32 wages for the purpose of this subsection.

33 4. The division shall compute the wage
34 credits for each individual by crediting him or
35 her with the wages paid to him or her for
36 insured work during each quarter of his or her
37 base period or twenty-six times his or her
38 weekly benefit amount, whichever is the lesser.
39 In addition, if a claimant receives wages in the
40 form of termination pay or severance pay and
41 such payment appears in a base period
42 established by the filing of an initial claim,
43 the claimant may, at his or her option, choose
44 to have such payment included in the calendar
45 quarter in which it was paid or choose to have
46 it prorated equally among the quarters
47 comprising the base period of the claim. For
48 the purpose of this section, wages shall be
49 counted as wage credits for any benefit year,
50 only if such benefit year begins subsequent to
51 the date on which the employing unit by whom
52 such wages were paid has become an employer.
53 The wage credits of an individual earned during
54 the period commencing with the end of a prior
55 base period and ending on the date on which he
56 or she filed an allowed initial claim shall not
57 be available for benefit purposes in a
58 subsequent benefit year unless, in addition
59 thereto, such individual has subsequently earned
60 either wages for insured work in an amount equal
61 to at least five times his or her current weekly
62 benefit amount or wages in an amount equal to at
63 least ten times his or her current weekly
64 benefit amount.

65 5. The duration of benefits payable to any
66 insured worker during any benefit year shall be
67 limited to:

- 68 (1) Twenty weeks if the Missouri average
69 unemployment rate is nine percent or higher;
- 70 (2) Nineteen weeks if the Missouri average
71 unemployment rate is between eight and one-half
72 percent and nine percent;
- 73 (3) Eighteen weeks if the Missouri average
74 unemployment rate is eight percent up to and
75 including eight and one-half percent;
- 76 (4) Seventeen weeks if the Missouri
77 average unemployment rate is between seven and
78 one-half percent and eight percent;

79 (5) Sixteen weeks if the Missouri average
80 unemployment rate is seven percent up to and
81 including seven and one-half percent;

82 (6) Fifteen weeks if the Missouri average
83 unemployment rate is between six and one-half
84 percent and seven percent;

85 (7) Fourteen weeks if the Missouri average
86 unemployment rate is six percent up to and
87 including six and one-half percent;

88 (8) Thirteen weeks if the Missouri average
89 unemployment rate is below six percent.

90 As used in this subsection, the phrase "Missouri
91 average unemployment rate" means the average of
92 the seasonally adjusted statewide unemployment
93 rates as published by the United States
94 Department of Labor, Bureau of Labor Statistics,
95 for the time periods of January first through
96 March thirty-first and July first through
97 September thirtieth. The average of the
98 seasonally adjusted statewide unemployment rates
99 for the time period of January first through
100 March thirty-first shall be effective on and
101 after July first of each year and shall be
102 effective through December thirty-first. The
103 average of the seasonally adjusted statewide
104 unemployment rates for the time period of July
105 first through September thirtieth shall be
106 effective on and after January first of each
107 year and shall be effective through June
108 thirtieth; and

109 (9) The provisions of this subsection
110 shall become effective January 1, 2016.

111 6. In the event that benefits are due a
112 deceased person and no petition has been filed
113 for the probate of the will or for the
114 administration of the estate of such person
115 within thirty days after his or her death, the
116 division may by regulation provide for the
117 payment of such benefits to such person or
118 persons as the division finds entitled thereto
119 and every such payment shall be a valid payment
120 to the same extent as if made to the legal
121 representatives of the deceased.

122 7. The division is authorized to cancel
123 any benefit warrant remaining outstanding and
124 unpaid one year after the date of its issuance
125 and there shall be no liability for the payment
126 of any such benefit warrant thereafter.

127 8. The division may establish an
128 electronic funds transfer system to transfer
129 directly to claimants' accounts in financial
130 institutions benefits payable to them pursuant
131 to this chapter. To receive benefits by
132 electronic funds transfer, a claimant shall
133 satisfactorily complete a direct deposit
134 application form authorizing the division to
135 deposit benefit payments into a designated
136 checking or savings account. Any electronic
137 funds transfer system created pursuant to this

138 subsection shall be administered in accordance
139 with regulations prescribed by the division.
140 9. The division may issue a benefit
141 warrant covering more than one week of benefits.
142 10. Prior to January 1, 2005, the division
143 shall institute procedures including, but not
144 limited to, name, date of birth, and Social
145 Security verification matches for remote claims
146 filing via the use of telephone or the internet
147 in accordance with such regulations as the
148 division shall prescribe. At a minimum, the
149 division shall verify the Social Security number
150 and date of birth when an individual claimant
151 initially files for unemployment insurance
152 benefits. If verification information does not
153 match what is on file in division databases to
154 what the individual is stating, the division
155 shall require the claimant to submit a division-
156 approved form requesting an affidavit of
157 eligibility prior to the payment of additional
158 future benefits. The division of employment
159 security shall cross-check unemployment
160 compensation applicants and recipients with
161 Social Security Administration data maintained
162 by the federal government at least weekly. The
163 division of employment security shall cross-
164 check at least monthly unemployment compensation
165 applicants and recipients with department of
166 revenue drivers license databases.]

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

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

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

18 week in excess of twenty dollars or twenty percent of his or
19 her weekly benefit amount, whichever is greater, and, if
20 such partial benefit amount is not a multiple of one dollar,
21 such amount shall be reduced to the nearest lower full
22 dollar amount. [Termination pay, severance pay, or] Pay
23 received by an eligible insured worker who is a member of
24 the organized militia for training or duty authorized by
25 Section 502(a)(1) of Title 32, United States Code, shall not
26 be considered wages for the purpose of this subsection.

27 4. The division shall compute the wage credits for
28 each individual by crediting him or her with the wages paid
29 to him or her for insured work during each quarter of his or
30 her base period or twenty-six times his or her weekly
31 benefit amount, whichever is the lesser. In addition, if a
32 claimant receives wages in the form of vacation pay, holiday
33 pay, termination pay, or severance pay and such payment
34 appears in a base period established by the filing of an
35 initial claim, the claimant may, at his or her option,
36 choose to have such payment included in the calendar quarter
37 in which it was paid or choose to have it prorated equally
38 among the quarters comprising the base period of the claim.
39 The maximum total amount of benefits payable to any insured
40 worker during any benefit year shall not exceed twenty times
41 his or her weekly benefit amount, or thirty-three and one-
42 third percent of his or her wage credits, whichever is the
43 lesser. For the purpose of this section, wages shall be
44 counted as wage credits for any benefit year, only if such
45 benefit year begins subsequent to the date on which the
46 employing unit by whom such wages were paid has become an
47 employer. The wage credits of an individual earned during
48 the period commencing with the end of a prior base period
49 and ending on the date on which he or she filed an allowed
50 initial claim shall not be available for benefit purposes in

51 a subsequent benefit year unless, in addition thereto, such
52 individual has subsequently earned either wages for insured
53 work in an amount equal to at least five times his or her
54 current weekly benefit amount or wages in an amount equal to
55 at least ten times his or her current weekly benefit amount.

56 5. (1) The duration of benefits payable to any
57 insured worker during any benefit year shall be limited to:

58 (a) Twenty weeks if the Missouri unemployment rate is
59 higher than nine percent;

60 (b) Nineteen weeks if the Missouri unemployment rate
61 is higher than eight and one-half percent but no higher than
62 nine percent;

63 (c) Eighteen weeks if the Missouri unemployment rate
64 is higher than eight percent but no higher than eight and
65 one-half percent;

66 (d) Seventeen weeks if the Missouri unemployment rate
67 is higher than seven and one-half percent but no higher than
68 eight percent;

69 (e) Sixteen weeks if the Missouri unemployment rate is
70 higher than seven percent but no higher than seven and one-
71 half percent;

72 (f) Fifteen weeks if the Missouri unemployment rate is
73 higher than six and one-half percent but no higher than
74 seven percent;

75 (g) Fourteen weeks if the Missouri unemployment rate
76 is higher than six percent but no higher than six and one-
77 half percent;

78 (h) Thirteen weeks if the Missouri unemployment rate
79 is higher than five and one-half percent but no higher than
80 six percent;

81 (i) Twelve weeks if the Missouri unemployment rate is
82 higher than five percent but no higher than five and one-
83 half percent;

84 (j) Eleven weeks if the Missouri unemployment rate is
85 higher than four and one-half percent but no higher than
86 five percent;

87 (k) Ten weeks if the Missouri unemployment rate is
88 higher than four percent but no higher than four and one-
89 half percent;

90 (l) Nine weeks if the Missouri unemployment rate is
91 higher than three and one-half percent but no higher than
92 four percent; and

93 (m) Eight weeks if the Missouri unemployment rate is
94 at or below three and one-half percent.

95 (2) As used in this subsection, the phrase "Missouri
96 unemployment rate" means the statewide unemployment rate as
97 published by the United States Department of Labor, Bureau
98 of Labor Statistics, on the date that the claimant initially
99 files a claim for benefits.

100 (3) The provisions of this subsection shall become
101 effective January 1, 2023.

102 6. In the event that benefits are due a deceased
103 person and no petition has been filed for the probate of the
104 will or for the administration of the estate of such person
105 within thirty days after his or her death, the division may
106 by regulation provide for the payment of such benefits to
107 such person or persons as the division finds entitled
108 thereto and every such payment shall be a valid payment to
109 the same extent as if made to the legal representatives of
110 the deceased.

111 **[6.]** 7. The division is authorized to cancel any
112 benefit warrant remaining outstanding and unpaid one year
113 after the date of its issuance and there shall be no
114 liability for the payment of any such benefit warrant
115 thereafter.

116 [7.] 8. The division may establish an electronic funds
117 transfer system to transfer directly to claimants' accounts
118 in financial institutions benefits payable to them pursuant
119 to this chapter. To receive benefits by electronic funds
120 transfer, a claimant shall satisfactorily complete a direct
121 deposit application form authorizing the division to deposit
122 benefit payments into a designated checking or savings
123 account. Any electronic funds transfer system created
124 pursuant to this subsection shall be administered in
125 accordance with regulations prescribed by the division.

126 [8.] 9. The division may issue a benefit warrant
127 covering more than one week of benefits.

128 [9.] 10. Prior to January 1, 2005, the division shall
129 institute procedures including, but not limited to, name,
130 date of birth, and Social Security verification matches for
131 remote claims filing via the use of telephone or the
132 internet in accordance with such regulations as the division
133 shall prescribe. At a minimum, the division shall verify
134 the Social Security number and date of birth when an
135 individual claimant initially files for unemployment
136 insurance benefits. If verification information does not
137 match what is on file in division databases to what the
138 individual is stating, the division shall require the
139 claimant to submit a division-approved form requesting an
140 affidavit of eligibility prior to the payment of additional
141 future benefits. The division of employment security shall
142 cross-check unemployment compensation applicants and
143 recipients with Social Security Administration data
144 maintained by the federal government at least weekly. The
145 division of employment security shall cross-check at least
146 monthly unemployment compensation applicants and recipients
147 with department of revenue drivers license databases.

148 11. The division shall promulgate rules and
149 regulations to administer this section. Any rule or portion
150 of a rule, as that term is defined in section 536.010, that
151 is created under the authority delegated in this section
152 shall become effective only if it complies with and is
153 subject to all of the provisions of chapter 536 and, if
154 applicable, section 536.028. This section and chapter 536
155 are nonseverable and if any of the powers vested with the
156 general assembly pursuant to chapter 536 to review, to delay
157 the effective date, or to disapprove and annul a rule are
158 subsequently held unconstitutional, then the grant of
159 rulemaking authority and any rule proposed or adopted after
160 August 28, 2022, shall be invalid and void.

288.132. 1. There is hereby created in the state
2 treasury the "Unemployment Automation Fund", which shall
3 consist of money collected [under subsection 1 of section
4 288.131] pursuant to section 288.133, and such other state
5 funds appropriated by the general assembly. The state
6 treasurer shall be custodian of the fund and may approve
7 disbursements from the fund in accordance with sections
8 30.170 and 30.180. Upon appropriation, money in the fund
9 shall be used solely for the purpose of providing automated
10 systems, and the payment of associated costs, to improve the
11 administration of the state's unemployment insurance
12 program. Notwithstanding the provisions of section 33.080
13 to the contrary, all moneys remaining in the fund at the end
14 of the biennium shall not revert to the credit of the
15 general revenue fund. The state treasurer shall invest
16 moneys in the fund in the same manner as other funds are
17 invested. Any interest and money earned on such investments
18 shall be credited to the fund.

19 2. The unemployment automation fund shall not be used
20 in whole or in part for any purpose or in any manner that

21 would permit its substitution for, or a corresponding
22 reduction in, federal funds that would be available in its
23 absence to finance expenditures for the administration of
24 this chapter, or cause the appropriate agency of the United
25 States government to withhold any part of an administrative
26 grant which would otherwise be made.

288.133. 1. Each employer liable for contributions
2 pursuant to this chapter, except employers with a
3 contribution rate equal to zero, shall pay an annual
4 unemployment automation adjustment in an amount equal to two
5 one-hundredths of one percent of such employer's total
6 taxable wages for the twelve-month period ending the
7 preceding June thirtieth.

8 2. Notwithstanding subsection 1 of this section to the
9 contrary, the division may reduce the automation adjustment
10 percentage to ensure that the total amount of adjustment due
11 from all employers under this section shall not exceed five
12 million dollars annually.

13 3. Each employer liable to pay an automation
14 adjustment shall be notified of the amount due under this
15 section by March thirty-first of each year and such amount
16 shall be considered delinquent thirty days thereafter.
17 Delinquent unemployment automation adjustment amounts may be
18 collected in the manner provided under sections 288.160 and
19 288.170. All moneys collected under this section shall be
20 deposited in the unemployment automation fund established in
21 section 288.132.

22 4. For the first quarter of each calendar year, the
23 total amount of contribution otherwise due from each
24 employer liable to pay contributions under this chapter
25 shall be reduced by the dollar amount of unemployment
26 automation adjustment due from such employer pursuant to
27 subsection 1 of this section. However, the amount of

28 contributions due from such employer for the first quarter
29 of the calendar year in question shall not be reduced below
30 zero.

288.552. 1. Notwithstanding any provision of law to
2 the contrary, the department of labor and industrial
3 relations, and any division thereof, shall waive the
4 repayment of any unemployment benefits that were incorrectly
5 but nonfraudulently distributed to claimants from the state
6 unemployment compensation trust fund after March 27, 2020,
7 but before December 31, 2020, to the extent that federal law
8 grants the state of Missouri the authority to waive the
9 repayment of such incorrectly but nonfraudulently
10 distributed benefits.

11 2. A waiver of repayment granted to a claimant under
12 subsection 1 of this section shall meet the following
13 criteria:

14 (1) The waiver relates to an incorrectly but
15 nonfraudulently distributed payment of unemployment benefits
16 in which there was no fault on the part of the claimant;

17 (2) The repayment of such benefits by the claimant
18 would be contrary to equity and good conscience; and

19 (3) The decision to grant the waiver to a claimant is
20 made on an individualized basis.

21 3. Any claimant denied a waiver pursuant to this
22 section shall be granted an opportunity for a fair hearing
23 before the appeals tribunal pursuant to section 288.190.
24 The filing of an appeal shall stay the collection of the
25 overpayment or overpayments for which the waiver was denied
26 until such time that a decision is issued that has become
27 final. The decision of the appeals tribunal shall be
28 reviewable by the labor and industrial relations commission
29 pursuant to section 288.200.

30 4. (1) Any claimant who is denied a waiver pursuant
31 to this section shall be sent a notice by the department,
32 not later than ninety calendar days after the effective date
33 of this section, by both electronic mail and by mail postage
34 prepaid with a preaddressed return card notifying them of
35 the right to appeal such decision. If the department does
36 not receive a response within sixty calendar days from the
37 claimant, the department shall send another notice by
38 certified mail with a preaddressed return card. If the
39 claimant does not respond to the second notice within thirty
40 days, the department may proceed with collecting the
41 overpaid benefits.

42 (2) Each notice required by subdivision (1) of this
43 subsection shall include instructions on how to file an
44 appeal and shall also include the following in bold at the
45 top:

46 "ATTENTION: YOU HAVE BEEN OVERPAID UNEMPLOYMENT
47 BENEFITS.

- 48 • BY LAW, YOU ARE REQUIRED TO REPAY ALL OVERPAID
49 UNEMPLOYMENT BENEFITS.
- 50 • YOU MAY APPEAL THIS REQUIREMENT.
- 51 • IF YOU RETURN THIS CARD TO THE DEPARTMENT OF
52 LABOR AND INDUSTRIAL RELATIONS WITHIN 60 DAYS
53 INDICATING THAT YOU WILL APPEAL, COLLECTION WILL
54 NOT COMMENCE UNTIL AFTER THE APPEAL HAS
55 COMPLETED."

56 (3) If a claimant responds to a notice described in
57 this subsection indicating that he or she plans to appeal,
58 the department and any division thereof shall cease all
59 efforts to recover the overpaid benefits. Notwithstanding
60 any provision of law to the contrary, under no circumstance
61 shall the department or any division thereof attempt to
62 recover the overpaid benefits while the case is pending

63 appeal, provided that the claimant shall file an appeal not
64 later than sixty calendar days after notifying the
65 department of his or her intent to appeal.

66 5. (1) In the event that the department or any
67 division thereof has over-recovered unemployment
68 compensation benefits the department shall notify the
69 claimant by certified mail within fifteen days of discovery
70 of such over-recovery and:

71 (a) If the over-recovered sums are less than ten
72 thousand dollars, such sums shall be repaid to the claimant
73 from whom the sums were recovered not later than thirty days
74 after the claimant has been notified; and

75 (b) If the over-recovered sums are ten thousand
76 dollars or more, such sums shall be repaid to the claimant
77 from whom the sums were recovered within a reasonable time,
78 as determined through agreement between the department and
79 the claimant, with interest, as determined by section 32.068.

80 (2) If the department fails to notify the claimant of
81 an over-recovery as required by subdivision (1) of this
82 subsection, interest shall accrue, as determined by section
83 32.068, on any repayment of funds from the date that the
84 over-recovery was discovered.

85 (3) For purposes of this subsection, "over-recovered
86 unemployment compensation benefits" means any overpaid
87 unemployment compensation benefits that have been recovered
88 by the department of labor and industrial relations or any
89 division thereof but the amount recovered exceeded what was
90 required to be recovered under this chapter or under federal
91 law.

Section B. The repeal and reenactment of section
2 288.132 and the enactment of section 288.133 of section A of
3 this act shall become effective January 1, 2023.

Section C. Because immediate action is necessary to
2 protect the financial welfare of the residents of this
3 state, the enactment of section 288.552 of this act is
4 deemed necessary for the immediate preservation of the
5 public health, welfare, peace, and safety, and is hereby
6 declared to be an emergency act within the meaning of the
7 constitution, and the enactment of section 288.552 of this
8 act shall be in full force and effect upon its passage and
9 approval.