

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1268 & 1211

92ND GENERAL ASSEMBLY

4224S.18T

2004

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, an emergency clause and effective dates.

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

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288.100, 288.110, 288.120, 288.121, 288.122, 288.128, 288.290, 288.310, 288.330, 288.380, and 288.500, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 285.300, 288.030, 288.032, 288.034, 288.036, 288.038, 288.040, 288.045, 288.050,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

285.300. 1. Every employer doing business in the state shall require each newly hired employee to fill out a federal W-4 withholding form. A copy of each withholding form or an equivalent form containing data required by section 285.304 which may be provided in an electronic or magnetic format, shall be sent to the department of revenue by the employer within twenty days after the date the employer hires the employee or in the case of an employer

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

6 transmitting a report magnetically or electronically, by two monthly transmissions, if necessary,
7 not less than twelve days nor more than sixteen days apart. For purposes of this section, the date
8 the employer hires the employee shall be the earlier of the date the employee signs the W-4 form
9 or its equivalent, or the first date the employee reports to work, or performs labor or services.
10 Such forms shall be forwarded by the department of revenue to the division of child support
11 enforcement on a weekly basis and the information shall be entered into the database, to be
12 known as the "State Directory of New Hires". The information reported shall be provided to the
13 National Directory of New Hires established in 42 U.S.C. section 653, other state agencies or
14 contractors of the division as required or allowed by federal statutes or regulations. **The division**
15 **of employment security shall cross-check Missouri unemployment compensation recipients**
16 **against any federal new hire database or any other database containing Missouri or other**
17 **states' wage information which is maintained by the federal government on a weekly basis.**
18 **The division of employment security shall cross-check unemployment compensation**
19 **applicants and recipients with Social Security Administration data maintained by the**
20 **federal government at least weekly. Effective January 1, 2007, the division of employment**
21 **security shall cross-check at least monthly unemployment compensation applicants and**
22 **recipients with department of revenue drivers license databases.**

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

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

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

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

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

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

8 (3) "Benefit year" [means], the one-year period beginning with the first day of the first
9 week with respect to which an insured worker first files an initial claim for determination of such
10 worker's insured status, and thereafter the one-year period beginning with the first day of the first
11 week with respect to which the individual, providing the individual is then an insured worker,
12 next files such an initial claim after the end of the individual's last preceding benefit year;

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

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

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

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

21 (8) "Common paymaster" [means], two or more related corporations in which one of the
22 corporations has been designated to disburse remuneration to concurrently employed individuals
23 of any of the related corporations;

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

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

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

31 (12) "Determination" [means], any administrative ruling made by the division without
32 a hearing;

33 (13) "Director" [means], the administrative head of the division of employment security;

34 (14) "Division" [means], the division of employment security which administers this
35 chapter;

36 (15) "Employing unit" [means], any individual, organization, partnership, corporation,
37 common paymaster, or other legal entity, including the legal representatives thereof, which has
38 or, subsequent to June 17, 1937, had in its employ one or more individuals performing services
39 for it within this state. All individuals performing services within this state for any employing
40 unit which maintains two or more separate establishments within this state shall be deemed to
41 be employed by a single employing unit for all the purposes of this chapter. Each individual
42 engaged to perform or to assist in performing the work of any person in the service of an
43 employing unit shall be deemed to be engaged by such employing unit for all the purposes of this
44 chapter, whether such individual was engaged or paid directly by such employing unit or by such
45 person, provided the employing unit had actual or constructive knowledge of the work;

46 (16) "Employment office" [means], a free public employment office operated by this or
47 any other state as a part of a state controlled system of public employment offices including any
48 location designated by the state as being a part of the one-stop career system;

49 (17) "Equipment" [means], a motor vehicle, straight truck, tractor, semi-trailer, full
50 trailer, any combination of these and any other type of equipment used by authorized carriers in
51 the transportation of property for hire;

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

53 (19) "Governmental entity" [means], the state, any political subdivision thereof, any
54 instrumentality of any one or more of the foregoing which is wholly owned by this state and one
55 or more other states or political subdivisions and any instrumentality of this state or any political
56 subdivision thereof and one or more other states or political subdivisions;

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

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

60 (22) (a) As to initial claims filed after December 31, 1990, "insured worker" [means],
61 a worker who has been paid wages for insured work in the amount of one thousand dollars or
62 more in at least one calendar quarter of such worker's base period and total wages in the worker's
63 base period equal to at least one and one-half times the insured wages in that calendar quarter
64 of the base period in which the worker's insured wages were the highest, or in the alternative, a
65 worker who has been paid wages in at least two calendar quarters of such worker's base period
66 and whose total base period wages are at least one and one-half times the maximum taxable
67 wage base, taxable to any one employer, in accordance with [subdivision (1)] **subsection 2** of
68 section 288.036. For the purposes of this definition, "wages" shall be considered as wage credits
69 with respect to any benefit year, only if such benefit year begins subsequent to the date on which
70 the employing unit by which such wages were paid has become an employer;

71 (b) **As to initial claims filed after December 31, 2004, wages for insured work in the**
72 **amount of one thousand two hundred dollars or more, after December 31, 2005, one**
73 **thousand three hundred dollars or more, after December 31, 2006, one thousand four**
74 **hundred dollars or more, after December 31, 2007, one thousand five hundred dollars or**
75 **more in at least one calendar quarter of such worker's base period and total wages in the**
76 **worker's base period equal to at least one and one-half times the insured wages in that**
77 **calendar quarter of the base period in which the worker's insured wages were the highest,**
78 **or in the alternative, a worker who has been paid wages in at least two calendar quarters**
79 **of such worker's base period and whose total base period wages are at least one and one-**

80 **half times the maximum taxable wage base, taxable to any one employer, in accordance**
81 **with subsection 2 of section 288.036;**

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

84 (24) "Misconduct", **an act of wanton or willful disregard of the employer's interest,**
85 **a deliberate violation of the employer's rules, a disregard of standards of behavior which**
86 **the employer has the right to expect of his or her employee, or negligence in such degree**
87 **or recurrence as to manifest culpability, wrongful intent or evil design, or show an**
88 **intentional and substantial disregard of the employer's interest or of the employee's duties**
89 **and obligations to the employer;**

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

92 [(25)] (26) "State", includes, in addition to the states of the United States of America,
93 the District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada;

94 [(26)] (27) "Temporary help firm", **a firm that hires its own employees and assigns**
95 **them to clients to support or supplement the clients' workforce in work situations such as**
96 **employee absences, temporary skill shortages, seasonal workloads, and special assignments**
97 **and projects;**

98 (28) "Temporary employee", **an employee assigned to work for the clients of a**
99 **temporary help firm;**

100 (29) (a) An individual shall be deemed "totally unemployed" in any week during which
101 the individual performs no services and with respect to which no wages are payable to such
102 individual;

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

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

111 (c) An individual's "week of unemployment" shall begin the first day of the calendar
112 week in which the individual registers at an employment office except that, if for good cause the
113 individual's registration is delayed, the week of unemployment shall begin the first day of the
114 calendar week in which the individual would have otherwise registered. The requirement of

115 registration may by regulation be postponed or eliminated in respect to claims for partial
116 unemployment or may by regulation be postponed in case of a mass layoff due to a temporary
117 cessation of work;

118 [(27)] **(30)** "Waiting week" [means], the first week of unemployment for which a claim
119 is allowed in a benefit year or if no waiting week has occurred in a benefit year in effect on the
120 effective date of a shared work plan, the first week of participation in a shared work
121 unemployment compensation program pursuant to section 288.500.

122 2. The Missouri average annual wage shall be computed as of June thirtieth of each year,
123 and shall be applicable to the following calendar year. The Missouri average annual wage shall
124 be calculated by dividing the total wages reported as paid for insured work in the preceding
125 calendar year by the average of mid-month employment reported by employers for the same
126 calendar year. The Missouri average weekly wage shall be computed by dividing the Missouri
127 average annual wage as computed in this subsection by fifty-two.

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

2 (1) Any employing unit which in any calendar quarter in either the current or preceding
3 calendar year paid for service in employment wages of one thousand five hundred dollars or
4 more except that for the purposes of this definition, wages paid for "agricultural labor" as defined
5 in paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and for "domestic
6 services" as defined in subdivisions (2) and [(12)] **(13)** of subsection 12 of section 288.034 shall
7 not be considered;

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

15 (3) Any governmental entity for which service in employment as defined in subsection
16 7 of section 288.034 is performed;

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

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

22 (6) Any employing unit for which service in employment as defined in subsection 13 of
23 section 288.034 is performed during the current or preceding calendar year;

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

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

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

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

33 2. (1) Notwithstanding any other provisions of this law, any employer, individual,
34 organization, partnership, corporation, other legal entity or employing unit that meets the
35 definition of "lessor employing unit", as defined in subdivision (5) of this subsection, shall be
36 liable for contributions on wages paid by the lessor employing unit to individuals performing
37 services for client lessees of the lessor employing unit. Unless the lessor employing unit has
38 timely complied with the provisions of subdivision (3) of this subsection, any employer,
39 individual, organization, partnership, corporation, other legal entity or employing unit which is
40 leasing individuals from any lessor employing unit shall be jointly and severally liable for any
41 unpaid contributions, interest and penalties due pursuant to this law from any lessor employing
42 unit attributable to wages for services performed for the client lessee entity by individuals leased
43 to the client lessee entity, and the lessor employing unit shall keep separate records and submit
44 separate quarterly contribution and wage reports for each of its client lessee entities. Delinquent
45 contributions, interest and penalties shall be collected in accordance with the provisions of this
46 chapter.

47 (2) Notwithstanding the provisions of subdivision (1) of this subsection, any
48 governmental entity or nonprofit organization that meets the definition of "lessor employing
49 unit", as defined in subdivision (5) of this subsection, and has elected to become liable for
50 payments in lieu of contributions as provided in subsection 3 of section 288.090, shall pay the
51 division payments in lieu of contributions, interest, penalties and surcharges in accordance with
52 section 288.090 on benefits paid to individuals performing services for the client lessees of the
53 lessor employing unit. If the lessor employing unit has not timely complied with the provisions
54 of subdivision (3) of this subsection, any client lessees with services attributable to and
55 performed for the client lessees shall be jointly and severally liable for any unpaid payments in
56 lieu of contributions, interest, penalties and surcharges due pursuant to this law. The lessor

57 employing unit shall keep separate records and submit separate quarterly contribution and wage
58 reports for each of its client lessees. Delinquent payments in lieu of contributions, interest,
59 penalties and surcharges shall be collected in accordance with subsection 3 of section 288.090.
60 The election to be liable for payments in lieu of contributions made by a governmental entity or
61 nonprofit organization meeting the definition of "lessor employing unit", may be terminated by
62 the division in accordance with subsection 3 of section 288.090.

63 (3) In order to relieve a client lessees from joint and several liability and the separate
64 reporting requirements imposed pursuant to this subsection, any lessor employing unit may post
65 and maintain a surety bond issued by a corporate surety authorized to do business in Missouri
66 in an amount equivalent to the contributions or payments in lieu of contributions for which the
67 lessor employing unit was liable in the last calendar year in which he or she accrued
68 contributions or payments in lieu of contributions, or one hundred thousand dollars, whichever
69 amount is the greater, to ensure prompt payment of contributions or payments in lieu of
70 contributions, interest, penalties and surcharges for which the lessor employing unit may be, or
71 becomes, liable pursuant to this law. In lieu of a surety bond, the lessor employing unit may
72 deposit in a depository designated by the director, securities with marketable value equivalent
73 to the amount required for a surety bond. The securities so deposited shall include authorization
74 to the director to sell any securities in an amount sufficient to pay any contributions or payments
75 in lieu of contributions, interest, penalties and surcharges which the lessor employing unit fails
76 to promptly pay when due. In lieu of a surety bond or securities as described in this subdivision,
77 any lessor employing unit may provide the director with an irrevocable letter of credit, as defined
78 in section 400.5-103, RSMo, issued by any state or federally chartered financial institution, in
79 an amount equivalent to the amount required for a surety bond as described in this subdivision.
80 In lieu of a surety bond, securities or an irrevocable letter of credit, a lessor employing unit may
81 obtain a certificate of deposit issued by any state or federally chartered financial institution, in
82 an amount equivalent to the amount required for a surety bond as described in this subdivision.
83 The certificate of deposit shall be pledged to the director until release by the director. As used
84 in this subdivision, the term "certificate of deposit" means a certificate representing any deposit
85 of funds in a state or federally chartered financial institution for a specified period of time which
86 earns interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a
87 specified time without forfeiture of some or all of the earned interest.

88 (4) Any lessor employing unit which is currently engaged in the business of leasing
89 individuals to client lessees shall comply with the provisions of subdivision (3) of this subsection
90 by September 28, 1992. Lessor employing units not currently engaged in the business of leasing

91 individuals to client lessees shall comply with subdivision (3) of this subsection before entering
92 into a written lease agreement with client lessees.

93 (5) As used in this subsection, the term "lessor employing unit" means an independently
94 established business entity, governmental entity as defined in subsection 1 of section 288.030
95 or nonprofit organization as defined in subsection 3 of section 288.090 which, pursuant to a
96 written lease agreement between the lessor employing unit and the client lessees, engages in the
97 business of providing individuals to any other employer, individual, organization, partnership,
98 corporation, other legal entity or employing unit referred to in this subsection as a client lessee.

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

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

110 4. The owner or operator of a beauty salon or similar establishment shall not be
111 determined to be the employer of a person who utilizes the facilities of the owner or operator but
112 who receives neither salary, wages or other compensation from the owner or operator and who
113 pays the owner or operator rent or other payments for the use of the facilities.

288.034. 1. "Employment" means service, including service in interstate commerce,
2 performed for wages or under any contract of hire, written or oral, express or implied, and
3 notwithstanding any other provisions of this section, service with respect to which a tax is
4 required to be paid under any federal unemployment tax law imposing a tax against which credit
5 may be taken for contributions required to be paid into a state unemployment fund or which, as
6 a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act,
7 is required to be covered under this law.

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

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

11 (2) The service is not localized in any state but some of the service is performed in this
12 state and the base of operations, or, if there is no base of operations, then the place from which

13 such service is directed or controlled, is in this state; or the base of operations or place from
14 which such service is directed or controlled is not in any state in which some part of the service
15 is performed but the individual's residence is in this state.

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

18 (1) If covered by an election filed and approved pursuant to subdivision (2) of subsection
19 3 of section 288.080;

20 (2) If covered by an arrangement pursuant to section 288.340 between the division and
21 the agency charged with the administration of any other state or federal unemployment insurance
22 law, pursuant to which all services performed by an individual for an employing unit are deemed
23 to be performed entirely within this state.

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

28 5. Service performed by an individual for remuneration shall be deemed to be
29 employment subject to this law unless it is shown to the satisfaction of the division that such
30 services were performed by an independent contractor. In determining the existence of the
31 independent contractor relationship, the common law of agency right to control shall be applied.
32 The common law of agency right to control test shall include but not be limited to: if the alleged
33 employer retains the right to control the manner and means by which the results are to be
34 accomplished, the individual who performs the service is an employee. If only the results are
35 controlled, the individual performing the service is an independent contractor.

36 6. The term "employment" shall include service performed for wages as an agent-driver
37 or commission-driver engaged in distributing meat products, vegetable products, fruit products,
38 bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his or her
39 principal; or as a traveling or city salesman, other than as an agent-driver or commission-driver,
40 engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her
41 principal (except for sideline sales activities on behalf of some other person) of orders from
42 wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar
43 establishments for merchandise for resale or supplies for use in their business operations,
44 provided:

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

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

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

51 7. Service performed by an individual in the employ of this state or any political
52 subdivision thereof or any instrumentality of any one or more of the foregoing which is wholly
53 owned by this state and one or more other states or political subdivisions, or any service
54 performed in the employ of any instrumentality of this state or of any political subdivision
55 thereof, and one or more other states or political subdivisions, provided that such service is
56 excluded from "employment" as defined in the Federal Unemployment Tax Act by Section
57 3306(c)(7) of that act and is not excluded from "employment" pursuant to subsection 9 of this
58 section, shall be "employment" subject to this law.

59 8. Service performed by an individual in the employ of a corporation or any community
60 chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific,
61 testing for public safety, literary, or educational purposes, or for the prevention of cruelty to
62 children or animals, no part of the net earnings of which inures to the benefit of any private
63 shareholder or individual, or other organization described in Section 501(c)(3) of the Internal
64 Revenue Code which is exempt from income tax under Section 501(a) of that code if the
65 organization had four or more individuals in employment for some portion of a day in each of
66 twenty different weeks whether or not such weeks were consecutive within a calendar year
67 regardless of whether they were employed at the same moment of time shall be "employment"
68 subject to this law.

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

71 (1) In the employ of a church or convention or association of churches, or an
72 organization which is operated primarily for religious purposes and which is operated,
73 supervised, controlled, or principally supported by a church or convention or association of
74 churches; or

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

78 (3) In the employ of a governmental entity referred to in subdivision (3) of subsection
79 1 of section 288.032 if such service is performed by an individual in the exercise of duties:

80 (a) As an elected official;

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

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

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

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

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

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

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

99 (7) In the employ of a school, college, or university, if such service is performed (i) by
100 a student who is enrolled and is regularly attending classes at such school, college, or university,
101 or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse
102 commences to perform such service, that (I) the employment of such spouse to perform such
103 service is provided under a program to provide financial assistance to such student by such
104 school, college, or university, and (II) such employment will not be covered by any program of
105 unemployment insurance.

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

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

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

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

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

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

115 or

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

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

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

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

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

126 or

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

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

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

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

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

133 a. On a farm, in the employ of any person, in connection with cultivating the soil, or in
134 connection with raising or harvesting any agricultural or horticultural commodity, including the
135 raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and
136 furbearing animals and wildlife;

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

141 c. In connection with the production or harvesting of any commodity defined as an
142 agricultural commodity in Section 15(g) of the Federal Agricultural Marketing Act, as amended
143 (46 Stat. 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the ginning of cotton, or in
144 connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not
145 owned or operated for profit, used exclusively for supplying and storing water for farming
146 purposes;

147 d. i. In the employ of the operator of a farm in handling, planting, drying, packing,
148 packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a
149 carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural

150 commodity; but only if such operator produced more than one-half of the commodity with
151 respect to which such service is performed;

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

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

160 e. On a farm operated for profit if such service is not in the course of the employer's trade
161 or business. As used in this paragraph, the term "farm" includes stock, dairy, poultry, fruit,
162 furbearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other
163 similar structures, used primarily for the raising of agricultural or horticultural commodities, and
164 orchards;

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

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

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

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

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

182 i. Such other person and not the crew leader shall be treated as the employer of such
183 individual; and

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

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

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

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

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

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

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

199 (4) Service performed by an individual in, and at the time of, the sale of newspapers or
200 magazines to ultimate consumers under an arrangement under which the newspapers or
201 magazines are to be sold by him or her at a fixed price, his or her compensation being based on
202 the retention of the excess of such price over the amount at which the newspapers or magazines
203 are charged to him or her, whether or not he or she is guaranteed a minimum amount of
204 compensation for such service, or is entitled to be credited with the unsold newspapers or
205 magazines turned back;

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

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

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

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

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

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

221 (b) If the division finds that the foreign government, with respect to whose
222 instrumentality exemption is claimed, grants an equivalent exemption with respect to similar
223 service performed in the foreign country by employees of the United States government and of
224 instrumentalities thereof. The certification of the United States Secretary of State to the United
225 States Secretary of Treasury shall constitute prima facie evidence of such equivalent exemption;

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

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

235 (12) Service performed by an individual for a person as a licensed insurance agent, a
236 licensed insurance broker, or an insurance solicitor, if all such service performed by such
237 individual for such person is performed for remuneration solely by way of commissions;

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

240 (14) Services performed after March 31, 1982, in programs authorized and funded by
241 the Comprehensive Employment and Training Act by participants of such programs, except those
242 programs with respect to which unemployment insurance coverage is required by the
243 Comprehensive Employment and Training Act or regulations issued pursuant thereto;

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

252 (16) Services performed by a licensed real estate salesperson or licensed real estate
253 broker if at least eighty percent of the remuneration, whether or not paid in cash, for the services

254 performed rather than to the number of hours worked is directly related to sales performed
255 pursuant to a written contract between such individual and the person for whom the services are
256 performed and such contract provides that the individual will not be treated as an employee with
257 respect to such services for federal tax purposes;

258 (17) Services performed as a direct seller who is engaged in the trade or business of the
259 delivering or distribution of newspapers or shopping news, including any services directly related
260 to such trade or business, or services performed as a direct seller who is engaged in the trade or
261 business of selling, or soliciting the sale of, consumer products in the home or otherwise than in,
262 or affiliated with, a permanent, fixed retail establishment, if eighty percent or more of the
263 remuneration, whether or not paid in cash, for the services performed rather than the number of
264 hours worked is directly related to sales performed pursuant to a written contract between such
265 direct seller and the person for whom the services are performed, and such contract provides that
266 the individual will not be treated as an employee with respect to such services for federal tax
267 purposes;

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

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

275 14. The term "employment" shall include or exclude the entire service of an individual
276 for an employing unit during a pay period in which such individual's services are not all excluded
277 under the foregoing provisions, on the following basis: if the services performed during one-half
278 or more of any pay period constitute employment as otherwise defined in this law, all the
279 services performed during such period shall be deemed to be employment; but if the services
280 performed during more than one-half of any such pay period do not constitute employment as
281 otherwise defined in this law, then none of the services for such period shall be deemed to be
282 employment. (As used in this subsection, the term "pay period" means a period of not more than
283 thirty-one consecutive days for which a payment of remuneration is ordinarily made to the
284 individual by the employing unit employing such individual.) This subsection shall not be
285 applicable with respect to service performed in a pay period where any such service is excluded
286 pursuant to subdivision [(7)] **(8)** of subsection 12 of this section.

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

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

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

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

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

297 (b) There is a reasonable assurance that the individual will be so enrolled for the
298 immediately succeeding academic year or term after the period described in paragraph (a) of this
299 subdivision.

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

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

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

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

288.036. 1. "Wages" means all remuneration, payable or paid, for personal services
2 including commissions and bonuses and, except as provided in subdivision [(8)] (7) of this
3 section, the cash value of all remuneration paid in any medium other than cash. Gratuities,
4 including tips received from persons other than the employing unit, shall be considered wages
5 only if required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26
6 U.S.C. Sec. 3306, and shall be, for the purposes of this chapter, treated as having been paid by
7 the employing unit. Severance pay shall be considered as wages to the extent required pursuant
8 to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306(b). Vacation pay and holiday

9 pay shall be considered as wages for the week with respect to which it is payable. The term
10 "wages" shall not include:

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

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

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

32 (2) The amount of any payment made (including any amount paid by an employing unit
33 for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of,
34 an individual under a plan or system established by an employing unit which makes provision
35 generally for individuals performing services for it or for a class or classes of such individuals,
36 on account of:

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

40 (b) Medical and hospitalization expenses in connection with sickness or accident
41 disability; or

42 (c) Death;

43 [(3)] (2) The amount of any payment on account of sickness or accident disability, or
44 medical or hospitalization expenses in connection with sickness or accident disability, made by
45 an employing unit to, or on behalf of, an individual performing services for it after the expiration
46 of six calendar months following the last calendar month in which the individual performed
47 services for such employing unit;

48 [(4)] (3) The amount of any payment made by an employing unit to, or on behalf of, an
49 individual performing services for it or his or her beneficiary:

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

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

56 [(5)] (4) The amount of any payment made by an employing unit (without deduction
57 from the remuneration of the individual in employment) of the tax imposed pursuant to section
58 3101 of the Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an individual with
59 respect to remuneration paid to an employee for domestic service in a private home or for
60 agricultural labor;

61 [(6)] (5) Remuneration paid in any medium other than cash to an individual for services
62 not in the course of the employing unit's trade or business;

63 [(7)] (6) Remuneration paid in the form of meals provided to an individual in the service
64 of an employing unit where such remuneration is furnished on the employer's premises and at
65 the employer's convenience, except that remuneration in the form of meals that is considered
66 wages and required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26
67 U.S.C. Sec. 3306 shall be reported as wages as required thereunder;

68 [(8)] (7) For the purpose of determining wages paid for agricultural labor as defined in
69 paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for domestic service as
70 defined in subsection 13 of section 288.034, only cash wages paid shall be considered;

71 [(9)] (8) Beginning on October 1, 1996, any payment to, or on behalf of, an employee
72 or the employee's beneficiary under a cafeteria plan, if such payment would not be treated as
73 wages pursuant to the Federal Unemployment Tax Act.

74 2. The increases or decreases to the state taxable wage base for **the remainder of**
75 **calendar year [1999] 2004 shall be eight thousand dollars, and the state taxable wage base**
76 **in calendar year 2005**, and each calendar year thereafter, shall be determined by the provisions
77 within this subsection. **On January 1, 2005**, the state taxable wage base for calendar year

78 [1999, and] **2005, 2006, and 2007 shall be eleven thousand dollars. The taxable wage base**
79 **for calendar year 2008, and each year thereafter, shall be twelve thousand dollars. The**
80 **state taxable wage base for** each calendar year thereafter[,] shall be determined by the preceding
81 September thirtieth balance of the unemployment compensation trust fund, less any outstanding
82 federal Title XII advances received pursuant to section 288.330, **or if the fund is not utilizing**
83 **moneys advanced by the federal government, then less the principal, interest, and**
84 **administrative expenses related to credit instruments issued under section 288.330, or the**
85 **principal, interest, and administrative expenses related to financial agreements under**
86 **subdivision (17) of subsection 2 of section 288.330, or the principal, interest, and**
87 **administrative expenses related to a combination of Title XII advances, credit instruments,**
88 **and financial agreements.** When the September thirtieth unemployment compensation trust
89 fund balance, **or, if the average balance, less any federal advances of the unemployment**
90 **compensation trust fund of the four preceding quarters (September thirtieth, June**
91 **thirtieth, March thirty-first, and December thirty-first of the preceding calendar year) is**
92 less any outstanding federal Title XII advances received pursuant to section 288.330, is:

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

95 (2) [Four] **Six** hundred fifty million or more, then the state taxable wage base for the
96 subsequent calendar year shall be decreased by five hundred dollars. In no event, however, shall
97 the state taxable wage base increase beyond [ten] **twelve** thousand [five hundred] dollars, or
98 decrease to less than seven thousand dollars. **For calendar year 2009, the tax wage base shall**
99 **be twelve thousand five hundred dollars. For calendar year 2010 and each calendar year**
100 **thereafter, in no event shall the state taxable wage base increase beyond thirteen thousand**
101 **dollars, or decrease to less than seven thousand dollars.**

102

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

288.038. With respect to initial claims filed during calendar years [1998, 1999, 2000 and
2 2001 and each calendar year thereafter] **2004 and 2005**, the "maximum weekly benefit amount"
3 means four percent of the total wages paid to an eligible insured worker during that quarter of
4 the worker's base period in which the worker's wages were the highest, but the maximum weekly
5 benefit amount shall not exceed [two hundred five dollars in the calendar year 1998, two hundred

6 twenty dollars in the calendar year 1999, two hundred thirty-five dollars in the calendar year
7 2000, and] two hundred fifty dollars in the calendar [year 2001, and each calendar year
8 thereafter] years **2004 and 2005**. **With respect to initial claims filed during calendar years**
9 **2006 and 2007 the "maximum weekly benefit amount" means three and three-fourths**
10 **percent of the total wages paid to an eligible insured worker during that quarter of the**
11 **worker's base period in which the worker's wages were the highest, but the maximum**
12 **weekly benefit amount shall not exceed two hundred seventy dollars in calendar year 2006**
13 **and the maximum weekly benefit amount shall not exceed two hundred eighty dollars in**
14 **calendar year 2007. With respect to initial claims filed during calendar year 2008 and each**
15 **calendar year thereafter, the "maximum weekly benefit amount" means four percent of**
16 **the total wages paid to an eligible insured worker during the average of the two highest**
17 **quarters of the worker's base period, but the maximum weekly benefit amount shall not**
18 **exceed three hundred dollars in calendar year 2008, three hundred ten dollars in calendar**
19 **year 2009, three hundred twenty dollars in calendar year 2010, and each calendar year**
20 **thereafter**. If such benefit amount is not a multiple of one dollar, such amount shall be reduced
21 to the nearest lower full dollar amount.

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

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

5 (2) The claimant is able to work and is available for work. No person shall be deemed
6 available for work unless such person has been and is actively and earnestly seeking work. Upon
7 the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter,
8 the deputy shall notify each claimant of the number of work search contacts required to constitute
9 an active search for work. No person shall be considered not available for work, pursuant to this
10 subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall
11 not be determined to be ineligible pursuant to this subdivision because of not actively and
12 earnestly seeking work if:

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

15 (b) The claimant is temporarily unemployed through no fault of his or her own and has
16 a definite recall date within eight weeks of his or her first day of unemployment; however, upon
17 application of the employer responsible for the claimant's unemployment, such eight-week period
18 may be extended **not to exceed a total of sixteen weeks** at the discretion of the director;

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

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

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

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

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

34

35 Ineligibility pursuant to this subdivision shall begin on the first day of the week which the
36 claimant was scheduled to claim and shall end on the last day of the week preceding the week
37 during which the claimant does report in person to the division's office;

38 (4) Prior to the first week of a period of total or partial unemployment for which the
39 claimant claims benefits he **or she** has been totally or partially unemployed for a waiting period
40 of one week. No more than one waiting week will be required in any benefit year. [The
41 one-week waiting period shall become compensable after unemployment during which benefits
42 are payable for nine consecutive weeks.] **During calendar year 2008 and each calendar year**
43 **thereafter, the one-week waiting period shall become compensable once his or her**
44 **remaining balance on the claim is equal to or less than the compensable amount for the**
45 **waiting period.** No week shall be counted as a week of total or partial unemployment for the
46 purposes of this subsection unless it occurs within the benefit year which includes the week with
47 respect to which the claimant claims benefits;

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

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

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

54 (b) There is justifiable cause for the claimant's failure to participate in such
55 reemployment services.

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

60 3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of
61 section 288.034, shall be payable in the same amount, on the same terms and subject to the same
62 conditions as compensation payable on the basis of other service subject to this law; except that:

63 (a) With respect to service performed in an instructional, research, or principal
64 administrative capacity for an educational institution, benefits shall not be paid based on such
65 services for any week of unemployment commencing during the period between two successive
66 academic years or terms, or during a similar period between two regular but not successive terms,
67 or during a period of paid sabbatical leave provided for in the individual's contract, to any
68 individual if such individual performs such services in the first of such academic years (or terms)
69 and if there is a contract or a reasonable assurance that such individual will perform services in
70 any such capacity for any educational institution in the second of such academic years or terms;

71 (b) With respect to services performed in any capacity (other than instructional, research,
72 or principal administrative capacity) for an educational institution, benefits shall not be paid on
73 the basis of such services to any individual for any week which commences during a period
74 between two successive academic years or terms if such individual performs such services in the
75 first of such academic years or terms and there is a contract or a reasonable assurance that such
76 individual will perform such services in the second of such academic years or terms;

77 (c) With respect to services described in paragraphs (a) and (b) of this subdivision,
78 benefits shall not be paid on the basis of such services to any individual for any week which
79 commences during an established and customary vacation period or holiday recess if such
80 individual performed such services in the period immediately before such vacation period or
81 holiday recess, and there is reasonable assurance that such individual will perform such services
82 immediately following such vacation period or holiday recess;

83 (d) With respect to services described in paragraphs (a) and (b) of this subdivision,
84 benefits payable on the basis of services in any such capacity shall be denied as specified in
85 paragraphs (a), (b), and (c) of this subdivision, to any individual who performed such services
86 at an educational institution while in the employ of an educational service agency, and for this
87 purpose the term "educational service agency" means a governmental agency or governmental

88 entity which is established and operated exclusively for the purpose of providing such services
89 to one or more educational institutions.

90 (2) If compensation is denied for any week pursuant to paragraph (b) or (d) of
91 subdivision (1) of this subsection, to any individual performing services at an educational
92 institution in any capacity (other than instructional, research or principal administrative capacity),
93 and such individual was not offered an opportunity to perform such services for the second of
94 such academic years or terms, such individual shall be entitled to a retroactive payment of the
95 compensation for each week for which the individual filed a timely claim for compensation and
96 for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1)
97 of this subsection.

98 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work
99 benefits for any week for which he or she is receiving or has received remuneration exceeding
100 his or her weekly benefit amount or shared work benefit amount in the form of:

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

103 (b) A governmental or other pension, retirement or retired pay, annuity, or other similar
104 periodic payment which is based on the previous work of such claimant to the extent that such
105 payment is provided from funds provided by a base period or chargeable employer pursuant to
106 a plan maintained or contributed to by such employer; but, except for such payments made
107 pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding
108 provisions of prior law), the provisions of this paragraph shall not apply if the services performed
109 for such employer by the claimant after the beginning of the base period (or remuneration for
110 such services) do not affect eligibility for or increase the amount of such pension, retirement or
111 retired pay, annuity or similar payment.

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

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

121 5. A claimant shall be ineligible for waiting week credit or benefits for any week for
122 which or a part of which he or she has received or is seeking unemployment benefits pursuant

123 to an unemployment insurance law of another state or the United States; provided, that if it be
124 finally determined that the claimant is not entitled to such unemployment benefits, such
125 ineligibility shall not apply.

126 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for
127 which the deputy finds that such claimant's total or partial unemployment is due to a stoppage
128 of work which exists because of a labor dispute in the factory, establishment or other premises
129 in which such claimant is or was last employed. In the event the claimant secures other
130 employment from which he or she is separated during the existence of the labor dispute, the
131 claimant must have obtained bona fide employment as a permanent employee for at least the
132 major part of each of two weeks in such subsequent employment to terminate his or her
133 ineligibility. If, in any case, separate branches of work which are commonly conducted as
134 separate businesses at separate premises are conducted in separate departments of the same
135 premises, each such department shall for the purposes of this subsection be deemed to be a
136 separate factory, establishment or other premises. This subsection shall not apply if it is shown
137 to the satisfaction of the deputy that:

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

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

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

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

157 8. Benefits shall not be payable on the basis of services performed by an alien, unless
158 such alien is an individual who was lawfully admitted for permanent residence at the time such
159 services were performed, was lawfully present for purposes of performing such services, or was
160 permanently residing in the United States under color of law at the time such services were
161 performed (including an alien who was lawfully present in the United States as a result of the
162 application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

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

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

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

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

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

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

18 **5. For this section to be applicable, testing shall be conducted only if sufficient
19 cause exists to suspect alcohol or controlled substance use by the claimant. If sufficient
20 cause exists to suspect prior alcohol or controlled substance use by the claimant, or the
21 employer's policy clearly states that there will be random testing, then testing of the
22 claimant may be conducted randomly.**

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

26 **7. The application of the alcohol and controlled substance testing provisions of this**
27 **section shall not apply in the event that the claimant is subject to the provisions of any**
28 **applicable collective bargaining agreement, which contains methods for alcohol or**
29 **controlled substance testing. Nothing in this chapter is intended to authorize any employer**
30 **to test any applicant or employee for alcohol or drugs in any manner inconsistent with**
31 **Missouri or United States constitution, law, statute or regulation, including those imposed**
32 **by the Americans with Disabilities Act and the National Labor Relations Act.**

33 **8. All specimen collection and testing for drugs and alcohol under this chapter shall**
34 **be performed in accordance with the procedures provided for by the United States**
35 **Department of Transportation rules for workplace drug and alcohol testing compiled at**
36 **49 C.F.R., Part 40. Any employer that performs drug testing or specimen collection shall**
37 **use chain-of-custody procedures established by regulations of the United States**
38 **Department of Transportation. "Specimen" means tissue, fluid, or a product of the human**
39 **body capable of revealing the presence of alcohol or drugs or their metabolites. "Chain**
40 **of custody" refers to the methodology of tracking specified materials or substances for the**
41 **purpose of maintaining control and accountability from initial collection to final**
42 **disposition for all such materials or substances, and providing for accountability at each**
43 **stage in handling, testing, and storing specimens and reporting test results.**

44 **9. For this section to be applicable, the employee may request that a confirmation**
45 **test on the specimen be conducted. "Confirmation test" means a second analytical**
46 **procedure used to identify the presence of a specific drug or alcohol or metabolite in a**
47 **specimen, which test must be different in scientific principle from that of the initial test**
48 **procedure and must be capable of providing requisite specificity, sensitivity and**
49 **quantitative accuracy. In the event that a confirmation test is requested, such shall be**
50 **obtained from a separate, unrelated certified laboratory and shall be at the employee's**
51 **expense only if said test confirms results as specified in subsection 2 of section 288.045.**

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

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

58 **12. Any employer that initiates an alcohol and drug testing policy after January 1,**
59 **2005, shall ensure that at least sixty days elapse between a general one-time notice to all**
60 **employees that an alcohol and drug testing workplace policy is being implemented and the**
61 **effective date of the program.**

62 **13. (1) In applying provisions of this chapter, it is the intent of the legislature to**
63 **reject and abrogate previous case law interpretations of "misconduct connected with**
64 **work" requiring a finding of evidence of impairment of work performance, including, but**
65 **not limited to, the holdings contained in *Baldor Electric Company v. Raylene Reasoner and***
66 ***Missouri Division of Employment Security*, 66 S.W.3d 130 (Mo.App. E.D. 2001).**

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

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

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

5 (1) That the claimant has left work voluntarily without good cause attributable to such
6 work or to the claimant's employer[; except that]. **A temporary employee of a temporary help**
7 **firm will be deemed to have voluntarily quit employment if the employee does not contact**
8 **the temporary help firm for reassignment prior to filing for benefits. Failure to contact the**
9 **temporary help firm will not be deemed a voluntary quit unless the claimant has been**
10 **advised of the obligation to contact the firm upon completion of assignments and that**
11 **unemployment benefits may be denied for failure to do so.** The claimant shall not be
12 disqualified:

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

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

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

19 (d) As to initial claims filed after December 31, 1988, if the claimant presents evidence
20 supported by competent medical proof that she was forced to leave her work because of

21 pregnancy, notified her employer of such necessity as soon as practical under the circumstances,
22 and returned to that employer and offered her services to that employer as soon as she was
23 physically able to return to work, as certified by a licensed and practicing physician, but in no
24 event later than ninety days after the termination of the pregnancy. An employee shall have been
25 employed for at least one year with the same employer before she may be provided benefits
26 pursuant to the provisions of this paragraph;

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

30 (3) That the claimant failed without good cause either to apply for available suitable
31 work when so directed by the deputy, or to accept suitable work when offered the claimant, either
32 through the division or directly by an employer by whom the individual was formerly employed,
33 or to return to the individual's customary self-employment, if any, when so directed by the
34 deputy. **An offer of work shall be rebuttably presumed if an employer notifies the claimant**
35 **in writing of such offer by sending an acknowledgment via any form of certified mail**
36 **issued by the United States Postal Service stating such offer to the claimant at the**
37 **claimant's last known address. Nothing in this subdivision shall be construed to limit the**
38 **means by which the deputy may establish that the claimant has or has not been sufficiently**
39 **notified of available work.**

40 (a) In determining whether or not any work is suitable for an individual, the division
41 shall consider, among other factors and in addition to those enumerated in paragraph (b) of this
42 subdivision, the degree of risk involved to the individual's health, safety and morals, the
43 individual's physical fitness and prior training, the individual's experience and prior earnings, the
44 individual's length of unemployment, the individual's prospects for securing work in the
45 individual's customary occupation, the distance of available work from the individual's residence
46 and the individual's prospect of obtaining local work; except that, if an individual has moved
47 from the locality in which the individual actually resided when such individual was last
48 employed to a place where there is less probability of the individual's employment at such
49 individual's usual type of work and which is more distant from or otherwise less accessible to
50 the community in which the individual was last employed, work offered by the individual's most
51 recent employer if similar to that which such individual performed in such individual's last
52 employment and at wages, hours, and working conditions which are substantially similar to those
53 prevailing for similar work in such community, or any work which the individual is capable of
54 performing at the wages prevailing for such work in the locality to which the individual has

55 moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable
56 for the individual;

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

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

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

63 c. If as a condition of being employed the individual would be required to join a
64 company union or to resign from or refrain from joining any bona fide labor organization.

65 2. [Notwithstanding the other provisions of this law,] If a deputy finds that a claimant
66 has been discharged for misconduct connected with the claimant's work, such claimant[,
67 depending upon the seriousness of the misconduct as determined by the deputy according to the
68 circumstances in each case,] shall be disqualified for waiting week credit [or] **and** benefits [for
69 not less than four nor more than sixteen weeks for which the claimant claims benefits and is
70 otherwise eligible], **and no benefits shall be paid nor shall the cost of any benefits be**
71 **charged against any employer for any period of employment within the base period until**
72 **the claimant has earned wages for work insured under the unemployment laws of this state**
73 **or any other state as prescribed in this section.** In addition to the disqualification for benefits
74 pursuant to this provision the division may in the more aggravated cases of misconduct, cancel
75 all or any part of the individual's wage credits, which were established through the individual's
76 employment by the employer who discharged such individual, according to the seriousness of
77 the misconduct. A disqualification provided for pursuant to this subsection shall not apply to
78 any week which occurs after the claimant has earned wages for work insured pursuant to the
79 unemployment compensation laws of any state in an amount equal to [eight] **six** times the
80 claimant's weekly benefit amount.

81 3. [A pattern of] Absenteeism or tardiness may constitute misconduct regardless of
82 whether the last incident alone [which results in the discharge] constitutes misconduct. **In**
83 **determining whether the degree of absenteeism or tardiness constitutes a pattern for which**
84 **misconduct may be found, the division shall consider whether the discharge was the result**
85 **of a violation of the employer's attendance policy, provided the employee had received**
86 **knowledge of such policy prior to the occurrence of any absence or tardy upon which the**
87 **discharge is based.**

88 4. Notwithstanding the provisions of subsection 1 of this section, a claimant may not be
89 determined to be disqualified for benefits because the claimant is in training approved pursuant

90 to section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended), or
91 because the claimant left work which was not "suitable employment" to enter such training. For
92 the purposes of this subsection "suitable employment" means, with respect to a worker, work of
93 a substantially equal or higher skill level than the worker's past adversely affected employment,
94 and wages for such work at not less than eighty percent of the worker's average weekly wage as
95 determined for the purposes of the Trade Act of 1974.

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

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

5 3. Each eligible insured worker who is partially unemployed in any week shall be paid
6 for such week a partial benefit. Such partial benefit shall be an amount equal to the difference
7 between his **or her** weekly benefit amount and that part of his **or her** wages for such week in
8 excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such
9 amount shall be reduced to the nearest lower full dollar amount. **For calendar year 2007 and**
10 **each year thereafter, such partial benefit shall be an amount equal to the difference**
11 **between his or her weekly benefit amount and that part of his or her wages for such week**
12 **in excess of twenty dollars or twenty percent of his or her weekly benefit amount,**
13 **whichever is greater, and, if such partial benefit amount is not a multiple of one dollar,**
14 **such amount shall be reduced to the nearest lower full dollar amount.** Termination pay,
15 severance pay or pay received by an eligible insured worker who is a member of the organized
16 militia for training or duty authorized by section 502(a)(1) of Title 32, United States Code, [or
17 who is an elected official] shall not be considered wages for the purpose of this subsection.

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

30 become an employer. The wage credits of an individual earned during the period commencing
31 with the end of a prior base period and ending on the date on which he **or she** filed an allowed
32 initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in
33 addition thereto, such individual has subsequently earned either wages for insured work in an
34 amount equal to at least five times his **or her** current weekly benefit amount or wages in an
35 amount equal to at least ten times his **or her** current weekly benefit amount.

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

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

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

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

51 **9. Prior to January 1, 2005, the division shall institute procedures including, but**
52 **not limited to, name, date of birth, and social security verification matches for remote**
53 **claims filing via the use of telephone or the Internet in accordance with such regulations**
54 **as the division shall prescribe. At a minimum, the division shall verify the social security**
55 **number and date of birth when an individual claimant initially files for unemployment**
56 **insurance benefits. If verification information does not match what is on file in division**
57 **databases to what the individual is stating, the division shall require the claimant to submit**
58 **a division-approved form requesting an affidavit of eligibility prior to the payment of**
59 **additional future benefits. The division of employment security shall cross-check**
60 **unemployment compensation applicants and recipients with Social Security**
61 **Administration data maintained by the federal government on the most frequent basis**
62 **recommended by the United States Department of Labor, or absent a recommendation, at**
63 **least monthly. The division of employment security shall cross-check at least monthly**

64 **unemployment compensation applicants and recipients with department of revenue drivers**
65 **license databases.**

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

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

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

14 2. As of June thirtieth of each year, the division shall establish an average industry
15 contribution rate for the next succeeding calendar year for each of the industrial classification
16 divisions listed in the [Standard Industrial Classification Manual furnished] **industrial**
17 **classification system established** by the federal government. The average industry contribution
18 rate for each standard industrial classification division shall be computed by multiplying total
19 taxable wages paid by each employer in the industrial classification division during the twelve
20 consecutive months ending on June thirtieth by the employer's contribution rate established for
21 the next calendar year and dividing the aggregate product for all employers in the industrial
22 classification division by the total of taxable wages paid by all employers in the industrial
23 classification division during the twelve consecutive months ending on June thirtieth. Each
24 employer will be assigned to [a standard] **an** industrial classification code division as determined
25 by the division in accordance with the definitions contained in the [Standard Industrial
26 Classification Manual] **industrial classification system established by the federal**
27 **government**, and shall pay contributions at the average industry rate established for the
28 preceding calendar year for the industrial classification division to which it is assigned or two
29 and seven-tenths percent of taxable wages paid by it, whichever is the greater, unless there have
30 been at least twelve consecutive calendar months immediately preceding the calculation date
31 throughout which its account could have been charged with benefits. The division shall classify
32 all employers meeting this chargeability requirement for each calendar year in accordance with
33 their actual experience in the payment of contributions on their own behalf and with respect to

34 benefits charged against their accounts, with a view to fixing such contribution rates as will
35 reflect such experience. The division shall determine the contribution rate of each such employer
36 in accordance with sections 288.113 to 288.126. Notwithstanding the provisions of this
37 subsection, any employing unit which becomes an employer pursuant to the provisions of
38 subsection 7 or 8 of section 288.034 shall pay contributions equal to one percent of wages paid
39 by it until its account has been chargeable with benefits for the period of time sufficient to enable
40 it to qualify for a computed rate on the same basis as other employers.

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

46 (1) A governmental entity which, pursuant to subsection 7 of section 288.034, or
47 nonprofit organization which, pursuant to subsection 8 of section 288.034, is, or becomes,
48 subject to this law on or after April 27, 1972, shall pay contributions due under the provisions
49 of subsections 1 and 2 of this section unless it elects, in accordance with this subdivision, to pay
50 to the division for the unemployment compensation fund an amount equal to the amount of
51 regular benefits and of one-half of the extended benefits paid, that is attributable to service in the
52 employ of such governmental entity or nonprofit organization, to individuals for weeks of
53 unemployment which begin during the effective period of such election; except that, with respect
54 to benefits paid for weeks of unemployment beginning on or after January 1, 1979, any such
55 election by a governmental entity shall be to pay to the division for the unemployment
56 compensation fund an amount equal to the amount of all regular benefits and all extended
57 benefits paid that is attributable to service in the employ of such governmental entity.

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

66 (b) A governmental entity or nonprofit organization which makes an election in
67 accordance with paragraph (a) of this subdivision will continue to be liable for payments in lieu
68 of contributions until it files with the division a written notice terminating its election not later

69 than thirty days prior to the beginning of the calendar year for which such termination shall first
70 be effective.

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

77 (d) The division, in accordance with such regulations as may be adopted, shall notify
78 each governmental entity or nonprofit organization of any determination of its status of an
79 employer and of the effective date of any election which it makes and of any termination of such
80 election. Such determination shall be subject to appeal as is provided in subsection 4 of section
81 288.130.

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

84 (a) At the end of each calendar quarter, or at the end of any other period as determined
85 by the director, the division shall bill the governmental entity or nonprofit organization (or group
86 of such organizations) which has elected to make payments in lieu of contributions for an amount
87 equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid
88 during such quarter or other prescribed period that is attributable to service in the employ of such
89 organization; except that, with respect to extended benefits paid for weeks of unemployment
90 beginning on or after January 1, 1979, which are attributable to service in the employ of a
91 governmental entity, the governmental entity shall be billed for the full amount of such extended
92 benefits.

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

96 (c) Payments made by the governmental entity or nonprofit organization under the
97 provisions of this subsection shall not be deducted or deductible, in whole or in part, from the
98 remuneration of individuals in the employ of the organization.

99 (d) Past due payments of amounts in lieu of contributions shall be subject to the same
100 interest and penalties that apply to past due contributions. Also, unpaid amounts in lieu of
101 contributions, interest, penalties and surcharges are subject to the same assessment, civil action
102 and compromise provisions of this law as apply to unpaid contributions. Further, the provisions

103 of this law which provide for the adjustment or refund of contributions shall apply to the
104 adjustment or refund of payments in lieu of contributions.

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

108 (4) Except as provided in subsection 4 of this section, each employer that is liable for
109 payments in lieu of contributions shall pay to the division for the fund the amount of regular
110 benefits plus the amount of one-half of extended benefits paid that are attributable to service in
111 the employ of such employer; except that, with respect to benefits paid for weeks of
112 unemployment beginning on or after January 1, 1979, a governmental entity that is liable for
113 payments in lieu of contributions shall pay to the division for the fund the amount of all regular
114 benefits and all extended benefits paid that are attributable to service in the employ of such
115 employer. If benefits paid to an individual are based on wages paid by more than one employer
116 in the base period of the claim, the amount chargeable to each employer shall be obtained by
117 multiplying the benefits paid by a ratio obtained by dividing the base period wages from such
118 employer by the total wages appearing in the base period.

119 (5) Two or more employers that have become liable for payments in lieu of
120 contributions, in accordance with the provisions of subdivision (1) of this subsection, may file
121 a joint application to the division for the establishment of a group account for the purpose of
122 sharing the cost of benefits paid that are attributable to service in the employ of such employers.
123 Each such application shall identify and authorize a group representative to act as the group's
124 agent for the purposes of this subdivision. Upon approval of the application, the division shall
125 establish a group account for such employers effective as of the beginning of the calendar quarter
126 in which the application was received and shall notify the group's representative of the effective
127 date of the account. Such account shall remain in effect for not less than two years and thereafter
128 until terminated at the discretion of the director or upon application by the group. Upon
129 establishment of the account, each member of the group shall be liable for payments in lieu of
130 contributions with respect to each calendar quarter in the amount that bears the same ratio to the
131 total benefits paid in such quarter that are attributable to service performed in the employ of all
132 members of the group as the total wages paid for service in employment by such member in such
133 quarter bears to the total wages paid during such quarter for service performed in the employ of
134 all members of the group. The director shall prescribe such regulations as he **or she** deems
135 necessary with respect to applications for establishment, maintenance and termination of group
136 accounts that are authorized by this subdivision, for addition of new members to, and withdrawal
137 of active members from, such accounts, and for the determination of the amounts that are

138 payable under this subdivision by members of the group and the time and manner of such
139 payments.

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

146 5. Any employer which elects to make payments in lieu of contributions pursuant to
147 subsection 3 of this section shall be liable for an additional surcharge to the division for the
148 unemployment compensation trust fund in an amount equal to the interest rate on United States
149 treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit
150 payments charged to the employer's account. Governmental entities except cities, counties and
151 the state of Missouri which elect to make payments in lieu of contributions pursuant to
152 subsection 3 of this section shall be liable for an additional surcharge to the division for the
153 unemployment compensation fund in an amount equal to one-half of the interest rate on United
154 States treasury bills, averaged for the previous four calendar quarters, multiplied by the total
155 benefit payments charged to the employer's account. The cumulative benefits charged plus the
156 cumulative surcharges pursuant to this subsection for all employers electing to make payments
157 in lieu of contributions shall not exceed the summation of total benefit payments chargeable and
158 not chargeable for the calendar quarter. The provisions of this subsection shall not be effective
159 after September 30, 1993.

160 6. Beginning October 1, 1993, through December 31, 1993, any employer which elects
161 to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable
162 for an additional surcharge to the division for the unemployment compensation trust fund in an
163 amount equal to the interest rate of United States treasury bills, averaged for the previous four
164 calendar quarters, multiplied by the total benefit payments charged to the employer's account.
165 The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for
166 all employers electing to make payments in lieu of contributions shall not exceed the summation
167 of total benefit payments chargeable and not chargeable for the calendar quarter.

168 7. Beginning January 1, 1994, through December 31, 1995, any employer which elects
169 to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable
170 for an additional surcharge to the division for the unemployment compensation trust fund. The
171 calendar year surcharge rate will be the base prime rate on corporate loans posted by at least
172 seventy-five percent of the nation's thirty largest banks as of November thirtieth of the preceding

173 year. The additional surcharge will be the surcharge rate multiplied by the total benefit payments
174 charged to the employer's account. The cumulative benefits charged plus the cumulative
175 surcharges pursuant to this subsection for all employers electing to make payments in lieu of
176 contributions shall not exceed the summation of total benefit payments chargeable and not
177 chargeable for the calendar quarter.

178 8. Beginning January 1, 1996, through December 31, 1996, any employer which elects
179 to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable
180 for the total benefit payments chargeable to its account pursuant to the provisions of section
181 288.100 plus one-third of the total benefit payments not charged to its account pursuant to
182 paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100. The remaining
183 two-thirds of the benefit payments not charged to its account pursuant to paragraphs (a) through
184 (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by the unemployment
185 compensation trust fund.

186 9. Beginning January 1, 1997, through December 31, 1997, any employer which elects
187 to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable
188 for the total benefit payments chargeable to its account pursuant to the provisions of section
189 288.100 plus two-thirds of the total benefit payments not charged to its account pursuant to
190 paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100. The remaining
191 one-third of the benefit payments not charged to its account pursuant to paragraphs (a) through
192 (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by the unemployment
193 compensation trust fund.

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

198 11. (1) For the purposes of this chapter, a common paymaster arrangement will not exist
199 unless approval has been obtained from the division. To receive a division-approved common
200 paymaster arrangement, the related corporation designated to be the common paymaster for the
201 related corporations must notify the division in writing at least thirty days prior to the beginning
202 of the quarter in which the common paymaster reporting is to be effective. The common
203 paymaster shall furnish the name and account number of each corporation in the related group
204 that will be utilizing the one corporation as the common paymaster. The common paymaster
205 shall also notify the division at least thirty days prior to any change in the related group of
206 corporations or termination of the common paymaster arrangement. The common paymaster
207 shall be responsible for keeping books and records for the payroll with respect to its own

208 employees and the concurrently employed individuals of the related corporations. In order for
209 remuneration to be eligible for the provisions applicable to a common paymaster, the individuals
210 must be concurrently employed and the remuneration must be disbursed through the common
211 paymaster. The common paymaster shall have the primary responsibility for remitting all
212 required quarterly contribution and wage reports, contributions due with respect to the
213 remuneration it disburses as the common paymaster and/or payments in lieu of contributions.
214 The common paymaster shall compute the contributions due as though it were the sole employer
215 of the concurrently employed individuals. If the common paymaster fails to remit the quarterly
216 contribution and wage reports, contributions due and/or payments in lieu of contributions, in
217 whole or in part, it shall remain liable for submitting the quarterly contribution and wage reports
218 and the full amount of the unpaid portion of the contributions due and/or payments in lieu of
219 contributions. In addition, each of the related corporations using the common paymaster shall
220 be jointly and severally liable for submitting quarterly contribution and wage reports, its share
221 of the contributions due and/or payments in lieu of contributions, penalties, interest and
222 surcharges which are not submitted and/or paid by the common paymaster. All contributions
223 due, payments in lieu of contributions, penalties, interest and surcharges which are not timely
224 paid to the division under a common paymaster arrangement shall be subject to the collection
225 provisions of this chapter.

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

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

234 (a) The corporations are members of a "controlled group of corporations". The term
235 "controlled group of corporations" means:

236 a. Two or more corporations connected through stock ownership with a common parent
237 corporation, if the parent corporation owns stock possessing at least fifty percent of the total
238 combined voting power of all classes of stock entitled to vote or at least fifty percent of the total
239 value of shares of all classes of stock of each of the other corporations; or

240 b. Two or more corporations, if five or less persons who are individuals, estates or trusts
241 own stock possessing at least fifty percent of the total combined voting power of all classes of

242 stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of
243 each of the other corporations; or

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

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

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

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

23 (a) The provisions of subdivision (1) of this subsection notwithstanding, with respect to
24 weeks of unemployment beginning after December 31, 1978, the maximum amount of extended
25 benefits paid to an individual and charged against the account of an employer which is an
26 employer pursuant to subdivision (3) of subsection 1 of section 288.032 and which is paying

27 contributions pursuant to subsections 1 and 2 of section 288.090 shall not exceed the calculated
28 entitlement for the extended benefit claim based upon the wages appearing within the base
29 period of the extended benefit claim.

30 (2) Beginning as of June 30, 1951, and as of June thirtieth of each year thereafter, any
31 unassigned surplus in the unemployment compensation fund which is five hundred thousand
32 dollars or more in excess of five-tenths of one percent of the total taxable wages paid by all
33 employers for the preceding calendar year as shown on the division's records on such June
34 thirtieth shall be credited on a pro rata basis to all employer accounts having a credit balance in
35 the same ratio that the balance in each such account bears to the total of the credit balances
36 subject to use for rate calculation purposes for the following year in all such accounts on the
37 same date. As used in this subdivision, the term "unassigned surplus" means the amount by
38 which the total cash balance in the unemployment compensation fund exceeds a sum equal to
39 the total of all employer credit account balances. The amount thus prorated to each separate
40 employer's account shall for tax rating purposes be considered the same as contributions paid by
41 the employer and credited to the employer's account for the period preceding the calculation date
42 except that no such amount can be credited against any contributions due or that may thereafter
43 become due from such employer.

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

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

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

55 (c) In the event the deputy has in due course determined pursuant to paragraph (b) of
56 subdivision (1) of subsection 1 of section 288.050 that a claimant quit temporary work in
57 employment with an employer to return to the claimant's regular employer, then, only for the
58 purpose of charging base period employers, all of the wages paid by the employer who furnished
59 the temporary employment shall be combined with the wages actually paid by the regular
60 employer as if all such wages had been actually paid by the regular employer. Further, charges
61 for benefits based on wages paid for part-time work shall be removed from the account of the

62 employer furnishing such part-time work if that employer continued to employ the individual
63 claiming such benefits on a regular recurring basis each week of the claimant's claim to at least
64 the same extent that the employer had previously employed the claimant and so informs the
65 division within thirty days from the date of notice of benefit charges.

66 (d) No charge shall be made against an employer's account in respect to benefits paid an
67 individual if the gross amount of wages paid by such employer to such individual is four hundred
68 dollars or less during the individual's base period on which the individual's benefit payments are
69 based. Further, no charge shall be made against any employer's account in respect to benefits
70 paid any individual unless such individual was in employment with respect to such employer
71 longer than a probationary period of twenty-eight days, if such probationary period of
72 employment has been reported to the division as required by regulation.

73 (e) In the event the deputy has in due course determined pursuant to paragraph (c) of
74 subdivision (1) of subsection 1 of section [228.050] **288.050** that a claimant is not disqualified,
75 no benefits based on wages paid for work prior to the date of the quit shall be chargeable to the
76 employer the claimant quit.

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

79 2. The division may prescribe regulations for the establishment, maintenance, and
80 dissolution of joint accounts by two or more employers, and shall, in accordance with such
81 regulations and upon application by two or more employers to establish such an account, or to
82 merge their several individual accounts in a joint account, maintain such joint account as if it
83 constituted a single employer's account.

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

288.110. Any individual, type of organization or employing unit which has acquired
2 substantially all of the business of an employer, excepting in any such case any assets retained
3 by such employer incident to the liquidation of his obligations, and in respect to which the
4 division finds that immediately after such change such business of the predecessor employer is
5 continued without interruption solely by the successor, shall stand in the position of such
6 predecessor employer in all respects, including the predecessor's separate account, actual
7 contribution and benefit experience, annual payrolls, and liability for current or delinquent
8 contributions, interest and penalties. If two or more individuals, organizations, or employing
9 units acquired at approximately the same time substantially all of the business of an employer

10 (excepting in any such case any assets retained by such employer incident to the liquidation of
11 his obligations) and in respect to which the division finds that immediately after such change all
12 portions of such business of the predecessor are continued without interruption solely by such
13 successors, each such individual, organization, or employing unit shall stand in the position of
14 such predecessor with respect to the proportionate share of the predecessor's separate account,
15 actual contribution and benefit experience and annual payroll as determined by the portion of the
16 predecessor's taxable payroll applicable to the portion of the business acquired, and each such
17 individual, organization or employing unit shall be liable for current or delinquent contributions,
18 interest and penalties of the predecessor in the same relative proportion. Further, any successor
19 under this section which was not an employer at the time the acquisition occurred, shall pay
20 contributions for the balance of the current rate year at the same contribution rate as the
21 contribution rate of the predecessor whether such rate is more or less than two and seven-tenths
22 percent, provided there was only one predecessor or there were only predecessors with identical
23 rates. If the predecessors' rates were not identical, the division shall calculate a rate as of the date
24 of acquisition applicable to the successor for the remainder of the rate year, which rate shall be
25 based on the combined experience of all predecessor employers. In the event that any successor
26 was, prior to an acquisition, an employer, and there is a difference in the contribution rate
27 established for such calendar year applicable to any acquired or acquiring employer, the division
28 shall make a recalculation [as of the date of acquisition] of the contribution rate applicable to any
29 successor employer based upon the combined experience of all predecessor and successor
30 employers[, which] **as of the date of the acquisition, unless the date of the acquisition is**
31 **other than the first day of the calendar quarter. If the date of any such acquisition is other**
32 **than the first day of the calendar quarter, the division shall make the recalculation of the**
33 **rate on the first day of the next calendar quarter after the acquisition. When the date of**
34 **the acquisition is other than the first day of a calendar quarter, the successor employer**
35 **shall use its rate for the calendar quarter in which the acquisition was made. The revised**
36 contribution rate shall apply to employment after the [date of any such acquisition] **rate**
37 **recalculation.** For this purpose a calculation date different from July first may be established.
38 When the division has determined that a successor or successors stand in the position of a
39 predecessor employer, the predecessor's liability shall be terminated as of the date of the
40 acquisition.

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

5	Percentage the Employer's Experience Rating		
6	Account is to that Employer's Average Annual Payroll		
7	Equals or Exceeds	Less Than	Contribution Rate
8	-----	-12.0	6.0%
9	-12.0	-11.0	5.8%
10	-11.0	-10.0	5.6%
11	-10.0	-9.0	5.4%
12	-9.0	-8.0	5.2%
13	-8.0	-7.0	5.0%
14	-7.0	-6.0	4.8%
15	-6.0	-5.0	4.6%
16	-5.0	-4.0	4.4%
17	-4.0	-3.0	4.2%
18	-3.0	-2.0	4.0%
19	-2.0	-1.0	3.8%
20	-1.0	0	3.6%
21	0	2.5	2.7%
22	2.5	3.5	2.6%
23	3.5	4.5	2.5%
24	4.5	5.0	2.4%
25	5.0	5.5	2.3%
26	5.5	6.0	2.2%
27	6.0	6.5	2.1%
28	6.5	7.0	2.0%
29	7.0	7.5	1.9%
30	7.5	8.0	1.8%
31	8.0	8.5	1.7%
32	8.5	9.0	1.6%
33	9.0	9.5	1.5%
34	9.5	10.0	1.4%
35	10.0	10.5	1.3%
36	10.5	11.0	1.2%
37	11.0	11.5	1.1%
38	11.5	12.0	1.0%
39	12.0	12.5	0.9%

40	12.5	13.0	0.8%
41	13.0	13.5	0.6%
42	13.5	14.0	0.4%
43	14.0	14.5	0.3%
44	14.5	15.0	0.2%
45	15.0	---	0.0%

46

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

54

Percentage the Employer's Experience Rating

55

Account is to that Employer's Average Annual Payroll

56

Equals or Exceeds	Less Than	Contribution Rate
-------------------	-----------	-------------------

57

----	-27.0	9.0%
------	-------	------

58

-27.0	-26.0	8.8%
-------	-------	------

59

-26.0	-25.0	8.6%
-------	-------	------

60

-25.0	-24.0	8.4%
-------	-------	------

61

-24.0	-23.0	8.2%
-------	-------	------

62

-23.0	-22.0	8.0%
-------	-------	------

63

-22.0	-21.0	7.8%
-------	-------	------

64

-21.0	-20.0	7.6%
-------	-------	------

65

-20.0	-19.0	7.4%
-------	-------	------

66

-19.0	-18.0	7.2%
-------	-------	------

67

-18.0	-17.0	7.0%
-------	-------	------

68

-17.0	-16.0	6.8%
-------	-------	------

69

-16.0	-15.0	6.6%
-------	-------	------

70

-15.0	-14.0	6.4%
-------	-------	------

71

-14.0	-13.0	6.2%
-------	-------	------

72

-13.0	-12.0	6.0%
-------	-------	------

73

-12.0	-11.0	5.8%
-------	-------	------

74

-11.0	-10.0	5.6%
-------	-------	------

75	-10.0	-9.0	5.4%
76	-9.0	-8.0	5.2%
77	-8.0	-7.0	5.0%
78	-7.0	-6.0	4.8%
79	-6.0	-5.0	4.6%
80	-5.0	-4.0	4.4%
81	-4.0	-3.0	4.2%
82	-3.0	-2.0	4.0%
83	-2.0	-1.0	3.8%
84	-1.0	0	3.6%
85	0	2.5	2.7%
86	2.5	3.5	2.6%
87	3.5	4.5	2.5%
88	4.5	5.0	2.4%
89	5.0	5.5	2.3%
90	5.5	6.0	2.2%
91	6.0	6.5	2.1%
92	6.5	7.0	2.0%
93	7.0	7.5	1.9%
94	7.5	8.0	1.8%
95	8.0	8.5	1.7%
96	8.5	9.0	1.6%
97	9.0	9.5	1.5%
98	9.5	10.0	1.4%
99	10.0	10.5	1.3%
100	10.5	11.0	1.2%
101	11.0	11.5	1.1%
102	11.5	12.0	1.0%
103	12.0	12.5	0.9%
104	12.5	13.0	0.8%
105	13.0	13.5	0.6%
106	13.5	14.0	0.4%
107	14.0	14.5	0.3%
108	14.5	15.0	0.2%
109	15.0	----	0.0%

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

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

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

Balance in Trust Fund		Percentage
Less Than	Equals or Exceeds	of Increase
10 [\$400,000,000] \$450,000,000	[\$350,000,000] \$400,000,000	10%
11 [\$350,000,000] \$400,000,000	[\$300,000,000] \$350,000,000	20%
12 [\$300,000,000] \$350,000,000		30%

13
14 [Notwithstanding the table in this section, each employer's contribution rate calculated for the
15 four calendar quarters of calendar year 1994 shall be increased by forty percent, instead of thirty
16 percent, as previously indicated in the table in this section. After the forty percent increase, each
17 employer's contribution rate for the four calendar quarters of calendar year 1994 shall be
18 increased by adding three-tenths of one percent.] **For calendar years 2005, 2006, and 2007, the**
19 **contribution rate of any employer who is paying the maximum contribution rate shall be**

20 **increased by forty percent, instead of thirty percent as previously indicated in the table in**
21 **this section.**

22 **2. For calendar years 2005, 2006, and 2007, an employer's total contribution rate**
23 **shall equal the employer's contribution rate plus a temporary debt indebtedness**
24 **assessment equal to the amount to be determined in subdivision 6 of subsection 2 of section**
25 **288.330 added to the contribution rate plus the increase authorized under subsection 1 of**
26 **this section. Any monies overcollected beyond the actual administrative, interest and**
27 **principal repayment costs for the credit instruments used shall be deposited into the state**
28 **unemployment insurance trust fund and credited to the employer's experience account.**
29 **The temporary debt indebtedness assessment shall expire upon the last day of the fourth**
30 **calendar quarter of 2007.**

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

Balance in Trust Fund		Percentage of Decrease
More Than	But Less Than	
10 [\$500,000,000	\$600,000,000]	
11 \$600,000,000	\$750,000,000	7%
12 [\$600,000,000]		
13 \$750,000,000		12%

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

288.128. 1. In addition to all other contributions due under this chapter, if the fund is
2 utilizing moneys advanced by 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 utilizing moneys advanced by**
4 **the federal government, then from the proceeds of credit instruments issued under section**
5 **288.330, or from the moneys advanced under financial agreements under subdivision (17)**

6 **of subsection 2 of section 288.330, or a combination of credit instruments proceeds and**
7 **moneys advanced under financial agreements,** each employer shall be assessed an amount
8 solely for the payment of interest due on such federal advancements, **or if the fund is not**
9 **utilizing moneys advanced by the federal government, or in the case of issuance of credit**
10 **instruments for the payment of the principal, interest, and administrative expenses related**
11 **to such credit instruments, or in the case of financial agreements for the payment of**
12 **principal, interest, and administrative expenses related to such financial agreements, or in**
13 **the case of a combination of credit instruments and financial agreements for the payment**
14 **of principal, interest, and administrative expenses for both.** The rate shall be determined by
15 dividing the interest due **on federal advancements or if the fund is not utilizing moneys**
16 **advanced by the federal government, then the principal, interest, and administrative**
17 **expenses related to credit instruments, or the principal, interest, and administrative**
18 **expenses related to financial agreements under subdivision (17) of subsection 2 of section**
19 **288.330, or the principal, interest, and administrative expenses related to a combination**
20 **of credit instruments and financial agreements** by ninety-five percent of the total taxable
21 wages paid by all Missouri employers in the preceding calendar year. Each employer's
22 proportionate share shall be the product obtained by multiplying such employer's total taxable
23 wages for the preceding calendar year by the rate specified in this section. Each employer shall
24 be notified of the amount due under this section by June thirtieth of each year and such amount
25 shall be considered delinquent thirty days thereafter. The moneys collected from each employer
26 for the payment of interest due on federal advances, **or if the fund is not utilizing moneys**
27 **advanced by the federal government, then the payment of principal, interest, and**
28 **administrative expenses related to credit instruments, or the payment of the principal,**
29 **interest, and administrative expenses related to financial agreements under subdivision**
30 **(17) of subsection 2 of section 288.330, or the payment of the principal, interest, and**
31 **administrative expenses related to a combination of credit instruments and financial**
32 **agreements,** shall be deposited in the special employment security fund.

33 2. If on December thirty-first of any year the money collected under this section exceeds
34 the amount of interest due on federal advancements by one hundred thousand dollars or more,
35 then each employer's experience rating account shall be credited with an amount which bears the
36 same ratio to the excess moneys collected under this section as that employer's payment collected
37 under this section bears to the total amount collected under this section. Further, if on December
38 thirty-first of any year the moneys collected under this section exceed the amount of interest due
39 on the federal advancements by less than one hundred thousand dollars, the balance shall be

40 transferred from the special employment security fund to the Secretary of the Treasury of the
41 United States to be credited to the account of this state in the unemployment trust fund.

42 **3. In addition to all other contributions due under this chapter, if the fund is**
43 **utilizing moneys from the proceeds of credit instruments issued under section 288.330, or**
44 **from the moneys advanced under financial agreements under subdivision (17) of**
45 **subsection 2 of section 288.330, or a combination of credit instrument proceeds and moneys**
46 **advanced under financial agreements each employer shall be assessed a "credit instrument**
47 **and financing agreement repayment surcharge." The total of such surcharge shall be**
48 **calculated as an amount up to 150% of the amount required in the 12 month period**
49 **following the due date for the payment of such surcharge for the payment of the principal,**
50 **interest, and administrative expenses related to such credit instruments, or in the case of**
51 **financial agreements for the payment of principal, interest, and administrative expenses**
52 **related to such financial agreements, or in the case of a combination of credit instruments**
53 **and financial agreements for the payment of principal, interest, and administrative**
54 **expenses for both. Each employer's proportionate share shall be the product obtained by**
55 **multiplying the total statewide credit instrument and financing agreement repayment**
56 **surcharge by a number obtained by dividing the employer's total taxable wages for the**
57 **prior year by the total taxable wages in the state for the prior year. Each employer shall**
58 **be notified of the amount due under this section by (January)thirtieth of each year and**
59 **such amount shall be considered delinquent thirty days thereafter.**

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

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

8 **3. "Debtor" shall mean any individual, sole proprietorship, partnership,**
9 **corporation, limited liability company, or other legal entity owing a debt.**

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

- 4 (1) All contributions and payments in lieu of contributions collected under this law;
5 (2) Interest earned upon any moneys in the fund;
6 (3) Any property or securities acquired through the use of moneys belonging to the fund;

7 (4) All earnings of such property or securities;
8 (5) All voluntary contributions permitted under the law; and
9 (6) All funds set aside or appropriated by the Congress of the United States or any
10 federal agency, to be deposited to the fund. All moneys in the funds shall be mingled and
11 undivided, except that all money credited to this state's account in the Unemployment Trust Fund
12 pursuant to Section 903 of the Social Security Act, as amended, and which has been appropriated
13 for expenses of administration, shall be used only for the purposes set out in subsection 5 of this
14 section and shall not be included in the cash balance in the unemployment compensation fund
15 for the purposes of sections 288.100 and 288.113 to 288.126.

16 2. The director shall designate a treasurer and custodian of the fund and he **or she** shall
17 administer the fund and shall issue his **or her** warrants upon it in accordance with such
18 regulations as the director shall prescribe. He **or she** shall maintain within the fund three
19 separate accounts:

- 20 (1) A clearing account;
21 (2) An unemployment trust fund account; and
22 (3) A benefit account.

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

28 3. All moneys payable to the fund, upon their receipt by the division, shall immediately
29 be deposited in the clearing account. Refunds of contributions or payments made necessary
30 under the provisions of sections 288.140 and 288.340 may be paid from the clearing account or
31 the benefit account. After clearance, all moneys in the clearing account shall be immediately
32 deposited with the Secretary of the Treasury of the United States of America to the credit of the
33 account of this state in the Unemployment Trust Fund, established and maintained pursuant to
34 Section 904 of the Social Security Act, as amended, any provisions of law in this state relating
35 to the deposit, administration, release, or disbursement of state moneys in the possession or
36 custody of the state treasurer to the contrary notwithstanding. The benefit account shall consist
37 of all moneys requisitioned from the Missouri account in the federal Unemployment Trust Fund.
38 Except as otherwise provided, moneys in the clearing and benefit accounts may be deposited in
39 any bank or public depository in which general funds of the state may be deposited, but no public
40 deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and
41 benefit accounts shall not be commingled with other state funds but shall be maintained in

42 separate accounts on the books of the depository bank. All funds required by this law to be
43 deposited in any state depository shall be secured by such depository to the same extent and in
44 the same manner as is or may hereafter be required by section 30.270, RSMo, and all the
45 amendments thereto; provided, that the division shall do those acts directed to be done by the
46 governor, attorney general and state treasurer, or any of them, under section 30.270, RSMo,
47 which are not inconsistent with the other provisions of this law. Collateral pledged for this
48 purpose shall be kept separate and distinct from any collateral pledged to secure other funds of
49 the state, or, if combined, shall be first used to satisfy and make whole the accounts herein
50 established. The treasurer shall give a separate bond conditioned upon the faithful performance
51 of his **or her** duties as custodian of the fund in an amount not to exceed twenty-five thousand
52 dollars and in the form prescribed by law or approved by the attorney general. Premiums for
53 such bonds shall be paid from the administration fund. All sums recovered for losses sustained
54 by the fund shall be deposited therein.

55 4. Moneys shall be requisitioned from the Missouri account in the federal
56 Unemployment Trust Fund solely for the payment of benefits or for refunds of contributions or
57 payments in lieu of contributions in accordance with regulations prescribed by the director,
58 except that money credited to this state's account pursuant to Section 903 of the Social Security
59 Act, as amended, shall be used exclusively as provided in subsection 5 of this section. The
60 director shall from time to time requisition from the federal Unemployment Trust Fund such
61 amounts, not exceeding the amounts standing to the Missouri account therein, as he **or she**
62 deems necessary for the payment of benefits and refunds for a reasonable future period. Upon
63 its receipt the treasurer shall deposit such money in the benefit account and shall issue his **or her**
64 warrants for the payment of benefits solely from such benefit account. Expenditures of such
65 moneys in the benefit account and refunds from the clearing account shall not be subject to any
66 provisions of law requiring specific appropriations or other formal release by state officers of
67 moneys belonging to this state in their custody. All warrants issued by the treasurer for the
68 payment of benefits and refunds shall bear the signature of the treasurer and the countersignature
69 of the director or other duly authorized division representative. Any balance of moneys
70 requisitioned from the federal Unemployment Trust Fund which remains unclaimed or unpaid
71 in the benefit account after the expiration of the period for which such sums were requisitioned
72 shall either be deducted from estimates for, and may be utilized for the payment of, benefits
73 during succeeding periods, or, in the discretion of the director, shall be redeposited with the
74 Secretary of the Treasury of the United States of America to the credit of the Missouri account
75 in the federal Unemployment Trust Fund as provided in subsection 3 of this section.

76 5. (1) Money credited to the account of this state in the Unemployment Trust Fund by
77 the Secretary of the Treasury of the United States of America pursuant to Section 903 of the
78 Social Security Act, as amended, may be requisitioned and used for the payment of expenses
79 incurred for the administration of this law pursuant to a specific appropriation by the legislature,
80 provided that the expenses are incurred and the money is requisitioned as needed after the
81 enactment of an appropriation law which:

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

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

86 (c) Limits the amount which may be obligated during a twelve-month period beginning
87 on July first and ending on the next June thirtieth to an amount which does not exceed the
88 amount by which the aggregate of the amount transferred to the account of this state in the
89 Unemployment Trust Fund pursuant to subsections (a) and (b) of Section 903 of the Social
90 Security Act, as amended, exceeds the aggregate of the amounts used by this state pursuant to
91 this subsection and charged against the amounts transferred to the account of this state in the
92 Unemployment Trust Fund.

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

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

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

102 (5) Money appropriated as provided under subdivision (1) of this subsection for the
103 payment of expenses of administration shall be requisitioned as needed for the payment of
104 obligations incurred under such appropriation and, upon requisition, shall be deposited in the
105 unemployment compensation administration fund from which such payments shall be made.
106 Money so deposited shall, until expended, remain a part of the unemployment compensation
107 fund and, if it will not be expended, shall be returned promptly to the account of this state in the
108 Unemployment Trust Fund.

109 (6) Money credited to the account of the state in the federal Unemployment Trust Fund
110 by the Secretary of the Treasury of the United States of America pursuant to Title 42, Section

111 903 of the Social Security Act with respect to the federal fiscal years 1999, 2000 and 2001, shall
112 be used solely for the administration of the unemployment compensation program.

113 6. The provisions of subsections 1, 2, 3, 4, and 5 of this section, to the extent that they
114 relate to the federal Unemployment Trust Fund, shall be operative only so long as such federal
115 Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the
116 United States of America continues to maintain a separate book account of all funds deposited
117 therein by contributions from employers of this state for benefit purposes, and by money credited
118 pursuant to Section 903 of the Social Security Act, as amended, together with a proportionate
119 share of the earnings apportioned to the Missouri account of such federal Unemployment Trust
120 Fund, from which no other state is permitted to make or authorize withdrawals. If and when
121 such Unemployment Trust Fund ceases to exist, or such separate book account is no longer
122 maintained, all moneys, properties, or securities therein belonging to the unemployment
123 compensation fund of this state shall be transferred to the treasurer of the unemployment
124 compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys,
125 properties or securities in a manner approved by the director in accordance with the provisions
126 of this law; provided, that such moneys shall be invested in the following readily marketable
127 classes of securities: bonds or other interest-bearing obligations of the United States of America,
128 or securities on which the payment of principal and interest are guaranteed by the United States
129 of America, and bonds or other interest-bearing obligations of the state of Missouri; and
130 provided, further, that such investments shall at all times be so made that all the assets of the
131 fund shall always be readily convertible into cash when needed for the payment of benefits. The
132 treasurer shall dispose of securities or other properties belonging to the unemployment
133 compensation fund only under the direction of the director.

134 7. Notwithstanding any other provision of this law, any interest or penalties found to
135 have been erroneously collected and which is ordered to be refunded shall, if paid into the
136 unemployment compensation fund, be refunded out of the unemployment compensation fund
137 and, if paid into the special employment security fund, shall be refunded out of the special
138 employment security fund; except that, in the event any interest and penalties paid into the
139 unemployment compensation fund shall be transferred to the special employment security fund,
140 the refund of any such interest and penalties shall be made from the special employment security
141 fund.

288.310. 1. There is hereby created in the state treasury a special fund to be known as
2 the "Special Employment Security Fund". All interest and penalties collected under the
3 provisions of this law, including moneys collected pursuant to section 288.128 for the payment
4 of interest due on federal advances received pursuant to section 288.330, **or subject to**

5 **appropriation, or supplemental appropriation, by the general assembly, amounts received**
6 **pursuant to the credit instrument and financing agreement repayment surcharge pursuant**
7 **to section 288.128 related to the payment of principal, interest, and administrative expenses**
8 **related to credit instruments issued under section 288.330, or the payment of the principal,**
9 **interest, and administrative expenses related to financial agreements under subdivision**
10 **(17) of subsection 2 of section 288.330, or the payment of the principal, interest, and**
11 **administrative expenses related to a combination of credit instruments and financial**
12 **agreements shall be paid into this fund. The moneys collected pursuant to section 288.128 shall**
13 **be used [exclusively] for the payment of interest due on federal advances received pursuant to**
14 **section 288.330. Amounts received pursuant to the credit instrument and financing**
15 **agreement repayment surcharge pursuant to subsection 3 of section 288.128 shall be used,**
16 **following appropriation by the general assembly and exclusively for payment of principal,**
17 **interest, and administrative expenses related to credit instruments issued under that**
18 **section, or the payment of principal, interest, and administrative expenses related to**
19 **financial agreements under subdivision (17) of subsection 2 of section 288.330, or the**
20 **payment of the principal, interest, and administrative expenses related to a combination**
21 **of credit instruments and financial agreements. Such moneys, except for moneys collected**
22 **pursuant to section 288.128, shall not be expended or available for expenditure in any manner**
23 **which would permit their substitution for, or a corresponding reduction in, federal funds which**
24 **would in the absence of such money be available to finance expenditures for the administration**
25 **of the employment security law, but nothing in this section shall prevent such moneys, except**
26 **for moneys collected pursuant to section 288.128, from being used as a revolving fund, to cover**
27 **expenditures, necessary and proper under the law, for which federal funds have been duly**
28 **requested but not yet received, subject to the charging of such expenditures against such funds**
29 **when received. Subject to the approval of the director of the department of labor and industrial**
30 **relations, the moneys in this fund, except for moneys collected pursuant to section 288.128, shall**
31 **be used by the department of labor and industrial relations for the payment of costs of**
32 **administration which are found not to have been properly and validly chargeable against federal**
33 **grants or other funds received for or in the unemployment compensation administration fund.**
34 **Such moneys, except for moneys collected pursuant to section 288.128, shall be available either**
35 **to satisfy the obligations incurred by the department of labor and industrial relations for the**
36 **division directly or by requesting the board of fund commissioners to transfer the required**
37 **amount from the special employment security fund to the unemployment compensation**
38 **administration fund. The board of fund commissioners shall upon receipt of a written request**
39 **of the department of labor and industrial relations make any such transfer. No expenditures of**

40 this fund or transfer herein provided, except for moneys collected pursuant to section 288.128,
41 shall be made unless and until the director of the department of labor and industrial relations
42 finds that no other funds are available or can properly be used to finance such expenditures,
43 except that as hereinafter authorized expenditures from such fund may be made for the purpose
44 of acquiring lands and buildings, or for the erection of buildings on lands so acquired, which are
45 deemed necessary by the director of the department of labor and industrial relations for the
46 proper administration of this law. The director of the department of labor and industrial relations
47 shall order the transfer of such funds or the payment of any such obligation and such funds shall
48 be paid by the state treasurer on requisitions drawn by the director of the department of labor and
49 industrial relations directing the state auditor to issue his or her warrant therefor. Any such
50 warrant shall be drawn by the state auditor based upon bills of particulars and vouchers certified
51 by an officer or employee designated by the director of the department of labor and industrial
52 relations. Such certification shall among other things include a duly certified copy of the director
53 of the department of labor and industrial relations' findings hereinbefore referred to. The moneys
54 in this fund, except for moneys collected pursuant to section 288.128, are hereby specifically
55 made available to replace, within a reasonable time, any moneys received by this state pursuant
56 to section 302 of the Federal Social Security Act (42 U.S.C.A. Sec. 502), as amended, which,
57 because of any action or contingency, have been lost or have been expended for purposes other
58 than, or in amounts in excess of, those necessary for the proper administration of the employment
59 security law. The moneys in this fund shall be continuously available to the director of the
60 department of labor and industrial relations for expenditure in accordance with the provisions
61 of this section and shall not lapse at any time or be transferred to any other fund except as herein
62 provided.

63 2. The director of the department of labor and industrial relations, subject to the approval
64 of the board of public buildings, is authorized and empowered to use all or any part of the funds
65 in the special employment security fund, except for moneys collected pursuant to section
66 288.128, for the purpose of acquiring suitable office space for the division by way of purchase,
67 lease, contract or in any other manner, including the right to use such funds or any part thereof
68 to purchase land and erect thereon such buildings as he or she shall deem necessary or to assist
69 in financing the construction of any building erected by the state of Missouri or any of its
70 agencies wherein available space will be provided for the division under lease or contract
71 between the department of labor and industrial relations and the state of Missouri or such other
72 agency. The director of the department of labor and industrial relations may transfer from the
73 unemployment compensation administration fund to the special employment security fund
74 amounts not exceeding funds specifically available to the department of labor and industrial

75 relations for that purpose, equivalent to the fair reasonable rental value of any land and buildings
76 acquired for its use until such time as the full amount of the purchase price of such land and
77 buildings and such cost of repair and maintenance thereof as was expended from the special
78 employment security fund has been returned to such fund.

79 3. The director of the department of labor and industrial relations may also transfer from
80 the unemployment compensation administration fund to the special employment security fund
81 amounts not exceeding funds specifically available to the department of labor and industrial
82 relations for that purpose, equivalent to the fair reasonable rental value of space used by the
83 department of labor and industrial relations in any building erected by the state of Missouri or
84 any of its agencies until such time as the department of labor and industrial relations'
85 proportionate amount of the purchase price of such building and the department of labor and
86 industrial relations' proportionate amount of such costs of repair and maintenance thereof as was
87 expended from the special employment security fund has been returned to such fund.

288.330. 1. Benefits shall be deemed to be due and payable only to the extent that
2 moneys are available to the credit of the unemployment compensation fund and neither the state
3 nor the division shall be liable for any amount in excess of such sums. [Neither the state of
4 Missouri, nor any person or agency acting for it, may under any circumstance, by issuing bonds
5 or otherwise borrow money from any source whatsoever to pay benefits hereunder, except as
6 provided in 42 U.S.C.A. Section 1321.] The governor is authorized to apply for an advance to
7 the state unemployment fund and to accept the responsibility for the repayment of such advance
8 [in accordance with the conditions specified in Title XII of the Social Security Act, as amended,]
9 in order to secure to this state and its citizens the advantages available under the provisions of
10 [such title] **federal law.**

11 **2. (1) The purpose of this subsection is to provide a method of providing funds for**
12 **the payment of unemployment benefits or maintaining an adequate fund balance in the**
13 **unemployment compensation fund, and as an alternative to borrowing or obtaining**
14 **advances from the federal unemployment trust fund or for refinancing those loans or**
15 **advances.**

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

19 **(3) (a) There is hereby created for the purposes of implementing the provisions of**
20 **this subsection a body corporate and politic to be known as the "Board of Unemployment**
21 **Fund Financing". The powers of the board shall be vested in five board members who**
22 **shall be the governor, lieutenant governor, attorney general, director of the department of**

23 labor, and the commissioner of administration. The board shall have all powers necessary
24 to effectuate its purposes including, without limitation, the power to provide a seal, keep
25 records of its proceedings, provide for professional services. The governor shall serve as
26 chair, the lieutenant governor shall serve as vice chair, and the commissioner of
27 administration shall serve as secretary. Staff support for the board shall be provided by
28 the commissioner of administration;

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

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

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

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

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

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

55 (5) The board shall provide for the payment of the principal of the credit
56 instruments, any redemption premiums, the interest on the credit instruments, and the
57 costs attributable to the credit instruments being issued or outstanding as provided in this

58 subsection and in section 288.310. Unless the board directs otherwise, the credit
59 instrument shall be repaid in the same time frame and in the same amounts as would be
60 required for loans issued pursuant to 42 U.S.C. Section 1321; however, in no case shall
61 credit instruments be outstanding for more than three years and further provided that no
62 credit instruments shall be outstanding hereunder after January 15, 2008.

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

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

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

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

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

86 (9) The board may prescribe the form, details, and incidents of the credit
87 instruments and make such covenants that in its judgment are advisable or necessary to
88 properly secure the payment thereof. If such credit instruments shall be authenticated by
89 the bank or trust company acting as registrar for such by the manual signature of a duly
90 authorized officer or employee thereof, the duly authorized officers of the board executing
91 and attesting such credit instruments, may all do so by facsimile signature provided such
92 signatures have been duly filed as provided in the uniform facsimile signature of public

93 officials law, sections 105.273 to 105.278 RSMo, when duly authorized by resolution of the
94 board, and the provisions of section 108.175, RSMo, shall not apply to such credit
95 instruments. The board may provide for the flow of funds and the establishment and
96 maintenance of separate accounts within the special employment security fund, including
97 the interest and sinking account, the reserve account, and other necessary accounts, and
98 may make additional covenants with respect to the credit instruments in the documents
99 authorizing the issuance of credit instruments including refunding credit instruments. The
100 resolutions authorizing the issuance of credit instruments may also prohibit the further
101 issuance of credit instruments or other obligations payable from appropriated moneys or
102 may reserve the right to issue additional credit instruments to be payable from
103 appropriated moneys on a parity with or subordinate to the lien and pledge in support of
104 the credit instruments being issued and may contain other provisions and covenants as
105 determined by the board, provided that any terms, provisions or covenants provided in any
106 resolution of the board shall not be inconsistent with the provisions of this section.

107 (10) The board may issue credit instruments to refund all or any part of the
108 outstanding credit instruments issued under this section including matured but unpaid
109 interest. As with other credit instruments issued under this section, such refunding credit
110 instruments may bear interest at a fixed or variable rate as determined by the board. No
111 such refunding credit instruments may be outstanding for more than three years or after
112 January 15, 2008.

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

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

125 (13) The board may enter into any contract or agreement deemed necessary or
126 desirable to effectuate cost effective financing hereunder. Such agreements may include
127 credit enhancement, credit support, or interest rate agreements including, but not limited

128 to, arrangements such as municipal bond insurance; surety bonds; tax anticipation notes;
129 liquidity facilities; forward agreements; tender agreements; remarketing agreements;
130 option agreements; interest rate swap, exchange, cap, lock or floor agreements; letters of
131 credit; and purchase agreements. Any fees or costs associated with such agreements shall
132 be deemed administrative expenses for the purposes of calculating the credit instrument
133 and financing agreement repayment surcharge under subsection 3 of section 288.128. The
134 board, with consideration of all other costs being equal, shall give preference to Missouri
135 headquartered financial institutions, or those out-of-state-based financial institutions with
136 at least one hundred Missouri employees.

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

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

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

151 (b) The board is authorized to enter financial agreements with any lender for the
152 purposes set forth in subdivision (1) of this subsection, or to refinance other financial
153 agreements in whole or in part, upon the approval of the simple majority of the members
154 of the board of a resolution authorizing such financial agreements, with no other
155 proceedings required. The total amount of the outstanding obligation under all such
156 agreements shall not exceed the difference of four hundred fifty million dollars and the
157 principal amount of credit instruments issued under this subsection. In no instance shall
158 the outstanding obligation under any financial agreement continue for more than three
159 years, and no such financial agreement, whether entered into for refinancing purposes or
160 otherwise, shall be outstanding after January 15, 2008. Repayment of obligations to
161 lenders shall be made from the special employment security fund, section 288.310, subject
162 to appropriation by the general assembly.

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

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

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

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

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

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

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

195 **(19) The credit instruments issued by the commission, any transaction relating to**
196 **the credit instruments, and profits made from the issuance of credit are free from taxation**

197 **by the state or by any municipality, court, special district, or other political subdivision of**
198 **the state.**

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

 288.380. 1. Any agreement by a worker to waive, release, or commute such worker's
2 rights to benefits or any other rights pursuant to this chapter, or pursuant to an employment
3 security law of any other state or of the federal government shall be void. Any agreement by a
4 worker to pay all or any portion of any contributions required shall be void. No employer shall
5 directly or indirectly make any deduction from wages to finance the employer's contributions
6 required from him or her, or accept any waiver of any right pursuant to this chapter by any
7 individual in his or her employ.

8 2. No employing unit or any agent of an employing unit or any other person shall make
9 a false statement or representation knowing it to be false, nor shall knowingly fail to disclose a
10 material fact to prevent or reduce the payment of benefits to any individual, nor to avoid
11 becoming or remaining an employer, nor to avoid or reduce any contribution or other payment
12 required from any employing unit, nor shall willfully fail or refuse to make any contributions or
13 payments nor to furnish any required reports nor to produce or permit the inspection or copying
14 of required records. Each such requirement shall apply regardless of whether it is a requirement
15 of this chapter, of an employment security law of any other state or of the federal government.

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

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

24 5. No individual claiming benefits shall be charged fees of any kind in any proceeding
25 pursuant to this chapter by the division, or by any court or any officer thereof. Any individual
26 claiming benefits in any proceeding before the division or a court may be represented by counsel

27 or other duly authorized agent; but no such counsel or agents shall either charge or receive for
28 such services more than an amount approved by the division.

29 6. No employee of the division or any person who has obtained any list of applicants for
30 work or of claimants for or recipients of benefits pursuant to this chapter shall use or permit the
31 use of such lists for any political purpose.

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

39 8. In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court
40 of this state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction
41 of which the person guilty of contumacy or refusal to obey is found or resides or transacts
42 business, upon application by the director, the commission, an appeals tribunal, or any duly
43 authorized representative of any one of them shall have jurisdiction to issue to such person an
44 order requiring such person to appear before the director, the commission, an appeals tribunal
45 or any duly authorized representative of any one of them, there to produce evidence if so ordered
46 or there to give testimony touching the matter under investigation or in question; and any failure
47 to obey such order of the court may be punished by the court as a contempt thereof.

48 9. (1) **Any individual or employer who receives or denies unemployment benefits**
49 **by intentionally misrepresenting, misstating, or failing to disclose any material fact has**
50 **committed fraud. After the discovery of facts indicating fraud, a deputy shall make a**
51 **written determination that the individual obtained or denied unemployment benefits by**
52 **fraud and that the individual must promptly repay the unemployment benefits to the fund.**
53 **In addition, the deputy shall assess a penalty equal to twenty-five percent of the amount**
54 **fraudulently obtained or denied. If division records indicate that the individual or**
55 **employer had a prior established overpayment or record of denial due to fraud, the deputy**
56 **shall, on the present overpayment or determination, assess a penalty equal to one hundred**
57 **percent of the amount fraudulently obtained.**

58 (2) **Unless the individual or employer within thirty calendar days after notice of**
59 **such determination of overpayment by fraud is either delivered in person or mailed to the**
60 **last known address of such individual or employer files an appeal from such**

61 **determination, it shall be final. Proceedings on the appeal shall be conducted in**
62 **accordance with section 288.190.**

63 **(3) If the individual or employer fails to repay the unemployment benefits and**
64 **penalty, assessed as a result of the deputy's determination that the individual or employer**
65 **obtained or denied unemployment benefits by fraud, such sum shall be collectible in the**
66 **manner provided in sections 288.160 and 288.170 for the collection of past due**
67 **contributions. If the individual or employer fails to repay the unemployment benefits that**
68 **the individual or employer denied or obtained by fraud, the division may offset from any**
69 **future unemployment benefits otherwise payable the amount of the overpayment, or may**
70 **take such steps as are necessary to effect payment from the individual or employer. Future**
71 **benefits may not be used to offset the penalty due. Money received in repayment of**
72 **fraudulently obtained or denied unemployment benefits and penalties shall first be applied**
73 **to the unemployment benefits overpaid, then to the penalty amount due. Payments made**
74 **toward the penalty amount due shall be credited to the special employment security fund.**

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

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

78 **10.** An individual who willfully fails to disclose amounts earned during any week with
79 respect to which benefits are claimed by him or her, willfully fails to disclose or has falsified as
80 to any fact which would have disqualified him or her or rendered him or her ineligible for
81 benefits during such week, or willfully fails to disclose a material fact or makes a false statement
82 or representation in order to obtain or increase any benefit pursuant to this chapter, shall forfeit
83 all of his or her benefit rights, and all of his or her wage credits accrued prior to the date of such
84 failure to disclose or falsification shall be canceled, and any benefits which might otherwise have
85 become payable to him or her subsequent to such date based upon such wage credits shall be
86 forfeited; except that, the division may, upon good cause shown, modify such reduction of
87 benefits and cancellation of wage credits. It shall be presumed that such failure or falsification
88 was willful in any case in which an individual signs and certifies a claim for benefits and fails
89 to disclose or falsifies as to any fact relative to such claim.

90 **[10.] 11. (1)** Any assignment, pledge, or encumbrance of any rights to benefits which
91 are or may become due or payable pursuant to this chapter shall be void; and such rights to
92 benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever
93 provided for the collection of debt; and benefits received by any individual, so long as they are
94 not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for
95 the collection of all debts except debts incurred for necessities furnished to such individual or

96 the individual's spouse or dependents during the time such individual was unemployed. Any
97 waiver of any exemption provided for in this subsection shall be void; except that this section
98 shall not apply to:

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

102 (b) Uncollected overissuances (as defined in section 13(c)(1) of the Food Stamp Act of
103 1977) of food stamp coupons;

104 (2) (a) An individual filing a new claim for unemployment compensation shall, at the
105 time of filing such claim, disclose whether or not the individual owes support obligations, as
106 defined pursuant to paragraph (g) of this subdivision or owes uncollected overissuances of food
107 stamp coupons (as defined in section 13(c)(1) of the Food Stamp Act of 1977). If any such
108 individual discloses that he or she owes support obligations or uncollected overissuances of food
109 stamp coupons, and is determined to be eligible for unemployment compensation, the division
110 shall notify the state or local support enforcement agency enforcing the support obligation or the
111 state food stamp agency to which the uncollected food stamp overissuance is owed that such
112 individual has been determined to be eligible for unemployment compensation;

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

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

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

124 c. Any amount otherwise required to be so deducted and withheld from such
125 unemployment compensation pursuant to properly served legal process, as that term is defined
126 in Section 459(i) of the Social Security Act; or any amount otherwise required to be deducted
127 and withheld from the unemployment compensation pursuant to Section 13(c)(3)(b) of the Food
128 Stamp Act of 1977;

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

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

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

141 (f) Deductions will be made pursuant to this section only if appropriate arrangements
142 have been made for reimbursement by the state or local support enforcement agency, or the state
143 food stamp agency, for the administrative costs incurred by the division pursuant to this section
144 which are attributable to support obligations being enforced by the state or local support
145 enforcement agency or which are attributable to uncollected overissuances of food stamp
146 coupons;

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

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

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

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

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

161 a. Before withholding any amount for child support obligations or uncollected
162 overissuances of food stamp coupons, the division shall first deduct and withhold from any

163 unemployment compensation payable to an individual the amount, as determined by the division,
164 owed pursuant to subsection 11 or 12 of this section;

165 b. If, after deductions are made pursuant to subparagraph a. of paragraph (k) of this
166 subdivision, an individual has remaining unemployment compensation amounts due and owing,
167 and the individual owes support obligations or uncollected overissuances of food stamp coupons,
168 the division shall first deduct and withhold any remaining unemployment compensation amounts
169 for application to child support obligations owed by the individual;

170 c. If, after deductions are made pursuant to subparagraphs a. and b. of paragraph (k) of
171 this subdivision, an individual has remaining unemployment compensation amounts due and
172 owing, and the individual owes uncollected overissuances of food stamp coupons, the division
173 shall deduct and withhold any remaining unemployment compensation amounts for application
174 to uncollected overissuances of food stamp coupons owed by the individual.

175 [11.] **12.** Any person who, by reason of the nondisclosure or misrepresentation by such
176 person or by another of a material fact, has received any sum as benefits pursuant to this chapter
177 while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such
178 person's case, or while he or she was disqualified from receiving benefits, shall, in the discretion
179 of the division, either be liable to have such sums deducted from any future benefits payable to
180 such person pursuant to this chapter or shall be liable to repay to the division for the
181 unemployment compensation fund a sum equal to the amounts so received by him or her, and
182 such sum shall be collectible in the manner provided in sections 288.160 and 288.170 for the
183 collection of past due contributions.

184 [12.] **13.** Any person who, by reason of any error or omission or because of a lack of
185 knowledge of material fact on the part of the division, has received any sum of benefits pursuant
186 to this chapter while any conditions for the receipt of benefits imposed by this chapter were not
187 fulfilled in such person's case, or while such person was disqualified from receiving benefits,
188 shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190 have such
189 sums deducted from any further benefits payable to such person pursuant to this chapter,
190 provided that the division may elect not to process such possible overpayments where the amount
191 of same is not over twenty percent of the maximum state weekly benefit amount in effect at the
192 time the error or omission was discovered. Recovering overpaid unemployment compensation
193 benefits which are a result of error or omission on the part of the claimant shall be pursued by
194 the division through billing and setoffs against state income tax refunds.

195 [13.] **14.** Any person who has received any sum as benefits under the laws of another
196 state, or under any unemployment benefit program of the United States administered by another
197 state while any conditions for the receipt of benefits imposed by the law of such other state were

198 not fulfilled in his or her case, shall after an opportunity for a fair hearing pursuant to subsection
199 2 of section 288.190 have such sums deducted from any further benefits payable to such person
200 pursuant to this chapter, but only if there exists between this state and such other state a
201 reciprocal agreement under which such entity agrees to recover benefit overpayments, in like
202 fashion, on behalf of this state.

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

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

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

2. The information provided to a consumer reporting agency shall be limited to the amount of wages reported by each employing unit, with the employing unit's name and address, for each of or up to the last eight quarters. For the purposes of this section, "consumer reporting agency" has the meaning assigned by Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681f).

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

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

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

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

21 **(3) Authorization by the individual is necessary for the release of wage and**
22 **employment history information;**

23 **(4) The specific application or transaction for the sole purpose of which release is**
24 **made;**

25 **(5) Division of employment security files containing wage and employment history**
26 **information submitted by employers may be accessed; and**

27 **(6) The identity and address of parties authorized to receive the released**
28 **information.**

29 **5. The consumer reporting agency shall require that the information released shall**
30 **be used only to verify the accuracy of the wage or employment information previously**
31 **provided by an individual in connection with a specific transaction to satisfy its user's**
32 **standard underwriting requirements or those imposed upon the user, and to satisfy user's**
33 **obligations, under applicable state or federal fair credit reporting laws.**

34 **6. The division of employment security shall establish minimum audit, security, net**
35 **worth, and liability insurance standards, technological requirements, any other terms and**
36 **conditions deemed necessary in the discretion of the division to safeguard the**
37 **confidentiality of the information and to otherwise serve the public interest. The division**
38 **shall not pay any costs associated with the establishment or maintenance of the access**
39 **provided for by this subsection, including but not limited to the costs of any audits of the**
40 **consumer reporting agency or users by the division. The division may void any contract**
41 **authorized by this section if the contractor is not complying with this section. Except in**
42 **cases of willful and wanton misconduct, the state and division is immune from any liability**
43 **in connection with information provided under this section, including but not limited to**
44 **liability with regard to the accuracy or use of the information. Any fees received by the**
45 **division of employment security from a consumer reporting agency pursuant to this section**
46 **shall be deposited in the Missouri unemployment insurance trust fund and dedicated solely**
47 **for benefit payments.**

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

52 **8. A consumer may bring an action in a circuit court to enjoin a violation of this**
53 **act.**

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

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

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

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

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

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

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

12 (4) "Normal weekly hours of work", as to any individual, the lesser of forty hours or the
13 average obtained by dividing the total number of hours worked per week in the preceding
14 twelve-week period by the number twelve;

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

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

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

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

24 (9) "Shared work unemployment compensation program", a program designed to reduce
25 unemployment and stabilize the work force by allowing certain employees to collect
26 unemployment compensation benefits if the employees share the work remaining after a
27 reduction in the total number of hours of work and a corresponding reduction in wages.

28 3. An employer who wishes to participate in the shared work unemployment
29 compensation program established under this section shall submit a written shared work plan in
30 a form acceptable to the division for approval. As a condition for approval by the division, a
31 participating employer shall agree to furnish the division with reports relating to the operation
32 of the shared work plan as requested by the division. The employer shall monitor and evaluate
33 the operation of the established shared work plan as requested by the division and shall report
34 the findings to the division.

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

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

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

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

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

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

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

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

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

54 6. No shared work plan which will subsidize seasonal employers during the off-season
55 or subsidize employers, at least fifty percent of the employees of which have normal weekly
56 hours of work equaling thirty-two hours or less, shall be approved by the division. **No shared
57 work plan benefits will be initiated for pay periods when the reduced hours reflect holiday
58 earnings already committed to be paid by the employer.**

59 7. The division shall approve or deny a shared work plan not later than the thirtieth day
60 after the day on which the shared work plan is received by the division. The division shall
61 approve or deny a plan in writing. If the division denies a plan, the division shall notify the
62 employer of the reasons for the denial. Approval or denial of a plan by the division shall be final

63 and such determination shall be subject to review in the manner otherwise provided by law. If
64 approval of a plan is denied by the division, the employer may submit a new plan to the division
65 for consideration no sooner than forty-five calendar days following the date on which the
66 division disapproved the employer's previously submitted plan.

67 8. The division may revoke approval of a shared work plan and terminate the plan if it
68 determines that the shared work plan is not being executed according to the terms and intent of
69 the shared work unemployment compensation program, or if it is determined by the division that
70 the approval of the shared work plan was based, in whole or in part, upon information contained
71 in the plan which was either false or substantially misleading.

72 9. Each shared work plan approved by the division shall become effective on the first
73 day of the week in which it is approved by the division or on a later date as specified in the
74 shared work plan. Each shared work plan approved by the division shall expire on the last day
75 of the twelfth full calendar month after the effective date of such shared work plan.

76 10. An employer may modify a shared work plan created under this section to meet
77 changed conditions if the modification conforms to the basic provisions of the shared work plan
78 as originally approved by the division. The employer shall report the changes made to the plan
79 in writing to the division at least seven days before implementing such changes. The division
80 shall reevaluate the shared work plan and may approve the modified shared work plan if it meets
81 the requirements for approval under subsection 4 of this section. The approval of a modified
82 shared work plan shall not, under any circumstances, affect the expiration date originally set for
83 the shared work plan. If modifications cause the shared work plan to fail to meet the
84 requirements for approval, the division shall deny approval of the modifications as provided in
85 subsection 7 of this section.

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

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

93 (1) The individual is employed as a member of an affected unit subject to a shared work
94 plan that was approved before the week in question and is in effect for that week;

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

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

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

101 13. A waiting week served under the provisions of subdivision (3) of subsection 1 of
102 section 288.040 shall serve to meet the requirements of subdivision (4) of subsection 12 of this
103 section and a waiting week served under the provisions of subdivision (4) of subsection 12 of
104 this section shall serve to meet the requirements of section 288.040. [If the waiting week
105 becomes payable, it shall be paid according to the law governing the program under which it was
106 served.] Notwithstanding any other provisions of this chapter, an individual who files a new
107 initial claim during the pendency of the twelve-month period in which a shared work plan is in
108 effect shall serve a waiting week whether or not the individual has served a waiting week under
109 this subsection.

110 14. The division shall not deny shared work benefits for any week to an otherwise
111 eligible individual by reason of the application of any provision of this chapter that relates to
112 availability for work, active search for work, or refusal to apply for or accept work with an
113 employer other than the participating employer under the plan.

114 15. The division shall pay an individual who is eligible for shared work benefits under
115 this section a weekly shared work benefit amount equal to the individual's regular weekly benefit
116 amount for a period of total unemployment less any deductible amounts under this chapter except
117 wages received from any employer, multiplied by the full percentage of reduction in the
118 individual's hours as set forth in the employer's shared work plan. If the shared work benefit
119 amount calculated under this subsection is not a multiple of one dollar, the division shall round
120 the amount so calculated to the next lowest multiple of one dollar. An individual shall be
121 ineligible for shared work benefits for any week in which the individual performs paid work for
122 the participating employer in excess of the reduced hours established under the shared work plan.

123 16. An individual shall not be entitled to receive shared work benefits and regular
124 unemployment compensation benefits in an aggregate amount which exceeds the maximum total
125 amount of benefits payable to that individual in a benefit year as provided under section 288.038.
126 Notwithstanding any other provisions of this chapter, an individual shall not be eligible to
127 receive shared work benefits for more than twenty-six calendar weeks during the twelve-month
128 period of the shared work plan. No week shall be counted as a week of unemployment for the
129 purposes of this subsection unless it occurs within the twelve-month period of the shared work
130 plan.

131 17. Notwithstanding any other provision of this chapter, all benefits paid under a shared
132 work plan, which are chargeable to the participating employer or any other base period employer

133 of a participating employee shall be charged to the account of the participating employer under
134 the plan.

135 18. An individual who has received all of the shared work benefits and regular
136 unemployment compensation benefits available in a benefit year is an exhaustee under section
137 288.062 and is entitled to receive extended benefits under section 288.062 if the individual is
138 otherwise eligible under that section.

288.501. 1. There is hereby created a "Missouri State Unemployment Council".

2 **The council shall consist of nine appointed voting members and two appointed nonvoting**
3 **members. All appointees shall be persons whose training and experience qualify them to**
4 **deal with the difficult problems of unemployment compensation, particularly legal,**
5 **accounting, actuarial, economic, and social aspects of unemployment compensation.**

6 **(1) Three voting members shall be appointed to the council by the governor. One**
7 **voting member shall be appointed on account of his or her vocation, employment, or**
8 **affiliations being classed as representative of employers. One voting member shall be**
9 **appointed on account of his or her vocation, employment, or affiliations being classed as**
10 **representative of employees. One voting member shall be appointed to represent the public**
11 **interest separate from employee or employer representation.**

12 **(2) Three voting members and one nonvoting member shall be appointed to the**
13 **council by the speaker of the house of representatives. One voting member shall be**
14 **appointed on account of his or her vocation, employment, or affiliations being classed as**
15 **representative of employers that employ twenty or less employees. One voting member**
16 **shall be appointed on account of his or her vocation, employment, or affiliations being**
17 **classed as representative of employees. One voting member shall be appointed to represent**
18 **the public interest separate from employee or employer representation. One nonvoting**
19 **member shall be appointed from the house of representatives.**

20 **(3) Three voting members and one nonvoting member shall be appointed to the**
21 **council by the president pro tem of the senate. One voting member shall be appointed on**
22 **account of his or her vocation, employment, or affiliations being classed as representative**
23 **of employers. One voting member shall be appointed on account of his or her vocation,**
24 **employment, or affiliations being classed as representative of employees. One voting**
25 **member shall be appointed to represent the public interest separate from employee or**
26 **employer representation. One nonvoting member shall be appointed from the senate.**

27 **2. The council shall organize itself and select a chairperson or co-chairpersons and**
28 **other officers from the nine voting members. Six voting members shall constitute a**
29 **quorum and the council shall act only upon the affirmative vote of at least five of the voting**

30 members. The council shall meet no less than four times yearly. Members of the council
31 shall serve without compensation, but are to be reimbursed the amount of actual expenses.
32 Actual expenses shall be paid from the special employment security fund under section
33 288.310.

34 3. The division shall provide professional and clerical assistance as needed for
35 regularly scheduled meetings.

36 4. Each nonvoting member shall serve for a term of four years or until he or she is
37 no longer a member of the general assembly whichever occurs first. A nonvoting member's
38 term shall be a maximum of four years. Each voting member shall serve for a term of
39 three years. For the initial appointment, the governor-appointed employer representative,
40 the speaker of the house-appointed employee representative, and the president pro tem of
41 the senate-appointed public interest representative shall serve an initial term of one year.
42 For the initial appointment, the governor-appointed employee representative, the speaker
43 of the house-appointed public interest representative, and the president pro tem of the
44 senate-appointed employer representative shall serve an initial term of two years. At the
45 end of a voting member's term he or she may be reappointed; however, he or she shall
46 serve no more than two terms excluding the initial term for a maximum of eight years.

47 5. The council shall advise the division in carrying out the purposes of this chapter.
48 The council shall submit annually by January fifteenth to the governor and the general
49 assembly its recommendations regarding amendments of this chapter, the status of
50 unemployment insurance, the projected maintenance of the solvency of unemployment
51 insurance, and the adequacy of unemployment compensation.

52 6. The council shall present to the division every proposal of the council for changes
53 in this chapter and shall seek the division's concurrence with the proposal. The division
54 shall give careful consideration to every proposal submitted by the council for legislative
55 or administrative action and shall review each legislative proposal for possible
56 incorporation into department of labor and industrial relations recommendations.

57 7. The council shall have access to only the records of the division that are
58 necessary for the administration of this chapter and to the reasonable services of the
59 employees of the division. It may request the director or any of the employees appointed
60 by the director or any employee subject to this chapter, to appear before it and to testify
61 relative to the functioning of this chapter and to other relevant matters. The council may
62 conduct research of its own, make and publish reports, and recommend to the division
63 needed changes in this chapter or in the rules of the division as it considers necessary.

64 **8. The council, unless prohibited by a concurrent resolution of the general**
65 **assembly, shall be authorized to commission an outside study of the solvency, adequacy,**
66 **and staffing and operational efficiency of the Missouri unemployment system. The study**
67 **shall be conducted every five years, the first being conducted in fiscal year 2005. The study**
68 **shall be funded subject to appropriation from the special employment security fund under**
69 **section 288.310.**

288.502. If any provision of this act is found by a court of competent jurisdiction
2 **to be invalid or unconstitutional it is the stated intent of the legislature that the legislature**
3 **would have approved the remaining portions of the act, and the remaining portions of the**
4 **act shall remain in full force and effect.**

 Section B. Because immediate action is necessary to reduce or avoid the need to borrow
2 or obtain advances under 42 U.S.C., Section 1321, section A of this act is deemed necessary for
3 the immediate preservation of the public health, welfare, peace, and safety, and is hereby
4 declared to be an emergency act within the meaning of the constitution, and sections 288.128,
5 288.310 and 288.330 of this Act shall be full force and effect upon passage and approval. The
6 remaining provisions of this Act shall be in full force and effect January 1, 2005.