SENATE BILL NO. 1114

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR O'LAUGHLIN.

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal 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 two new sections relating to unemployment benefits.

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

5424S.01I

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and section 288.060 as enacted by house 6 bill no. 163, ninety-sixth general assembly, first regular 7 8 session, are repealed and two new sections enacted in lieu 9 thereof, to be known as sections 288.036 and 288.060, to read 10 as follows:

[288.036. 1. "Wages" means all 2 remuneration, payable or paid, for personal services including commissions and bonuses and, 3 except as provided in subdivision (7) of this 4 section, the cash value of all remuneration paid 5 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 pursuant to the Federal Unemployment Tax Act, 26 10 U.S.C. Section 3306, and shall be, for the 11 12 purposes of this chapter, treated as having been

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

paid by the employing unit. Severance pay shall 13 14 be considered as wages to the extent required pursuant to the Federal Unemployment Tax Act, 26 15 U.S.C. Section 3306(b). Vacation pay, 16 termination pay, severance pay and holiday pay 17 18 shall be considered as wages for the week with 19 respect to which it is payable. The total amount of wages derived from severance pay, if 20 paid to an insured in a lump sum, shall be 21 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 (including any amount paid by an employing unit 28 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' compensation law; or 41 Medical and hospitalization expenses 42 (b) in connection with sickness or accident 43 44 disability; or 45 Death; (C) The amount of any payment on account 46 (2)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: From or to a trust described in 26 59 (a) 60 U.S.C. Section 401(a) which is exempt from tax pursuant to 26 U.S.C. Section 501(a) at the time 61 of such payment unless such payment is made to 62 an employee of the trust as remuneration for 63 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 requirements of Section 404(a)(2) of the Federal 68 Internal Revenue Code (26 U.S.C.A. Section 404); 69

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
110	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 section 288.330. When the average balance of the unemployment compensation trust fund of the 129 130 131 four preceding quarters (September thirtieth, 132 June thirtieth, March thirty-first, and December thirty-first of the preceding calendar year), as 133 134 so determined is: 135 Less than, or equal to, three hundred (1)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, shall the state taxable wage base increase 142 beyond twelve thousand five hundred dollars, or 143 144 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 dollars. 151 For any calendar year, the state taxable wage 152 153 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 credit may be taken for contributions required 156 157 to be paid into a state unemployment 158 Nothing in this compensation trust fund. 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 U.S.C. Section [3306] 3301, et seq., as amended, and shall 9 10 be, for the purposes of this chapter, treated as having been paid by the employing unit. [Severance pay shall be 11 considered as wages to the extent required pursuant to the 12

Federal Unemployment Tax Act, 26 U.S.C. Section 3306(b).] 13 14 Vacation pay, termination pay, severance pay, and holiday 15 pay shall be considered as wages for the week with respect to which it is payable. The total amount of wages derived 16 from severance pay, termination pay, vacation pay, or 17 18 holiday pay, if paid to an insured in a lump sum, shall be prorated on a weekly basis at the rate of pay received by 19 20 the insured at the time of termination for the purposes of 21 determining unemployment benefits eligibility. The term 22 "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 payment) to, or on
behalf of, an individual under a plan or system established
by an employing unit which makes provision generally for
individuals performing services for it or for a class or
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 connection36 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:

(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

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

(4) The amount of any payment made by an employing unit (without deduction from the remuneration of the individual in employment) of the tax imposed pursuant to Section 3101 of the Federal Internal Revenue Code (26 U.S.C.A. Section 3101) upon an individual with respect to remuneration paid to an employee for domestic service in a 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 the employer's convenience, except that remuneration in the 71 form of meals that is considered wages and required to be 72 73 reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306 shall be reported as wages as 74 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 wage base for the remainder of calendar year 2004 shall be 86 eight thousand dollars, and the state taxable wage base in 87 88 calendar year 2005, and each calendar year thereafter, shall be determined by the provisions within this subsection. On 89 January 1, 2005, the state taxable wage base for calendar 90 91 year 2005, 2006, and 2007 shall be eleven thousand dollars. 92 The taxable wage base for calendar year 2008 shall be twelve thousand dollars. The state taxable wage base for each 93 94 calendar year thereafter shall be determined by the average balance of the unemployment compensation trust fund of the 95 four preceding calendar quarters (September thirtieth, June 96 97 thirtieth, March thirty-first, and December thirty-first of the preceding calendar year), less any outstanding federal 98 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 administrative expenses related to any financial agreements 103 under subdivision (17) of subsection 2 of section 288.330. 104 105 When the average balance of the unemployment compensation 106 trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first, and December 107

108 thirty-first of the preceding calendar year), as so 109 determined is:

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

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

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

[288.060. 1. All benefits shall be paid through employment offices in accordance with 2 such regulations as the division may prescribe. 3 2. Each eligible insured worker who is 4 totally unemployed in any week shall be paid for 5 such week a sum equal to his or her weekly 6 7 benefit amount. Each eligible insured worker who is 8 3. 9 partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the 10 11 12 difference between his or her weekly benefit

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amount and that part of his or her wages for 13 such week in excess of twenty dollars, and, if 14 such partial benefit amount is not a multiple of 15 16 one dollar, such amount shall be reduced to the 17 nearest lower full dollar amount. For calendar 18 year 2007 and each year thereafter, such partial 19 benefit shall be an amount equal to the 20 difference between his or her weekly benefit amount and that part of his or her wages for 21 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 form of termination pay or severance pay and 40 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 benefit amount or wages in an amount equal to at 62 63 least ten times his or her current weekly 64 benefit amount. 65 The duration of benefits payable to any 5. 66 insured worker during any benefit year shall be 67 limited to:

Twenty weeks if the Missouri average 68 (1)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 91	As used in this subsection, the phrase "Missouri
92	average unemployment rate" means the average of 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
117 118	payment of such benefits to such person or persons as the division finds entitled thereto
118	and every such payment shall be a valid payment
120	to the same extent as if made to the legal
120	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
161	by the federal government at least weekly. The
162	
	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 employment offices in accordance with such regulations as 2 3 the division may prescribe.

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

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 that part of his or her wages for such week in excess of 11 12 twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the 13 nearest lower full dollar amount. For calendar year 2007 14 and each year thereafter, such partial benefit shall be an 15 16 amount equal to the difference between his or her weekly 17 benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or 18 19 her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, 20 such amount shall be reduced to the nearest lower full 21 dollar amount. [Termination pay, severance pay, or] Pay 22 received by an eligible insured worker who is a member of 23 the organized militia for training or duty authorized by 24 25 Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection. 26

27 4. The division shall compute the wage credits for 28 each individual by crediting him or her with the wages paid to him or her for insured work during each quarter of his or 29 her base period or twenty-six times his or her weekly 30 benefit amount, whichever is the lesser. In addition, if a 31 32 claimant receives wages in the form of vacation pay, holiday 33 pay, termination pay, or severance pay and such payment appears in a base period established by the filing of an 34 35 initial claim, the claimant may, at his or her option, 36 choose to have such payment included in the calendar quarter in which it was paid or choose to have it prorated equally 37 38 among the quarters comprising the base period of the claim. 39 The maximum total amount of benefits payable to any insured worker during any benefit year shall not exceed twenty times 40 his or her weekly benefit amount, or thirty-three and one-41

42 third percent of his or her wage credits, whichever is the lesser. For the purpose of this section, wages shall be 43 44 counted as wage credits for any benefit year, only if such benefit year begins subsequent to the date on which the 45 employing unit by whom such wages were paid has become an 46 47 employer. The wage credits of an individual earned during the period commencing with the end of a prior base period 48 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 individual has subsequently earned either wages for insured 52 work in an amount equal to at least five times his or her 53 54 current weekly benefit amount or wages in an amount equal to at least ten times his or her current weekly benefit amount. 55

5. In the event that benefits are due a deceased 56 57 person and no petition has been filed for the probate of the will or for the administration of the estate of such person 58 within thirty days after his or her death, the division may 59 60 by regulation provide for the payment of such benefits to such person or persons as the division finds entitled 61 thereto and every such payment shall be a valid payment to 62 the same extent as if made to the legal representatives of 63 the deceased. 64

6. The division is authorized to cancel any benefit
66 warrant remaining outstanding and unpaid one year after the
67 date of its issuance and there shall be no liability for the
68 payment of any such benefit warrant thereafter.

69 7. The division may establish an electronic funds
70 transfer system to transfer directly to claimants' accounts
71 in financial institutions benefits payable to them pursuant
72 to this chapter. To receive benefits by electronic funds
73 transfer, a claimant shall satisfactorily complete a direct

74 deposit application form authorizing the division to deposit 75 benefit payments into a designated checking or savings 76 account. Any electronic funds transfer system created 77 pursuant to this subsection shall be administered in 78 accordance with regulations prescribed by the division.

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79 8. The division may issue a benefit warrant covering80 more than one week of benefits.

81 9. Prior to January 1, 2005, the division shall 82 institute procedures including, but not limited to, name, 83 date of birth, and Social Security verification matches for remote claims filing via the use of telephone or the 84 internet in accordance with such regulations as the division 85 shall prescribe. At a minimum, the division shall verify 86 the Social Security number and date of birth when an 87 individual claimant initially files for unemployment 88 89 insurance benefits. If verification information does not 90 match what is on file in division databases to what the individual is stating, the division shall require the 91 claimant to submit a division-approved form requesting an 92 affidavit of eligibility prior to the payment of additional 93 future benefits. The division of employment security shall 94 95 cross-check unemployment compensation applicants and recipients with Social Security Administration data 96 97 maintained by the federal government at least weekly. The 98 division of employment security shall cross-check at least 99 monthly unemployment compensation applicants and recipients with department of revenue drivers license databases. 100

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