

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]

# HOUSE BILL NO. 150

## 98TH GENERAL ASSEMBLY

0637H.01T

2015

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### 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 sections relating to employment security.

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*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  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 288.036, 288.060,  
3 288.120, 288.122, and 288.330, to read as follows:

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

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

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

16 an individual under a plan or system established by an employing unit which makes provision  
17 generally for individuals performing services for it or for a class or classes of such individuals,  
18 on account of:

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

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

24 (c) Death;

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

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

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

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

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

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

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

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

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

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

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

73 (2) Six hundred fifty million or more, then the state taxable wage base for the subsequent  
74 calendar year shall be decreased by five hundred dollars. In no event, however, shall the state  
75 taxable wage base increase beyond twelve thousand five hundred dollars, or decrease to less than  
76 seven thousand dollars. For calendar year 2009, the tax wage base shall be twelve thousand five  
77 hundred dollars. For calendar year 2010 and each calendar year thereafter, in no event shall the  
78 state taxable wage base increase beyond thirteen thousand dollars, or decrease to less than seven  
79 thousand dollars. For any calendar year, the state taxable wage base shall not be reduced to less  
80 than that part of the remuneration which is subject to a tax under a federal law imposing a tax  
81 against which credit may be taken for contributions required to be paid into a state  
82 unemployment compensation trust fund. Nothing in this section shall be construed to prevent  
83 the wage base from increasing or decreasing by increments of 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 totally unemployed in any week shall be paid for  
4 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 shall be paid  
6 for such week a partial benefit. Such partial benefit shall be an amount equal to the difference  
7 between his or her weekly benefit amount and that part of his or her wages for such week in  
8 excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such  
9 amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and  
10 each year thereafter, such partial benefit shall be an amount equal to the difference between his  
11 or her weekly benefit amount and that part of his or her wages for such week in excess of twenty  
12 dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such  
13 partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest  
14 lower full dollar amount. [Termination pay, severance pay or] Pay received by an eligible  
15 insured worker who is a member of the organized militia for training or duty authorized by  
16 Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose  
17 of this subsection.

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

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

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

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

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

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

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

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

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

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

53

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

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

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

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

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

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

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

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

Percentage the Employer's Experience Rating		
Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
8 - -	-12.0	6.0%
9 -12.0	-11.0	5.8%
10 -11.0	-10.0	5.6%
11 -10.0	-9.0	5.4%
12 -9.0	-8.0	5.2%
13 -8.0	-7.0	5.0%
14 -7.0	-6.0	4.8%
15 -6.0	-5.0	4.6%
16 -5.0	-4.0	4.4%

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

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

53	Percentage the Employer's Experience Rating		
54	Account is to that Employer's Average Annual Payroll		
55	Equals or Exceeds	Less Than	Contribution Rate
56	- -	-27.0	9.0%
57	-27.0	-26.0	8.8%
58	-26.0	-25.0	8.6%
59	-25.0	-24.0	8.4%
60	-24.0	-23.0	8.2%
61	-23.0	-22.0	8.0%
62	-22.0	-21.0	7.8%
63	-21.0	-20.0	7.6%
64	-20.0	-19.0	7.4%
65	-19.0	-18.0	7.2%
66	-18.0	-17.0	7.0%
67	-17.0	-16.0	6.8%
68	-16.0	-15.0	6.6%
69	-15.0	-14.0	6.4%
70	-14.0	-13.0	6.2%
71	-13.0	-12.0	6.0%
72	-12.0	-11.0	5.8%
73	-11.0	-10.0	5.6%
74	-10.0	-9.0	5.4%
75	-9.0	-8.0	5.2%
76	-8.0	-7.0	5.0%
77	-7.0	-6.0	4.8%
78	-6.0	-5.0	4.6%
79	-5.0	-4.0	4.4%
80	-4.0	-3.0	4.2%
81	-3.0	-2.0	4.0%
82	-2.0	-1.0	3.8%
83	-1.0	0	3.6%
84	0	2.5	2.7%
85	2.5	3.5	2.6%
86	3.5	4.5	2.5%
87	4.5	5.0	2.4%
88	5.0	5.5	2.3%



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

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

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

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

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

Balance in Trust Fund		Percentage
More Than	Equal to or Less Than	of Decrease
10 [\$600,000,000] <b>\$720,000,000</b>	[\$750,000,000] <b>\$870,000,000</b>	7%
11 [\$750,000,000] <b>\$870,000,000</b>		12%.

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

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

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

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

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

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

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

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

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

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

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

47 (5) The board shall provide for the payment of the principal of the credit instruments,  
48 any redemption premiums, the interest on the credit instruments, and the costs attributable to the  
49 credit instruments being issued or outstanding as provided in this chapter. Unless the board

50 directs otherwise, the credit instrument shall be repaid in the same time frame and in the same  
51 amounts as would be required for loans issued pursuant to 42 U.S.C. Section 1321; however, in  
52 no case shall credit instruments be outstanding for more than ten years.

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

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

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

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

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

76 (9) The board may prescribe the form, details, and incidents of the credit instruments and  
77 make such covenants that in its judgment are advisable or necessary to properly secure the  
78 payment thereof. If such credit instruments shall be authenticated by the bank or trust company  
79 acting as registrar for such by the manual signature of a duly authorized officer or employee  
80 thereof, the duly authorized officers of the board executing and attesting such credit instruments  
81 may all do so by facsimile signature provided such signatures have been duly filed as provided  
82 in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, when  
83 duly authorized by resolution of the board, and the provisions of section 108.175 shall not apply  
84 to such credit instruments. The board may provide for the flow of funds and the establishment  
85 and maintenance of separate accounts within the special employment security fund, including

86 the interest and sinking account, the reserve account, and other necessary accounts, and may  
87 make additional covenants with respect to the credit instruments in the documents authorizing  
88 the issuance of credit instruments including refunding credit instruments. The resolutions  
89 authorizing the issuance of credit instruments may also prohibit the further issuance of credit  
90 instruments or other obligations payable from appropriated moneys or may reserve the right to  
91 issue additional credit instruments to be payable from appropriated moneys on a parity with or  
92 subordinate to the lien and pledge in support of the credit instruments being issued and may  
93 contain other provisions and covenants as determined by the board, provided that any terms,  
94 provisions or covenants provided in any resolution of the board shall not be inconsistent with the  
95 provisions of this section.

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

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

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

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

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

124 (15) If the United States Secretary of Labor holds that a provision of this subsection or  
125 of any provision related to the levy or use of the credit instrument and financial agreement  
126 repayment surcharge does not conform with a federal statute or would result in the loss to the  
127 state of any federal funds otherwise available to it the board, in cooperation with the department  
128 of labor and industrial relations, may administer this subsection, and other provisions related to  
129 the credit instrument and financial agreement repayment surcharge, to conform with the federal  
130 statute until the general assembly meets in its next regular session and has an opportunity to  
131 amend this subsection or other sections, as applicable.

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

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

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

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

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

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

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

159 (e) The board may prescribe the form, details and incidents of the financing agreements  
160 and make such covenants that in its judgment are advisable or necessary to properly secure the  
161 payment thereof provided that any terms, provisions or covenants provided in any such financing  
162 agreement shall not be inconsistent with the provisions of this section. If such financing  
163 agreements shall be authenticated by the bank or trust company acting as registrar for such by  
164 the manual signature of a duly authorized officer or employee thereof, the duly authorized  
165 officers of the board executing and attesting such financing agreements may all do so by  
166 facsimile signature provided such signatures have been duly filed as provided in the uniform  
167 facsimile signature of public officials law, sections 105.273 to 105.278, when duly authorized  
168 by resolution of the board and the provisions of section 108.175 shall not apply to such financing  
169 agreements.

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

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

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

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

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

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