FIRST REGULAR SESSION

HOUSE BILL NO. 493

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARNES.

1311H.01I D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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

Section A. Sections 288.060, 288.122, and 288.330, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 288.060, 288.122, and 288.330, to read as follows:

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

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

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. Termination pay, severance pay or pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by Section

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.

502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Balance in Trust Fund		
		Percentage
More Than	Equal to or Less Than	of Decrease
[$600,000,000] **$720,000,000**	[$750,000,000] **$870,000,000**	7%
[$750,000,000] **$870,000,000**		12%.

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

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

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

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

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

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

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

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

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

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

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

(5) The board shall provide for the payment of the principal of the credit instruments, any redemption premiums, the interest on the credit instruments, and the costs attributable to the credit instruments being issued or outstanding as provided in this chapter. Unless the board directs otherwise, the credit instrument shall be repaid in the same time frame and in the same amounts as would be required for loans issued pursuant to 42 U.S.C. Section 1321; however, in no case shall credit instruments be outstanding for more than ten years.

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

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

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

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

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

(9) The board may prescribe the form, details, and incidents of the credit instruments and make such covenants that in its judgment are advisable or necessary to properly secure the payment thereof. If such credit instruments shall be authenticated by the bank or trust company acting as registrar for such by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board executing and attesting such credit instruments may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, when duly authorized by resolution of the board, and the provisions of section 108.175 shall not apply to such credit instruments. The board may provide for the flow of funds and the establishment and maintenance of separate accounts within the special employment security fund, including the interest and sinking account, the reserve account, and other necessary accounts, and may make additional covenants with respect to the credit instruments in the documents authorizing the issuance of credit instruments including refunding credit instruments. The resolutions authorizing the issuance of credit instruments may also prohibit the further issuance of credit instruments or other obligations payable from appropriated moneys or may reserve the right to issue additional credit instruments to be payable from appropriated moneys on a parity with or subordinate to the lien and pledge in support of the credit instruments being issued and may contain other provisions and covenants as determined by the board, provided that any terms,

provisions or covenants provided in any resolution of the board shall not be inconsistent with the provisions of this section.

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

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

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

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

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

(15) If the United States Secretary of Labor holds that a provision of this subsection or of any provision related to the levy or use of the credit instrument and financial agreement repayment surcharge does not conform with a federal statute or would result in the loss to the state of any federal funds otherwise available to it the board, in cooperation with the department of labor and industrial relations, may administer this subsection, and other provisions related to the credit instrument and financial agreement repayment surcharge, to conform with the federal

statute until the general assembly meets in its next regular session and has an opportunity to amend this subsection or other sections, as applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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