

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

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HOUSE SUBSTITUTE

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HOUSE BILLS NOS. 1268 & 1211

AN ACT

To repeal sections 285.300, 288.030, 288.032, 288.034, 288.036, 288.038, 288.040, 288.050, 288.060, 288.090, 288.100, 288.110, 288.120, 288.121, 288.122, 288.128, 288.290, 288.310, 288.330, 288.380, and 288.500, RSMo, and to enact in lieu thereof twenty-eight new sections relating to employees, with penalty provisions and an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 285.300, 288.030, 288.032, 288.034,
2 288.036, 288.038, 288.040, 288.050, 288.060, 288.090, 288.100,
3 288.110, 288.120, 288.121, 288.122, 288.128, 288.290, 288.310,
4 288.330, 288.380, and 288.500, RSMo, are repealed and twenty-
5 eight new sections enacted in lieu thereof, to be known as
6 sections 285.300, 288.030, 288.032, 288.034, 288.036, 288.038,
7 288.040, 288.045, 288.050, 288.060, 288.090, 288.100, 288.110,
8 288.120, 288.121, 288.122, 288.128, 288.175, 288.290, 288.310,
9 288.330, 288.380, 288.395, 288.397, 288.398, 288.500, 288.501,
10 and 288.502, to read as follows:

1 285.300. 1. Every employer doing business in the state
2 shall require each newly hired employee to fill out a federal W-4
3 withholding form. A copy of each withholding form or an
4 equivalent form containing data required by section 285.304 which
5 may be provided in an electronic or magnetic format, shall be
6 sent to the department of revenue by the employer within twenty
7 days after the date the employer hires the employee or in the
8 case of an employer transmitting a report magnetically or
9 electronically, by two monthly transmissions, if necessary, not
10 less than twelve days nor more than sixteen days apart. For
11 purposes of this section, the date the employer hires the
12 employee shall be the earlier of the date the employee signs the
13 W-4 form or its equivalent, or the first date the employee
14 reports to work, or performs labor or services. Such forms shall
15 be forwarded by the department of revenue to the division of
16 child support enforcement on a weekly basis and the information
17 shall be entered into the database, to be known as the "State
18 Directory of New Hires". The information reported shall be
19 provided to the National Directory of New Hires established in 42
20 U.S.C. section 653, other state agencies or contractors of the
21 division as required or allowed by federal statutes or
22 regulations. The division of employment security shall cross-
23 check Missouri unemployment compensation recipients against any
24 federal new hire database or any other database containing
25 Missouri or other states' wage information which is maintained by
26 the federal government on a weekly basis. The division of
27 employment security shall cross-check unemployment compensation
28 applicants and recipients with Social Security Administration

1 data maintained by the federal government at least weekly.
2 Effective January 1, 2007, the division of employment security
3 shall cross-check at least monthly unemployment compensation
4 applicants and recipients with department of revenue drivers
5 license databases.

6 2. Any employer that has employees who are employed in two
7 or more states and transmits reports magnetically or
8 electronically may comply with subsection 1 of this section by:

9 (1) Designating one of the states in which the employer has
10 employees as the designated state that such employer shall
11 transmit the reports; and

12 (2) Notifying the secretary of Health and Human Services of
13 such designation.

14 288.030. 1. As used in this chapter, unless the context
15 clearly requires otherwise, the following terms mean:

16 (1) "Appeals tribunal" [means], a referee or a body
17 consisting of three referees appointed to conduct hearings and
18 make decisions on appeals from administrative determinations,
19 petitions for reassessment, and claims referred pursuant to
20 subsection 2 of section 288.070;

21 (2) "Base period" [means], the first four of the last five
22 completed calendar quarters immediately preceding the first day
23 of an individual's benefit year;

24 (3) "Benefit year" [means], the one-year period beginning
25 with the first day of the first week with respect to which an
26 insured worker first files an initial claim for determination of
27 such worker's insured status, and thereafter the one-year period
28 beginning with the first day of the first week with respect to

1 which the individual, providing the individual is then an insured
2 worker, next files such an initial claim after the end of the
3 individual's last preceding benefit year;

4 (4) "Benefits" [means] the money payments payable to an
5 insured worker, as provided in this chapter, with respect to such
6 insured worker's unemployment;

7 (5) "Calendar quarter" [means] the period of three
8 consecutive calendar months ending on March thirty-first, June
9 thirtieth, September thirtieth, or December thirty-first;

10 (6) "Claimant" [means] an individual who has filed an
11 initial claim for determination of such individual's status as an
12 insured worker, a notice of unemployment, a certification for
13 waiting week credit, or a claim for benefits;

14 (7) "Commission" [means] the labor and industrial
15 relations commission of Missouri;

16 (8) "Common paymaster" [means] two or more related
17 corporations in which one of the corporations has been designated
18 to disburse remuneration to concurrently employed individuals of
19 any of the related corporations;

20 (9) "Contributions" [means] the money payments to the
21 unemployment compensation fund required by this chapter,
22 exclusive of interest and penalties;

23 (10) "Decision" [means] a ruling made by an appeals
24 tribunal or the commission after a hearing;

25 (11) "Deputy" [means] a representative of the division
26 designated to make investigations and administrative
27 determinations on claims or matters of employer liability or to
28 perform related work;

1 (12) "Determination" [means]_ any administrative ruling
2 made by the division without a hearing;

3 (13) "Director" [means]_ the administrative head of the
4 division of employment security;

5 (14) "Division" [means]_ the division of employment
6 security which administers this chapter;

7 (15) "Employing unit" [means]_ any individual,
8 organization, partnership, corporation, common paymaster, or
9 other legal entity, including the legal representatives thereof,
10 which has or, subsequent to June 17, 1937, had in its employ one
11 or more individuals performing services for it within this state.
12 All individuals performing services within this state for any
13 employing unit which maintains two or more separate
14 establishments within this state shall be deemed to be employed
15 by a single employing unit for all the purposes of this chapter.
16 Each individual engaged to perform or to assist in performing the
17 work of any person in the service of an employing unit shall be
18 deemed to be engaged by such employing unit for all the purposes
19 of this chapter, whether such individual was engaged or paid
20 directly by such employing unit or by such person, provided the
21 employing unit had actual or constructive knowledge of the work;

22 (16) "Employment office" [means]_ a free public employment
23 office operated by this or any other state as a part of a state
24 controlled system of public employment offices including any
25 location designated by the state as being a part of the one-stop
26 career system;

27 (17) "Equipment" [means]_ a motor vehicle, straight truck,
28 tractor, semi-trailer, full trailer, any combination of these and

1 any other type of equipment used by authorized carriers in the
2 transportation of property for hire;

3 (18) "Fund" [means] the unemployment compensation fund
4 established by this chapter;

5 (19) "Governmental entity" [means] the state, any
6 political subdivision thereof, any instrumentality of any one or
7 more of the foregoing which is wholly owned by this state and one
8 or more other states or political subdivisions and any
9 instrumentality of this state or any political subdivision
10 thereof and one or more other states or political subdivisions;

11 (20) "Initial claim" [means] an application, in a form
12 prescribed by the division, made by an individual for the
13 determination of the individual's status as an insured worker;

14 (21) "Insured work" [means] employment in the service of
15 an employer;

16 (22) (a) As to initial claims filed after December 31,
17 1990, "insured worker" [means] a worker who has been paid wages
18 for insured work in the amount of one thousand dollars or more in
19 at least one calendar quarter of such worker's base period and
20 total wages in the worker's base period equal to at least one and
21 one-half times the insured wages in that calendar quarter of the
22 base period in which the worker's insured wages were the highest,
23 or in the alternative, a worker who has been paid wages in at
24 least two calendar quarters of such worker's base period and
25 whose total base period wages are at least one and one-half times
26 the maximum taxable wage base, taxable to any one employer, in
27 accordance with [subdivision (1)] subsection 2 of section
28 288.036. For the purposes of this definition, "wages" shall be

1 considered as wage credits with respect to any benefit year, only
2 if such benefit year begins subsequent to the date on which the
3 employing unit by which such wages were paid has become an
4 employer;

5 (b) As to initial claims filed after December 31, 2004,
6 wages for insured work in the amount of one thousand two hundred
7 dollars or more, after December 31, 2005, one thousand three
8 hundred dollars or more, after December 31, 2006, one thousand
9 four hundred dollars or more, after December 31, 2007, one
10 thousand five hundred dollars or more in at least one calendar
11 quarter of such worker's base period and total wages in the
12 worker's base period equal to at least one and one-half times the
13 insured wages in that calendar quarter of the base period in
14 which the worker's insured wages were the highest, or in the
15 alternative, a worker who has been paid wages in at least two
16 calendar quarters of such worker's base period and whose total
17 base period wages are at least one and one-half times the maximum
18 taxable wage base, taxable to any one employer, in accordance
19 with subsection 2 of section 288.036;

20 (23) "Lessor", in a lease, [means], the party granting the
21 use of equipment, with or without a driver to another;

22 (24) "Misconduct", an act of wanton or willful disregard of
23 the employer's interest, a deliberate violation of the employer's
24 rules, a disregard of standards of behavior which the employer
25 has the right to expect of his or her employee, or negligence in
26 such degree or recurrence as to manifest culpability, wrongful
27 intent or evil design, or show an intentional and substantial
28 disregard of the employer's interest or of the employee's duties

1 and obligations to the employer;

2 (25) "Referee" [means], a representative of the division
3 designated to serve on an appeals tribunal;

4 [(25)] (26) "State", includes, in addition to the states of
5 the United States of America, the District of Columbia, Puerto
6 Rico, the Virgin Islands, and the Dominion of Canada;

7 [(26)] (27) "Temporary help firm", a firm that hires its
8 own employees and assigns them to clients to support or
9 supplement the clients' workforce in work situations such as
10 employee absences, temporary skill shortages, seasonal workloads,
11 and special assignments and projects;

12 _____ (28) "Temporary employee", an employee assigned to work for
13 the clients of a temporary help firm;

14 _____ (29) (a) An individual shall be deemed "totally
15 unemployed" in any week during which the individual performs no
16 services and with respect to which no wages are payable to such
17 individual;

18 (b) a. An individual shall be deemed "partially
19 unemployed" in any week of less than full-time work if the wages
20 payable to such individual for such week do not equal or exceed
21 the individual's weekly benefit amount plus twenty dollars;

22 b. Effective for calendar year 2007 and each year
23 thereafter, an individual shall be deemed "partially unemployed"
24 in any week of less than full-time work if the wages payable to
25 such individual for such week do not equal or exceed the
26 individual's weekly benefit amount plus twenty dollars or twenty
27 percent of his or her weekly benefit amount, whichever is
28 greater;

1 (c) An individual's "week of unemployment" shall begin the
2 first day of the calendar week in which the individual registers
3 at an employment office except that, if for good cause the
4 individual's registration is delayed, the week of unemployment
5 shall begin the first day of the calendar week in which the
6 individual would have otherwise registered. The requirement of
7 registration may by regulation be postponed or eliminated in
8 respect to claims for partial unemployment or may by regulation
9 be postponed in case of a mass layoff due to a temporary
10 cessation of work;

11 [(27)] (30) "Waiting week" [means], the first week of
12 unemployment for which a claim is allowed in a benefit year or if
13 no waiting week has occurred in a benefit year in effect on the
14 effective date of a shared work plan, the first week of
15 participation in a shared work unemployment compensation program
16 pursuant to section 288.500.

17 2. The Missouri average annual wage shall be computed as of
18 June thirtieth of each year, and shall be applicable to the
19 following calendar year. The Missouri average annual wage shall
20 be calculated by dividing the total wages reported as paid for
21 insured work in the preceding calendar year by the average of
22 mid-month employment reported by employers for the same calendar
23 year. The Missouri average weekly wage shall be computed by
24 dividing the Missouri average annual wage as computed in this
25 subsection by fifty-two.

26 288.032. 1. After December 31, 1977, "employer" means:

27 (1) Any employing unit which in any calendar quarter in
28 either the current or preceding calendar year paid for service in

1 employment wages of one thousand five hundred dollars or more
2 except that for the purposes of this definition, wages paid for
3 "agricultural labor" as defined in paragraph (a) of subdivision
4 (1) of subsection 12 of section 288.034 and for "domestic
5 services" as defined in subdivisions (2) and ~~[(12)]~~ (13) of
6 subsection 12 of section 288.034 shall not be considered;

7 (2) Any employing unit which for some portion of a day in
8 each of twenty different calendar weeks, whether or not such
9 weeks were consecutive, in either the current or the preceding
10 calendar year, had in employment at least one individual
11 (irrespective of whether the same individual was in employment in
12 each such day); except that for the purposes of this definition,
13 services performed in "agricultural labor" as defined in
14 paragraph (a) of subdivision (1) of subsection 12 of section
15 288.034 and in "domestic services" as defined in subdivisions (2)
16 and ~~[(12)]~~ (13) of subsection 12 of section 288.034 shall not be
17 considered;

18 (3) Any governmental entity for which service in employment
19 as defined in subsection 7 of section 288.034 is performed;

20 (4) Any employing unit for which service in employment as
21 defined in subsection 8 of section 288.034 is performed during
22 the current or preceding calendar year;

23 (5) Any employing unit for which service in employment as
24 defined in paragraph (b) of subdivision (1) of subsection 12 of
25 section 288.034 is performed during the current or preceding
26 calendar year;

27 (6) Any employing unit for which service in employment as
28 defined in subsection 13 of section 288.034 is performed during

1 the current or preceding calendar year;

2 (7) Any individual, type of organization or employing unit
3 which has been determined to be a successor pursuant to section
4 288.110;

5 (8) Any individual, type of organization or employing unit
6 which has elected to become subject to this law pursuant to
7 subdivision (1) of subsection 3 of section 288.080;

8 (9) Any individual, type of organization or employing unit
9 which, having become an employer, has not pursuant to section
10 288.080 ceased to be an employer;

11 (10) Any employing unit subject to the Federal Unemployment
12 Tax Act or which, as a condition for approval of this law for
13 full tax credit against the tax imposed by the Federal
14 Unemployment Tax Act, is required, pursuant to such act, to be an
15 employer pursuant to this law.

16 2. (1) Notwithstanding any other provisions of this law,
17 any employer, individual, organization, partnership, corporation,
18 other legal entity or employing unit that meets the definition of
19 "lessor employing unit", as defined in subdivision (5) of this
20 subsection, shall be liable for contributions on wages paid by
21 the lessor employing unit to individuals performing services for
22 client lessees of the lessor employing unit. Unless the lessor
23 employing unit has timely complied with the provisions of
24 subdivision (3) of this subsection, any employer, individual,
25 organization, partnership, corporation, other legal entity or
26 employing unit which is leasing individuals from any lessor
27 employing unit shall be jointly and severally liable for any
28 unpaid contributions, interest and penalties due pursuant to this

1 law from any lessor employing unit attributable to wages for
2 services performed for the client lessee entity by individuals
3 leased to the client lessee entity, and the lessor employing unit
4 shall keep separate records and submit separate quarterly
5 contribution and wage reports for each of its client lessee
6 entities. Delinquent contributions, interest and penalties shall
7 be collected in accordance with the provisions of this chapter.

8 (2) Notwithstanding the provisions of subdivision (1) of
9 this subsection, any governmental entity or nonprofit
10 organization that meets the definition of "lessor employing
11 unit", as defined in subdivision (5) of this subsection, and has
12 elected to become liable for payments in lieu of contributions as
13 provided in subsection 3 of section 288.090, shall pay the
14 division payments in lieu of contributions, interest, penalties
15 and surcharges in accordance with section 288.090 on benefits
16 paid to individuals performing services for the client lessees of
17 the lessor employing unit. If the lessor employing unit has not
18 timely complied with the provisions of subdivision (3) of this
19 subsection, any client lessees with services attributable to and
20 performed for the client lessees shall be jointly and severally
21 liable for any unpaid payments in lieu of contributions,
22 interest, penalties and surcharges due pursuant to this law. The
23 lessor employing unit shall keep separate records and submit
24 separate quarterly contribution and wage reports for each of its
25 client lessees. Delinquent payments in lieu of contributions,
26 interest, penalties and surcharges shall be collected in
27 accordance with subsection 3 of section 288.090. The election to
28 be liable for payments in lieu of contributions made by a

1 governmental entity or nonprofit organization meeting the
2 definition of "lessor employing unit", may be terminated by the
3 division in accordance with subsection 3 of section 288.090.

4 (3) In order to relieve a client lessees from joint and
5 several liability and the separate reporting requirements imposed
6 pursuant to this subsection, any lessor employing unit may post
7 and maintain a surety bond issued by a corporate surety
8 authorized to do business in Missouri in an amount equivalent to
9 the contributions or payments in lieu of contributions for which
10 the lessor employing unit was liable in the last calendar year in
11 which he or she accrued contributions or payments in lieu of
12 contributions, or one hundred thousand dollars, whichever amount
13 is the greater, to ensure prompt payment of contributions or
14 payments in lieu of contributions, interest, penalties and
15 surcharges for which the lessor employing unit may be, or
16 becomes, liable pursuant to this law. In lieu of a surety bond,
17 the lessor employing unit may deposit in a depository designated
18 by the director, securities with marketable value equivalent to
19 the amount required for a surety bond. The securities so
20 deposited shall include authorization to the director to sell any
21 securities in an amount sufficient to pay any contributions or
22 payments in lieu of contributions, interest, penalties and
23 surcharges which the lessor employing unit fails to promptly pay
24 when due. In lieu of a surety bond or securities as described in
25 this subdivision, any lessor employing unit may provide the
26 director with an irrevocable letter of credit, as defined in
27 section 400.5-103, RSMo, issued by any state or federally
28 chartered financial institution, in an amount equivalent to the

1 amount required for a surety bond as described in this
2 subdivision. In lieu of a surety bond, securities or an
3 irrevocable letter of credit, a lessor employing unit may obtain
4 a certificate of deposit issued by any state or federally
5 chartered financial institution, in an amount equivalent to the
6 amount required for a surety bond as described in this
7 subdivision. The certificate of deposit shall be pledged to the
8 director until release by the director. As used in this
9 subdivision, the term "certificate of deposit" means a
10 certificate representing any deposit of funds in a state or
11 federally chartered financial institution for a specified period
12 of time which earns interest at a fixed or variable rate, where
13 such funds cannot be withdrawn prior to a specified time without
14 forfeiture of some or all of the earned interest.

15 (4) Any lessor employing unit which is currently engaged in
16 the business of leasing individuals to client lessees shall
17 comply with the provisions of subdivision (3) of this subsection
18 by September 28, 1992. Lessor employing units not currently
19 engaged in the business of leasing individuals to client lessees
20 shall comply with subdivision (3) of this subsection before
21 entering into a written lease agreement with client lessees.

22 (5) As used in this subsection, the term "lessor employing
23 unit" means an independently established business entity,
24 governmental entity as defined in subsection 1 of section 288.030
25 or nonprofit organization as defined in subsection 3 of section
26 288.090 which, pursuant to a written lease agreement between the
27 lessor employing unit and the client lessees, engages in the
28 business of providing individuals to any other employer,

1 individual, organization, partnership, corporation, other legal
2 entity or employing unit referred to in this subsection as a
3 client lessee.

4 (6) The provisions of this subsection shall not be
5 applicable to private employment agencies who provide their
6 employees to employers on a temporary help basis provided the
7 private employment agencies are liable as employers for the
8 payment of contributions on wages paid to temporary workers so
9 employed.

10 3. After September 30, 1986, notwithstanding any provision
11 of section 288.034, for the purpose of this law, in no event
12 shall a for-hire motor carrier as regulated by the Missouri
13 division of motor carrier and railroad safety or whose operations
14 are confined to a commercial zone be determined to be the
15 employer of a lessor as defined in section 288.030 or of a driver
16 receiving remuneration from a lessor, provided, however, the term
17 "for-hire motor carrier" shall in no event include an
18 organization described in section 501(c)(3) of the Internal
19 Revenue Code or any governmental entity.

20 4. The owner or operator of a beauty salon or similar
21 establishment shall not be determined to be the employer of a
22 person who utilizes the facilities of the owner or operator but
23 who receives neither salary, wages or other compensation from the
24 owner or operator and who pays the owner or operator rent or
25 other payments for the use of the facilities.

26 288.034. 1. "Employment" means service, including service
27 in interstate commerce, performed for wages or under any contract
28 of hire, written or oral, express or implied, and notwithstanding

1 any other provisions of this section, service with respect to
2 which a tax is required to be paid under any federal unemployment
3 tax law imposing a tax against which credit may be taken for
4 contributions required to be paid into a state unemployment fund
5 or which, as a condition for full tax credit against the tax
6 imposed by the Federal Unemployment Tax Act, is required to be
7 covered under this law.

8 2. The term "employment" shall include an individual's
9 entire service, performed within or both within and without this
10 state if:

11 (1) The service is localized in this state; or

12 (2) The service is not localized in any state but some of
13 the service is performed in this state and the base of
14 operations, or, if there is no base of operations, then the place
15 from which such service is directed or controlled, is in this
16 state; or the base of operations or place from which such service
17 is directed or controlled is not in any state in which some part
18 of the service is performed but the individual's residence is in
19 this state.

20 3. Service performed by an individual for wages shall be
21 deemed to be employment subject to this law:

22 (1) If covered by an election filed and approved pursuant
23 to subdivision (2) of subsection 3 of section 288.080;

24 (2) If covered by an arrangement pursuant to section
25 288.340 between the division and the agency charged with the
26 administration of any other state or federal unemployment
27 insurance law, pursuant to which all services performed by an
28 individual for an employing unit are deemed to be performed

1 entirely within this state.

2 4. Service shall be deemed to be localized within a state
3 if the service is performed entirely within such state; or the
4 service is performed both within and without such state, but the
5 service performed without such state is incidental to the
6 individual's service within the state; for example, is temporary
7 or transitory in nature or consists of isolated transactions.

8 5. Service performed by an individual for remuneration
9 shall be deemed to be employment subject to this law unless it is
10 shown to the satisfaction of the division that such services were
11 performed by an independent contractor. In determining the
12 existence of the independent contractor relationship, the common
13 law of agency right to control shall be applied. The common law
14 of agency right to control test shall include but not be limited
15 to: if the alleged employer retains the right to control the
16 manner and means by which the results are to be accomplished, the
17 individual who performs the service is an employee. If only the
18 results are controlled, the individual performing the service is
19 an independent contractor.

20 6. The term "employment" shall include service performed
21 for wages as an agent-driver or commission-driver engaged in
22 distributing meat products, vegetable products, fruit products,
23 bakery products, beverages (other than milk), or laundry or
24 dry-cleaning services, for his or her principal; or as a
25 traveling or city salesman, other than as an agent-driver or
26 commission-driver, engaged upon a full-time basis in the
27 solicitation on behalf of, and the transmission to, his or her
28 principal (except for sideline sales activities on behalf of some

1 other person) of orders from wholesalers, retailers, contractors,
2 or operators of hotels, restaurants, or other similar
3 establishments for merchandise for resale or supplies for use in
4 their business operations, provided:

5 (1) The contract of service contemplates that substantially
6 all of the services are to be performed personally by such
7 individual; and

8 (2) The individual does not have a substantial investment
9 in facilities used in connection with the performance of the
10 services (other than in facilities for transportation); and

11 (3) The services are not in the nature of a single
12 transaction that is not part of a continuing relationship with
13 the person for whom the services are performed.

14 7. Service performed by an individual in the employ of this
15 state or any political subdivision thereof or any instrumentality
16 of any one or more of the foregoing which is wholly owned by this
17 state and one or more other states or political subdivisions, or
18 any service performed in the employ of any instrumentality of
19 this state or of any political subdivision thereof, and one or
20 more other states or political subdivisions, provided that such
21 service is excluded from "employment" as defined in the Federal
22 Unemployment Tax Act by Section 3306(c)(7) of that act and is not
23 excluded from "employment" pursuant to subsection 9 of this
24 section, shall be "employment" subject to this law.

25 8. Service performed by an individual in the employ of a
26 corporation or any community chest, fund, or foundation organized
27 and operated exclusively for religious, charitable, scientific,
28 testing for public safety, literary, or educational purposes, or

1 for the prevention of cruelty to children or animals, no part of
2 the net earnings of which inures to the benefit of any private
3 shareholder or individual, or other organization described in
4 Section 501(c)(3) of the Internal Revenue Code which is exempt
5 from income tax under Section 501(a) of that code if the
6 organization had four or more individuals in employment for some
7 portion of a day in each of twenty different weeks whether or not
8 such weeks were consecutive within a calendar year regardless of
9 whether they were employed at the same moment of time shall be
10 "employment" subject to this law.

11 9. For the purposes of subsections 7 and 8 of this section,
12 the term "employment" does not apply to service performed:

13 (1) In the employ of a church or convention or association
14 of churches, or an organization which is operated primarily for
15 religious purposes and which is operated, supervised, controlled,
16 or principally supported by a church or convention or association
17 of churches; or

18 (2) By a duly ordained, commissioned, or licensed minister
19 of a church in the exercise of such minister's ministry or by a
20 member of a religious order in the exercise of duties required by
21 such order; or

22 (3) In the employ of a governmental entity referred to in
23 subdivision (3) of subsection 1 of section 288.032 if such
24 service is performed by an individual in the exercise of duties:

25 (a) As an elected official;

26 (b) As a member of a legislative body, or a member of the
27 judiciary, of a state or political subdivision;

28 (c) As a member of the state national guard or air national

1 guard;

2 (d) As an employee serving on a temporary basis in case of
3 fire, storm, snow, earthquake, flood or similar emergency;

4 (e) In a position which, under or pursuant to the laws of
5 this state, is designated as (i) a major nontenured policy-making
6 or advisory position, or (ii) a policy-making or advisory
7 position the performance of the duties of which ordinarily does
8 not require more than eight hours per week; or

9 (4) In a facility conducted for the purpose of carrying out
10 a program of rehabilitation for individuals whose earning
11 capacity is impaired by age or physical or mental deficiency or
12 injury or providing remunerative work for individuals who because
13 of their impaired physical or mental capacity cannot be readily
14 absorbed in the competitive labor market, by an individual
15 receiving such rehabilitation or remunerative work; or

16 (5) As part of an unemployment work-relief or work-training
17 program assisted or financed in whole or in part by any federal
18 agency or an agency of a state or political subdivision thereof,
19 by an individual receiving such work relief or work training; or

20 (6) By an inmate of a custodial or penal institution; or

21 (7) In the employ of a school, college, or university, if
22 such service is performed (i) by a student who is enrolled and is
23 regularly attending classes at such school, college, or
24 university, or (ii) by the spouse of such a student, if such
25 spouse is advised, at the time such spouse commences to perform
26 such service, that (I) the employment of such spouse to perform
27 such service is provided under a program to provide financial
28 assistance to such student by such school, college, or

1 university, and (II) such employment will not be covered by any
2 program of unemployment insurance.

3 10. The term "employment" shall include the service of an
4 individual who is a citizen of the United States, performed
5 outside the United States (except in Canada), if:

6 (1) The employer's principal place of business in the
7 United States is located in this state; or

8 (2) The employer has no place of business in the United
9 States, but:

10 (a) The employer is an individual who is a resident of this
11 state; or

12 (b) The employer is a corporation which is organized under
13 the laws of this state; or

14 (c) The employer is a partnership or a trust and the number
15 of the partners or trustees who are residents of this state is
16 greater than the number who are residents of any one other state;
17 or

18 (3) None of the criteria of subdivisions (1) and (2) of
19 this subsection is met but the employer has elected coverage in
20 this state or, the employer having failed to elect coverage in
21 any state, the individual has filed a claim for benefits, based
22 on such service, under the law of this state;

23 (4) As used in this subsection and in subsection 11 of this
24 section, the term "United States" includes the states, the
25 District of Columbia and the Commonwealth of Puerto Rico.

26 11. An "American employer", for the purposes of subsection
27 10 of this section, means a person who is:

28 (1) An individual who is a resident of the United States;

1 or

2 (2) A partnership, if two-thirds or more of the partners
3 are residents of the United States; or

4 (3) A trust, if all of the trustees are residents of the
5 United States; or

6 (4) A corporation organized under the laws of the United
7 States or of any state.

8 12. The term "employment" shall not include:

9 (1) Service performed by an individual in agricultural
10 labor;

11 (a) For the purposes of this subdivision, the term
12 "agricultural labor" means remunerated service performed:

13 a. On a farm, in the employ of any person, in connection
14 with cultivating the soil, or in connection with raising or
15 harvesting any agricultural or horticultural commodity, including
16 the raising, shearing, feeding, caring for, training, and
17 management of livestock, bees, poultry, and furbearing animals
18 and wildlife;

19 b. In the employ of the owner or tenant or other operator
20 of a farm, in connection with the operation, management,
21 conservation, improvement, or maintenance of such farm and its
22 tools and equipment, or in salvaging timber or clearing land of
23 brush and other debris left by a hurricane, if the major part of
24 such service is performed on a farm;

25 c. In connection with the production or harvesting of any
26 commodity defined as an agricultural commodity in Section 15(g)
27 of the Federal Agricultural Marketing Act, as amended (46 Stat.
28 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the

1 ginning of cotton, or in connection with the operation or
2 maintenance of ditches, canals, reservoirs, or waterways, not
3 owned or operated for profit, used exclusively for supplying and
4 storing water for farming purposes;

5 d. i. In the employ of the operator of a farm in handling,
6 planting, drying, packing, packaging, processing, freezing,
7 grading, storing, or delivering to storage or to market or to a
8 carrier for transportation to market, in its unmanufactured
9 state, any agricultural or horticultural commodity; but only if
10 such operator produced more than one-half of the commodity with
11 respect to which such service is performed;

12 ii. In the employ of a group of operators of farms (or a
13 cooperative organization of which such operators are members) in
14 the performance of services described in item i of this
15 subparagraph, but only if such operators produced more than
16 one-half of the commodity with respect to which such service is
17 performed;

18 iii. The provisions of items i and ii of this subparagraph
19 shall not be deemed to be applicable with respect to service
20 performed in connection with commercial canning or commercial
21 freezing or in connection with any agricultural or horticultural
22 commodity after its delivery to a terminal market for
23 distribution for consumption; or

24 e. On a farm operated for profit if such service is not in
25 the course of the employer's trade or business. As used in this
26 paragraph, the term "farm" includes stock, dairy, poultry, fruit,
27 furbearing animals, and truck farms, plantations, ranches,
28 nurseries, ranges, greenhouses or other similar structures, used

1 primarily for the raising of agricultural or horticultural
2 commodities, and orchards;

3 (b) The term "employment" shall include service performed
4 after December 31, 1977, by an individual in agricultural labor
5 as defined in paragraph (a) of this subdivision when such service
6 is performed for a person who, during any calendar quarter, paid
7 remuneration in cash of twenty thousand dollars or more to
8 individuals employed in agricultural labor or for some portion of
9 a day in a calendar year in each of twenty different calendar
10 weeks, whether or not such weeks were consecutive, employed in
11 agricultural labor ten or more individuals, regardless of whether
12 they were employed at the same moment of time;

13 (c) For the purposes of this subsection any individual who
14 is a member of a crew furnished by a crew leader to perform
15 service in agricultural labor for any other person shall be
16 considered as employed by such crew leader:

17 a. If such crew leader holds a valid certificate of
18 registration under the Farm Labor Contractor Registration Act of
19 1963; or substantially all the members of such crew operate or
20 maintain tractors, mechanized harvesting or crop-dusting
21 equipment, or any other mechanized equipment, which is provided
22 by such crew leader; and

23 b. If such individual is not in employment by such other
24 person;

25 c. If any individual is furnished by a crew leader to
26 perform service in agricultural labor for any other person and
27 that individual is not in the employment of the crew leader:

28 i. Such other person and not the crew leader shall be

1 treated as the employer of such individual; and

2 ii. Such other person shall be treated as having paid cash
3 remuneration to such individual in an amount equal to the amount
4 of cash remuneration paid to such individual by the crew leader
5 (either on his or her own behalf or on behalf of such other
6 person) for the service in agricultural labor performed for such
7 other person;

8 d. For the purposes of this subsection, the term "crew
9 leader" means an individual who:

10 i. Furnishes individuals to perform service in agricultural
11 labor for any other person;

12 ii. Pays (either on his or her own behalf or on behalf of
13 such other person) the individuals so furnished by him or her for
14 the service in agricultural labor performed by them; and

15 iii. Has not entered into a written agreement with such
16 other person under which such individual is designated as in
17 employment by such other person;

18 (2) Domestic service in a private home except as provided
19 in subsection 13 of this section;

20 (3) Service performed by an individual under the age of
21 eighteen years in the delivery or distribution of newspapers or
22 shopping news but shall not include delivery or distribution to
23 any point for subsequent delivery or distribution;

24 (4) Service performed by an individual in, and at the time
25 of, the sale of newspapers or magazines to ultimate consumers
26 under an arrangement under which the newspapers or magazines are
27 to be sold by him or her at a fixed price, his or her
28 compensation being based on the retention of the excess of such

1 price over the amount at which the newspapers or magazines are
2 charged to him or her, whether or not he or she is guaranteed a
3 minimum amount of compensation for such service, or is entitled
4 to be credited with the unsold newspapers or magazines turned
5 back;

6 (5) Service performed by an individual in the employ of his
7 or her son, daughter, or spouse, and service performed by a child
8 under the age of twenty-one in the employ of his or her father or
9 mother;

10 (6) Except as otherwise provided in this law, service
11 performed in the employ of a corporation, community chest, fund
12 or foundation, organized and operated exclusively for religious,
13 charitable, scientific, literary, or educational purposes, or for
14 the prevention of cruelty to children or animals, no part of the
15 net earnings of which inures to the benefit of any private
16 shareholder or individual;

17 (7) Services with respect to which unemployment insurance
18 is payable under an unemployment insurance system established by
19 an act of Congress;

20 (8) Service performed in the employ of a foreign
21 government;

22 (9) Service performed in the employ of an instrumentality
23 wholly owned by a foreign government:

24 (a) If the service is of a character similar to that
25 performed in foreign countries by employees of the United States
26 government or of an instrumentality thereof; and

27 (b) If the division finds that the foreign government, with
28 respect to whose instrumentality exemption is claimed, grants an

1 equivalent exemption with respect to similar service performed in
2 the foreign country by employees of the United States government
3 and of instrumentalities thereof. The certification of the
4 United States Secretary of State to the United States Secretary
5 of Treasury shall constitute prima facie evidence of such
6 equivalent exemption;

7 (10) Service covered by an arrangement between the division
8 and the agency charged with the administration of any other state
9 or federal unemployment insurance law pursuant to which all
10 services performed by an individual for an employing unit during
11 the period covered by the employing unit's approved election are
12 deemed to be performed entirely within the jurisdiction of such
13 other state or federal agency;

14 (11) Service performed in any calendar quarter in the
15 employ of a school, college or university not otherwise excluded,
16 if such service is performed by a student who is enrolled and
17 regularly attending classes at such school, college, or
18 university, and the remuneration for such service does not exceed
19 fifty dollars (exclusive of board, room, and tuition);

20 (12) Service performed by an individual for a person as a
21 licensed insurance agent, a licensed insurance broker, or an
22 insurance solicitor, if all such service performed by such
23 individual for such person is performed for remuneration solely
24 by way of commissions;

25 (13) Domestic service performed in the employ of a local
26 college club or of a local chapter of a college fraternity or
27 sorority, except as provided in subsection 13 of this section;

28 (14) Services performed after March 31, 1982, in programs

1 authorized and funded by the Comprehensive Employment and
2 Training Act by participants of such programs, except those
3 programs with respect to which unemployment insurance coverage is
4 required by the Comprehensive Employment and Training Act or
5 regulations issued pursuant thereto;

6 (15) Service performed by an individual who is enrolled at
7 a nonprofit or public educational institution which normally
8 maintains a regular faculty and curriculum and normally has a
9 regularly organized body of students in attendance at the place
10 where its educational activities are carried on, as a student in
11 a full-time program, taken for credit at such institution, which
12 combines academic instruction with work experience, if such
13 service is an integral part of such program, and such institution
14 has so certified to the employer; except, that this subdivision
15 shall not apply to service performed in a program established for
16 or on behalf of an employer or group of employers;

17 (16) Services performed by a licensed real estate
18 salesperson or licensed real estate broker if at least eighty
19 percent of the remuneration, whether or not paid in cash, for the
20 services performed rather than to the number of hours worked is
21 directly related to sales performed pursuant to a written
22 contract between such individual and the person for whom the
23 services are performed and such contract provides that the
24 individual will not be treated as an employee with respect to
25 such services for federal tax purposes;

26 (17) Services performed as a direct seller who is engaged
27 in the trade or business of the delivering or distribution of
28 newspapers or shopping news, including any services directly

1 related to such trade or business, or services performed as a
2 direct seller who is engaged in the trade or business of selling,
3 or soliciting the sale of, consumer products in the home or
4 otherwise than in, or affiliated with, a permanent, fixed retail
5 establishment, if eighty percent or more of the remuneration,
6 whether or not paid in cash, for the services performed rather
7 than the number of hours worked is directly related to sales
8 performed pursuant to a written contract between such direct
9 seller and the person for whom the services are performed, and
10 such contract provides that the individual will not be treated as
11 an employee with respect to such services for federal tax
12 purposes;

13 (18) Services performed as a volunteer research subject who
14 is paid on a per study basis for scientific, medical or
15 drug-related testing for any organization other than one
16 described in Section 501(c)(3) of the Internal Revenue Code or
17 any governmental entity.

18 13. The term "employment" shall include domestic service as
19 defined in subdivisions (2) and ~~[(12)]~~ (13) of subsection 12 of
20 this section performed after December 31, 1977, if the employing
21 unit for which such service is performed paid cash wages of one
22 thousand dollars or more for such services in any calendar
23 quarter after December 31, 1977.

24 14. The term "employment" shall include or exclude the
25 entire service of an individual for an employing unit during a
26 pay period in which such individual's services are not all
27 excluded under the foregoing provisions, on the following basis:
28 if the services performed during one-half or more of any pay

1 period constitute employment as otherwise defined in this law,
2 all the services performed during such period shall be deemed to
3 be employment; but if the services performed during more than
4 one-half of any such pay period do not constitute employment as
5 otherwise defined in this law, then none of the services for such
6 period shall be deemed to be employment. (As used in this
7 subsection, the term "pay period" means a period of not more than
8 thirty-one consecutive days for which a payment of remuneration
9 is ordinarily made to the individual by the employing unit
10 employing such individual.) This subsection shall not be
11 applicable with respect to service performed in a pay period
12 where any such service is excluded pursuant to subdivision [(7)]
13 (8) of subsection 12 of this section.

14 15. The term "employment" shall not include the services of
15 a full-time student who performed such services in the employ of
16 an organized summer camp for less than thirteen calendar weeks in
17 such calendar year.

18 16. For the purpose of subsection 15 of this section, an
19 individual shall be treated as a full-time student for any
20 period:

21 (1) During which the individual is enrolled as a full-time
22 student at an educational institution; or

23 (2) Which is between academic years or terms if:

24 (a) The individual was enrolled as a full-time student at
25 an educational institution for the immediately preceding academic
26 year or term; and

27 (b) There is a reasonable assurance that the individual
28 will be so enrolled for the immediately succeeding academic year

1 or term after the period described in paragraph (a) of this
2 subdivision.

3 17. For the purpose of subsection 15 of this section, an
4 "organized summer camp" shall mean a summer camp which:

5 (1) Did not operate for more than seven months in the
6 calendar year and did not operate for more than seven months in
7 the preceding calendar year; or

8 (2) Had average gross receipts for any six months in the
9 preceding calendar year which were not more than thirty-three and
10 one-third percent of its average gross receipts for the other six
11 months in the preceding calendar year.

12 18. The term "employment" shall not mean service performed
13 by a remodeling salesperson acting as an independent contractor;
14 however, if the federal Internal Revenue Service determines that
15 a contractual relationship between a direct provider and an
16 individual acting as an independent contractor pursuant to the
17 provisions of this subsection is in fact an employer-employee
18 relationship for the purposes of federal law, then that
19 relationship shall be considered as an employer-employee
20 relationship for the purposes of this chapter.

21 288.036. 1. "Wages" means all remuneration, payable or
22 paid, for personal services including commissions and bonuses
23 and, except as provided in subdivision [(8)] (7) of this section,
24 the cash value of all remuneration paid in any medium other than
25 cash. Gratuities, including tips received from persons other
26 than the employing unit, shall be considered wages only if
27 required to be reported as wages pursuant to the Federal
28 Unemployment Tax Act, 26 U.S.C. Sec. 3306, and shall be, for the

1 purposes of this chapter, treated as having been paid by the
2 employing unit. Severance pay shall be considered as wages to
3 the extent required pursuant to the Federal Unemployment Tax Act,
4 26 U.S.C. Section 3306(b). Vacation pay and holiday pay shall be
5 considered as wages for the week with respect to which it is
6 payable. The term "wages" shall not include:

7 (1) [For the purposes of determining the amount of
8 contributions due and contribution rates, that part of the
9 remuneration for employment paid to an individual by an employer
10 or the employer's predecessors which is in excess of seven
11 thousand dollars for the calendar years 1988 through 1992, seven
12 thousand five hundred dollars for the calendar year 1993, eight
13 thousand five hundred dollars for the calendar years 1994, 1995
14 and 1996, eight thousand dollars for calendar year 1997, and
15 eight thousand five hundred dollars for the calendar year 1998,
16 and the state taxable wage base as determined in subsection 2 of
17 this section for calendar year 1999, and each calendar year
18 thereafter, unless that part of the remuneration is subject to a
19 tax pursuant to a federal law imposing a tax against which credit
20 may be taken for contributions required to be paid into a state
21 unemployment fund; except that:

22 (a) In addition to the taxable wage, as defined in this
23 subdivision, if on December 31, 1995, or on any December
24 thirty-first thereafter, the balance in the unemployment
25 insurance trust fund, less any federal advances, is less than one
26 hundred million dollars, then the amount of the taxable wage then
27 in effect shall be increased by five hundred dollars for all
28 succeeding calendar years;

1 (b) If on December 31, 1995, or any December thirty-first
2 thereafter, the balance in the unemployment insurance trust fund,
3 less any federal advances, is two hundred and fifty million
4 dollars or more, then the amount of the taxable wage then in
5 effect shall be reduced by five hundred dollars, but not below
6 that part of the remuneration which is subject to a tax pursuant
7 to a federal law imposing a tax against which credit may be taken
8 for contributions required to be paid into a state unemployment
9 fund;

10 (2)] The amount of any payment made (including any amount
11 paid by an employing unit for insurance or annuities, or into a
12 fund, to provide for any such payment) to, or on behalf of, an
13 individual under a plan or system established by an employing
14 unit which makes provision generally for individuals performing
15 services for it or for a class or classes of such individuals, on
16 account of:

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

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

23 (c) Death;

24 [(3)] (2) The amount of any payment on account of sickness
25 or accident disability, or medical or hospitalization expenses in
26 connection with sickness or accident disability, made by an
27 employing unit to, or on behalf of, an individual performing
28 services for it after the expiration of six calendar months

1 following the last calendar month in which the individual
2 performed services for such employing unit;

3 [(4)] (3) The amount of any payment made by an employing
4 unit to, or on behalf of, an individual performing services for
5 it or his or her beneficiary:

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

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

14 [(5)] (4) The amount of any payment made by an employing
15 unit (without deduction from the remuneration of the individual
16 in employment) of the tax imposed pursuant to section 3101 of the
17 Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an
18 individual with respect to remuneration paid to an employee for
19 domestic service in a private home or for agricultural labor;

20 [(6)] (5) Remuneration paid in any medium other than cash
21 to an individual for services not in the course of the employing
22 unit's trade or business;

23 [(7)] (6) Remuneration paid in the form of meals provided
24 to an individual in the service of an employing unit where such
25 remuneration is furnished on the employer's premises and at the
26 employer's convenience, except that remuneration in the form of
27 meals that is considered wages and required to be reported as
28 wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C.

1 Sec. 3306 shall be reported as wages as required thereunder;

2 ~~[(8)]~~ (7) For the purpose of determining wages paid for
3 agricultural labor as defined in paragraph (b) of subdivision (1)
4 of subsection 12 of section 288.034 and for domestic service as
5 defined in subsection 13 of section 288.034, only cash wages paid
6 shall be considered;

7 ~~[(9)]~~ (8) Beginning on October 1, 1996, any payment to, or
8 on behalf of, an employee or the employee's beneficiary under a
9 cafeteria plan, if such payment would not be treated as wages
10 pursuant to the Federal Unemployment Tax Act.

11 2. The increases or decreases to the state taxable wage
12 base for the remainder of calendar year [1999] 2004 shall be
13 eight thousand dollars, and the state taxable wage base in
14 calendar year 2005, and each calendar year thereafter, shall be
15 determined by the provisions within this subsection. On January
16 1, 2005, the state taxable wage base for calendar year [1999,
17 and] 2005, 2006, and 2007 shall be eleven thousand dollars. The
18 taxable wage base for calendar year 2008, and each year
19 thereafter, shall be twelve thousand dollars. The state taxable
20 wage base for each calendar year thereafter[,] shall be
21 determined by the preceding September thirtieth balance of the
22 unemployment compensation trust fund, less any outstanding
23 federal Title XII advances received pursuant to section 288.330,
24 or if the fund is not utilizing moneys advanced by the federal
25 government, then less the principal, interest, and administrative
26 expenses related to credit instruments issued under section
27 288.330, or the principal, interest, and administrative expenses
28 related to financial agreements under subdivision (17) of

1 subsection 2 of section 288.330, or the principal, interest, and
2 administrative expenses related to a combination of Title XII
3 advances, credit instruments, and financial agreements. When the
4 September thirtieth unemployment compensation trust fund balance,
5 or, if the average balance, less any federal advances of the
6 unemployment compensation trust fund of the four preceding
7 quarters (September thirtieth, June thirtieth, March thirty-
8 first, and December thirty-first of the preceding calendar year)
9 is less any outstanding federal Title XII advances received
10 pursuant to section 288.330, is:

11 (1) Less than, or equal to, three hundred fifty million
12 dollars, then the wage base shall increase by [~~five hundred~~] one
13 thousand dollars; or

14 (2) [~~Four~~] Six hundred fifty million or more, then the
15 state taxable wage base for the subsequent calendar year shall be
16 decreased by five hundred dollars. In no event, however, shall
17 the state taxable wage base increase beyond [~~ten~~] twelve thousand
18 [~~five hundred~~] dollars, or decrease to less than seven thousand
19 dollars. For calendar year 2009, the tax wage base shall be
20 twelve thousand five hundred dollars. For calendar year 2010 and
21 each calendar year thereafter, in no event shall the state
22 taxable wage base increase beyond thirteen thousand dollars, or
23 decrease to less than seven thousand dollars.

24
25 For any calendar year, the state taxable wage base shall not be
26 reduced to less than that part of the remuneration which is
27 subject to a tax under a federal law imposing a tax against which
28 credit may be taken for contributions required to be paid into a

1 state unemployment compensation trust fund. Nothing in this
2 section shall be construed to prevent the wage base from
3 increasing or decreasing by increments of five hundred dollars.

4 288.038. With respect to initial claims filed during
5 calendar years [1998, 1999, 2000 and 2001 and each calendar year
6 thereafter] 2004 and 2005, the "maximum weekly benefit amount"
7 means four percent of the total wages paid to an eligible insured
8 worker during that quarter of the worker's base period in which
9 the worker's wages were the highest, but the maximum weekly
10 benefit amount shall not exceed [two hundred five dollars in the
11 calendar year 1998, two hundred twenty dollars in the calendar
12 year 1999, two hundred thirty-five dollars in the calendar year
13 2000, and] two hundred fifty dollars in the calendar [year 2001,
14 and each calendar year thereafter] years 2004 and 2005. With
15 respect to initial claims filed during calendar years 2006 and
16 2007 the "maximum weekly benefit amount" means three and three-
17 fourths percent of the total wages paid to an eligible insured
18 worker during that quarter of the worker's base period in which
19 the worker's wages were the highest, but the maximum weekly
20 benefit amount shall not exceed two hundred seventy dollars in
21 calendar year 2006 and the maximum weekly benefit amount shall
22 not exceed two hundred eighty dollars in calendar year 2007.
23 With respect to initial claims filed during calendar year 2008
24 and each calendar year thereafter, the "maximum weekly benefit
25 amount" means four percent of the total wages paid to an eligible
26 insured worker during the average of the two highest quarters of
27 the worker's base period, but the maximum weekly benefit amount
28 shall not exceed three hundred dollars in calendar year 2008,

1 three hundred ten dollars in calendar year 2009, three hundred
2 twenty dollars in calendar year 2010, and each calendar year
3 thereafter. If such benefit amount is not a multiple of one
4 dollar, such amount shall be reduced to the nearest lower full
5 dollar amount.

6 288.040. 1. A claimant who is unemployed and has been
7 determined to be an insured worker shall be eligible for benefits
8 for any week only if the deputy finds that:

9 (1) The claimant has registered for work at and thereafter
10 has continued to report at an employment office in accordance
11 with such regulations as the division may prescribe;

12 (2) The claimant is able to work and is available for work.
13 No person shall be deemed available for work unless such person
14 has been and is actively and earnestly seeking work. Upon the
15 filing of an initial or renewed claim, and prior to the filing of
16 each weekly claim thereafter, the deputy shall notify each
17 claimant of the number of work search contacts required to
18 constitute an active search for work. No person shall be
19 considered not available for work, pursuant to this subdivision,
20 solely because he or she is a substitute teacher or is on jury
21 duty. A claimant shall not be determined to be ineligible
22 pursuant to this subdivision because of not actively and
23 earnestly seeking work if:

24 (a) The claimant is participating in training approved
25 pursuant to Section 236 of the Trade Act of 1974, as amended, (19
26 U.S.C.A. Sec. 2296, as amended); [or]

27 (b) The claimant is temporarily unemployed through no fault
28 of his or her own and has a definite recall date within eight

1 weeks of his or her first day of unemployment; however, upon
2 application of the employer responsible for the claimant's
3 unemployment, such eight-week period may be extended not to
4 exceed a total of sixteen weeks at the discretion of the
5 director;

6 (3) The claimant has reported in person to an office of the
7 division as directed by the deputy, but at least once every four
8 weeks, except that a claimant shall be exempted from the
9 reporting requirement of this subdivision if:

10 (a) The claimant is claiming benefits in accordance with
11 division regulations dealing with partial or temporary total
12 unemployment; or

13 (b) The claimant is temporarily unemployed through no fault
14 of his or her own and has a definite recall date within eight
15 weeks of his or her first day of unemployment; or

16 (c) The claimant resides in a county with an unemployment
17 rate, as published by the division, of ten percent or more and in
18 which the county seat is more than forty miles from the nearest
19 division office;

20 (d) The director of the division of employment security has
21 determined that the claimant belongs to a group or class of
22 workers whose opportunities for reemployment will not be enhanced
23 by reporting in person, or is prevented from reporting due to
24 emergency conditions that limit access by the general public to
25 an office that serves the area where the claimant resides, but
26 only during the time such circumstances exist.

27
28 Ineligibility pursuant to this subdivision shall begin on the

1 first day of the week which the claimant was scheduled to claim
2 and shall end on the last day of the week preceding the week
3 during which the claimant does report in person to the division's
4 office;

5 (4) Prior to the first week of a period of total or partial
6 unemployment for which the claimant claims benefits he or she has
7 been totally or partially unemployed for a waiting period of one
8 week. No more than one waiting week will be required in any
9 benefit year. [The one-week waiting period shall become
10 compensable after unemployment during which benefits are payable
11 for nine consecutive weeks.] During calendar year 2008 and each
12 calendar year thereafter, the one-week waiting period shall
13 become compensable once his or her remaining balance on the claim
14 is equal to or less than the compensable amount for the waiting
15 period. No week shall be counted as a week of total or partial
16 unemployment for the purposes of this subsection unless it occurs
17 within the benefit year which includes the week with respect to
18 which the claimant claims benefits;

19 (5) The claimant has made a claim for benefits;

20 (6) The claimant is participating in reemployment services,
21 such as job search assistance services, as directed by the deputy
22 if the claimant has been determined to be likely to exhaust
23 regular benefits and to need reemployment services pursuant to a
24 profiling system established by the division, unless the deputy
25 determines that:

26 (a) The individual has completed such reemployment
27 services; or

28 (b) There is justifiable cause for the claimant's failure

1 to participate in such reemployment services.

2 2. A claimant shall be ineligible for waiting week credit
3 or benefits for any week for which the deputy finds he or she is
4 or has been suspended by his or her most recent employer for
5 misconduct connected with his or her work. Suspensions of four
6 weeks or more shall be treated as discharges.

7 3. (1) Benefits based on "service in employment", defined
8 in subsections 7 and 8 of section 288.034, shall be payable in
9 the same amount, on the same terms and subject to the same
10 conditions as compensation payable on the basis of other service
11 subject to this law; except that:

12 (a) With respect to service performed in an instructional,
13 research, or principal administrative capacity for an educational
14 institution, benefits shall not be paid based on such services
15 for any week of unemployment commencing during the period between
16 two successive academic years or terms, or during a similar
17 period between two regular but not successive terms, or during a
18 period of paid sabbatical leave provided for in the individual's
19 contract, to any individual if such individual performs such
20 services in the first of such academic years (or terms) and if
21 there is a contract or a reasonable assurance that such
22 individual will perform services in any such capacity for any
23 educational institution in the second of such academic years or
24 terms;

25 (b) With respect to services performed in any capacity
26 (other than instructional, research, or principal administrative
27 capacity) for an educational institution, benefits shall not be
28 paid on the basis of such services to any individual for any week

1 which commences during a period between two successive academic
2 years or terms if such individual performs such services in the
3 first of such academic years or terms and there is a contract or
4 a reasonable assurance that such individual will perform such
5 services in the second of such academic years or terms;

6 (c) With respect to services described in paragraphs (a)
7 and (b) of this subdivision, benefits shall not be paid on the
8 basis of such services to any individual for any week which
9 commences during an established and customary vacation period or
10 holiday recess if such individual performed such services in the
11 period immediately before such vacation period or holiday recess,
12 and there is reasonable assurance that such individual will
13 perform such services immediately following such vacation period
14 or holiday recess;

15 (d) With respect to services described in paragraphs (a)
16 and (b) of this subdivision, benefits payable on the basis of
17 services in any such capacity shall be denied as specified in
18 paragraphs (a), (b), and (c) of this subdivision, to any
19 individual who performed such services at an educational
20 institution while in the employ of an educational service agency,
21 and for this purpose the term "educational service agency" means
22 a governmental agency or governmental entity which is established
23 and operated exclusively for the purpose of providing such
24 services to one or more educational institutions.

25 (2) If compensation is denied for any week pursuant to
26 paragraph (b) or (d) of subdivision (1) of this subsection, to
27 any individual performing services at an educational institution
28 in any capacity (other than instructional, research or principal

1 administrative capacity), and such individual was not offered an
2 opportunity to perform such services for the second of such
3 academic years or terms, such individual shall be entitled to a
4 retroactive payment of the compensation for each week for which
5 the individual filed a timely claim for compensation and for
6 which compensation was denied solely by reason of paragraph (b)
7 or (d) of subdivision (1) of this subsection.

8 4. (1) A claimant shall be ineligible for waiting week
9 credit, benefits or shared work benefits for any week for which
10 he or she is receiving or has received remuneration exceeding his
11 or her weekly benefit amount or shared work benefit amount in the
12 form of:

13 (a) Compensation for temporary partial disability pursuant
14 to the workers' compensation law of any state or pursuant to a
15 similar law of the United States;

16 (b) A governmental or other pension, retirement or retired
17 pay, annuity, or other similar periodic payment which is based on
18 the previous work of such claimant to the extent that such
19 payment is provided from funds provided by a base period or
20 chargeable employer pursuant to a plan maintained or contributed
21 to by such employer; but, except for such payments made pursuant
22 to the Social Security Act or the Railroad Retirement Act of 1974
23 (or the corresponding provisions of prior law), the provisions of
24 this paragraph shall not apply if the services performed for such
25 employer by the claimant after the beginning of the base period
26 (or remuneration for such services) do not affect eligibility for
27 or increase the amount of such pension, retirement or retired
28 pay, annuity or similar payment.

1 (2) If the remuneration referred to in this subsection is
2 less than the benefits which would otherwise be due, the claimant
3 shall be entitled to receive for such week, if otherwise
4 eligible, benefits reduced by the amount of such remuneration,
5 and, if such benefit is not a multiple of one dollar, such amount
6 shall be lowered to the next multiple of one dollar.

7 (3) Notwithstanding the provisions of subdivisions (1) and
8 (2) of this subsection, if a claimant has contributed in any way
9 to the Social Security Act or the Railroad Retirement Act of
10 1974, or the corresponding provisions of prior law, no part of
11 the payments received pursuant to such federal law shall be
12 deductible from the amount of benefits received pursuant to this
13 chapter.

14 5. A claimant shall be ineligible for waiting week credit
15 or benefits for any week for which or a part of which he or she
16 has received or is seeking unemployment benefits pursuant to an
17 unemployment insurance law of another state or the United States;
18 provided, that if it be finally determined that the claimant is
19 not entitled to such unemployment benefits, such ineligibility
20 shall not apply.

21 6. (1) A claimant shall be ineligible for waiting week
22 credit or benefits for any week for which the deputy finds that
23 such claimant's total or partial unemployment is due to a
24 stoppage of work which exists because of a labor dispute in the
25 factory, establishment or other premises in which such claimant
26 is or was last employed. In the event the claimant secures other
27 employment from which he or she is separated during the existence
28 of the labor dispute, the claimant must have obtained bona fide

1 employment as a permanent employee for at least the major part of
2 each of two weeks in such subsequent employment to terminate his
3 or her ineligibility. If, in any case, separate branches of work
4 which are commonly conducted as separate businesses at separate
5 premises are conducted in separate departments of the same
6 premises, each such department shall for the purposes of this
7 subsection be deemed to be a separate factory, establishment or
8 other premises. This subsection shall not apply if it is shown
9 to the satisfaction of the deputy that:

10 (a) The claimant is not participating in or financing or
11 directly interested in the labor dispute which caused the
12 stoppage of work; and

13 (b) The claimant does not belong to a grade or class of
14 workers of which, immediately preceding the commencement of the
15 stoppage, there were members employed at the premises at which
16 the stoppage occurs, any of whom are participating in or
17 financing or directly interested in the dispute.

18 (2) "Stoppage of work" as used in this subsection means a
19 substantial diminution of the activities, production or services
20 at the establishment, plant, factory or premises of the employing
21 unit. This definition shall not apply to a strike where the
22 employees in the bargaining unit who initiated the strike are
23 participating in the strike. Such employees shall not be
24 eligible for waiting week credit or benefits during the period
25 when the strike is in effect, regardless of diminution, unless
26 the employer has been found guilty of an unfair labor practice by
27 the National Labor Relations Board or a federal court of law for
28 an act or actions preceding or during the strike.

1 7. On or after January 1, 1978, benefits shall not be paid
2 to any individual on the basis of any services, substantially all
3 of which consist of participating in sports or athletic events or
4 training or preparing to so participate, for any week which
5 commences during the period between two successive sport seasons
6 (or similar periods) if such individual performed such services
7 in the first of such seasons (or similar periods) and there is a
8 reasonable assurance that such individual will perform such
9 services in the later of such seasons (or similar periods).

10 8. Benefits shall not be payable on the basis of services
11 performed by an alien, unless such alien is an individual who was
12 lawfully admitted for permanent residence at the time such
13 services were performed, was lawfully present for purposes of
14 performing such services, or was permanently residing in the
15 United States under color of law at the time such services were
16 performed (including an alien who was lawfully present in the
17 United States as a result of the application of the provisions of
18 Section 212(d) (5) of the Immigration and Nationality Act).

19 (1) Any data or information required of individuals
20 applying for benefits to determine whether benefits are not
21 payable to them because of their alien status shall be uniformly
22 required from all applicants for benefits.

23 (2) In the case of an individual whose application for
24 benefits would otherwise be approved, no determination that
25 benefits to such individual are not payable because of such
26 individual's alien status shall be made except upon a
27 preponderance of the evidence.

28 288.045. 1. If a claimant is at work with a detectible

1 amount of alcohol or a controlled substance as defined in section
2 195.010, RSMo, in the claimant's system, in violation of the
3 employer's alcohol and controlled substance workplace policy, the
4 claimant shall have committed misconduct connected with the
5 claimant's work.

6 2. For carboxy-tetrahydrocannabinol, a chemical test result
7 of fifty nanograms per milliliter or more shall be considered a
8 detectible amount. For alcohol, a blood alcohol content of
9 eight-hundredths of one percent or more by weight of alcohol in
10 the claimant's blood shall be considered a detectible amount.

11 3. If the test is conducted by a laboratory certified by
12 the United States Department of Transportation, the test results
13 and the laboratory's trial packet shall be included in the
14 administrative record and considered as evidence.

15 4. For this section to be applicable, the claimant must
16 have previously been notified of the employer's alcohol and
17 controlled substance workplace policy by conspicuously posting
18 the policy in the workplace, by including the policy in a written
19 personnel policy or handbook, or by statement of such policy in a
20 collective bargaining agreement governing employment of the
21 employee. The policy must state that a positive test result
22 shall be deemed misconduct and may result in suspension or
23 termination of employment.

24 5. For this section to be applicable, testing shall be
25 conducted only if sufficient cause exists to suspect alcohol or
26 controlled substance use by the claimant. If sufficient cause
27 exists to suspect prior alcohol or controlled substance use by
28 the claimant, or the employer's policy clearly states that there

1 will be random testing, then testing of the claimant may be
2 conducted randomly.

3 6. Notwithstanding any provision of this chapter to the
4 contrary, any claimant found to be in violation of this section
5 shall be subject to the cancellation of all or part of the
6 claimants wage credits as provided by subdivision (2) of
7 subsection 2 of section 288.050.

8 7. The application of the alcohol and controlled substance
9 testing provisions of this section shall not apply in the event
10 that the claimant is subject to the provisions of any applicable
11 collective bargaining agreement, which contains methods for
12 alcohol or controlled substance testing. Nothing in this chapter
13 is intended to authorize any employer to test any applicant or
14 employee for alcohol or drugs in any manner inconsistent with
15 Missouri or United States constitution, law, statute or
16 regulation, including those imposed by the Americans with
17 Disabilities Act and the National Labor Relations Act.

18 8. All specimen collection and testing for drugs and
19 alcohol under this chapter shall be performed in accordance with
20 the procedures provided for by the United States Department of
21 Transportation rules for workplace drug and alcohol testing
22 compiled at 49 C.F.R., Part 40. Any employer that performs drug
23 testing or specimen collection shall use chain-of-custody
24 procedures established by regulations of the United States
25 Department of Transportation. "Specimen" means tissue, fluid, or
26 a product of the human body capable of revealing the presence of
27 alcohol or drugs or their metabolites. "Chain of custody" refers
28 to the methodology of tracking specified materials or substances

1 for the purpose of maintaining control and accountability from
2 initial collection to final disposition for all such materials or
3 substances, and providing for accountability at each stage in
4 handling, testing, and storing specimens and reporting test
5 results.

6 9. For this section to be applicable, the employee may
7 request that a confirmation test on the specimen be conducted.
8 "Confirmation test" means a second analytical procedure used to
9 identify the presence of a specific drug or alcohol or metabolite
10 in a specimen, which test must be different in scientific
11 principle from that of the initial test procedure and must be
12 capable of providing requisite specificity, sensitivity and
13 quantitative accuracy. In the event that a confirmation test is
14 requested, such shall be obtained from a separate, unrelated
15 certified laboratory and shall be at the employee's expense only
16 if said test confirms results as specified in subsection 2 of
17 section 288.045.

18 10. Use of a controlled substance as defined under section
19 195.010, RSMo, under and in conformity with the lawful order of a
20 healthcare practitioner, shall not be deemed to be misconduct
21 connected with work for the purposes of this section.

22 11. This section shall have no effect on employers who do
23 not avail themselves of the requirements and regulations for
24 alcohol and controlled drug testing determinations that are
25 required to affirm misconduct connected with work findings.

26 12. Any employer that initiates an alcohol and drug testing
27 policy after January 1, 2005, shall ensure that at least sixty
28 days elapse between a general one-time notice to all employees

1 that an alcohol and drug testing workplace policy is being
2 implemented and the effective date of the program.

3 13. (1) In applying provisions of this chapter, it is the
4 intent of the legislature to reject and abrogate previous case
5 law interpretations of "misconduct connected with work" requiring
6 a finding of evidence of impairment of work performance,
7 including, but not limited to, the holdings contained in *Baldor*
8 *Electric Company v. Raylene Reasoner and Missouri Division of*
9 *Employment Security*, 66 S.W.3d 130 (Mo.App. E.D. 2001).

10 (2) In determining whether or not misconduct connected with
11 work has occurred, neither the state, any agency of the state,
12 nor any court of the state of Missouri shall require a finding of
13 evidence of impairment of work performance.

14 14. Notwithstanding any provision of this chapter to the
15 contrary, any claimant found to be in violation of this section
16 shall be subject to the cancellation of all or part of the
17 claimants wage credits as provided by subdivision (2) of
18 subsection 2 of section 288.050.

19 288.050. 1. Notwithstanding the other provisions of this
20 law, a claimant shall be disqualified for waiting week credit or
21 benefits until after the claimant has earned wages for work
22 insured pursuant to the unemployment compensation laws of any
23 state equal to ten times the claimant's weekly benefit amount if
24 the deputy finds:

25 (1) That the claimant has left work voluntarily without
26 good cause attributable to such work or to the claimant's
27 employer[; except that]. A temporary employee of a temporary
28 help firm will be deemed to have voluntarily quit employment if

1 the employee does not contact the temporary help firm for
2 reassignment prior to filing for benefits. Failure to contact
3 the temporary help firm will not be deemed a voluntary quit
4 unless the claimant has been advised of the obligation to contact
5 the firm upon completion of assignments and that unemployment
6 benefits may be denied for failure to do so. The claimant shall
7 not be disqualified:

8 (a) If the deputy finds the claimant quit such work for the
9 purpose of accepting a more remunerative job which the claimant
10 did accept and earn some wages therein;

11 (b) If the claimant quit temporary work to return to such
12 claimant's regular employer; or

13 (c) If the deputy finds the individual quit work, which
14 would have been determined not suitable in accordance with
15 paragraphs (a) and (b) of subdivision (3) of this subsection,
16 within twenty-eight calendar days of the first day worked;

17 (d) As to initial claims filed after December 31, 1988, if
18 the claimant presents evidence supported by competent medical
19 proof that she was forced to leave her work because of pregnancy,
20 notified her employer of such necessity as soon as practical
21 under the circumstances, and returned to that employer and
22 offered her services to that employer as soon as she was
23 physically able to return to work, as certified by a licensed and
24 practicing physician, but in no event later than ninety days
25 after the termination of the pregnancy. An employee shall have
26 been employed for at least one year with the same employer before
27 she may be provided benefits pursuant to the provisions of this
28 paragraph;

1 (2) That the claimant has retired pursuant to the terms of
2 a labor agreement between the claimant's employer and a union
3 duly elected by the employees as their official representative or
4 in accordance with an established policy of the claimant's
5 employer; or

6 (3) That the claimant failed without good cause either to
7 apply for available suitable work when so directed by the deputy,
8 or to accept suitable work when offered the claimant, either
9 through the division or directly by an employer by whom the
10 individual was formerly employed, or to return to the
11 individual's customary self-employment, if any, when so directed
12 by the deputy. An offer of work shall be rebuttably presumed if
13 an employer notifies the claimant in writing of such offer by
14 sending an acknowledgment via any form of certified mail issued
15 by the United States Postal Service stating such offer to the
16 claimant at the claimant's last known address. Nothing in this
17 subdivision shall be construed to limit the means by which the
18 deputy may establish that the claimant has or has not been
19 sufficiently notified of available work.

20 (a) In determining whether or not any work is suitable for
21 an individual, the division shall consider, among other factors
22 and in addition to those enumerated in paragraph (b) of this
23 subdivision, the degree of risk involved to the individual's
24 health, safety and morals, the individual's physical fitness and
25 prior training, the individual's experience and prior earnings,
26 the individual's length of unemployment, the individual's
27 prospects for securing work in the individual's customary
28 occupation, the distance of available work from the individual's

1 residence and the individual's prospect of obtaining local work;
2 except that, if an individual has moved from the locality in
3 which the individual actually resided when such individual was
4 last employed to a place where there is less probability of the
5 individual's employment at such individual's usual type of work
6 and which is more distant from or otherwise less accessible to
7 the community in which the individual was last employed, work
8 offered by the individual's most recent employer if similar to
9 that which such individual performed in such individual's last
10 employment and at wages, hours, and working conditions which are
11 substantially similar to those prevailing for similar work in
12 such community, or any work which the individual is capable of
13 performing at the wages prevailing for such work in the locality
14 to which the individual has moved, if not hazardous to such
15 individual's health, safety or morals, shall be deemed suitable
16 for the individual;

17 (b) Notwithstanding any other provisions of this law, no
18 work shall be deemed suitable and benefits shall not be denied
19 pursuant to this law to any otherwise eligible individual for
20 refusing to accept new work under any of the following
21 conditions:

22 a. If the position offered is vacant due directly to a
23 strike, lockout, or other labor dispute;

24 b. If the wages, hours, or other conditions of the work
25 offered are substantially less favorable to the individual than
26 those prevailing for similar work in the locality;

27 c. If as a condition of being employed the individual would
28 be required to join a company union or to resign from or refrain

1 from joining any bona fide labor organization.

2 2. [Notwithstanding the other provisions of this law,] If a
3 deputy finds that a claimant has been discharged for misconduct
4 connected with the claimant's work, such claimant[, depending
5 upon the seriousness of the misconduct as determined by the
6 deputy according to the circumstances in each case,] shall be
7 disqualified for waiting week credit [or] and benefits [for not
8 less than four nor more than sixteen weeks for which the claimant
9 claims benefits and is otherwise eligible], and no benefits shall
10 be paid nor shall the cost of any benefits be charged against any
11 employer for any period of employment within the base period
12 until the claimant has earned wages for work insured under the
13 unemployment laws of this state or any other state as prescribed
14 in this section. In addition to the disqualification for
15 benefits pursuant to this provision the division may in the more
16 aggravated cases of misconduct, cancel all or any part of the
17 individual's wage credits, which were established through the
18 individual's employment by the employer who discharged such
19 individual, according to the seriousness of the misconduct. A
20 disqualification provided for pursuant to this subsection shall
21 not apply to any week which occurs after the claimant has earned
22 wages for work insured pursuant to the unemployment compensation
23 laws of any state in an amount equal to [eight] six times the
24 claimant's weekly benefit amount.

25 3. [A pattern of] Absenteeism or tardiness may constitute
26 misconduct regardless of whether the last incident alone [which
27 results in the discharge] constitutes misconduct. In determining
28 whether the degree of absenteeism or tardiness constitutes a

1 pattern for which misconduct may be found, the division shall
2 consider whether the discharge was the result of a violation of
3 the employer's attendance policy, provided the employee had
4 received knowledge of such policy prior to the occurrence of any
5 absence or tardy upon which the discharge is based.

6 4. Notwithstanding the provisions of subsection 1 of this
7 section, a claimant may not be determined to be disqualified for
8 benefits because the claimant is in training approved pursuant to
9 section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A.
10 Sec. 2296, as amended), or because the claimant left work which
11 was not "suitable employment" to enter such training. For the
12 purposes of this subsection "suitable employment" means, with
13 respect to a worker, work of a substantially equal or higher
14 skill level than the worker's past adversely affected employment,
15 and wages for such work at not less than eighty percent of the
16 worker's average weekly wage as determined for the purposes of
17 the Trade Act of 1974.

18 288.060. 1. All benefits shall be paid through employment
19 offices in accordance with such regulations as the division may
20 prescribe.

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

24 3. Each eligible insured worker who is partially unemployed
25 in any week shall be paid for such week a partial benefit. Such
26 partial benefit shall be an amount equal to the difference
27 between his or her weekly benefit amount and that part of his or
28 her wages for such week in excess of twenty dollars, and, if such

1 partial benefit amount is not a multiple of one dollar, such
2 amount shall be reduced to the nearest lower full dollar amount.
3 For calendar year 2007 and each year thereafter, such partial
4 benefit shall be an amount equal to the difference between his or
5 her weekly benefit amount and that part of his or her wages for
6 such week in excess of twenty dollars or twenty percent of his or
7 her weekly benefit amount, whichever is greater, and, if such
8 partial benefit amount is not a multiple of one dollar, such
9 amount shall be reduced to the nearest lower full dollar amount.

10 Termination pay, severance pay or pay received by an eligible
11 insured worker who is a member of the organized militia for
12 training or duty authorized by section 502(a)(1) of Title 32,
13 United States Code, [or who is an elected official] shall not be
14 considered wages for the purpose of this subsection.

15 4. The division shall compute the wage credits for each
16 individual by crediting him or her with the wages paid to him or
17 her for insured work during each quarter of his or her base
18 period or twenty-six times his or her weekly benefit amount,
19 whichever is the lesser. In addition, if a claimant receives
20 wages in the form of termination pay or severance pay and such
21 payment appears in a base period established by the filing of an
22 initial claim, the claimant may, at his or her option, choose to
23 have such payment included in the calendar quarter in which it
24 was paid or choose to have it prorated equally among the quarters
25 comprising the base period of the claim. The maximum total
26 amount of benefits payable to any insured worker during any
27 benefit year shall not exceed twenty-six times his or her weekly
28 benefit amount, or thirty-three and one-third percent of his or

1 her wage credits, whichever is the lesser. For the purpose of
2 this section, wages shall be counted as wage credits for any
3 benefit year, only if such benefit year begins subsequent to the
4 date on which the employing unit by whom such wages were paid has
5 become an employer. The wage credits of an individual earned
6 during the period commencing with the end of a prior base period
7 and ending on the date on which he or she filed an allowed
8 initial claim shall not be available for benefit purposes in a
9 subsequent benefit year unless, in addition thereto, such
10 individual has subsequently earned either wages for insured work
11 in an amount equal to at least five times his or her current
12 weekly benefit amount or wages in an amount equal to at least ten
13 times his or her current weekly benefit amount.

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

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

26 7. The division may establish an electronic funds transfer
27 system to transfer directly to claimants' accounts in financial
28 institutions benefits payable to them pursuant to this chapter.

1 To receive benefits by electronic funds transfer, a claimant
2 shall satisfactorily complete a direct deposit application form
3 authorizing the division to deposit benefit payments into a
4 designated checking or savings account. Any electronic funds
5 transfer system created pursuant to this subsection shall be
6 administered in accordance with regulations prescribed by the
7 division.

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

10 9. Prior to January 1, 2005, the division shall institute
11 procedures including, but not limited to, name, date of birth,
12 and social security verification matches for remote claims filing
13 via the use of telephone or the Internet in accordance with such
14 regulations as the division shall prescribe. At a minimum, the
15 division shall verify the social security number and date of
16 birth when an individual claimant initially files for
17 unemployment insurance benefits. If verification information
18 does not match what is on file in division databases to what the
19 individual is stating, the division shall require the claimant to
20 submit a division-approved form requesting an affidavit of
21 eligibility prior to the payment of additional future benefits.
22 The division of employment security shall cross-check
23 unemployment compensation applicants and recipients with Social
24 Security Administration data maintained by the federal government
25 on the most frequent basis recommended by the United States
26 Department of Labor, or absent a recommendation, at least
27 monthly. The division of employment security shall cross-check
28 at least monthly unemployment compensation applicants and

1 recipients with department of revenue drivers license databases.

2 288.090. 1. Contributions shall accrue and become payable
3 by each employer for each calendar year in which he is subject to
4 this law. Such contributions shall become due and be paid by
5 each employer to the division for the fund on or before the last
6 day of the month following each calendar quarterly period of
7 three months except when regulation requires monthly payment.
8 Any employer upon application, or pursuant to a general or
9 special regulation, may be granted an extension of time, not
10 exceeding three months, for the making of his or her quarterly
11 contribution and wage reports or for the payment of such
12 contributions. Payment of contributions due shall be made to the
13 treasurer designated pursuant to section 288.290.

14 (1) In the payment of any contributions due, a fractional
15 part of a cent shall be disregarded unless it amounts to one-half
16 cent or more, in which case it shall be increased to one cent;

17 (2) Contributions shall not be deducted in whole or in part
18 from the wages of individuals in employment.

19 2. As of June thirtieth of each year, the division shall
20 establish an average industry contribution rate for the next
21 succeeding calendar year for each of the industrial
22 classification divisions listed in the [Standard Industrial
23 Classification Manual furnished] industrial classification system
24 established by the federal government. The average industry
25 contribution rate for each standard industrial classification
26 division shall be computed by multiplying total taxable wages
27 paid by each employer in the industrial classification division
28 during the twelve consecutive months ending on June thirtieth by

1 the employer's contribution rate established for the next
2 calendar year and dividing the aggregate product for all
3 employers in the industrial classification division by the total
4 of taxable wages paid by all employers in the industrial
5 classification division during the twelve consecutive months
6 ending on June thirtieth. Each employer will be assigned to [a
7 standard] an industrial classification code division as
8 determined by the division in accordance with the definitions
9 contained in the [Standard Industrial Classification Manual]
10 industrial classification system established by the federal
11 government, and shall pay contributions at the average industry
12 rate established for the preceding calendar year for the
13 industrial classification division to which it is assigned or two
14 and seven-tenths percent of taxable wages paid by it, whichever
15 is the greater, unless there have been at least twelve
16 consecutive calendar months immediately preceding the calculation
17 date throughout which its account could have been charged with
18 benefits. The division shall classify all employers meeting this
19 chargeability requirement for each calendar year in accordance
20 with their actual experience in the payment of contributions on
21 their own behalf and with respect to benefits charged against
22 their accounts, with a view to fixing such contribution rates as
23 will reflect such experience. The division shall determine the
24 contribution rate of each such employer in accordance with
25 sections 288.113 to 288.126. Notwithstanding the provisions of
26 this subsection, any employing unit which becomes an employer
27 pursuant to the provisions of subsection 7 or 8 of section
28 288.034 shall pay contributions equal to one percent of wages

1 paid by it until its account has been chargeable with benefits
2 for the period of time sufficient to enable it to qualify for a
3 computed rate on the same basis as other employers.

4 3. Benefits paid to employees of any governmental entity
5 and nonprofit organizations shall be financed in accordance with
6 the provisions of this subsection. For the purpose of this
7 subsection, a "nonprofit organization" is an organization (or
8 group of organizations) described in Section 501(c)(3) of the
9 United States Internal Revenue Code which is exempt from income
10 tax under Section 501(a) of such code.

11 (1) A governmental entity which, pursuant to subsection 7
12 of section 288.034, or nonprofit organization which, pursuant to
13 subsection 8 of section 288.034, is, or becomes, subject to this
14 law on or after April 27, 1972, shall pay contributions due under
15 the provisions of subsections 1 and 2 of this section unless it
16 elects, in accordance with this subdivision, to pay to the
17 division for the unemployment compensation fund an amount equal
18 to the amount of regular benefits and of one-half of the extended
19 benefits paid, that is attributable to service in the employ of
20 such governmental entity or nonprofit organization, to
21 individuals for weeks of unemployment which begin during the
22 effective period of such election; except that, with respect to
23 benefits paid for weeks of unemployment beginning on or after
24 January 1, 1979, any such election by a governmental entity shall
25 be to pay to the division for the unemployment compensation fund
26 an amount equal to the amount of all regular benefits and all
27 extended benefits paid that is attributable to service in the
28 employ of such governmental entity.

1 (a) A governmental entity or nonprofit organization which
2 is, or becomes, subject to this law on or after April 27, 1972,
3 may elect to become liable for payments in lieu of contributions
4 for a period of not less than one calendar year, provided it
5 files with the division a written notice of its election within
6 the thirty-day period immediately following the date of the
7 determination of such subjectivity. The provisions of paragraphs
8 (a) through (e) of subdivision (4) of subsection 1 of section
9 288.100 shall not apply in the calendar year 1998 and each
10 calendar year thereafter, in the case of an employer who has
11 elected to become liable for payments in lieu of contributions.

12 (b) A governmental entity or nonprofit organization which
13 makes an election in accordance with paragraph (a) of this
14 subdivision will continue to be liable for payments in lieu of
15 contributions until it files with the division a written notice
16 terminating its election not later than thirty days prior to the
17 beginning of the calendar year for which such termination shall
18 first be effective.

19 (c) A governmental entity or any nonprofit organization
20 which has been paying contributions under this law for a period
21 subsequent to January 1, 1972, may change to a reimbursable basis
22 by filing with the division not later than thirty days prior to
23 the beginning of any calendar year a written notice of election
24 to become liable for payments in lieu of contributions. Such
25 election shall not be terminable by the organization for that and
26 the next calendar year.

27 (d) The division, in accordance with such regulations as
28 may be adopted, shall notify each governmental entity or

1 nonprofit organization of any determination of its status of an
2 employer and of the effective date of any election which it makes
3 and of any termination of such election. Such determination
4 shall be subject to appeal as is provided in subsection 4 of
5 section 288.130.

6 (2) Payments in lieu of contributions shall be made in
7 accordance with the provisions of paragraph (a) of this
8 subdivision, as follows:

9 (a) At the end of each calendar quarter, or at the end of
10 any other period as determined by the director, the division
11 shall bill the governmental entity or nonprofit organization (or
12 group of such organizations) which has elected to make payments
13 in lieu of contributions for an amount equal to the full amount
14 of regular benefits plus one-half of the amount of extended
15 benefits paid during such quarter or other prescribed period that
16 is attributable to service in the employ of such organization;
17 except that, with respect to extended benefits paid for weeks of
18 unemployment beginning on or after January 1, 1979, which are
19 attributable to service in the employ of a governmental entity,
20 the governmental entity shall be billed for the full amount of
21 such extended benefits.

22 (b) Payment of any bill rendered under paragraph (a) of
23 this subdivision shall be due and shall be made not later than
24 thirty days after such bill was mailed to the last known address
25 of the governmental entity or nonprofit organization or was
26 otherwise delivered to it.

27 (c) Payments made by the governmental entity or nonprofit
28 organization under the provisions of this subsection shall not be

1 deducted or deductible, in whole or in part, from the
2 remuneration of individuals in the employ of the organization.

3 (d) Past due payments of amounts in lieu of contributions
4 shall be subject to the same interest and penalties that apply to
5 past due contributions. Also, unpaid amounts in lieu of
6 contributions, interest, penalties and surcharges are subject to
7 the same assessment, civil action and compromise provisions of
8 this law as apply to unpaid contributions. Further, the
9 provisions of this law which provide for the adjustment or refund
10 of contributions shall apply to the adjustment or refund of
11 payments in lieu of contributions.

12 (3) If any governmental entity or nonprofit organization
13 fails to timely file a required quarterly wage report, the
14 division shall assess such entity or organization a penalty as
15 provided in subsections 1 and 2 of section 288.160.

16 (4) Except as provided in subsection 4 of this section,
17 each employer that is liable for payments in lieu of
18 contributions shall pay to the division for the fund the amount
19 of regular benefits plus the amount of one-half of extended
20 benefits paid that are attributable to service in the employ of
21 such employer; except that, with respect to benefits paid for
22 weeks of unemployment beginning on or after January 1, 1979, a
23 governmental entity that is liable for payments in lieu of
24 contributions shall pay to the division for the fund the amount
25 of all regular benefits and all extended benefits paid that are
26 attributable to service in the employ of such employer. If
27 benefits paid to an individual are based on wages paid by more
28 than one employer in the base period of the claim, the amount

1 chargeable to each employer shall be obtained by multiplying the
2 benefits paid by a ratio obtained by dividing the base period
3 wages from such employer by the total wages appearing in the base
4 period.

5 (5) Two or more employers that have become liable for
6 payments in lieu of contributions, in accordance with the
7 provisions of subdivision (1) of this subsection, may file a
8 joint application to the division for the establishment of a
9 group account for the purpose of sharing the cost of benefits
10 paid that are attributable to service in the employ of such
11 employers. Each such application shall identify and authorize a
12 group representative to act as the group's agent for the purposes
13 of this subdivision. Upon approval of the application, the
14 division shall establish a group account for such employers
15 effective as of the beginning of the calendar quarter in which
16 the application was received and shall notify the group's
17 representative of the effective date of the account. Such
18 account shall remain in effect for not less than two years and
19 thereafter until terminated at the discretion of the director or
20 upon application by the group. Upon establishment of the
21 account, each member of the group shall be liable for payments in
22 lieu of contributions with respect to each calendar quarter in
23 the amount that bears the same ratio to the total benefits paid
24 in such quarter that are attributable to service performed in the
25 employ of all members of the group as the total wages paid for
26 service in employment by such member in such quarter bears to the
27 total wages paid during such quarter for service performed in the
28 employ of all members of the group. The director shall prescribe

1 such regulations as he or she deems necessary with respect to
2 applications for establishment, maintenance and termination of
3 group accounts that are authorized by this subdivision, for
4 addition of new members to, and withdrawal of active members
5 from, such accounts, and for the determination of the amounts
6 that are payable under this subdivision by members of the group
7 and the time and manner of such payments.

8 4. Any employer which elects to make payments in lieu of
9 contributions into the unemployment compensation fund as provided
10 in subdivision (1) of subsection 3 of this section shall not be
11 liable to make such payments with respect to the benefits paid to
12 any individual whose base period wages include wages for previous
13 work not classified as insured work as defined in section 288.030
14 to the extent that the unemployment compensation fund is
15 reimbursed for such benefits pursuant to Section 121 of Public
16 Law 94-566.

17 5. Any employer which elects to make payments in lieu of
18 contributions pursuant to subsection 3 of this section shall be
19 liable for an additional surcharge to the division for the
20 unemployment compensation trust fund in an amount equal to the
21 interest rate on United States treasury bills, averaged for the
22 previous four calendar quarters, multiplied by the total benefit
23 payments charged to the employer's account. Governmental
24 entities except cities, counties and the state of Missouri which
25 elect to make payments in lieu of contributions pursuant to
26 subsection 3 of this section shall be liable for an additional
27 surcharge to the division for the unemployment compensation fund
28 in an amount equal to one-half of the interest rate on United

1 States treasury bills, averaged for the previous four calendar
2 quarters, multiplied by the total benefit payments charged to the
3 employer's account. The cumulative benefits charged plus the
4 cumulative surcharges pursuant to this subsection for all
5 employers electing to make payments in lieu of contributions
6 shall not exceed the summation of total benefit payments
7 chargeable and not chargeable for the calendar quarter. The
8 provisions of this subsection shall not be effective after
9 September 30, 1993.

10 6. Beginning October 1, 1993, through December 31, 1993,
11 any employer which elects to make payments in lieu of
12 contributions pursuant to subsection 3 of this section shall be
13 liable for an additional surcharge to the division for the
14 unemployment compensation trust fund in an amount equal to the
15 interest rate of United States treasury bills, averaged for the
16 previous four calendar quarters, multiplied by the total benefit
17 payments charged to the employer's account. The cumulative
18 benefits charged plus the cumulative surcharges pursuant to this
19 subsection for all employers electing to make payments in lieu of
20 contributions shall not exceed the summation of total benefit
21 payments chargeable and not chargeable for the calendar quarter.

22 7. Beginning January 1, 1994, through December 31, 1995,
23 any employer which elects to make payments in lieu of
24 contributions pursuant to subsection 3 of this section shall be
25 liable for an additional surcharge to the division for the
26 unemployment compensation trust fund. The calendar year
27 surcharge rate will be the base prime rate on corporate loans
28 posted by at least seventy-five percent of the nation's thirty

1 largest banks as of November thirtieth of the preceding year.
2 The additional surcharge will be the surcharge rate multiplied by
3 the total benefit payments charged to the employer's account.
4 The cumulative benefits charged plus the cumulative surcharges
5 pursuant to this subsection for all employers electing to make
6 payments in lieu of contributions shall not exceed the summation
7 of total benefit payments chargeable and not chargeable for the
8 calendar quarter.

9 8. Beginning January 1, 1996, through December 31, 1996,
10 any employer which elects to make payments in lieu of
11 contributions pursuant to subsection 3 of this section shall be
12 liable for the total benefit payments chargeable to its account
13 pursuant to the provisions of section 288.100 plus one-third of
14 the total benefit payments not charged to its account pursuant to
15 paragraphs (a) through (e) of subdivision (4) of subsection 1 of
16 section 288.100. The remaining two-thirds of the benefit
17 payments not charged to its account pursuant to paragraphs (a)
18 through (e) of subdivision (4) of subsection 1 of section 288.100
19 shall be paid by the unemployment compensation trust fund.

20 9. Beginning January 1, 1997, through December 31, 1997,
21 any employer which elects to make payments in lieu of
22 contributions pursuant to subsection 3 of this section shall be
23 liable for the total benefit payments chargeable to its account
24 pursuant to the provisions of section 288.100 plus two-thirds of
25 the total benefit payments not charged to its account pursuant to
26 paragraphs (a) through (e) of subdivision (4) of subsection 1 of
27 section 288.100. The remaining one-third of the benefit payments
28 not charged to its account pursuant to paragraphs (a) through (e)

1 of subdivision (4) of subsection 1 of section 288.100 shall be
2 paid by the unemployment compensation trust fund.

3 10. Beginning January 1, 1998, and each calendar year
4 thereafter, any employer which elects to make payments in lieu of
5 contributions pursuant to subsection 3 of this section shall be
6 liable for all benefit payments and shall not have charges
7 relieved pursuant to the provisions of paragraphs (a) through (e)
8 of subdivision (4) of subsection 1 of section 288.100.

9 11. (1) For the purposes of this chapter, a common
10 paymaster arrangement will not exist unless approval has been
11 obtained from the division. To receive a division-approved
12 common paymaster arrangement, the related corporation designated
13 to be the common paymaster for the related corporations must
14 notify the division in writing at least thirty days prior to the
15 beginning of the quarter in which the common paymaster reporting
16 is to be effective. The common paymaster shall furnish the name
17 and account number of each corporation in the related group that
18 will be utilizing the one corporation as the common paymaster.
19 The common paymaster shall also notify the division at least
20 thirty days prior to any change in the related group of
21 corporations or termination of the common paymaster arrangement.
22 The common paymaster shall be responsible for keeping books and
23 records for the payroll with respect to its own employees and the
24 concurrently employed individuals of the related corporations.
25 In order for remuneration to be eligible for the provisions
26 applicable to a common paymaster, the individuals must be
27 concurrently employed and the remuneration must be disbursed
28 through the common paymaster. The common paymaster shall have

1 the primary responsibility for remitting all required quarterly
2 contribution and wage reports, contributions due with respect to
3 the remuneration it disburses as the common paymaster and/or
4 payments in lieu of contributions. The common paymaster shall
5 compute the contributions due as though it were the sole employer
6 of the concurrently employed individuals. If the common
7 paymaster fails to remit the quarterly contribution and wage
8 reports, contributions due and/or payments in lieu of
9 contributions, in whole or in part, it shall remain liable for
10 submitting the quarterly contribution and wage reports and the
11 full amount of the unpaid portion of the contributions due and/or
12 payments in lieu of contributions. In addition, each of the
13 related corporations using the common paymaster shall be jointly
14 and severally liable for submitting quarterly contribution and
15 wage reports, its share of the contributions due and/or payments
16 in lieu of contributions, penalties, interest and surcharges
17 which are not submitted and/or paid by the common paymaster. All
18 contributions due, payments in lieu of contributions, penalties,
19 interest and surcharges which are not timely paid to the division
20 under a common paymaster arrangement shall be subject to the
21 collection provisions of this chapter.

22 (2) For the purposes of this subsection, "concurrent
23 employment" means the simultaneous existence of an employment
24 relationship between an individual and two or more related
25 corporations for any calendar quarter in which employees are
26 compensated through a common paymaster which is one of the
27 related corporations, those corporations shall be considered one
28 employing unit and be subject to the provisions of this chapter.

1 (3) For the purposes of this subsection, "related
2 corporations" means that corporations shall be considered related
3 corporations for an entire calendar quarter if they satisfy any
4 one of the following tests at any time during the calendar
5 quarter:

6 (a) The corporations are members of a "controlled group of
7 corporations". The term "controlled group of corporations"
8 means:

9 a. Two or more corporations connected through stock
10 ownership with a common parent corporation, if the parent
11 corporation owns stock possessing at least fifty percent of the
12 total combined voting power of all classes of stock entitled to
13 vote or at least fifty percent of the total value of shares of
14 all classes of stock of each of the other corporations; or

15 b. Two or more corporations, if five or less persons who
16 are individuals, estates or trusts own stock possessing at least
17 fifty percent of the total combined voting power of all classes
18 of stock entitled to vote or at least fifty percent of the total
19 value of shares of all classes of stock of each of the other
20 corporations; or

21 (b) In the case of corporations which do not issue stock,
22 at least fifty percent of the members of one corporation's board
23 of directors are members of the board of directors of the other
24 corporations; or

25 (c) At least fifty percent of one corporation's officers
26 are concurrently officers of the other corporations; or

27 (d) At least thirty percent of one corporation's employees
28 are concurrently employees of the other corporations.

1 288.100. 1. (1) The division shall maintain a separate
2 account for each employer which is paying contributions, and
3 shall credit each employer's account with all contributions which
4 each employer has paid. A separate account shall be maintained
5 for each employer making payments in lieu of contributions to
6 which shall be credited all such payments made. The account
7 shall also show payments due as provided in section 288.090. The
8 division may close and cancel such separate account after a
9 period of four consecutive calendar years during which such
10 employer has had no employment in this state subject to
11 contributions. Nothing in this law shall be construed to grant
12 any employer or individuals in the employer's service prior
13 claims or rights to the amounts paid by the employer into the
14 fund either on the employer's own behalf or on behalf of such
15 individuals. Except as provided in subdivision (4) of this
16 subsection, regular benefits and that portion of extended
17 benefits not reimbursed by the federal government paid to an
18 eligible individual shall be charged against the accounts of the
19 individual's base period employers who are paying contributions
20 subject to the provisions of subdivision (4) of subsection 3 of
21 section 288.090. With respect to initial claims filed after
22 December 31, 1984, for benefits paid to an individual based on
23 wages paid by one or more employers in the base period of the
24 claim, the amount chargeable to each employer shall be obtained
25 by multiplying the benefits paid by a ratio obtained by dividing
26 the base period wages from such employer by the total wages
27 appearing in the base period. Except as provided in paragraph
28 (a) of this subdivision, the maximum amount of extended benefits

1 paid to an individual and charged against the account of any
2 employer shall not exceed one-half of the product obtained by
3 multiplying the benefits paid by a ratio obtained by dividing the
4 base period wages from such employer by the total wages appearing
5 in the base period.

6 (a) The provisions of subdivision (1) of this subsection
7 notwithstanding, with respect to weeks of unemployment beginning
8 after December 31, 1978, the maximum amount of extended benefits
9 paid to an individual and charged against the account of an
10 employer which is an employer pursuant to subdivision (3) of
11 subsection 1 of section 288.032 and which is paying contributions
12 pursuant to subsections 1 and 2 of section 288.090 shall not
13 exceed the calculated entitlement for the extended benefit claim
14 based upon the wages appearing within the base period of the
15 extended benefit claim.

16 (2) Beginning as of June 30, 1951, and as of June thirtieth
17 of each year thereafter, any unassigned surplus in the
18 unemployment compensation fund which is five hundred thousand
19 dollars or more in excess of five-tenths of one percent of the
20 total taxable wages paid by all employers for the preceding
21 calendar year as shown on the division's records on such June
22 thirtieth shall be credited on a pro rata basis to all employer
23 accounts having a credit balance in the same ratio that the
24 balance in each such account bears to the total of the credit
25 balances subject to use for rate calculation purposes for the
26 following year in all such accounts on the same date. As used in
27 this subdivision, the term "unassigned surplus" means the amount
28 by which the total cash balance in the unemployment compensation

1 fund exceeds a sum equal to the total of all employer credit
2 account balances. The amount thus prorated to each separate
3 employer's account shall for tax rating purposes be considered
4 the same as contributions paid by the employer and credited to
5 the employer's account for the period preceding the calculation
6 date except that no such amount can be credited against any
7 contributions due or that may thereafter become due from such
8 employer.

9 (3) At the conclusion of each calendar quarter the division
10 shall, within thirty days, notify each employer by mail of the
11 benefits paid to each claimant by week as determined by the
12 division which have been charged to such employer's account
13 subsequent to the last notice.

14 (4) (a) No benefits based on wages paid for services
15 performed prior to the date of any act for which a claimant is
16 disqualified pursuant to section 288.050 shall be chargeable to
17 any employer directly involved in such disqualifying act.

18 (b) In the event the deputy has in due course determined
19 pursuant to paragraph (a) of subdivision (1) of subsection 1 of
20 section 288.050 that a claimant quit his or her work with an
21 employer for the purpose of accepting a more remunerative job
22 with another employer which the claimant did accept and earn some
23 wages therein, no benefits based on wages paid prior to the date
24 of the quit shall be chargeable to the employer the claimant
25 quit.

26 (c) In the event the deputy has in due course determined
27 pursuant to paragraph (b) of subdivision (1) of subsection 1 of
28 section 288.050 that a claimant quit temporary work in employment

1 with an employer to return to the claimant's regular employer,
2 then, only for the purpose of charging base period employers, all
3 of the wages paid by the employer who furnished the temporary
4 employment shall be combined with the wages actually paid by the
5 regular employer as if all such wages had been actually paid by
6 the regular employer. Further, charges for benefits based on
7 wages paid for part-time work shall be removed from the account
8 of the employer furnishing such part-time work if that employer
9 continued to employ the individual claiming such benefits on a
10 regular recurring basis each week of the claimant's claim to at
11 least the same extent that the employer had previously employed
12 the claimant and so informs the division within thirty days from
13 the date of notice of benefit charges.

14 (d) No charge shall be made against an employer's account
15 in respect to benefits paid an individual if the gross amount of
16 wages paid by such employer to such individual is four hundred
17 dollars or less during the individual's base period on which the
18 individual's benefit payments are based. Further, no charge
19 shall be made against any employer's account in respect to
20 benefits paid any individual unless such individual was in
21 employment with respect to such employer longer than a
22 probationary period of twenty-eight days, if such probationary
23 period of employment has been reported to the division as
24 required by regulation.

25 (e) In the event the deputy has in due course determined
26 pursuant to paragraph (c) of subdivision (1) of subsection 1 of
27 section **[228.050]** 288.050 that a claimant is not disqualified, no
28 benefits based on wages paid for work prior to the date of the

1 quit shall be chargeable to the employer the claimant quit.

2 (f) Nothing in paragraph (b), (c), (d) or (e) of this
3 subdivision shall in any way affect the benefit amount, duration
4 of benefits or the wage credits of the claimant.

5 2. The division may prescribe regulations for the
6 establishment, maintenance, and dissolution of joint accounts by
7 two or more employers, and shall, in accordance with such
8 regulations and upon application by two or more employers to
9 establish such an account, or to merge their several individual
10 accounts in a joint account, maintain such joint account as if it
11 constituted a single employer's account.

12 3. The division may by regulation provide for the
13 compilation and publication of such data as may be necessary to
14 show the amounts of benefits not charged to any individual
15 employer's account classified by reason no such charge was made
16 and to show the types and amounts of transactions affecting the
17 unemployment compensation fund.

18 288.110. Any individual, type of organization or employing
19 unit which has acquired substantially all of the business of an
20 employer, excepting in any such case any assets retained by such
21 employer incident to the liquidation of his obligations, and in
22 respect to which the division finds that immediately after such
23 change such business of the predecessor employer is continued
24 without interruption solely by the successor, shall stand in the
25 position of such predecessor employer in all respects, including
26 the predecessor's separate account, actual contribution and
27 benefit experience, annual payrolls, and liability for current or
28 delinquent contributions, interest and penalties. If two or more

1 individuals, organizations, or employing units acquired at
2 approximately the same time substantially all of the business of
3 an employer (excepting in any such case any assets retained by
4 such employer incident to the liquidation of his obligations) and
5 in respect to which the division finds that immediately after
6 such change all portions of such business of the predecessor are
7 continued without interruption solely by such successors, each
8 such individual, organization, or employing unit shall stand in
9 the position of such predecessor with respect to the
10 proportionate share of the predecessor's separate account, actual
11 contribution and benefit experience and annual payroll as
12 determined by the portion of the predecessor's taxable payroll
13 applicable to the portion of the business acquired, and each such
14 individual, organization or employing unit shall be liable for
15 current or delinquent contributions, interest and penalties of
16 the predecessor in the same relative proportion. Further, any
17 successor under this section which was not an employer at the
18 time the acquisition occurred, shall pay contributions for the
19 balance of the current rate year at the same contribution rate as
20 the contribution rate of the predecessor whether such rate is
21 more or less than two and seven-tenths percent, provided there
22 was only one predecessor or there were only predecessors with
23 identical rates. If the predecessors' rates were not identical,
24 the division shall calculate a rate as of the date of acquisition
25 applicable to the successor for the remainder of the rate year,
26 which rate shall be based on the combined experience of all
27 predecessor employers. In the event that any successor was,
28 prior to an acquisition, an employer, and there is a difference

1 in the contribution rate established for such calendar year
2 applicable to any acquired or acquiring employer, the division
3 shall make a recalculation [as of the date of acquisition] of the
4 contribution rate applicable to any successor employer based upon
5 the combined experience of all predecessor and successor
6 employers[, which] as of the date of the acquisition, unless the
7 date of the acquisition is other than the first day of the
8 calendar quarter. If the date of any such acquisition is other
9 than the first day of the calendar quarter, the division shall
10 make the recalculation of the rate on the first day of the next
11 calendar quarter after the acquisition. When the date of the
12 acquisition is other than the first day of a calendar quarter,
13 the successor employer shall use its rate for the calendar
14 quarter in which the acquisition was made. The revised
15 contribution rate shall apply to employment after the [date of
16 any such acquisition] rate recalculation. For this purpose a
17 calculation date different from July first may be established.
18 When the division has determined that a successor or successors
19 stand in the position of a predecessor employer, the
20 predecessor's liability shall be terminated as of the date of the
21 acquisition.

22 288.120. 1. On each June thirtieth, or within a reasonable
23 time thereafter as may be fixed by regulation, the balance of an
24 employer's experience rating account, except an employer
25 participating in a shared work plan under section 288.500, shall
26 determine his contribution rate for the following calendar year
27 as determined by the following table:

28 Percentage the Employer's Experience Rating

Account is to that Employer's Average Annual Payroll			
	Equals or Exceeds	Less Than	Contribution Rate
3	-----	-12.0	6.0%
4	-12.0	-11.0	5.8%
5	-11.0	-10.0	5.6%
6	-10.0	-9.0	5.4%
7	-9.0	-8.0	5.2%
8	-8.0	-7.0	5.0%
9	-7.0	-6.0	4.8%
10	-6.0	-5.0	4.6%
11	-5.0	-4.0	4.4%
12			
13	-4.0	-3.0	4.2%
14	-3.0	-2.0	4.0%
15	-2.0	-1.0	3.8%
16	-1.0	0	3.6%
17	0	2.5	2.7%
18	2.5	3.5	2.6%
19	3.5	4.5	2.5%
20	4.5	5.0	2.4%
21	5.0	5.5	2.3%
22	5.5	6.0	2.2%
23	6.0	6.5	2.1%
24	6.5	7.0	2.0%
25	7.0	7.5	1.9%
26	7.5	8.0	1.8%
27	8.0	8.5	1.7%
28	8.5	9.0	1.6%

1	9.0	9.5	1.5%
2	9.5	10.0	1.4%
3	10.0	10.5	1.3%
4	10.5	11.0	1.2%
5	11.0	11.5	1.1%
6	11.5	12.0	1.0%
7	12.0	12.5	0.9%
8	12.5	13.0	0.8%
9	13.0	13.5	0.6%
10	13.5	14.0	0.4%
11	14.0	14.5	0.3%
12	14.5	15.0	0.2%
13	15.0	---	0.0%

14

15 2. Using the same mathematical principles used in
16 constructing the table provided in subsection 1 of this section,
17 the following table has been constructed. The contribution rate
18 for the following calendar year of any employer participating in
19 a shared work plan under section 288.500 during the current
20 calendar year or any calendar year during a prior three-year
21 period shall be determined from the balance in such employer's
22 experience rating account as of the previous June thirtieth, or
23 within a reasonable time thereafter as may be fixed by
24 regulation, from 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
-----	-27.0	9.0%

28

1	-27.0	-26.0	8.8%
2	-26.0	-25.0	8.6%
3	-25.0	-24.0	8.4%
4	-24.0	-23.0	8.2%
5	-23.0	-22.0	8.0%
6	-22.0	-21.0	7.8%
7	-21.0	-20.0	7.6%
8	-20.0	-19.0	7.4%
9	-19.0	-18.0	7.2%
10	-18.0	-17.0	7.0%
11	-17.0	-16.0	6.8%
12	-16.0	-15.0	6.6%
13	-15.0	-14.0	6.4%
14	-14.0	-13.0	6.2%
15	-13.0	-12.0	6.0%
16	-12.0	-11.0	5.8%
17	-11.0	-10.0	5.6%
18	-10.0	-9.0	5.4%
19	-9.0	-8.0	5.2%
20	-8.0	-7.0	5.0%
21	-7.0	-6.0	4.8%
22	-6.0	-5.0	4.6%
23	-5.0	-4.0	4.4%
24	-4.0	-3.0	4.2%
25	-3.0	-2.0	4.0%
26	-2.0	-1.0	3.8%
27	-1.0	0	3.6%
28	0	2.5	2.7%

1	2.5	3.5	2.6%
2	3.5	4.5	2.5%
3	4.5	5.0	2.4%
4	5.0	5.5	2.3%
5	5.5	6.0	2.2%
6	6.0	6.5	2.1%
7	6.5	7.0	2.0%
8	7.0	7.5	1.9%
9	7.5	8.0	1.8%
10	8.0	8.5	1.7%
11	8.5	9.0	1.6%
12	9.0	9.5	1.5%
13	9.5	10.0	1.4%
14	10.0	10.5	1.3%
15	10.5	11.0	1.2%
16	11.0	11.5	1.1%
17	11.5	12.0	1.0%
18	12.0	12.5	0.9%
19	12.5	13.0	0.8%
20	13.0	13.5	0.6%
21	13.5	14.0	0.4%
22	14.0	14.5	0.3%
23	14.5	15.0	0.2%
24	15.0	----	0.0%

25 3. Notwithstanding the provisions of subsection 2 of
26 section 288.090, any employer participating in a shared work plan
27 under section 288.500, who has not had at least twelve calendar
28 months immediately preceding the calculation date throughout

1 which his account could have been charged with benefits shall
2 have a contribution rate equal to the highest contribution rate
3 in the table in subsection 2 of this section, until such time as
4 his account has been chargeable with benefits for the period of
5 time sufficient to enable him to qualify for a computed rate on
6 the same basis as other employers participating in shared work
7 plans.

8 4. Employers who have been taxed at the maximum rate
9 pursuant to this section for two consecutive years shall have a
10 surcharge of one-quarter percent added to their contribution rate
11 calculated pursuant to this section. In the event that an
12 employer remains at the maximum rate pursuant to this section for
13 a third or subsequent year, an additional surcharge of one-
14 quarter percent shall be annually assessed, but in no case shall
15 this surcharge cumulatively exceed one percent. Additionally, if
16 an employer continues to remain at the maximum rate pursuant to
17 this section an additional surcharge of one-half percent shall be
18 assessed. In no case shall the total surcharge assessed to any
19 employer exceed one and one-half percent in any given year.

20 288.121. 1. On October first of each calendar year, if the
21 average balance, less any federal advances, of the unemployment
22 compensation trust fund of the four preceding quarters (September
23 thirtieth, June thirtieth, March thirty-first and December
24 thirty-first of the preceding calendar year) is less than four
25 hundred fifty million dollars, then each employer's contribution
26 rate calculated for the four calendar quarters of the succeeding
27 calendar year shall be increased by the percentage determined
28 from the following table:

Balance in Trust Fund

				Percentage
Less Than		Equals or Exceeds		of Increase
[\$400,000,000]	<u>\$450,000,000</u>	[\$350,000,000]	<u>\$400,000,000</u>	10%
[\$350,000,000]	<u>\$400,000,000</u>	[\$300,000,000]	<u>\$350,000,000</u>	20%
[\$300,000,000]	<u>\$350,000,000</u>			30%

[Notwithstanding the table in this section, each employer's contribution rate calculated for the four calendar quarters of calendar year 1994 shall be increased by forty percent, instead of thirty percent, as previously indicated in the table in this section. After the forty percent increase, each employer's contribution rate for the four calendar quarters of calendar year 1994 shall be increased by adding three-tenths of one percent.]
For calendar years 2005, 2006, and 2007, the contribution rate of any employer who is paying the maximum contribution rate shall be increased by forty percent, instead of thirty percent as previously indicated in the table in this section.

2. For calendar years 2005, 2006, and 2007, an employer's total contribution rate shall equal the employer's contribution rate plus a temporary debt indebtedness assessment equal to the amount to be determined in subdivision 6 of subsection 2 of section 288.330 added to the contribution rate plus the increase authorized under subsection 1 of this section. Any monies overcollected beyond the actual administrative, interest and principal repayment costs for the credit instruments used shall be deposited into the state unemployment insurance trust fund and credited to the employer's experience account. The temporary debt

1 indebtedness assessment shall expire upon the last day of the
2 fourth calendar quarter of 2007.

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

Balance in Trust Fund		Percentage
More Than	But Less Than	of Decrease
15 <u>[\$500,000,000</u>	15 <u>\$600,000,000]</u>	
16 <u>\$600,000,000</u>	16 <u>\$750,000,000</u>	7%
17 <u>[\$600,000,000]</u>		
18 <u>\$750,000,000</u>		12%

19
20 Notwithstanding the table in this section, if the balance in the
21 unemployment insurance compensation trust fund as calculated in
22 this section is more than [six] seven hundred fifty million
23 dollars, the percentage of decrease of the employer's
24 contribution rate calculated for the four calendar quarters of
25 the succeeding calendar year shall be no greater than ten percent
26 for any employer whose calculated contribution rate under section
27 288.120 is six percent or greater.

28 288.128. 1. In addition to all other contributions due

1 under this chapter, if the fund is utilizing moneys advanced by
2 the federal government under the provisions of 42 U.S.C.A.,
3 section 1321 pursuant to section 288.330, or if the fund is not
4 utilizing moneys advanced by the federal government, then from
5 the proceeds of credit instruments issued under section 288.330,
6 or from the moneys advanced under financial agreements under
7 subdivision (17) of subsection 2 of section 288.330, or a
8 combination of credit instruments proceeds and moneys advanced
9 under financial agreements, each employer shall be assessed an
10 amount solely for the payment of interest due on such federal
11 advancements, or if the fund is not utilizing moneys advanced by
12 the federal government, or in the case of issuance of credit
13 instruments for the payment of the principal, interest, and
14 administrative expenses related to such credit instruments, or in
15 the case of financial agreements for the payment of principal,
16 interest, and administrative expenses related to such financial
17 agreements, or in the case of a combination of credit instruments
18 and financial agreements for the payment of principal, interest,
19 and administrative expenses for both. The rate shall be
20 determined by dividing the interest due on federal advancements
21 or if the fund is not utilizing moneys advanced by the federal
22 government, then the principal, interest, and administrative
23 expenses related to credit instruments, or the principal,
24 interest, and administrative expenses related to financial
25 agreements under subdivision (17) of subsection 2 of section
26 288.330, or the principal, interest, and administrative expenses
27 related to a combination of credit instruments and financial
28 agreements by ninety-five percent of the total taxable wages paid

1 by all Missouri employers in the preceding calendar year. Each
2 employer's proportionate share shall be the product obtained by
3 multiplying such employer's total taxable wages for the preceding
4 calendar year by the rate specified in this section. Each
5 employer shall be notified of the amount due under this section
6 by June thirtieth of each year and such amount shall be
7 considered delinquent thirty days thereafter. The moneys
8 collected from each employer for the payment of interest due on
9 federal advances, or if the fund is not utilizing moneys advanced
10 by the federal government, then the payment of principal,
11 interest, and administrative expenses related to credit
12 instruments, or the payment of the principal, interest, and
13 administrative expenses related to financial agreements under
14 subdivision (17) of subsection 2 of section 288.330, or the
15 payment of the principal, interest, and administrative expenses
16 related to a combination of credit instruments and financial
17 agreements, shall be deposited in the special employment security
18 fund.

19 2. If on December thirty-first of any year the money
20 collected under this section exceeds the amount of interest due
21 on federal advancements by one hundred thousand dollars or more,
22 then each employer's experience rating account shall be credited
23 with an amount which bears the same ratio to the excess moneys
24 collected under this section as that employer's payment collected
25 under this section bears to the total amount collected under this
26 section. Further, if on December thirty-first of any year the
27 moneys collected under this section exceed the amount of interest
28 due on the federal advancements by less than one hundred thousand

1 dollars, the balance shall be transferred from the special
2 employment security fund to the Secretary of the Treasury of the
3 United States to be credited to the account of this state in the
4 unemployment trust fund.

5 3. In addition to all other contributions due under this
6 chapter, if the fund is utilizing moneys from the proceeds of
7 credit instruments issued under section 288.330, or from the
8 moneys advanced under financial agreements under subdivision (17)
9 of subsection 2 of section 288.330, or a combination of credit
10 instrument proceeds and moneys advanced under financial
11 agreements each employer shall be assessed a "credit instrument
12 and financing agreement repayment surcharge." The total of such
13 surcharge shall be calculated as an amount up to 150% of the
14 amount required in the 12 month period following the due date for
15 the payment of such surcharge for the payment of the principal,
16 interest, and administrative expenses related to such credit
17 instruments, or in the case of financial agreements for the
18 payment of principal, interest, and administrative expenses
19 related to such financial agreements, or in the case of a
20 combination of credit instruments and financial agreements for
21 the payment of principal, interest, and administrative expenses
22 for both. Each employer's proportionate share shall be the
23 product obtained by multiplying the total statewide credit
24 instrument and financing agreement repayment surcharge by a
25 number obtained by dividing the employer's total taxable wages
26 for the prior year by the total taxable wages in the state for
27 the prior year. Each employer shall be notified of the amount
28 due under this section by (January)thirtieth of each year and

1 such amount shall be considered delinquent thirty days
2 thereafter.

3 288.175. 1. Notwithstanding any other provisions to the
4 contrary, the division may collect any debt by interception of
5 the debtor's federal income tax refund, in the manner and to the
6 extent allowed by federal law.

7 2. "Debt" shall mean any established overpayment or sum
8 past due that is legally owed and enforceable under the Missouri
9 employment security law, which has accrued through contract or
10 operation of law and which has become final under state law and
11 remains uncollected.

12 3. "Debtor" shall mean any individual, sole proprietorship,
13 partnership, corporation, limited liability company, or other
14 legal entity owing a debt.

15 288.290. 1. There is hereby established as a special fund,
16 separate and apart from all public moneys or funds of this state,
17 an "Unemployment Compensation Fund", which shall be administered
18 by the division exclusively for the purposes of this law. This
19 fund shall consist of:

20 (1) All contributions and payments in lieu of contributions
21 collected under this law;

22 (2) Interest earned upon any moneys in the fund;

23 (3) Any property or securities acquired through the use of
24 moneys belonging to the fund;

25 (4) All earnings of such property or securities;

26 (5) All voluntary contributions permitted under the law;

27 and

28 (6) All funds set aside or appropriated by the Congress of

1 the United States or any federal agency, to be deposited to the
2 fund. All moneys in the funds shall be mingled and undivided,
3 except that all money credited to this state's account in the
4 Unemployment Trust Fund pursuant to Section 903 of the Social
5 Security Act, as amended, and which has been appropriated for
6 expenses of administration, shall be used only for the purposes
7 set out in subsection 5 of this section and shall not be included
8 in the cash balance in the unemployment compensation fund for the
9 purposes of sections 288.100 and 288.113 to 288.126.

10 2. The director shall designate a treasurer and custodian
11 of the fund and he or she shall administer the fund and shall
12 issue his or her warrants upon it in accordance with such
13 regulations as the director shall prescribe. He or she shall
14 maintain within the fund three separate accounts:

- 15 (1) A clearing account;
- 16 (2) An unemployment trust fund account; and
- 17 (3) A benefit account.

18
19 To ensure that unemployment compensation trust fund moneys are
20 utilized only for the purpose authorized, no other fund shall be
21 established with increased employer taxes that are offset by a
22 reduction of unemployment contributions, except for the special
23 employment security fund created in section 288.310.

24 3. All moneys payable to the fund, upon their receipt by
25 the division, shall immediately be deposited in the clearing
26 account. Refunds of contributions or payments made necessary
27 under the provisions of sections 288.140 and 288.340 may be paid
28 from the clearing account or the benefit account. After

1 clearance, all moneys in the clearing account shall be
2 immediately deposited with the Secretary of the Treasury of the
3 United States of America to the credit of the account of this
4 state in the Unemployment Trust Fund, established and maintained
5 pursuant to Section 904 of the Social Security Act, as amended,
6 any provisions of law in this state relating to the deposit,
7 administration, release, or disbursement of state moneys in the
8 possession or custody of the state treasurer to the contrary
9 notwithstanding. The benefit account shall consist of all moneys
10 requisitioned from the Missouri account in the federal
11 Unemployment Trust Fund. Except as otherwise provided, moneys in
12 the clearing and benefit accounts may be deposited in any bank or
13 public depository in which general funds of the state may be
14 deposited, but no public deposit insurance charge or premium
15 shall be paid out of the fund. Moneys in the clearing and
16 benefit accounts shall not be commingled with other state funds
17 but shall be maintained in separate accounts on the books of the
18 depository bank. All funds required by this law to be deposited
19 in any state depository shall be secured by such depository to
20 the same extent and in the same manner as is or may hereafter be
21 required by section 30.270, RSMo, and all the amendments thereto;
22 provided, that the division shall do those acts directed to be
23 done by the governor, attorney general and state treasurer, or
24 any of them, under section 30.270, RSMo, which are not
25 inconsistent with the other provisions of this law. Collateral
26 pledged for this purpose shall be kept separate and distinct from
27 any collateral pledged to secure other funds of the state, or, if
28 combined, shall be first used to satisfy and make whole the

1 accounts herein established. The treasurer shall give a separate
2 bond conditioned upon the faithful performance of his or her
3 duties as custodian of the fund in an amount not to exceed
4 twenty-five thousand dollars and in the form prescribed by law or
5 approved by the attorney general. Premiums for such bonds shall
6 be paid from the administration fund. All sums recovered for
7 losses sustained by the fund shall be deposited therein.

8 4. Moneys shall be requisitioned from the Missouri account
9 in the federal Unemployment Trust Fund solely for the payment of
10 benefits or for refunds of contributions or payments in lieu of
11 contributions in accordance with regulations prescribed by the
12 director, except that money credited to this state's account
13 pursuant to Section 903 of the Social Security Act, as amended,
14 shall be used exclusively as provided in subsection 5 of this
15 section. The director shall from time to time requisition from
16 the federal Unemployment Trust Fund such amounts, not exceeding
17 the amounts standing to the Missouri account therein, as he or
18 she deems necessary for the payment of benefits and refunds for a
19 reasonable future period. Upon its receipt the treasurer shall
20 deposit such money in the benefit account and shall issue his or
21 her warrants for the payment of benefits solely from such benefit
22 account. Expenditures of such moneys in the benefit account and
23 refunds from the clearing account shall not be subject to any
24 provisions of law requiring specific appropriations or other
25 formal release by state officers of moneys belonging to this
26 state in their custody. All warrants issued by the treasurer for
27 the payment of benefits and refunds shall bear the signature of
28 the treasurer and the countersignature of the director or other

1 duly authorized division representative. Any balance of moneys
2 requisitioned from the federal Unemployment Trust Fund which
3 remains unclaimed or unpaid in the benefit account after the
4 expiration of the period for which such sums were requisitioned
5 shall either be deducted from estimates for, and may be utilized
6 for the payment of, benefits during succeeding periods, or, in
7 the discretion of the director, shall be redeposited with the
8 Secretary of the Treasury of the United States of America to the
9 credit of the Missouri account in the federal Unemployment Trust
10 Fund as provided in subsection 3 of this section.

11 5. (1) Money credited to the account of this state in the
12 Unemployment Trust Fund by the Secretary of the Treasury of the
13 United States of America pursuant to Section 903 of the Social
14 Security Act, as amended, may be requisitioned and used for the
15 payment of expenses incurred for the administration of this law
16 pursuant to a specific appropriation by the legislature, provided
17 that the expenses are incurred and the money is requisitioned as
18 needed after the enactment of an appropriation law which:

19 (a) Specifies the purpose for which such money is
20 appropriated and the amounts appropriated therefor;

21 (b) Limits the period within which such money may be
22 obligated to a period ending not more than two years after the
23 date of the enactment of the appropriation law; and

24 (c) Limits the amount which may be obligated during a
25 twelve-month period beginning on July first and ending on the
26 next June thirtieth to an amount which does not exceed the amount
27 by which the aggregate of the amount transferred to the account
28 of this state in the Unemployment Trust Fund pursuant to

1 subsections (a) and (b) of Section 903 of the Social Security
2 Act, as amended, exceeds the aggregate of the amounts used by
3 this state pursuant to this subsection and charged against the
4 amounts transferred to the account of this state in the
5 Unemployment Trust Fund.

6 (2) The use of the money referred to in subdivision (1) of
7 this subsection shall be accounted for in accordance with
8 standards established by the Secretary of Labor.

9 (3) For purposes of subdivision (1) of this subsection,
10 amounts used by this state for administration shall be chargeable
11 against transferred amounts at the exact time the obligation is
12 entered into.

13 (4) Money credited to the account of this state pursuant to
14 Section 903 of the Social Security Act, as amended, may not be
15 withdrawn or used except for the payment of benefits and for the
16 payment of expenses for the administration of this law and of
17 public employment offices pursuant to this subsection.

18 (5) Money appropriated as provided under subdivision (1) of
19 this subsection for the payment of expenses of administration
20 shall be requisitioned as needed for the payment of obligations
21 incurred under such appropriation and, upon requisition, shall be
22 deposited in the unemployment compensation administration fund
23 from which such payments shall be made. Money so deposited
24 shall, until expended, remain a part of the unemployment
25 compensation fund and, if it will not be expended, shall be
26 returned promptly to the account of this state in the
27 Unemployment Trust Fund.

28 (6) Money credited to the account of the state in the

1 federal Unemployment Trust Fund by the Secretary of the Treasury
2 of the United States of America pursuant to Title 42, Section 903
3 of the Social Security Act with respect to the federal fiscal
4 years 1999, 2000 and 2001, shall be used solely for the
5 administration of the unemployment compensation program.

6 6. The provisions of subsections 1, 2, 3, 4, and 5 of this
7 section, to the extent that they relate to the federal
8 Unemployment Trust Fund, shall be operative only so long as such
9 federal Unemployment Trust Fund continues to exist and so long as
10 the Secretary of the Treasury of the United States of America
11 continues to maintain a separate book account of all funds
12 deposited therein by contributions from employers of this state
13 for benefit purposes, and by money credited pursuant to Section
14 903 of the Social Security Act, as amended, together with a
15 proportionate share of the earnings apportioned to the Missouri
16 account of such federal Unemployment Trust Fund, from which no
17 other state is permitted to make or authorize withdrawals. If
18 and when such Unemployment Trust Fund ceases to exist, or such
19 separate book account is no longer maintained, all moneys,
20 properties, or securities therein belonging to the unemployment
21 compensation fund of this state shall be transferred to the
22 treasurer of the unemployment compensation fund, who shall hold,
23 invest, transfer, sell, deposit, and release such moneys,
24 properties or securities in a manner approved by the director in
25 accordance with the provisions of this law; provided, that such
26 moneys shall be invested in the following readily marketable
27 classes of securities: bonds or other interest-bearing
28 obligations of the United States of America, or securities on

1 which the payment of principal and interest are guaranteed by the
2 United States of America, and bonds or other interest-bearing
3 obligations of the state of Missouri; and provided, further, that
4 such investments shall at all times be so made that all the
5 assets of the fund shall always be readily convertible into cash
6 when needed for the payment of benefits. The treasurer shall
7 dispose of securities or other properties belonging to the
8 unemployment compensation fund only under the direction of the
9 director.

10 7. Notwithstanding any other provision of this law, any
11 interest or penalties found to have been erroneously collected
12 and which is ordered to be refunded shall, if paid into the
13 unemployment compensation fund, be refunded out of the
14 unemployment compensation fund and, if paid into the special
15 employment security fund, shall be refunded out of the special
16 employment security fund; except that, in the event any interest
17 and penalties paid into the unemployment compensation fund shall
18 be transferred to the special employment security fund, the
19 refund of any such interest and penalties shall be made from the
20 special employment security fund.

21 288.310. 1. There is hereby created in the state treasury
22 a special fund to be known as the "Special Employment Security
23 Fund". All interest and penalties collected under the provisions
24 of this law, including moneys collected pursuant to section
25 288.128 for the payment of interest due on federal advances
26 received pursuant to section 288.330, or subject to
27 appropriation, or supplemental appropriation, by the general
28 assembly, amounts received pursuant to the credit instrument and

1 financing agreement repayment surcharge pursuant to section
2 288.128 related to the payment of principal, interest, and
3 administrative expenses related to credit instruments issued
4 under section 288.330, or the payment of the principal, interest,
5 and administrative expenses related to financial agreements under
6 subdivision (17) of subsection 2 of section 288.330, or the
7 payment of the principal, interest, and administrative expenses
8 related to a combination of credit instruments and financial
9 agreements shall be paid into this fund. The moneys collected
10 pursuant to section 288.128 shall be used [exclusively] for the
11 payment of interest due on federal advances received pursuant to
12 section 288.330. Amounts received pursuant to the credit
13 instrument and financing agreement repayment surcharge pursuant
14 to subsection 3 of section 288.128 shall be used, following
15 appropriation by the general assembly and exclusively for payment
16 of principal, interest, and administrative expenses related to
17 credit instruments issued under that section, or the payment of
18 principal, interest, and administrative expenses related to
19 financial agreements under subdivision (17) of subsection 2 of
20 section 288.330, or the payment of the principal, interest, and
21 administrative expenses related to a combination of credit
22 instruments and financial agreements. Such moneys, except for
23 moneys collected pursuant to section 288.128, shall not be
24 expended or available for expenditure in any manner which would
25 permit their substitution for, or a corresponding reduction in,
26 federal funds which would in the absence of such money be
27 available to finance expenditures for the administration of the
28 employment security law, but nothing in this section shall

1 prevent such moneys, except for moneys collected pursuant to
2 section 288.128, from being used as a revolving fund, to cover
3 expenditures, necessary and proper under the law, for which
4 federal funds have been duly requested but not yet received,
5 subject to the charging of such expenditures against such funds
6 when received. Subject to the approval of the director of the
7 department of labor and industrial relations, the moneys in this
8 fund, except for moneys collected pursuant to section 288.128,
9 shall be used by the department of labor and industrial relations
10 for the payment of costs of administration which are found not to
11 have been properly and validly chargeable against federal grants
12 or other funds received for or in the unemployment compensation
13 administration fund. Such moneys, except for moneys collected
14 pursuant to section 288.128, shall be available either to satisfy
15 the obligations incurred by the department of labor and
16 industrial relations for the division directly or by requesting
17 the board of fund commissioners to transfer the required amount
18 from the special employment security fund to the unemployment
19 compensation administration fund. The board of fund
20 commissioners shall upon receipt of a written request of the
21 department of labor and industrial relations make any such
22 transfer. No expenditures of this fund or transfer herein
23 provided, except for moneys collected pursuant to section
24 288.128, shall be made unless and until the director of the
25 department of labor and industrial relations finds that no other
26 funds are available or can properly be used to finance such
27 expenditures, except that as hereinafter authorized expenditures
28 from such fund may be made for the purpose of acquiring lands and

1 buildings, or for the erection of buildings on lands so acquired,
2 which are deemed necessary by the director of the department of
3 labor and industrial relations for the proper administration of
4 this law. The director of the department of labor and industrial
5 relations shall order the transfer of such funds or the payment
6 of any such obligation and such funds shall be paid by the state
7 treasurer on requisitions drawn by the director of the department
8 of labor and industrial relations directing the state auditor to
9 issue his or her warrant therefor. Any such warrant shall be
10 drawn by the state auditor based upon bills of particulars and
11 vouchers certified by an officer or employee designated by the
12 director of the department of labor and industrial relations.
13 Such certification shall among other things include a duly
14 certified copy of the director of the department of labor and
15 industrial relations' findings hereinbefore referred to. The
16 moneys in this fund, except for moneys collected pursuant to
17 section 288.128, are hereby specifically made available to
18 replace, within a reasonable time, any moneys received by this
19 state pursuant to section 302 of the Federal Social Security Act
20 (42 U.S.C.A. Sec. 502), as amended, which, because of any action
21 or contingency, have been lost or have been expended for purposes
22 other than, or in amounts in excess of, those necessary for the
23 proper administration of the employment security law. The moneys
24 in this fund shall be continuously available to the director of
25 the department of labor and industrial relations for expenditure
26 in accordance with the provisions of this section and shall not
27 lapse at any time or be transferred to any other fund except as
28 herein provided.

1 2. The director of the department of labor and industrial
2 relations, subject to the approval of the board of public
3 buildings, is authorized and empowered to use all or any part of
4 the funds in the special employment security fund, except for
5 moneys collected pursuant to section 288.128, for the purpose of
6 acquiring suitable office space for the division by way of
7 purchase, lease, contract or in any other manner, including the
8 right to use such funds or any part thereof to purchase land and
9 erect thereon such buildings as he or she shall deem necessary or
10 to assist in financing the construction of any building erected
11 by the state of Missouri or any of its agencies wherein available
12 space will be provided for the division under lease or contract
13 between the department of labor and industrial relations and the
14 state of Missouri or such other agency. The director of the
15 department of labor and industrial relations may transfer from
16 the unemployment compensation administration fund to the special
17 employment security fund amounts not exceeding funds specifically
18 available to the department of labor and industrial relations for
19 that purpose, equivalent to the fair reasonable rental value of
20 any land and buildings acquired for its use until such time as
21 the full amount of the purchase price of such land and buildings
22 and such cost of repair and maintenance thereof as was expended
23 from the special employment security fund has been returned to
24 such fund.

25 3. The director of the department of labor and industrial
26 relations may also transfer from the unemployment compensation
27 administration fund to the special employment security fund
28 amounts not exceeding funds specifically available to the

1 department of labor and industrial relations for that purpose,
2 equivalent to the fair reasonable rental value of space used by
3 the department of labor and industrial relations in any building
4 erected by the state of Missouri or any of its agencies until
5 such time as the department of labor and industrial relations'
6 proportionate amount of the purchase price of such building and
7 the department of labor and industrial relations' proportionate
8 amount of such costs of repair and maintenance thereof as was
9 expended from the special employment security fund has been
10 returned to such fund.

11 288.330. 1. Benefits shall be deemed to be due and payable
12 only to the extent that moneys are available to the credit of the
13 unemployment compensation fund and neither the state nor the
14 division shall be liable for any amount in excess of such sums.

15 [Neither the state of Missouri, nor any person or agency acting
16 for it, may under any circumstance, by issuing bonds or otherwise
17 borrow money from any source whatsoever to pay benefits
18 hereunder, except as provided in 42 U.S.C.A. Section 1321.] The
19 governor is authorized to apply for an advance to the state
20 unemployment fund and to accept the responsibility for the
21 repayment of such advance [in accordance with the conditions
22 specified in Title XII of the Social Security Act, as amended,]
23 in order to secure to this state and its citizens the advantages
24 available under the provisions of [such title] federal law.

25 2. (1) The purpose of this subsection is to provide a
26 method of providing funds for the payment of unemployment
27 benefits or maintaining an adequate fund balance in the
28 unemployment compensation fund, and as an alternative to

1 borrowing or obtaining advances from the federal unemployment
2 trust fund or for refinancing those loans or advances.

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

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

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

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

27 b. Board members shall receive no compensation for the
28 performance of their duties under this subsection, but each

1 commissioner shall be reimbursed from the funds of the commission
2 for his or her actual and necessary expenses incurred in carrying
3 out his or her official duties under this subsection.

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

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

15 (4) The board is authorized, by offering for public
16 negotiated sale, to issue, sell, and deliver credit instruments,
17 bearing interest at a fixed or variable rate as shall be
18 determined by the board, which shall mature no later than three
19 years after issuance, in the name of the board in an amount
20 determined by the board not to exceed a total of four hundred
21 fifty million dollars, less the principal amount of any financing
22 agreement entered into under subdivision (17) of this subsection,
23 for the purposes set forth in subdivision (1) of this subsection.
24 Such credit instrument may only be issued upon the approval of a
25 resolution authorizing such issuance by a simple majority of the
26 members of the board, with no other proceedings required. No
27 credit instrument may be outstanding hereunder after January 15,
28 2008.

1 (5) The board shall provide for the payment of the
2 principal of the credit instruments, any redemption premiums, the
3 interest on the credit instruments, and the costs attributable to
4 the credit instruments being issued or outstanding as provided in
5 this subsection and in section 288.310. Unless the board directs
6 otherwise, the credit instrument shall be repaid in the same time
7 frame and in the same amounts as would be required for loans
8 issued pursuant to 42 U.S.C. Section 1321; however, in no case
9 shall credit instruments be outstanding for more than three years
10 and further provided that no credit instruments shall be
11 outstanding hereunder after January 15, 2008.

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

20 (7) Credit instruments issued under this section shall not
21 constitute debts of this state or of the board or any agency,
22 political corporation, or political subdivision of this state and
23 are not a pledge of the faith and credit of this state, the board
24 or of any of those governmental entities and shall not constitute
25 an indebtedness within the meaning of any constitutional or
26 statutory limitation upon the incurring of indebtedness. The
27 credit instruments are payable only from revenue provided for
28 under this chapter. The credit instruments shall contain a

1 statement to the effect that:

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

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

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

17 (9) The board may prescribe the form, details, and
18 incidents of the credit instruments and make such covenants that
19 it its judgment are advisable or necessary to properly secure the
20 payment thereof. If such credit instruments shall be
21 authenticated by the bank or trust company acting as registrar
22 for such by the manual signature of a duly authorized officer or
23 employee thereof, the duly authorized officers of the board
24 executing and attesting such credit instruments, may all do so by
25 facsimile signature provided such signatures have been duly filed
26 as provided in the uniform facsimile signature of public
27 officials law, sections 105.273 to 105.278 RSMo, when duly
28 authorized by resolution of the board, and the provisions of

1 section 108.175, RSMo, shall not apply to such credit
2 instruments. The board may provide for the flow of funds and the
3 establishment and maintenance of separate accounts within the
4 special employment security fund, including the interest and
5 sinking account, the reserve account, and other necessary
6 accounts, and may make additional covenants with respect to the
7 credit instruments in the documents authorizing the issuance of
8 credit instruments including refunding credit instruments. The
9 resolutions authorizing the issuance of credit instruments may
10 also prohibit the further issuance of credit instruments or other
11 obligations payable from appropriated moneys or may reserve the
12 right to issue additional credit instruments to be payable from
13 appropriated moneys on a parity with or subordinate to the lien
14 and pledge in support of the credit instruments being issued and
15 may contain other provisions and covenants as determined by the
16 board, provided that any terms, provisions or covenants provided
17 in any resolution of the board shall not be inconsistent with the
18 provisions of this section.

19 (10) The board may issue credit instruments to refund all
20 or any part of the outstanding credit instruments issued under
21 this section including matured but unpaid interest. As with
22 other credit instruments issued under this section, such
23 refunding credit instruments may bear interest at a fixed or
24 variable rate as determined by the board. No such refunding
25 credit instruments may be outstanding for more than three years
26 or after January 15, 2008.

27 (11) The credit instruments issued by the board, any
28 transaction relating to the credit instruments, and profits made

1 from the sale of the credit instruments are free from taxation by
2 the state or by any municipality, court, special district, or
3 other political subdivision of the state.

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

15 (13) The board may enter into any contract or agreement
16 deemed necessary or desirable to effectuate cost effective
17 financing hereunder. Such agreements may include credit
18 enhancement, credit support, or interest rate agreements
19 including, but not limited to, arrangements such as municipal
20 bond insurance; surety bonds; tax anticipation notes; liquidity
21 facilities; forward agreements; tender agreements; remarketing
22 agreements; option agreements; interest rate swap, exchange, cap,
23 lock or floor agreements; letters of credit; and purchase
24 agreements. Any fees or costs associated with such agreements
25 shall be deemed administrative expenses for the purposes of
26 calculating the credit instrument and financing agreement
27 repayment surcharge under subsection 3 of section 288.128. The
28 board, with consideration of all other costs being equal, shall

1 give preference to Missouri headquartered financial institutions,
2 or those out-of-state-based financial institutions with at least
3 one hundred Missouri employees.

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

7 (15) If the United States Secretary of Labor holds that a
8 provision of this subsection or of any provision related to the
9 levy or use of the credit instrument and financial agreement
10 repayment surcharge does not conform with a federal statute or
11 would result in the loss to the state of any federal funds
12 otherwise available to it the board, in cooperation with the
13 department of labor and industrial relations, may administer this
14 subsection, and other provisions related to the credit instrument
15 and financial agreement repayment surcharge, to conform with the
16 federal statute until the general assembly meets in its next
17 regular session and has an opportunity to amend this subsection
18 or other sections, as applicable.

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

21 (b) he board is authorized to enter financial agreements
22 with any lender for the purposes set forth in subdivision (1) of
23 this subsection, or to refinance other financial agreements in
24 whole or in part, upon the approval of the simple majority of the
25 members of the board of a resolution authorizing such financial
26 agreements, with no other proceedings required. The total amount
27 of the outstanding obligation under all such agreements shall not
28 exceed the difference of four hundred fifty million dollars and

1 the principal amount of credit instruments issued under this
2 subsection. In no instance shall the outstanding obligation
3 under any financial agreement continue for more than three years,
4 and no such financial agreement, whether entered into for
5 refinancing purposes or otherwise, shall be outstanding after
6 January 15, 2008. Repayment of obligations to lenders shall be
7 made from the special employment security fund, section 288.310,
8 subject to appropriation by the general assembly.

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

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

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

28 (d) Neither the board members executing the financial

1 agreements nor any other board members shall be subject to any
2 personal liability or accountability by reason of the execution
3 of such financial agreements.

4 (e) The board may prescribe the form, details and incidents
5 of the financing agreements and make such covenants that in its
6 judgment are advisable or necessary to properly secure the
7 payment thereof provided that any terms, provisions or covenants
8 provided in any such financing agreement shall not be
9 inconsistent with the provisions of this section. If such
10 financing agreements shall be authenticated by the bank or trust
11 company acting as registrar for such by the manual signature of a
12 duly authorized officer or employee thereof, the duly authorized
13 officers of the board executing and attesting such financing
14 agreements, may all do so by facsimile signature provided such
15 signatures have been duly filed as provided in the uniform
16 facsimile signature of public officials law, sections 105.273 to
17 105.278 RSMo, when duly authorized by resolution of the board and
18 the provisions of section 108.175, RSMo, shall not apply to such
19 financing agreements.

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

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

27 (19) The credit instruments issued by the commission, any
28 transaction relating to the credit instruments, and profits made

1 from the issuance of credit are free from taxation by the state
2 or by any municipality, court, special district, or other
3 political subdivision of the state.

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

13 288.380. 1. Any agreement by a worker to waive, release,
14 or commute such worker's rights to benefits or any other rights
15 pursuant to this chapter, or pursuant to an employment security
16 law of any other state or of the federal government shall be
17 void. Any agreement by a worker to pay all or any portion of any
18 contributions required shall be void. No employer shall directly
19 or indirectly make any deduction from wages to finance the
20 employer's contributions required from him or her, or accept any
21 waiver of any right pursuant to this chapter by any individual in
22 his or her employ.

23 2. No employing unit or any agent of an employing unit or
24 any other person shall make a false statement or representation
25 knowing it to be false, nor shall knowingly fail to disclose a
26 material fact to prevent or reduce the payment of benefits to any
27 individual, nor to avoid becoming or remaining an employer, nor
28 to avoid or reduce any contribution or other payment required

1 from any employing unit, nor shall willfully fail or refuse to
2 make any contributions or payments nor to furnish any required
3 reports nor to produce or permit the inspection or copying of
4 required records. Each such requirement shall apply regardless
5 of whether it is a requirement of this chapter, of an employment
6 security law of any other state or of the federal government.

7 3. No person shall make a false statement or representation
8 knowing it to be false or knowingly fail to disclose a material
9 fact, to obtain or increase any benefit or other payment
10 pursuant to this chapter, or under an employment security law of
11 any other state or of the federal government either for himself
12 or herself or for any other person.

13 4. No person shall without just cause fail or refuse to
14 attend and testify or to answer any lawful inquiry or to produce
15 books, papers, correspondence, memoranda, and other records, if
16 it is in such person's power so to do in obedience to a subpoena
17 of the director, the commission, an appeals tribunal, or any duly
18 authorized representative of any one of them.

19 5. No individual claiming benefits shall be charged fees of
20 any kind in any proceeding pursuant to this chapter by the
21 division, or by any court or any officer thereof. Any individual
22 claiming benefits in any proceeding before the division or a
23 court may be represented by counsel or other duly authorized
24 agent; but no such counsel or agents shall either charge or
25 receive for such services more than an amount approved by the
26 division.

27 6. No employee of the division or any person who has
28 obtained any list of applicants for work or of claimants for or

1 recipients of benefits pursuant to this chapter shall use or
2 permit the use of such lists for any political purpose.

3 7. Any person who shall willfully violate any provision of
4 this chapter, or of an employment security law of any other state
5 or of the federal government or any rule or regulation, the
6 observance of which is required under the terms of any one of
7 such laws, shall upon conviction be deemed guilty of a
8 misdemeanor and shall be punished by a fine of not less than
9 fifty dollars nor more than one thousand dollars, or by
10 imprisonment in the county jail for not more than six months, or
11 by both such fine and imprisonment, and each such violation or
12 each day such violation continues shall be deemed to be a
13 separate offense.

14 8. In case of contumacy by, or refusal to obey a subpoena
15 issued to, any person, any court of this state within the
16 jurisdiction of which the inquiry is carried on, or within the
17 jurisdiction of which the person guilty of contumacy or refusal
18 to obey is found or resides or transacts business, upon
19 application by the director, the commission, an appeals tribunal,
20 or any duly authorized representative of any one of them shall
21 have jurisdiction to issue to such person an order requiring such
22 person to appear before the director, the commission, an appeals
23 tribunal or any duly authorized representative of any one of
24 them, there to produce evidence if so ordered or there to give
25 testimony touching the matter under investigation or in question;
26 and any failure to obey such order of the court may be punished
27 by the court as a contempt thereof.

28 9. (1) Any individual or employer who receives or denies

1 unemployment benefits by intentionally misrepresenting,
2 misstating, or failing to disclose any material fact has
3 committed fraud. After the discovery of facts indicating fraud,
4 a deputy shall make a written determination that the individual
5 obtained or denied unemployment benefits by fraud and that the
6 individual must promptly repay the unemployment benefits to the
7 fund. In addition, the deputy shall assess a penalty equal to
8 twenty-five percent of the amount fraudulently obtained or
9 denied. If division records indicate that the individual or
10 employer had a prior established overpayment or record of denial
11 due to fraud, the deputy shall, on the present overpayment or
12 determination, assess a penalty equal to one hundred percent of
13 the amount fraudulently obtained.

14 (2) Unless the individual or employer within thirty
15 calendar days after notice of such determination of overpayment
16 by fraud is either delivered in person or mailed to the last
17 known address of such individual or employer files an appeal from
18 such determination, it shall be final. Proceedings on the appeal
19 shall be conducted in accordance with section 288.190.

20 (3) If the individual or employer fails to repay the
21 unemployment benefits and penalty, assessed as a result of the
22 deputy's determination that the individual or employer obtained
23 or denied unemployment benefits by fraud, such sum shall be
24 collectible in the manner provided in sections 288.160 and
25 288.170 for the collection of past due contributions. If the
26 individual or employer fails to repay the unemployment benefits
27 that the individual or employer denied or obtained by fraud, the
28 division may offset from any future unemployment benefits

1 otherwise payable the amount of the overpayment, or may take such
2 steps as are necessary to effect payment from the individual or
3 employer. Future benefits may not be used to offset the penalty
4 due. Money received in repayment of fraudulently obtained or
5 denied unemployment benefits and penalties shall first be applied
6 to the unemployment benefits overpaid, then to the penalty amount
7 due. Payments made toward the penalty amount due shall be
8 credited to the special employment security fund.

9 (4) If fraud or evasion on the part of any employer is
10 discovered by the division, the employer will be subject to the
11 fraud provisions of subsection 4 of section 288.160.

12 (5) The provisions of this subsection shall become
13 effective July 1, 2005.

14 10. An individual who willfully fails to disclose amounts
15 earned during any week with respect to which benefits are claimed
16 by him or her, willfully fails to disclose or has falsified as to
17 any fact which would have disqualified him or her or rendered him
18 or her ineligible for benefits during such week, or willfully
19 fails to disclose a material fact or makes a false statement or
20 representation in order to obtain or increase any benefit
21 pursuant to this chapter, shall forfeit all of his or her benefit
22 rights, and all of his or her wage credits accrued prior to the
23 date of such failure to disclose or falsification shall be
24 canceled, and any benefits which might otherwise have become
25 payable to him or her subsequent to such date based upon such
26 wage credits shall be forfeited; except that, the division may,
27 upon good cause shown, modify such reduction of benefits and
28 cancellation of wage credits. It shall be presumed that such

1 failure or falsification was willful in any case in which an
2 individual signs and certifies a claim for benefits and fails to
3 disclose or falsifies as to any fact relative to such claim.

4 [10.] 11. (1) Any assignment, pledge, or encumbrance of
5 any rights to benefits which are or may become due or payable
6 pursuant to this chapter shall be void; and such rights to
7 benefits shall be exempt from levy, execution, attachment, or any
8 other remedy whatsoever provided for the collection of debt; and
9 benefits received by any individual, so long as they are not
10 mingled with other funds of the recipient, shall be exempt from
11 any remedy whatsoever for the collection of all debts except
12 debts incurred for necessities furnished to such individual or
13 the individual's spouse or dependents during the time such
14 individual was unemployed. Any waiver of any exemption provided
15 for in this subsection shall be void; except that this section
16 shall not apply to:

17 (a) Support obligations, as defined pursuant to paragraph
18 (g) of subdivision (2) of this subsection, which are being
19 enforced by a state or local support enforcement agency against
20 any individual claiming unemployment compensation pursuant to
21 this chapter; or

22 (b) Uncollected overissuances (as defined in section
23 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons;

24 (2) (a) An individual filing a new claim for unemployment
25 compensation shall, at the time of filing such claim, disclose
26 whether or not the individual owes support obligations, as
27 defined pursuant to paragraph (g) of this subdivision or owes
28 uncollected overissuances of food stamp coupons (as defined in

1 section 13(c)(1) of the Food Stamp Act of 1977). If any such
2 individual discloses that he or she owes support obligations or
3 uncollected overissuances of food stamp coupons, and is
4 determined to be eligible for unemployment compensation, the
5 division shall notify the state or local support enforcement
6 agency enforcing the support obligation or the state food stamp
7 agency to which the uncollected food stamp overissuance is owed
8 that such individual has been determined to be eligible for
9 unemployment compensation;

10 (b) The division shall deduct and withhold from any
11 unemployment compensation payable to an individual who owes
12 support obligations as defined pursuant to paragraph (g) of this
13 subdivision or who owes uncollected food stamp overissuances:

14 a. The amount specified by the individual to the division
15 to be deducted and withheld pursuant to this paragraph if neither
16 subparagraph b. nor subparagraph c. of this paragraph is
17 applicable; or

18 b. The amount, if any, determined pursuant to an agreement
19 submitted to the division pursuant to Section 454(20)(B)(i) of
20 the Social Security Act by the state or local support enforcement
21 agency, unless subparagraph c. of this paragraph is applicable;
22 or the amount (if any) determined pursuant to an agreement
23 submitted to the state food stamp agency pursuant to Section
24 13(c)(3)(a) of the Food Stamp Act of 1977; or

25 c. Any amount otherwise required to be so deducted and
26 withheld from such unemployment compensation pursuant to properly
27 served legal process, as that term is defined in Section 459(i)
28 of the Social Security Act; or any amount otherwise required to

1 be deducted and withheld from the unemployment compensation
2 pursuant to Section 13(c)(3)(b) of the Food Stamp Act of 1977;

3 (c) Any amount deducted and withheld pursuant to paragraph
4 (b) of this subdivision shall be paid by the division to the
5 appropriate state or local support enforcement agency or state
6 food stamp agency;

7 (d) Any amount deducted and withheld pursuant to paragraph
8 (b) of this subdivision shall, for all purposes, be treated as if
9 it were paid to the individual as unemployment compensation and
10 paid by such individual to the state or local support enforcement
11 agency in satisfaction of the individual's support obligations or
12 to the state food stamp agency to which the uncollected
13 overissuance is owed as repayment of the individual's uncollected
14 overissuance;

15 (e) For purposes of paragraphs (a), (b), (c), and (d) of
16 this subdivision, the term "unemployment compensation" means any
17 compensation payable pursuant to this chapter, including amounts
18 payable by the division pursuant to an agreement pursuant to any
19 federal law providing for compensation, assistance, or allowances
20 with respect to unemployment;

21 (f) Deductions will be made pursuant to this section only
22 if appropriate arrangements have been made for reimbursement by
23 the state or local support enforcement agency, or the state food
24 stamp agency, for the administrative costs incurred by the
25 division pursuant to this section which are attributable to
26 support obligations being enforced by the state or local support
27 enforcement agency or which are attributable to uncollected
28 overissuances of food stamp coupons;

1 (g) The term "support obligations" is defined for purposes
2 of this subsection as including only obligations which are being
3 enforced pursuant to a plan described in Section 454 of the
4 Social Security Act which has been approved by the Secretary of
5 Health and Human Services pursuant to Part D of Title IV of the
6 Social Security Act;

7 (h) The term "state or local support enforcement agency",
8 as used in this subsection, means any agency of a state, or
9 political subdivision thereof, operating pursuant to a plan
10 described in paragraph (g) of this subdivision;

11 (i) The term "state food stamp agency" as used in this
12 subsection, means any agency of a state, or political subdivision
13 thereof, operating pursuant to a plan described in the Food Stamp
14 Act of 1977;

15 (j) The director may prescribe the procedures to be
16 followed and the form and contents of any documents required in
17 carrying out the provisions of this subsection;

18 (k) The division shall comply with the following priority
19 when deducting and withholding amounts from any unemployment
20 compensation payable to an individual:

21 a. Before withholding any amount for child support
22 obligations or uncollected overissuances of food stamp coupons,
23 the division shall first deduct and withhold from any
24 unemployment compensation payable to an individual the amount, as
25 determined by the division, owed pursuant to subsection 11 or 12
26 of this section;

27 b. If, after deductions are made pursuant to subparagraph
28 a. of paragraph (k) of this subdivision, an individual has

1 remaining unemployment compensation amounts due and owing, and
2 the individual owes support obligations or uncollected
3 overissuances of food stamp coupons, the division shall first
4 deduct and withhold any remaining unemployment compensation
5 amounts for application to child support obligations owed by the
6 individual;

7 c. If, after deductions are made pursuant to subparagraphs
8 a. and b. of paragraph (k) of this subdivision, an individual has
9 remaining unemployment compensation amounts due and owing, and
10 the individual owes uncollected overissuances of food stamp
11 coupons, the division shall deduct and withhold any remaining
12 unemployment compensation amounts for application to uncollected
13 overissuances of food stamp coupons owed by the individual.

14 [11.] 12. Any person who, by reason of the nondisclosure or
15 misrepresentation by such person or by another of a material
16 fact, has received any sum as benefits pursuant to this chapter
17 while any conditions for the receipt of benefits imposed by this
18 chapter were not fulfilled in such person's case, or while he or
19 she was disqualified from receiving benefits, shall, in the
20 discretion of the division, either be liable to have such sums
21 deducted from any future benefits payable to such person pursuant
22 to this chapter or shall be liable to repay to the division for
23 the unemployment compensation fund a sum equal to the amounts so
24 received by him or her, and such sum shall be collectible in the
25 manner provided in sections 288.160 and 288.170 for the
26 collection of past due contributions.

27 [12.] 13. Any person who, by reason of any error or
28 omission or because of a lack of knowledge of material fact on

1 the part of the division, has received any sum of benefits
2 pursuant to this chapter while any conditions for the receipt of
3 benefits imposed by this chapter were not fulfilled in such
4 person's case, or while such person was disqualified from
5 receiving benefits, shall after an opportunity for a fair hearing
6 pursuant to subsection 2 of section 288.190 have such sums
7 deducted from any further benefits payable to such person
8 pursuant to this chapter, provided that the division may elect
9 not to process such possible overpayments where the amount of
10 same is not over twenty percent of the maximum state weekly
11 benefit amount in effect at the time the error or omission was
12 discovered. Recovering overpaid unemployment compensation
13 benefits which are a result of error or omission on the part of
14 the claimant shall be pursued by the division through billing and
15 setoffs against state income tax refunds.

16 [13.] 14. Any person who has received any sum as benefits
17 under the laws of another state, or under any unemployment
18 benefit program of the United States administered by another
19 state while any conditions for the receipt of benefits imposed by
20 the law of such other state were not fulfilled in his or her
21 case, shall after an opportunity for a fair hearing pursuant to
22 subsection 2 of section 288.190 have such sums deducted from any
23 further benefits payable to such person pursuant to this chapter,
24 but only if there exists between this state and such other state
25 a reciprocal agreement under which such entity agrees to recover
26 benefit overpayments, in like fashion, on behalf of this state.

27 288.395. Any person or entity perpetrating a fraud or
28 misrepresentation under this chapter for which a penalty has not

1 herein been specifically provided, shall be guilty of a class A
2 misdemeanor and, in addition, shall be liable to this state for a
3 civil penalty not to exceed the value of the fraud. Any person
4 or entity who has previously pled guilty to or has been found
5 guilty of perpetrating a fraud or misrepresentation under this
6 chapter and who subsequently violated any such provisions shall
7 be guilty of a class D felony.

8 288.397. The division shall send on or before September 30,
9 2004, to all employing units a report containing a summary of
10 changes enacted in this act including but not limited to changes
11 in the tax rate, contribution rate, taxable wage base, temporary
12 solvency charges, benefit or eligibility charges, and other
13 pertinent information to enable the employing units to comply
14 with the changes made.

15 288.398. 1. The division of employment security may
16 contract with one or more consumer reporting agencies, with
17 preference given to those which maintain offices within the state
18 of Missouri, to provide secure electronic access to information
19 provided in the quarterly wage report to the division of
20 employment security by employing units. The consumer reporting
21 agency shall be limited to use of such information to those
22 permitted under Section 604 of the federal Fair Credit Reporting
23 Act 15 U.S.C. 1681b).

24 2. The information provided to a consumer reporting agency
25 shall be limited to the amount of wages reported by each
26 employing unit, with the employing unit's name and address, for
27 each of or up to the last eight quarters. For the purposes of
28 this section, "consumer reporting agency" has the meaning

1 assigned by Section 603(f) of the Fair Credit Reporting Act (15
2 U.S.C. 1681f).

3 3. The information is subject to the privacy rules of this
4 State and the federal Fair Credit Reporting Act in addition to
5 this section. The consumer reporting agency shall require that
6 any user of the information shall, prior to obtaining the wage
7 report information, obtain a written consent from the individual
8 to whom that wage report information pertains.

9 4. The written consent shall prominently contain language
10 specifying the following:

11 (1) The consent to disclose is voluntary and refusal to
12 consent to disclosure of state wage information shall not be the
13 basis for the denial of credit;

14 (2) If consent is granted, the information shall be
15 released to specified parties;

16 (3) Authorization by the individual is necessary for the
17 release of wage and employment history information;

18 (4) The specific application or transaction for the sole
19 purpose of which release is made;

20 (5) Division of employment security files containing wage
21 and employment history information submitted by employers may be
22 accessed; and

23 (6) The identity and address of parties authorized to
24 receive the released information.

25 5. The consumer reporting agency shall require that the
26 information released shall be used only to verify the accuracy of
27 the wage or employment information previously provided by an
28 individual in connection with a specific transaction to satisfy

1 its user's standard underwriting requirements or those imposed
2 upon the user, and to satisfy user's obligations, under
3 applicable state or federal fair credit reporting laws.

4 6. The division of employment security shall establish
5 minimum audit, security, net worth, and liability insurance
6 standards, technological requirements, any other terms and
7 conditions deemed necessary in the discretion of the division to
8 safeguard the confidentiality of the information and to otherwise
9 serve the public interest. The division shall not pay any costs
10 associated with the establishment or maintenance of the access
11 provided for by this subsection, including but not limited to the
12 costs of any audits of the consumer reporting agency or users by
13 the division. The division may void any contract authorized by
14 this section if the contractor is not complying with this
15 section. Except in cases of willful and wanton misconduct, the
16 state and division is immune from any liability in connection
17 with information provided under this section, including but not
18 limited to liability with regard to the accuracy or use of the
19 information. Any fees received by the division of employment
20 security from a consumer reporting agency pursuant to this
21 section shall be deposited in the Missouri unemployment insurance
22 trust fund and dedicated solely for benefit payments.

23 7. Any person or entity who willfully fails to comply with
24 any requirement imposed under this subsection with respect to any
25 consumer is liable in Missouri state courts to that consumer to
26 the same extent as provided for in Section 616 of the Federal
27 Fair Credit Reporting Act (15 U.S.C. 1681n).

28 8. A consumer may bring an action in a circuit court to

1 enjoin a violation of this act.

2 9. Any person who knowingly and willfully obtains
3 information pursuant to this subsection from a consumer reporting
4 agency under false pretenses shall be punished to the same extent
5 as provided under Section 619 of the federal Fair Credit
6 Reporting Act (15 U.S.C. 1681q).

7 10. If the completeness or accuracy of any item of
8 information in a consumer's file at a consumer reporting agency
9 obtained under this subsection is disputed, the dispute
10 resolution shall be handled according to Section 611 of the
11 Federal Fair Credit Reporting Act (15 U.S.C. 1681l).

12 288.500. 1. There is created under this section a
13 voluntary "Shared Work Unemployment Compensation Program". In
14 connection therewith, the division may adopt rules and establish
15 procedures, not inconsistent with this section, which are
16 necessary to administer this program.

17 2. As used in this section, the following terms mean:

18 (1) "Affected unit", a specified department, shift, or
19 other unit of three or more employees which is designated by an
20 employer to participate in a shared work plan;

21 (2) "Division", the division of employment security;

22 (3) "Fringe benefit", health insurance, a retirement
23 benefit received under a pension plan, a paid vacation day, a
24 paid holiday, sick leave, and any other analogous employee
25 benefit that is provided by an employer;

26 (4) "Normal weekly hours of work", as to any individual,
27 the lesser of forty hours or the average obtained by dividing the
28 total number of hours worked per week in the preceding

1 twelve-week period by the number twelve;

2 (5) "Participating employee", an employee who works a
3 reduced number of hours under a shared work plan;

4 (6) "Participating employer", an employer who has a shared
5 work plan in effect;

6 (7) "Shared work benefit", an unemployment compensation
7 benefit that is payable to an individual in an affected unit
8 because the individual works reduced hours under an approved
9 shared work plan;

10 (8) "Shared work plan", a program for reducing unemployment
11 under which employees who are members of an affected unit share
12 the work remaining after a reduction in their normal weekly hours
13 of work;

14 (9) "Shared work unemployment compensation program", a
15 program designed to reduce unemployment and stabilize the work
16 force by allowing certain employees to collect unemployment
17 compensation benefits if the employees share the work remaining
18 after a reduction in the total number of hours of work and a
19 corresponding reduction in wages.

20 3. An employer who wishes to participate in the shared work
21 unemployment compensation program established under this section
22 shall submit a written shared work plan in a form acceptable to
23 the division for approval. As a condition for approval by the
24 division, a participating employer shall agree to furnish the
25 division with reports relating to the operation of the shared
26 work plan as requested by the division. The employer shall
27 monitor and evaluate the operation of the established shared work
28 plan as requested by the division and shall report the findings

1 to the division.

2 4. The division may approve a shared work plan if:

3 (1) The employer has filed all reports required to be filed
4 under this chapter for all past and current periods and has paid
5 all contributions due for all past and current periods;

6 (2) The shared work plan applies to and identifies a
7 specified affected unit;

8 (3) The employees in the affected unit are identified by
9 name and Social Security number;

10 (4) The shared work plan reduces the normal weekly hours of
11 work for an employee in the affected unit by not less than twenty
12 percent and not more than forty percent;

13 (5) The shared work plan applies to at least ten percent of
14 the employees in the affected unit;

15 (6) The shared work plan describes the manner in which the
16 participating employer treats the fringe benefits of each
17 employee in the affected unit; and

18 (7) The employer certifies that the implementation of a
19 shared work plan and the resulting reduction in work hours is in
20 lieu of temporary layoffs that would affect at least ten percent
21 of the employees in the affected unit and that would result in an
22 equivalent reduction in work hours.

23 5. If any of the employees who participate in a shared work
24 plan under this section are covered by a collective bargaining
25 agreement, the shared work plan shall be approved in writing by
26 the collective bargaining agent.

27 6. No shared work plan which will subsidize seasonal
28 employers during the off-season or subsidize employers, at least

1 fifty percent of the employees of which have normal weekly hours
2 of work equaling thirty-two hours or less, shall be approved by
3 the division. No shared work plan benefits will be initiated for
4 pay periods when the reduced hours reflect holiday earnings
5 already committed to be paid by the employer.

6 7. The division shall approve or deny a shared work plan
7 not later than the thirtieth day after the day on which the
8 shared work plan is received by the division. The division shall
9 approve or deny a plan in writing. If the division denies a
10 plan, the division shall notify the employer of the reasons for
11 the denial. Approval or denial of a plan by the division shall
12 be final and such determination shall be subject to review in the
13 manner otherwise provided by law. If approval of a plan is
14 denied by the division, the employer may submit a new plan to the
15 division for consideration no sooner than forty-five calendar
16 days following the date on which the division disapproved the
17 employer's previously submitted plan.

18 8. The division may revoke approval of a shared work plan
19 and terminate the plan if it determines that the shared work plan
20 is not being executed according to the terms and intent of the
21 shared work unemployment compensation program, or if it is
22 determined by the division that the approval of the shared work
23 plan was based, in whole or in part, upon information contained
24 in the plan which was either false or substantially misleading.

25 9. Each shared work plan approved by the division shall
26 become effective on the first day of the week in which it is
27 approved by the division or on a later date as specified in the
28 shared work plan. Each shared work plan approved by the division

1 shall expire on the last day of the twelfth full calendar month
2 after the effective date of such shared work plan.

3 10. An employer may modify a shared work plan created under
4 this section to meet changed conditions if the modification
5 conforms to the basic provisions of the shared work plan as
6 originally approved by the division. The employer shall report
7 the changes made to the plan in writing to the division at least
8 seven days before implementing such changes. The division shall
9 reevaluate the shared work plan and may approve the modified
10 shared work plan if it meets the requirements for approval under
11 subsection 4 of this section. The approval of a modified shared
12 work plan shall not, under any circumstances, affect the
13 expiration date originally set for the shared work plan. If
14 modifications cause the shared work plan to fail to meet the
15 requirements for approval, the division shall deny approval of
16 the modifications as provided in subsection 7 of this section.

17 11. Notwithstanding any other provisions of this chapter,
18 an individual is unemployed for the purposes of this section in
19 any week in which the individual, as an employee in an affected
20 unit, works less than his normal weekly hours of work in
21 accordance with an approved shared work plan in effect for that
22 week.

23 12. An individual who is otherwise entitled to receive
24 regular unemployment insurance benefits under this chapter shall
25 be eligible to receive shared work benefits with respect to any
26 week in which the division finds that:

27 (1) The individual is employed as a member of an affected
28 unit subject to a shared work plan that was approved before the

1 week in question and is in effect for that week;

2 (2) Notwithstanding the provisions of subdivision (2) of
3 subsection 1 of section 288.040, the individual is able to work,
4 available for work and works all available hours with the
5 participating employer;

6 (3) The individual's normal weekly hours of work have been
7 reduced by at least twenty percent but not more than forty
8 percent, with a corresponding reduction in wages; and

9 (4) The individual has served a "waiting week" as defined
10 in section 288.030.

11 13. A waiting week served under the provisions of
12 subdivision (3) of subsection 1 of section 288.040 shall serve to
13 meet the requirements of subdivision (4) of subsection 12 of this
14 section and a waiting week served under the provisions of
15 subdivision (4) of subsection 12 of this section shall serve to
16 meet the requirements of section 288.040. [If the waiting week
17 becomes payable, it shall be paid according to the law governing
18 the program under which it was served.] Notwithstanding any
19 other provisions of this chapter, an individual who files a new
20 initial claim during the pendency of the twelve-month period in
21 which a shared work plan is in effect shall serve a waiting week
22 whether or not the individual has served a waiting week under
23 this subsection.

24 14. The division shall not deny shared work benefits for
25 any week to an otherwise eligible individual by reason of the
26 application of any provision of this chapter that relates to
27 availability for work, active search for work, or refusal to
28 apply for or accept work with an employer other than the

1 participating employer under the plan.

2 15. The division shall pay an individual who is eligible
3 for shared work benefits under this section a weekly shared work
4 benefit amount equal to the individual's regular weekly benefit
5 amount for a period of total unemployment less any deductible
6 amounts under this chapter except wages received from any
7 employer, multiplied by the full percentage of reduction in the
8 individual's hours as set forth in the employer's shared work
9 plan. If the shared work benefit amount calculated under this
10 subsection is not a multiple of one dollar, the division shall
11 round the amount so calculated to the next lowest multiple of one
12 dollar. An individual shall be ineligible for shared work
13 benefits for any week in which the individual performs paid work
14 for the participating employer in excess of the reduced hours
15 established under the shared work plan.

16 16. An individual shall not be entitled to receive shared
17 work benefits and regular unemployment compensation benefits in
18 an aggregate amount which exceeds the maximum total amount of
19 benefits payable to that individual in a benefit year as provided
20 under section 288.038. Notwithstanding any other provisions of
21 this chapter, an individual shall not be eligible to receive
22 shared work benefits for more than twenty-six calendar weeks
23 during the twelve-month period of the shared work plan. No week
24 shall be counted as a week of unemployment for the purposes of
25 this subsection unless it occurs within the twelve-month period
26 of the shared work plan.

27 17. Notwithstanding any other provision of this chapter,
28 all benefits paid under a shared work plan, which are chargeable

1 to the participating employer or any other base period employer
2 of a participating employee shall be charged to the account of
3 the participating employer under the plan.

4 18. An individual who has received all of the shared work
5 benefits and regular unemployment compensation benefits available
6 in a benefit year is an exhaustee under section 288.062 and is
7 entitled to receive extended benefits under section 288.062 if
8 the individual is otherwise eligible under that section.

9 288.501. 1. There is hereby created a "Missouri State
10 Unemployment Council". The council shall consist of nine
11 appointed voting members and two appointed nonvoting members.
12 All appointees shall be persons whose training and experience
13 qualify them to deal with the difficult problems of unemployment
14 compensation, particularly legal, accounting, actuarial,
15 economic, and social aspects of unemployment compensation.

16 (1) Three voting members shall be appointed to the council
17 by the governor. One voting member shall be appointed on account
18 of his or her vocation, employment, or affiliations being classed
19 as representative of employers. One voting member shall be
20 appointed on account of his or her vocation, employment, or
21 affiliations being classed as representative of employees. One
22 voting member shall be appointed to represent the public interest
23 separate from employee or employer representation.

24 (2) Three voting members and one nonvoting member shall be
25 appointed to the council by the speaker of the house of
26 representatives. One voting member shall be appointed on account
27 of his or her vocation, employment, or affiliations being classed
28 as representative of employers that employ twenty or less

1 employees. One voting member shall be appointed on account of
2 his or her vocation, employment, or affiliations being classed as
3 representative of employees. One voting member shall be
4 appointed to represent the public interest separate from employee
5 or employer representation. One nonvoting member shall be
6 appointed from the house of representatives.

7 _____ (3) Three voting members and one nonvoting member shall be
8 appointed to the council by the president pro tem of the senate.
9 One voting member shall be appointed on account of his or her
10 vocation, employment, or affiliations being classed as
11 representative of employers. One voting member shall be
12 appointed on account of his or her vocation, employment, or
13 affiliations being classed as representative of employees. One
14 voting member shall be appointed to represent the public interest
15 separate from employee or employer representation. One nonvoting
16 member shall be appointed from the senate.

17 _____ 2. The council shall organize itself and select a
18 chairperson or co-chairpersons and other officers from the nine
19 voting members. Six voting members shall constitute a quorum and
20 the council shall act only upon the affirmative vote of at least
21 five of the voting members. The council shall meet no less than
22 four times yearly. Members of the council shall serve without
23 compensation, but are to be reimbursed the amount of actual
24 expenses. Actual expenses shall be paid from the special
25 employment security fund under section 288.310.

26 _____ 3. The division shall provide professional and clerical
27 assistance as needed for regularly scheduled meetings.

28 _____ 4. Each nonvoting member shall serve for a term of four

1 years or until he or she is no longer a member of the general
2 assembly whichever occurs first. A nonvoting member's term shall
3 be a maximum of four years. Each voting member shall serve for a
4 term of three years. For the initial appointment, the governor-
5 appointed employer representative, the speaker of the house-
6 appointed employee representative, and the president pro tem of
7 the senate-appointed public interest representative shall serve
8 an initial term of one year. For the initial appointment, the
9 governor-appointed employee representative, the speaker of the
10 house-appointed public interest representative, and the president
11 pro tem of the senate-appointed employer representative shall
12 serve an initial term of two years. At the end of a voting
13 member's term he or she may be reappointed; however, he or she
14 shall serve no more than two terms excluding the initial term for
15 a maximum of eight years.

16 5. The council shall advise the division in carrying out
17 the purposes of this chapter. The council shall submit annually
18 by January fifteenth to the governor and the general assembly its
19 recommendations regarding amendments of this chapter, the status
20 of unemployment insurance, the projected maintenance of the
21 solvency of unemployment insurance, and the adequacy of
22 unemployment compensation.

23 6. The council shall present to the division every proposal
24 of the council for changes in this chapter and shall seek the
25 division's concurrence with the proposal. The division shall
26 give careful consideration to every proposal submitted by the
27 council for legislative or administrative action and shall review
28 each legislative proposal for possible incorporation into

1 department of labor and industrial relations recommendations.

2 7. The council shall have access to only the records of the
3 division that are necessary for the administration of this
4 chapter and to the reasonable services of the employees of the
5 division. It may request the director or any of the employees
6 appointed by the director or any employee subject to this
7 chapter, to appear before it and to testify relative to the
8 functioning of this chapter and to other relevant matters. The
9 council may conduct research of its own, make and publish
10 reports, and recommend to the division needed changes in this
11 chapter or in the rules of the division as it considers
12 necessary.

13 8. The council, unless prohibited by a concurrent
14 resolution of the general assembly, shall be authorized to
15 commission an outside study of the solvency, adequacy, and
16 staffing and operational efficiency of the Missouri unemployment
17 system. The study shall be conducted every five years, the first
18 being conducted in fiscal year 2005. The study shall be funded
19 subject to appropriation from the special employment security
20 fund under section 288.310.

21 288.502. If any provision of this act is found by a court
22 of competent jurisdiction to be invalid or unconstitutional it is
23 the stated intent of the legislature that the legislature would
24 have approved the remaining portions of the act, and the
25 remaining portions of the act shall remain in full force and
26 effect.

27 Section B. Because immediate action is necessary to reduce
28 or avoid the need to borrow or obtain advances under 42 U.S.C.,

1 Section 1321, section A of this act is deemed necessary for the
2 immediate preservation of the public health, welfare, peace, and
3 safety, and is hereby declared to be an emergency act within the
4 meaning of the constitution, and section A of this act shall be
5 in full force and effect upon its passage and approval.