

EMPLOYMENT SECURITY: The half percent increase in the employer's contribution to the unemployment compensation fund under § 288.123, RSMo Supp. 1980, is effective for the quarter following the ensuing quarter after any quarter in which the cash balance in the unemployment fund on any day is below 150 million dollars, but is not a cumulative increase.

February 24, 1981

OPINION NO. 87

The Honorable Richard M. Webster  
Senator, 32nd District  
Senate Post Office, Capitol Bldg.  
Jefferson City, Missouri 65101

Dear Senator Webster:

This opinion is in response to your question asking whether an increase in the rate of payment to the unemployment compensation fund under § 288.123, RSMo Supp. 1980, is triggered each quarter the balance in the fund on any day of the quarter is less than 150 million dollars.

Section 288.123, RSMo Supp. 1980, provides:

If on any day of any calendar quarter the cash balance in the unemployment compensation fund is less than one hundred fifty million dollars, then each employer's rate for the quarter following the ensuing calendar quarter shall be increased by five-tenths of one percent.

The above section became effective January 1, 1980, and we have no judicial precedent to guide us. However, it seems clear that when the cash balance in the fund is less than 150 million dollars, the employer's rate goes up a half percent for the quarter following the ensuing calendar quarter. The employer's rates generally are fixed by other sections in Chapter 288, and the increase would never exceed a half percent even though there might be a balance in the unemployment compensation fund of less than 150 million dollars for two or more successive quarters.

Therefore, in our view, the half percent increase which is occasioned by such a drop in the unemployment compensation fund is not cumulative. If during any quarter the cash balance never on any day falls below 150 million dollars, there shall not be collected the half percent additional tax for the quarter following the ensuing calendar quarter.

The Honorable Richard M. Webster

CONCLUSION

It is the opinion of this office that the half percent increase in the employer's contribution to the unemployment compensation fund under § 288.123, RSMo Supp. 1980, is effective for the quarter following the ensuing quarter after any quarter in which the cash balance in the unemployment fund on any day is below 150 million dollars, but is not a cumulative increase.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in cursive script, reading "John Ashcroft", with a long horizontal flourish extending to the right.

JOHN ASHCROFT  
Attorney General