

HOUSE SUBSTITUTE
FOR
SENATE BILL NO. 966
AN ACT

2 To repeal sections 285.300, 288.030, 288.036,
3 288.038, 288.040, 288.050, 288.060, 288.110,
4 288.121, 288.128, 288.190, 288.290, 288.310,
5 and 288.330, RSMo, and to enact in lieu
6 thereof twenty new sections relating to
7 employees, with penalty provisions and an
8 emergency clause.

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

11 Section A. Section 285.300, 288.030, 288.036, 288.038,
12 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.190,
13 288.290, 288.310, and 288.330, RSMo, are repealed and twenty new
14 sections enacted in lieu thereof, to be known as sections
15 285.300, 288.030, 288.036, 288.038, 288.040, 288.050, 288.060,
16 288.110, 288.121, 288.128, 288.175, 288.190, 288.290, 288.310,
17 288.330, 288.395, 288.397, 288.401, 1, and 2, to read as follows:

18 285.300. 1. Every employer doing business in the state
19 shall require each newly hired employee to fill out a federal W-4
20 withholding form. A copy of each withholding form or an
21 equivalent form containing data required by section 285.304 which
22 may be provided in an electronic or magnetic format, shall be
23 sent to the department of revenue by the employer within twenty

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

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

24 (1) Designating one of the states in which the employer has
25 employees as the designated state that such employer shall

1 transmit the reports; and

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

4 288.030. 1. As used in this chapter, unless the context
5 clearly requires otherwise:

6 (1) "Appeals tribunal" means a referee or a body consisting
7 of three referees appointed to conduct hearings and make
8 decisions on appeals from administrative determinations,
9 petitions for reassessment, and claims referred pursuant to
10 subsection 2 of section 288.070;

11 (2) "Base period" means the first four of the last five
12 completed calendar quarters immediately preceding the first day
13 of an individual's benefit year;

14 (3) "Benefit year" means the one-year period beginning with
15 the first day of the first week with respect to which an insured
16 worker first files an initial claim for determination of such
17 worker's insured status, and thereafter the one-year period
18 beginning with the first day of the first week with respect to
19 which the individual, providing the individual is then an insured
20 worker, next files such an initial claim after the end of the
21 individual's last preceding benefit year;

22 (4) "Benefits" means the money payments payable to an
23 insured worker, as provided in this chapter, with respect to such
24 insured worker's unemployment;

25 (5) "Calendar quarter" means the period of three

1 consecutive calendar months ending on March thirty-first, June
2 thirtieth, September thirtieth, or December thirty-first;

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

7 (7) "Commission" means the labor and industrial relations
8 commission of Missouri;

9 (8) "Common paymaster" means two or more related
10 corporations in which one of the corporations has been designated
11 to disburse remuneration to concurrently employed individuals of
12 any of the related corporations;

13 (9) "Contributions" means the money payments to the
14 unemployment compensation fund required by this chapter,
15 exclusive of interest and penalties;

16 (10) "Decision" means a ruling made by an appeals tribunal
17 or the commission after a hearing;

18 (11) "Deputy" means a representative of the division
19 designated to make investigations and administrative
20 determinations on claims or matters of employer liability or to
21 perform related work;

22 (12) "Determination" means any administrative ruling made
23 by the division without a hearing;

24 (13) "Director" means the administrative head of the
25 division of employment security;

1 (14) "Division" means the division of employment security
2 which administers this chapter;

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

18 (16) "Employment office" means a free public employment
19 office operated by this or any other state as a part of a state
20 controlled system of public employment offices including any
21 location designated by the state as being a part of the one-stop
22 career system;

23 (17) "Equipment" means a motor vehicle, straight truck,
24 tractor, semi-trailer, full trailer, any combination of these and
25 any other type of equipment used by authorized carriers in the

1 transportation of property for hire;

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

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

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

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

15 (22) (a) As to initial claims filed after December 31,
16 1990, but before January 1, 2005, "insured worker" means a worker
17 who has been paid wages for insured work in the amount of one
18 thousand dollars or more in at least one calendar quarter of such
19 worker's base period and total wages in the worker's base period
20 equal to at least one and one-half times the insured wages in
21 that calendar quarter of the base period in which the worker's
22 insured wages were the highest, or in the alternative, a worker
23 who has been paid wages in at least two calendar quarters of such
24 worker's base period and whose total base period wages are at
25 least one and one-half times the maximum taxable wage base,

1 taxable to any one employer, in accordance with [subdivision (1)]
2 subsection 2 of section 288.036.

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

15 (c) For the purposes of this [definition] subdivision,
16 "wages" shall be considered as wage credits with respect to any
17 benefit year, only if such benefit year begins subsequent to the
18 date on which the employing unit by which such wages were paid
19 has become an employer;

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

22 (24) "Misconduct", means an act of wanton or willful
23 disregard of the employer's interest, a deliberate violation of
24 the employer's rules, a disregard of standards of behavior which
25 the employer has the right to expect of his or her employee, or
26 negligence in such degree or recurrence as to manifest

1 culpability, wrongful intent or evil design, or show an
2 intentional and substantial disregard of the employer's interest
3 or of the employee's duties and obligations to the employer;

4 (25) "Referee" means a representative of the division
5 designated to serve on an appeals tribunal;

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

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

14 (28) "Temporary employee", means an employee assigned to
15 work for the clients of a temporary help firm;

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

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

24 (c) An individual's "week of unemployment" shall begin the
25 first day of the calendar week in which the individual registers

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

9 [(27)] (30) "Waiting week" means the first week of
10 unemployment for which a claim is allowed in a benefit year or if
11 no waiting week has occurred in a benefit year in effect on the
12 effective date of a shared work plan, the first week of
13 participation in a shared work unemployment compensation program
14 pursuant to section 288.500.

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

24 288.036. 1. "Wages" means all remuneration, payable or
25 paid, for personal services including commissions and bonuses

1 and, except as provided in subdivision [(8)] (7) of this section,
2 the cash value of all remuneration paid in any medium other than
3 cash. Gratuities, including tips received from persons other
4 than the employing unit, shall be considered wages only if
5 required to be reported as wages pursuant to the Federal
6 Unemployment Tax Act, 26 U.S.C. Sec. 3306, and shall be, for the
7 purposes of this chapter, treated as having been paid by the
8 employing unit. Severance pay shall be considered as wages [to
9 the extent required pursuant to the Federal Unemployment Tax Act,
10 26 U.S.C. Section 3306(b)]. Vacation pay and holiday pay shall
11 be considered as wages for the week with respect to which it is
12 payable. The term "wages" shall not include:

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

1 may be taken for contributions required to be paid into a state
2 unemployment fund; except that:

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

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

19 (2)] The amount of any payment made (including any amount
20 paid by an employing unit for insurance or annuities, or into a
21 fund, to provide for any such payment) to, or on behalf of, an
22 individual under a plan or system established by an employing
23 unit which makes provision generally for individuals performing
24 services for it or for a class or classes of such individuals, on
25 account of:

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

5 (b) Medical and hospitalization expenses in connection with
6 sickness or accident disability; or

7 (c) Death;

8 [(3)] (2) The amount of any payment on account of sickness
9 or accident disability, or medical or hospitalization expenses in
10 connection with sickness or accident disability, made by an
11 employing unit to, or on behalf of, an individual performing
12 services for it after the expiration of six calendar months
13 following the last calendar month in which the individual
14 performed services for such employing unit;

15 [(4)] (3) The amount of any payment made by an employing
16 unit to, or on behalf of, an individual performing services for
17 it or his or her beneficiary:

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

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

1 [(5)] (4) The amount of any payment made by an employing
2 unit (without deduction from the remuneration of the individual
3 in employment) of the tax imposed pursuant to section 3101 of
4 the Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an
5 individual with respect to remuneration paid to an employee for
6 domestic service in a private home or for agricultural labor;

7 [(6)] (5) Remuneration paid in any medium other than cash
8 to an individual for services not in the course of the employing
9 unit's trade or business;

10 [(7)] (6) Remuneration paid in the form of meals provided
11 to an individual in the service of an employing unit where such
12 remuneration is furnished on the employer's premises and at the
13 employer's convenience, except that remuneration in the form of
14 meals that is considered wages and required to be reported as
15 wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C.
16 Sec. 3306 shall be reported as wages as required thereunder;

17 [(8)] (7) For the purpose of determining wages paid for
18 agricultural labor as defined in paragraph (b) of subdivision (1)
19 of subsection 12 of section 288.034 and for domestic service as
20 defined in subsection 13 of section 288.034, only cash wages paid
21 shall be considered;

22 [(9)] (8) Beginning on October 1, 1996, any payment to, or
23 on behalf of, an employee or the employee's beneficiary under a
24 cafeteria plan, if such payment would not be treated as wages
25 pursuant to the Federal Unemployment Tax Act.

1 2. The increases or decreases to the state taxable wage
2 base for calendar year [1999] 2005, and each calendar year
3 thereafter, shall be determined by the provisions within this
4 subsection. On January 1, 2005, the state taxable wage base for
5 calendar year [1999, and] 2005 shall be ten thousand dollars for
6 the balance of the calendar year. The state taxable wage base
7 for each calendar year thereafter[,] shall be determined by the
8 preceding September thirtieth balance of the unemployment
9 compensation trust fund, less any outstanding federal Title XII
10 advances received pursuant to section 288.330, or if the fund is
11 not utilizing moneys advanced by the federal government, then
12 less the principal, interest, and administrative expenses related
13 to credit instruments issued under section 288.330, or the
14 principal, interest, and administrative expenses related to
15 financial agreements under subdivision (17) of subsection 2 of
16 section 288.330, or the principal, interest, and administrative
17 expenses related to a combination of credit instruments and
18 financial agreements. When the September thirtieth unemployment
19 compensation trust fund balance, less any outstanding federal
20 Title XII advances received pursuant to section 288.330, is:

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

24 (2) [Four] Five hundred [fifty] million or more, then the
25 state taxable wage base for the subsequent calendar year shall be

1 decreased by five hundred dollars. In no event, however, shall
2 the state taxable wage base increase beyond [~~ten~~] eleven thousand
3 [~~five hundred~~] dollars, or decrease to less than seven thousand
4 dollars.

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

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

1 calendar year thereafter. If such benefit amount is not a
2 multiple of one dollar, such amount shall be reduced to the
3 nearest lower full dollar amount.

4 288.040. 1. A claimant who is unemployed and has been
5 determined to be an insured worker shall be eligible for benefits
6 for any week only if the deputy finds that:

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

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

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

25 (b) The claimant is temporarily unemployed through no fault

1 of his or her own and has a definite recall date within eight
2 weeks of his or her first day of unemployment; however, upon
3 application of the employer responsible for the claimant's
4 unemployment, such eight-week period may be extended at the
5 discretion of the director but shall not exceed sixteen weeks;

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

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

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

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

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

1 only during the time such circumstances exist. Ineligibility
2 pursuant to this subdivision shall begin on the first day of the
3 week which the claimant was scheduled to claim and shall end on
4 the last day of the week preceding the week during which the
5 claimant does report in person to the division's office;

6 (4) Prior to the first week of a period of total or partial
7 unemployment for which the claimant claims benefits he or she has
8 been totally or partially unemployed for a waiting period of one
9 week. No more than one waiting week will be required in any
10 benefit year. [The one-week waiting period shall become
11 compensable after unemployment during which benefits are payable
12 for nine consecutive weeks.] No week shall be counted as a week
13 of total or partial unemployment for the purposes of this
14 subsection unless it occurs within the benefit year which
15 includes the week with respect to which the claimant claims
16 benefits;

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

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

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

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

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

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

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

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

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

19 (d) With respect to services described in paragraphs (a)
20 and (b) of this subdivision, benefits payable on the basis of
21 services in any such capacity shall be denied as specified in
22 paragraphs (a), (b), and (c) of this subdivision, to any
23 individual who performed such services at an educational
24 institution while in the employ of an educational service agency,
25 and for this purpose the term "educational service agency" means

1 a governmental agency or governmental entity which is established
2 and operated exclusively for the purpose of providing such
3 services to one or more educational institutions.

4 (2) If compensation is denied for any week pursuant to
5 paragraph (b) or (d) of subdivision (1) of this subsection, to
6 any individual performing services at an educational institution
7 in any capacity (other than instructional, research or principal
8 administrative capacity), and such individual was not offered an
9 opportunity to perform such services for the second of such
10 academic years or terms, such individual shall be entitled to a
11 retroactive payment of the compensation for each week for which
12 the individual filed a timely claim for compensation and for
13 which compensation was denied solely by reason of paragraph (b)
14 or (d) of subdivision (1) of this subsection.

15 4. (1) A claimant shall be ineligible for waiting week
16 credit, benefits or shared work benefits for any week for which
17 he or she is receiving or has received remuneration exceeding his
18 or her weekly benefit amount or shared work benefit amount in the
19 form of:

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

23 (b) A governmental or other pension, retirement or retired
24 pay, annuity, or other similar periodic payment which is based on
25 the previous work of such claimant to the extent that such

1 payment is provided from funds provided by a base period or
2 chargeable employer pursuant to a plan maintained or contributed
3 to by such employer; but, except for such payments made pursuant
4 to the Social Security Act or the Railroad Retirement Act of 1974
5 (or the corresponding provisions of prior law), the provisions of
6 this paragraph shall not apply if the services performed for such
7 employer by the claimant after the beginning of the base period
8 (or remuneration for such services) do not affect eligibility for
9 or increase the amount of such pension, retirement or retired
10 pay, annuity or similar payment.

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

17 (3) Notwithstanding the provisions of subdivisions (1) and
18 (2) of this subsection, if a claimant has contributed in any way
19 to the Social Security Act or the Railroad Retirement Act of
20 1974, or the corresponding provisions of prior law, no part of
21 the payments received pursuant to such federal law shall be
22 deductible from the amount of benefits received pursuant to this
23 chapter.

24 5. A claimant shall be ineligible for waiting week credit
25 or benefits for any week for which or a part of which he or she

1 has received or is seeking unemployment benefits pursuant to an
2 unemployment insurance law of another state or the United States;
3 provided, that if it be finally determined that the claimant is
4 not entitled to such unemployment benefits, such ineligibility
5 shall not apply.

6 6. (1) A claimant shall be ineligible for waiting week
7 credit or benefits for any week for which the deputy finds that
8 such claimant's total or partial unemployment is due to a
9 stoppage of work which exists because of a labor dispute in the
10 factory, establishment or other premises in which such claimant
11 is or was last employed. In the event the claimant secures other
12 employment from which he or she is separated during the existence
13 of the labor dispute, the claimant must have obtained bona fide
14 employment as a permanent employee for at least the major part of
15 each of two weeks in such subsequent employment to terminate his
16 or her ineligibility. If, in any case, separate branches of work
17 which are commonly conducted as separate businesses at separate
18 premises are conducted in separate departments of the same
19 premises, each such department shall for the purposes of this
20 subsection be deemed to be a separate factory, establishment or
21 other premises. This subsection shall not apply if it is shown
22 to the satisfaction of the deputy that:

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

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

6 (2) "Stoppage of work" as used in this subsection means a
7 substantial diminution of the activities, production or services
8 at the establishment, plant, factory or premises of the employing
9 unit. This definition shall not apply to a strike where the
10 employees in the bargaining unit who initiated the strike are
11 participating in the strike. Such employees shall not be
12 eligible for [waiting week credit or] benefits during the period
13 when the strike is in effect, regardless of diminution, unless
14 the employer has been found guilty of an unfair labor practice by
15 the National Labor Relations Board or a federal court of law for
16 an act or actions preceding or during the strike.

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

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

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

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

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

25 (1) That the claimant has left work voluntarily without

1 good cause attributable to such work or to the claimant's
2 employer[; except that]. A temporary employee of a temporary
3 help firm will be deemed to have voluntarily quit employment if
4 the employee does not contact the temporary help firm for
5 reassignment prior to filing for benefits. Failure to contact
6 the temporary help firm will not be deemed a voluntary quit
7 unless the claimant has been advised of the obligation to contact
8 the firm upon completion of assignments and that unemployment
9 benefits may be denied for failure to do so. The claimant shall
10 not be disqualified:

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

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

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

20 (d) As to initial claims filed after December 31, 1988, if
21 the claimant presents evidence supported by competent medical
22 proof that she was forced to leave her work because of pregnancy,
23 notified her employer of such necessity as soon as practical
24 under the circumstances, and returned to that employer and
25 offered her services to that employer as soon as she was

1 physically able to return to work, as certified by a licensed and
2 practicing physician, but in no event later than ninety days
3 after the termination of the pregnancy. An employee shall have
4 been employed for at least one year with the same employer before
5 she may be provided benefits pursuant to the provisions of this
6 paragraph;

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

12 (3) That the claimant failed without good cause either to
13 apply for available suitable work when so directed by the deputy,
14 or to accept suitable work when offered the claimant, either
15 through the division or directly by an employer by whom the
16 individual was formerly employed, or to return to the
17 individual's customary self-employment, if any, when so directed
18 by the deputy. An offer of work shall be conclusively
19 established if an employer notifies the claimant in writing of
20 such offer by sending an acknowledgment via any form of certified
21 mail issued by the United States Postal Service stating such
22 offer to the claimant at his or her last known address. Nothing
23 in this subdivision shall be construed to limit the means by
24 which the deputy may establish that the claimant has been
25 sufficiently notified of available work.

1 (a) In determining whether or not any work is suitable for
2 an individual, the division shall consider, among other factors
3 and in addition to those enumerated in paragraph (b) of this
4 subdivision, the degree of risk involved to the individual's
5 health, safety and morals, the individual's physical fitness and
6 prior training, the individual's experience and prior earnings,
7 the individual's length of unemployment, the individual's
8 prospects for securing work in the individual's customary
9 occupation, the distance of available work from the individual's
10 residence and the individual's prospect of obtaining local work;
11 except that, if an individual has moved from the locality in
12 which the individual actually resided when such individual was
13 last employed to a place where there is less probability of the
14 individual's employment at such individual's usual type of work
15 and which is more distant from or otherwise less accessible to
16 the community in which the individual was last employed, work
17 offered by the individual's most recent employer if similar to
18 that which such individual performed in such individual's last
19 employment and at wages, hours, and working conditions which are
20 substantially similar to those prevailing for similar work in
21 such community, or any work which the individual is capable of
22 performing at the wages prevailing for such work in the locality
23 to which the individual has moved, if not hazardous to such
24 individual's health, safety or morals, shall be deemed suitable
25 for the individual;

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

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

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

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

14 2. [Notwithstanding the other provisions of this law,] If a
15 deputy finds that a claimant has been discharged for misconduct
16 connected with the claimant's work, such claimant[, depending
17 upon the seriousness of the misconduct as determined by the
18 deputy according to the circumstances in each case,] shall be
19 disqualified for waiting week credit or benefits [for not less
20 than four nor more than sixteen weeks for which the claimant
21 claims benefits and is otherwise eligible], and no benefits shall
22 be paid nor shall the cost of any benefits be charged against any
23 employer for any period of employment within the base period
24 until the claimant has earned wages for work insured under the
25 unemployment laws of this state or any other state as prescribed

1 in this section. In addition to the disqualification for
2 benefits pursuant to this provision the division may in the more
3 aggravated cases of misconduct, cancel all or any part of the
4 individual's wage credits, which were established through the
5 individual's employment by the employer who discharged such
6 individual, according to the seriousness of the misconduct. A
7 disqualification provided for pursuant to this subsection shall
8 not apply to any week which occurs after the claimant has earned
9 wages for work insured pursuant to the unemployment compensation
10 laws of any state in an amount equal to eight times the
11 claimant's weekly benefit amount.

12 3. [A pattern of] Absenteeism or tardiness may constitute
13 misconduct regardless of whether the last incident alone [which
14 results] resulting in the discharge constitutes misconduct.

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

1 the Trade Act of 1974.

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

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

8 3. Each eligible insured worker who is partially unemployed
9 in any week shall be paid for such week a partial benefit. Such
10 partial benefit shall be an amount equal to the difference
11 between his or her weekly benefit amount and that part of his or
12 her wages for such week in excess of [twenty] forty dollars, and,
13 if such partial benefit amount is not a multiple of one dollar,
14 such amount shall be reduced to the nearest lower full dollar
15 amount. [Termination pay, severance pay or] Provided further,
16 however, that an individual shall be considered to be unemployed
17 as to receipt of severance pay for any week the individual is
18 registered at as well as attending any state institution of
19 higher education or public secondary school. In addition, an
20 individual shall be considered to be unemployed as to receipt of
21 severance pay for any week the individual is registered at as
22 well as attending a labor and industrial relations commission
23 qualified vocational, educational, or training program that meets
24 commission established minimum standards. The commission shall
25 annually update and review the list of qualified programs. Pay

1 received by an eligible insured worker who is a member of the
2 organized militia for training or duty authorized by section
3 502(a)(1) of Title 32, United States Code, [or who is an elected
4 official] shall not be considered wages for the purpose of this
5 subsection.

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

1 and ending on the date on which he or she filed an allowed
2 initial claim shall not be available for benefit purposes in a
3 subsequent benefit year unless, in addition thereto, such
4 individual has subsequently earned either wages for insured work
5 in an amount equal to at least five times his or her current
6 weekly benefit amount or wages in an amount equal to at least ten
7 times his or her current weekly benefit amount.

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

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

20 7. The division may establish an electronic funds transfer
21 system to transfer directly to claimants' accounts in financial
22 institutions benefits payable to them pursuant to this chapter.
23 To receive benefits by electronic funds transfer, a claimant
24 shall satisfactorily complete a direct deposit application form
25 authorizing the division to deposit benefit payments into a

1 designated checking or savings account. Any electronic funds
2 transfer system created pursuant to this subsection shall be
3 administered in accordance with regulations prescribed by the
4 division.

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

7 288.110. Any individual, type of organization or employing
8 unit which has acquired substantially all of the business of an
9 employer, excepting in any such case any assets retained by such
10 employer incident to the liquidation of his obligations, and in
11 respect to which the division finds that immediately after such
12 change such business of the predecessor employer is continued
13 without interruption solely by the successor, shall stand in the
14 position of such predecessor employer in all respects, including
15 the predecessor's separate account, actual contribution and
16 benefit experience, annual payrolls, and liability for current or
17 delinquent contributions, interest and penalties. If two or more
18 individuals, organizations, or employing units acquired at
19 approximately the same time substantially all of the business of
20 an employer (excepting in any such case any assets retained by
21 such employer incident to the liquidation of his obligations) and
22 in respect to which the division finds that immediately after
23 such change all portions of such business of the predecessor are
24 continued without interruption solely by such successors, each
25 such individual, organization, or employing unit shall stand in

1 the position of such predecessor with respect to the
2 proportionate share of the predecessor's separate account, actual
3 contribution and benefit experience and annual payroll as
4 determined by the portion of the predecessor's taxable payroll
5 applicable to the portion of the business acquired, and each such
6 individual, organization or employing unit shall be liable for
7 current or delinquent contributions, interest and penalties of
8 the predecessor in the same relative proportion. Further, any
9 successor under this section which was not an employer at the
10 time the acquisition occurred, shall pay contributions for the
11 balance of the current rate year at the same contribution rate as
12 the contribution rate of the predecessor whether such rate is
13 more or less than two and seven-tenths percent, provided there
14 was only one predecessor or there were only predecessors with
15 identical rates. If the predecessors' rates were not identical,
16 the division shall calculate a rate as of the date of acquisition
17 applicable to the successor for the remainder of the rate year,
18 which rate shall be based on the combined experience of all
19 predecessor employers. In the event that any successor was,
20 prior to an acquisition, an employer, and there is a difference
21 in the contribution rate established for such calendar year
22 applicable to any acquired or acquiring employer, the division
23 shall make a recalculation [as of the date of acquisition] of the
24 contribution rate applicable to any successor employer based upon
25 the combined experience of all predecessor and successor

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

16 288.121. 1. On October first of each calendar year, if the
17 average balance, less any federal advances, of the unemployment
18 compensation trust fund of the four preceding quarters (September
19 thirtieth, June thirtieth, March thirty-first and December
20 thirty-first of the preceding calendar year) is less than four
21 hundred fifty million dollars, then each employer's contribution
22 rate calculated for the four calendar quarters of the succeeding
23 calendar year shall be increased by the percentage determined
24 from the following table:

25 Balance in Trust Fund

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Percentage

Less Than

Equals or Exceeds

of Increase

[\$400,000,000] \$450,000,000 [\$350,000,000] \$400,000,000 10%

[\$350,000,000] \$400,000,000 [\$300,000,000] \$350,000,000

20%

[\$300,000,000] \$350,000,000 30%

[Notwithstanding the table in this section, each employer's contribution rate calculated for the four calendar quarters of calendar year 1994 shall be increased by forty percent, instead of thirty percent, as previously indicated in the table in this section. After the forty percent increase, each employer's contribution rate for the four calendar quarters of calendar year 1994 shall be increased by adding three-tenths of one percent.] Beginning on January 1, 2005, and continuing until such time as the trust fund balance including any outstanding indebtedness, is greater than or equal to zero the contribution rate of any employer who is paying the maximum contribution rate of six percent shall be increased by forty percent.

2. Effective January 1, 2005, an employer's total contribution rate shall equal the employer's base rate plus a temporary solvency charge of one-tenth of one percent added to the base rate plus the increase authorized under subsection 1 of this section. The temporary solvency charge shall expire upon

1 the last day of the fourth calendar quarter following the
2 effective date of this section.

3 288.128. 1. In addition to all other contributions due
4 under this chapter, if the fund is utilizing moneys advanced by
5 the federal government under the provisions of 42 U.S.C.A.,
6 section 1321 pursuant to section 288.330[,] or if the fund is not
7 utilizing moneys advanced by the federal government, then from
8 the proceeds of credit instruments issued under section 288.330,
9 or from the moneys advanced under financial agreements under
10 subdivision (17) of subsection 2 of section 288.330, or a
11 combination of credit instruments proceeds and moneys advanced
12 under financial agreements each employer shall be assessed an
13 amount solely for the payment of interest due on such federal
14 advancements, or if the fund is not utilizing moneys advanced by
15 the federal government, or in the case of issuance of credit
16 instruments for the payment of the principal, interest, and
17 administrative expenses related to such credit instruments, or in
18 the case of financial agreements for the payment of principal,
19 interest, and administrative expenses related to such financial
20 agreements, or in the case of a combination of credit instruments
21 and financial agreements for the payment of principal, interest,
22 and administrative expenses for both. The rate shall be
23 determined by dividing the interest due on federal advancements
24 or if the fund is not utilizing moneys advanced by the federal
25 government, then the principal, interest, and administrative

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

25 2. If on December thirty-first of any year the money

1 collected under this section exceeds the amount of interest due
2 on federal advancements by one hundred thousand dollars or more,
3 then each employer's experience rating account shall be credited
4 with an amount which bears the same ratio to the excess moneys
5 collected under this section as that employer's payment collected
6 under this section bears to the total amount collected under this
7 section. Further, if on December thirty-first of any year the
8 moneys collected under this section exceed the amount of interest
9 due on the federal advancements by less than one hundred thousand
10 dollars, the balance shall be transferred from the special
11 employment security fund to the Secretary of the Treasury of the
12 United States to be credited to the account of this state in the
13 unemployment trust fund.

14 288.175. 1. As used in this section the following terms
15 shall mean:

16 (1) "Debt", any established overpayment or sum past due
17 that is legally owed and enforceable under the Missouri
18 employment security law, which has accrued through contract or
19 operation of law and which has become final under state law and
20 remains uncollected;

21 (2) "Debtor", any individual, sole proprietorship,
22 partnership, corporation, limited liability company, or other
23 legal entity owning a debt.

24 2. Notwithstanding any other provisions to the contrary,
25 the division may collect any debt by interception of the debtor's

1 federal income tax refund, in the manner and to the extent
2 allowed by federal law.

3 288.190. 1. The director shall designate an impartial
4 referee or referees to hear and decide disputed determinations,
5 claims referred pursuant to subsection 2 of section 288.070, and
6 petitions for reassessment. No employee of the division shall
7 participate on behalf of the division in any case in which the
8 division employee is an interested party.

9 2. The manner in which disputed determinations, referred
10 claims, and petitions for reassessment shall be presented and the
11 conduct of hearings shall be in accordance with regulations
12 prescribed by the division for determining the rights of the
13 parties, whether or not such regulations conform to common law or
14 statutory rules of evidence and other technical rules of
15 procedure. When the same or substantially similar evidence is
16 relevant and material to the matters in issue in claims by more
17 than one individual or in claims by a single individual in
18 respect to two or more weeks of unemployment, the same time and
19 place for considering each such claim or claims may be fixed,
20 hearings thereon jointly conducted, a single record of the
21 proceedings made, and evidence introduced with respect to one
22 proceeding considered as introduced in the others, if in the
23 judgment of the appeals tribunal or the commission having
24 jurisdiction of the proceeding such consolidation would not be
25 prejudicial to any party. A full and complete record shall be

1 kept of all proceedings in connection with a disputed
2 determination, referred claim, or petition for reassessment. The
3 appeals tribunal shall include in the record and consider as
4 evidence all records of the division that are material to the
5 issues. All testimony at any hearing shall be recorded but need
6 not be transcribed unless the matter is further appealed.

7 3. Unless an appeal on a disputed determination or referred
8 claim is withdrawn, an appeals tribunal, after affording the
9 parties reasonable opportunity for fair hearing, shall affirm,
10 modify, or reverse the determination of the deputy, or shall
11 remand the matter to the deputy with directions. In addition, in
12 any case wherein the appellant, after having been duly notified
13 of the date, time, and place of the hearing, shall fail to appear
14 at such hearing, the appeals tribunal may enter an order
15 dismissing the appeal. The director may transfer to another
16 appeals tribunal the proceedings on an appeal determination
17 before an appeals tribunal. The parties shall be duly notified
18 of an appeals tribunal's decision or order, together with its
19 reason therefor, which shall be deemed to be the final decision
20 or order of the division unless, within thirty days after the
21 date of notification or mailing of such decision, further appeal
22 is initiated pursuant to section 288.200; except that, within
23 thirty days of either notification or mailing of the appeals
24 tribunal's decision or order, the appeals tribunal, on its own
25 motion, may reconsider any decision or order when it appears that

1 such reconsideration is essential to the accomplishment of the
2 object and purpose of this law.

3 4. Unless a petition for reassessment is withdrawn or is
4 allowed without a hearing, the petitioners shall be given a
5 reasonable opportunity for a fair hearing before an appeals
6 tribunal upon each such petition. The appeals tribunal shall
7 promptly notify the interested parties of its decision upon such
8 petition together with its reason therefor. In addition, in any
9 case wherein the appellant, after having been duly notified of
10 the date, time, and place of the hearing, shall fail to appear at
11 such hearing, the appeals tribunal may enter an order dismissing
12 the appeal. In the absence of the filing of an application for
13 review of such decision, the decision, whether it results in a
14 reassessment or otherwise, shall become final thirty days after
15 the date of notification or mailing thereof; except that, within
16 thirty days of either notification or mailing of the appeals
17 tribunal's decision or order, the appeals tribunal, on its own
18 motion, may reconsider any decision or order when it appears that
19 such reconsideration is essential to the accomplishment of the
20 object and purposes of this law.

21 5. Any party subject to any decision of an appeals tribunal
22 pursuant to this chapter has a right to counsel and the right to
23 designate a representative, including but not limited to, a
24 certified public accountant or human resource professional to
25 represent the party at any hearing and shall be notified prior to

1 a hearing conducted pursuant to this chapter that a decision of
2 the appeals tribunal is presumptively conclusive for the purposes
3 of this chapter as provided in section 288.200.

4 288.290. 1. There is hereby established as a special fund,
5 separate and apart from all public moneys or funds of this state,
6 an "Unemployment Compensation Fund", which shall be administered
7 by the division exclusively for the purposes of this law. This
8 fund shall consist of:

9 (1) All contributions and payments in lieu of contributions
10 collected under this law;

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

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

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

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

16 and

17 (6) All funds set aside or appropriated by the Congress of
18 the United States or any federal agency, to be deposited to the
19 fund. All moneys in the funds shall be mingled and undivided,
20 except that all money credited to this state's account in the
21 Unemployment Trust Fund pursuant to Section 903 of the Social
22 Security Act, as amended, and which has been appropriated for
23 expenses of administration, shall be used only for the purposes
24 set out in subsection 5 of this section and shall not be included
25 in the cash balance in the unemployment compensation fund for the

1 purposes of sections 288.100 and 288.113 to 288.126.

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

7 (1) A clearing account;

8 (2) An unemployment trust fund account; and

9 (3) A benefit account.

10 To ensure that employment trust fund moneys are utilized only for
11 the purpose authorized no other fund shall be established with
12 increased employer taxes that are offset by a reduction of
13 unemployment contributions, except for the special employment
14 security fund created in section 288.310.

15 3. All moneys payable to the fund, upon their receipt by
16 the division, shall immediately be deposited in the clearing
17 account. Refunds of contributions or payments made necessary
18 under the provisions of sections 288.140 and 288.340 may be paid
19 from the clearing account or the benefit account. After
20 clearance, all moneys in the clearing account shall be
21 immediately deposited with the Secretary of the Treasury of the
22 United States of America to the credit of the account of this
23 state in the Unemployment Trust Fund, established and maintained
24 pursuant to Section 904 of the Social Security Act, as amended,
25 any provisions of law in this state relating to the deposit,

1 administration, release, or disbursement of state moneys in the
2 possession or custody of the state treasurer to the contrary
3 notwithstanding. The benefit account shall consist of all moneys
4 requisitioned from the Missouri account in the federal
5 Unemployment Trust Fund. Except as otherwise provided, moneys in
6 the clearing and benefit accounts may be deposited in any bank or
7 public depository in which general funds of the state may be
8 deposited, but no public deposit insurance charge or premium
9 shall be paid out of the fund. Moneys in the clearing and
10 benefit accounts shall not be commingled with other state funds
11 but shall be maintained in separate accounts on the books of the
12 depository bank. All funds required by this law to be deposited
13 in any state depository shall be secured by such depository to
14 the same extent and in the same manner as is or may hereafter be
15 required by section 30.270, RSMo, and all the amendments thereto;
16 provided, that the division shall do those acts directed to be
17 done by the governor, attorney general and state treasurer, or
18 any of them, under section 30.270, RSMo, which are not
19 inconsistent with the other provisions of this law. Collateral
20 pledged for this purpose shall be kept separate and distinct from
21 any collateral pledged to secure other funds of the state, or, if
22 combined, shall be first used to satisfy and make whole the
23 accounts herein established. The treasurer shall give a separate
24 bond conditioned upon the faithful performance of his duties as
25 custodian of the fund in an amount not to exceed twenty-five

1 thousand dollars and in the form prescribed by law or approved by
2 the attorney general. Premiums for such bonds shall be paid from
3 the administration fund. All sums recovered for losses sustained
4 by the fund shall be deposited therein.

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

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

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

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

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

24 (c) Limits the amount which may be obligated during a
25 twelve-month period beginning on July first and ending on the

1 next June thirtieth to an amount which does not exceed the amount
2 by which the aggregate of the amount transferred to the account
3 of this state in the Unemployment Trust Fund pursuant to
4 subsections (a) and (b) of Section 903 of the Social Security
5 Act, as amended, exceeds the aggregate of the amounts used by
6 this state pursuant to this subsection and charged against the
7 amounts transferred to the account of this state in the
8 Unemployment Trust Fund.

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

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

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

21 (5) Money appropriated as provided under subdivision (1) of
22 this subsection for the payment of expenses of administration
23 shall be requisitioned as needed for the payment of obligations
24 incurred under such appropriation and, upon requisition, shall be
25 deposited in the unemployment compensation administration fund

1 from which such payments shall be made. Money so deposited
2 shall, until expended, remain a part of the unemployment
3 compensation fund and, if it will not be expended, shall be
4 returned promptly to the account of this state in the
5 Unemployment Trust Fund.

6 (6) Money credited to the account of the state in the
7 federal Unemployment Trust Fund by the Secretary of the Treasury
8 of the United States of America pursuant to Title 42, Section 903
9 of the Social Security Act with respect to the federal fiscal
10 years 1999, 2000 and 2001, shall be used solely for the
11 administration of the unemployment compensation program.

12 6. The provisions of subsections 1, 2, 3, 4, and 5 of this
13 section, to the extent that they relate to the federal
14 Unemployment Trust Fund, shall be operative only so long as such
15 federal Unemployment Trust Fund continues to exist and so long as
16 the Secretary of the Treasury of the United States of America
17 continues to maintain a separate book account of all funds
18 deposited therein by contributions from employers of this state
19 for benefit purposes, and by money credited pursuant to Section
20 903 of the Social Security Act, as amended, together with a
21 proportionate share of the earnings apportioned to the Missouri
22 account of such federal Unemployment Trust Fund, from which no
23 other state is permitted to make or authorize withdrawals. If
24 and when such Unemployment Trust Fund ceases to exist, or such
25 separate book account is no longer maintained, all moneys,

1 properties, or securities therein belonging to the unemployment
2 compensation fund of this state shall be transferred to the
3 treasurer of the unemployment compensation fund, who shall hold,
4 invest, transfer, sell, deposit, and release such moneys,
5 properties or securities in a manner approved by the director in
6 accordance with the provisions of this law; provided, that such
7 moneys shall be invested in the following readily marketable
8 classes of securities: bonds or other interest-bearing
9 obligations of the United States of America, or securities on
10 which the payment of principal and interest are guaranteed by the
11 United States of America, and bonds or other interest-bearing
12 obligations of the state of Missouri; and provided, further, that
13 such investments shall at all times be so made that all the
14 assets of the fund shall always be readily convertible into cash
15 when needed for the payment of benefits. The treasurer shall
16 dispose of securities or other properties belonging to the
17 unemployment compensation fund only under the direction of the
18 director.

19 7. Notwithstanding any other provision of this law, any
20 interest or penalties found to have been erroneously collected
21 and which is ordered to be refunded shall, if paid into the
22 unemployment compensation fund, be refunded out of the
23 unemployment compensation fund and, if paid into the special
24 employment security fund, shall be refunded out of the special
25 employment security fund; except that, in the event any interest

1 and penalties paid into the unemployment compensation fund shall
2 be transferred to the special employment security fund, the
3 refund of any such interest and penalties shall be made from the
4 special employment security fund.

5 288.310. 1. There is hereby created in the state treasury
6 a special fund to be known as the "Special Employment Security
7 Fund". All interest and penalties collected under the provisions
8 of this law, including moneys collected pursuant to section
9 288.128 for the payment of interest due on federal advances
10 received pursuant to section 288.330, or if the fund is not
11 utilizing moneys advanced by the federal government, then the
12 payment of principal, interest, and administrative expenses
13 related to credit instruments issued under section 288.330, or
14 the payment of the principal, interest, and administrative
15 expenses related to financial agreements under subdivision (17)
16 of subsection 2 of section 288.330, or the payment of the
17 principal, interest, and administrative expenses related to a
18 combination of credit instruments and financial agreements shall
19 be paid into this fund. The moneys collected pursuant to section
20 288.128 shall be used [exclusively] for the payment of interest
21 due on federal advances received pursuant to section 288.330, or
22 if the fund is not utilizing moneys advanced by the federal
23 government, then the payment of principal, interest, and
24 administrative expenses related to credit instruments issued
25 under that section, or the payment of principal, interest, and

1 administrative expenses related to financial agreements under
2 subdivision (17) of subsection 2 of section 288.330, or the
3 payment of the principal, interest, and administrative expenses
4 related to a combination of credit instruments and financial
5 agreements. Such moneys, except for moneys collected pursuant to
6 section 288.128, shall not be expended or available for
7 expenditure in any manner which would permit their substitution
8 for, or a corresponding reduction in, federal funds which would
9 in the absence of such money be available to finance expenditures
10 for the administration of the employment security law, but
11 nothing in this section shall prevent such moneys, except for
12 moneys collected pursuant to section 288.128, from being used as
13 a revolving fund, to cover expenditures, necessary and proper
14 under the law, for which federal funds have been duly requested
15 but not yet received, subject to the charging of such
16 expenditures against such funds when received. Subject to the
17 approval of the director of the department of labor and
18 industrial relations, the moneys in this fund, except for moneys
19 collected pursuant to section 288.128, shall be used by the
20 department of labor and industrial relations for the payment of
21 costs of administration which are found not to have been properly
22 and validly chargeable against federal grants or other funds
23 received for or in the unemployment compensation administration
24 fund. Such moneys, except for moneys collected pursuant to
25 section 288.128, shall be available either to satisfy the

1 obligations incurred by the department of labor and industrial
2 relations for the division directly or by requesting the board of
3 fund commissioners to transfer the required amount from the
4 special employment security fund to the unemployment compensation
5 administration fund. The board of fund commissioners shall upon
6 receipt of a written request of the department of labor and
7 industrial relations make any such transfer. No expenditures of
8 this fund or transfer herein provided, except for moneys
9 collected pursuant to section 288.128, shall be made unless and
10 until the director of the department of labor and industrial
11 relations finds that no other funds are available or can properly
12 be used to finance such expenditures, except that as hereinafter
13 authorized expenditures from such fund may be made for the
14 purpose of acquiring lands and buildings, or for the erection of
15 buildings on lands so acquired, which are deemed necessary by the
16 director of the department of labor and industrial relations for
17 the proper administration of this law. The director of the
18 department of labor and industrial relations shall order the
19 transfer of such funds or the payment of any such obligation and
20 such funds shall be paid by the state treasurer on requisitions
21 drawn by the director of the department of labor and industrial
22 relations directing the state auditor to issue his or her warrant
23 therefor. Any such warrant shall be drawn by the state auditor
24 based upon bills of particulars and vouchers certified by an
25 officer or employee designated by the director of the department

1 of labor and industrial relations. Such certification shall
2 among other things include a duly certified copy of the director
3 of the department of labor and industrial relations' findings
4 hereinbefore referred to. The moneys in this fund, except for
5 moneys collected pursuant to section 288.128, are hereby
6 specifically made available to replace, within a reasonable time,
7 any moneys received by this state pursuant to section 302 of the
8 Federal Social Security Act (42 U.S.C.A. Sec. 502), as amended,
9 which, because of any action or contingency, have been lost or
10 have been expended for purposes other than, or in amounts in
11 excess of, those necessary for the proper administration of the
12 employment security law. The moneys in this fund shall be
13 continuously available to the director of the department of labor
14 and industrial relations for expenditure in accordance with the
15 provisions of this section and shall not lapse at any time or be
16 transferred to any other fund except as herein provided.

17 2. The director of the department of labor and industrial
18 relations, subject to the approval of the board of public
19 buildings, is authorized and empowered to use all or any part of
20 the funds in the special employment security fund, except for
21 moneys collected pursuant to section 288.128, for the purpose of
22 acquiring suitable office space for the division by way of
23 purchase, lease, contract or in any other manner, including the
24 right to use such funds or any part thereof to purchase land and
25 erect thereon such buildings as he or she shall deem necessary or

1 to assist in financing the construction of any building erected
2 by the state of Missouri or any of its agencies wherein available
3 space will be provided for the division under lease or contract
4 between the department of labor and industrial relations and the
5 state of Missouri or such other agency. The director of the
6 department of labor and industrial relations may transfer from
7 the unemployment compensation administration fund to the special
8 employment security fund amounts not exceeding funds specifically
9 available to the department of labor and industrial relations for
10 that purpose, equivalent to the fair reasonable rental value of
11 any land and buildings acquired for its use until such time as
12 the full amount of the purchase price of such land and buildings
13 and such cost of repair and maintenance thereof as was expended
14 from the special employment security fund has been returned to
15 such fund.

16 3. The director of the department of labor and industrial
17 relations may also transfer from the unemployment compensation
18 administration fund to the special employment security fund
19 amounts not exceeding funds specifically available to the
20 department of labor and industrial relations for that purpose,
21 equivalent to the fair reasonable rental value of space used by
22 the department of labor and industrial relations in any building
23 erected by the state of Missouri or any of its agencies until
24 such time as the department of labor and industrial relations'
25 proportionate amount of the purchase price of such building and

1 the department of labor and industrial relations' proportionate
2 amount of such costs of repair and maintenance thereof as was
3 expended from the special employment security fund has been
4 returned to such fund.

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

19 2. (1) The purpose of this subsection is to provide a
20 method of financing the replenishment of the state's unemployment
21 compensation fund as an alternative to borrowing or obtaining
22 advances from the federal unemployment trust fund or for
23 refinancing those loans or advances, and to provide a method
24 through which the state may continue its unemployment
25 compensation program at the least possible cost to the state and

1 its employers.

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

6 (3) There is hereby created for the purposes of
7 implementing the provisions of this subsection a body corporate
8 and politic to be known as the "Missouri Commission on Employment
9 Security Financing". The powers of the commission shall be
10 vested in seven commissioners who shall be residents of this
11 state and be appointed by the governor with the advice and
12 consent of the senate except that the director of the division of
13 employment security shall serve as a nonvoting ex officio member
14 of the commission. The commission shall have all powers
15 necessary to effectuate its purposes including without limitation
16 the power to provide a seal, keep records of its proceedings,
17 provide for professional services, and elect a chair from its
18 members. Not more than four of the commissioners shall be of the
19 same political party.

20 (a) The commissioners shall serve five-year terms with each
21 term beginning July first and ending on June thirtieth, except
22 that of the commissioners first appointed one shall be appointed
23 for a term of two years, two shall be appointed for a term of
24 three years, two shall be appointed for a term of four years, and
25 two shall be appointed for a term of five years. Each

1 commissioner appointed thereafter shall be appointed for a term
2 ending five years from the date of expiration of the term for
3 which his or her predecessor was appointed, except that a person
4 appointed to fill a vacancy prior to the expiration of such a
5 term shall be appointed for the remainder of the term. No
6 commissioner appointed under this subsection by the governor
7 shall serve more than two consecutive full terms. Each
8 commissioner shall hold office for the term of his or her
9 appointment and until his or her successor is appointed and
10 qualified.

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

13 a. No officer or employee of this state shall be deemed to
14 have forfeited or shall forfeit his or her office or employment
15 by reason of his or her acceptance of an appointment as a
16 commissioner to the commission or for his or her service to the
17 commission;

18 b. It shall not constitute a conflict of interest for a
19 director, officer, or employee of any financial institution,
20 investment banking firm, brokerage firm, commercial bank or trust
21 company, architectural firm, insurance company, or any other
22 firm, person, or corporation, to serve as a commissioner of the
23 commission, provided such trustee, director, officer, or employee
24 shall abstain from deliberation, action, and vote by the
25 commission in each instance where the business affiliation or

1 public office association of any such trustee, director, officer,
2 or employee is involved.

3 (c) Before entering into his or her duties each
4 commissioner shall execute a surety bond in the sum of fifty
5 thousand dollars, or in lieu thereof the chair of the commission
6 may execute a blanket bond covering all members of the commission
7 with each surety bond to be conditioned upon the faithful
8 performance of the duties of the office or offices covered and to
9 be executed by a surety company authorized to transact business
10 in this state as a surety and to be approved by the attorney
11 general and filed in the office of the secretary of state. The
12 cost of each such bond shall be paid by the commission.

13 (d) Commissioners shall receive no compensation for the
14 performance of their duties under this subsection, but each
15 commissioner shall be reimbursed from the funds of the commission
16 for his or her actual and necessary expenses incurred in carrying
17 out his or her official duties under this subsection.

18 (e) In the event that any of the commissioners or officers
19 of the commission whose signatures or facsimile signatures appear
20 on any credit instruments shall cease to be commissioners or
21 officers before the delivery of such credit instruments, their
22 signatures or facsimile signatures shall be valid and sufficient
23 for all purposes as if such commissioners or officers had
24 remained in office until delivery of such credit instruments.

25 (f) The commissioners executing the credit instruments of

1 the commission shall not be subject to any personal liability or
2 accountability by reason of the issuance of the credit
3 instruments.

4 (g) The commission shall following the close of each fiscal
5 year submit an annual report of its activities for the preceding
6 year to the governor and the general assembly. Each report shall
7 set forth a complete operating and financial statement for the
8 commission during the fiscal year it covers. At least once in
9 each year an independent certified public accountant shall audit
10 the records and accounts of the commission.

11 (4) The commission is authorized to issue, sell, and
12 deliver credit instruments which shall mature no later than ten
13 years after issuance in the name of the commission in an amount
14 determined by the commission not to exceed a total of four
15 hundred fifty million dollars of indebtedness that results in
16 reducing or avoiding the need to borrow or obtain an advance
17 under 42 U.S.C., Section 1321, or any similar federal
18 legislation, or in an amount necessary to refinance any borrowing
19 or advance previously made by the state for those purposes. The
20 commission shall make an affirmative finding that the issuance of
21 credit instruments for the purposes established in this section
22 results in a savings to the state and its employers.

23 (5) The commission shall provide for the payment of the
24 principal of the credit instruments, any redemption premiums, the
25 interest on the credit instruments, and the costs attributable to

1 the credit instruments being issued or outstanding as provided in
2 this subsection and in section 288.310. Unless the commission
3 directs otherwise, the credit instruments shall be repaid in the
4 same time frame and in the same amounts as would be required for
5 loans issued pursuant to 42 U.S.C. Section 1321; however, in no
6 case shall credit instrument indebtedness continue beyond five
7 consecutive years.

8 (6) The commission may irrevocably pledge money received
9 from the contributions received under section 288.128 as revenue
10 for the payment of credit instruments and deposited in an account
11 created for such purpose in the special employment security fund
12 or other money legally available to it.

13 (7) Credit instruments issued under this section shall not
14 constitute debts of this state or of any agency, political
15 corporation, or political subdivision of this state and are not a
16 pledge of the faith and credit of this state or of any of those
17 governmental entities. The credit instruments are payable only
18 from revenue provided for under this chapter. The credit
19 instruments shall contain a statement to the effect that:

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

24 (b) Neither the full faith and credit nor the taxing power
25 of the state nor any agency, political corporation, or political

1 subdivision of the state is pledged to the payment of the
2 principal, premium, if any, or interest on the credit instruments
3 except as provided by this section.

4 (8) The owner of any credit instruments issued under this
5 section shall at the time of purchase agree to waive any right of
6 recovery and forever hold harmless the state and any agency,
7 political corporation, or political subdivision thereof. The
8 credit instrument owner shall agree the sole source of revenue
9 for repayment of such credit instruments shall be those revenues
10 derived from contributions received under section 288.128.

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

18 (10) The commission may provide for the flow of funds and
19 the establishment and maintenance of separate accounts within the
20 special employment security fund, including the interest and
21 sinking account, the reserve account, and other necessary
22 accounts, and may make additional covenants with respect to the
23 credit instruments in the documents authorizing the issuance of
24 credit instruments including refunding credit instruments. The
25 resolutions authorizing the issuance of credit instruments may

1 also prohibit the further issuance of credit instruments or other
2 obligations payable from appropriated moneys or may reserve the
3 right to issue additional credit instruments to be payable from
4 appropriated moneys on a parity with or subordinate to the lien
5 and pledge in support of the credit instruments being issued and
6 may contain other provisions and covenants as determined by the
7 commission.

8 (11) The commission may issue bonds to refund all or any
9 part of the outstanding credit instruments issued under this
10 section including matured but unpaid interest.

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

16 (13) As determined necessary by the commission the proceeds
17 of the credit instruments less the cost of issuance shall be
18 placed in the state's unemployment compensation fund and may be
19 used for the purposes for which that fund may otherwise be used.
20 If those net proceeds are not placed immediately in the
21 unemployment compensation fund they shall be held in the special
22 employment security fund in an account designated for that
23 purpose until they are transferred to the unemployment
24 compensation fund.

25 (14) The commission may enter into any contract or

1 agreement deemed necessary or desirable to effectuate cost
2 effective financing hereunder. Such agreements may include
3 credit enhancement, credit support, or interest rate agreements.
4 Any fees or costs associated with such agreements shall be deemed
5 administrative expenses for the purposes of calculating
6 assessments relating to payment of the principal, interest, and
7 administrative expenses related to credit instruments under the
8 provisions of section 288.128.

9 (15) To the extent this section conflicts with other laws
10 the provisions of this section prevail. This section shall not
11 be subject to the provisions of sections 23.250 to 23.298, RSMo.

12 (16) If the United States Secretary of Labor holds that a
13 provision of this subsection does not conform with a federal
14 statute or would result in the loss to the state of any federal
15 funds otherwise available to it the commission may administer
16 this subsection to conform with the federal statute until the
17 general assembly meets in its next regular session and has an
18 opportunity to amend this subsection.

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

21 (b) The commission is authorized to enter financial
22 agreements with any lender that result in reducing or avoiding
23 the need to borrow or obtain an advance under 42 U.S.C., Section
24 1321, or any similar federal legislation. The total amount of
25 the outstanding obligation under the agreement shall not exceed

1 the difference of four hundred fifty million dollars and the
2 credit instrument indebtedness incurred under this subsection.
3 In no instance shall such indebtedness under any financial
4 agreement continue for more than five consecutive years.
5 Repayment of obligations to lenders shall be made from the
6 special employment security fund, section 288.310.

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

16 288.395. Any person or entity perpetrating a fraud or
17 misrepresentation under this chapter for which a penalty has not
18 herein been specifically provided, shall be guilty of a class A
19 misdemeanor and, in addition, shall be liable to this state for a
20 civil penalty not to exceed double the value of the fraud. Any
21 person or entity who has previously pled guilty to or has been
22 found guilty of perpetrating a fraud or misrepresentation under
23 this chapter and who subsequently violated any such provisions
24 shall be guilty of a class D felony.

25 288.397. The division shall send on or before September 30,

1 2004, to all employing units a report containing a summary of
2 changes enacted in this act including but not limited to changes
3 in the tax rate, contribution rate, taxable wage base, temporary
4 solvency charges, benefit or eligibility charges, and other
5 pertinent information to enable the employing units to comply
6 with the changes made.

7 288.401. 1. For the purposes of this section, "temporary
8 help firm" means a firm that hires its own employees and assigns
9 them to clients to support or supplement the client's work force
10 in work situations such as employee absences, temporary skill
11 shortages, seasonal workloads, and special assignments and
12 projects. "Temporary employee" means an employee assigned to
13 work for the clients of a temporary help firm.

14 2. A temporary employee of a temporary help firm will be
15 deemed to have voluntarily quit employment if the employee does
16 not contact the temporary help firm for reassignment prior to
17 filing for benefits. Failure to contact the temporary help firm
18 will not be deemed a voluntary quit unless the claimant has been
19 advised of the obligation to contact the firm upon completion of
20 assignments and that unemployment benefits may be denied for
21 failure to do so.

22 Section 1. 1. There is hereby created a Missouri State
23 Unemployment Council ("the council"). The council shall consist
24 of nine appointed voting members and two appointed nonvoting
25 members. All appointees shall be persons whose training and

1 experience qualify them to deal with the difficult problems of
2 unemployment compensation, particularly legal, accounting,
3 actuarial, economic, and social aspects of unemployment
4 compensation.

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

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

24 (3) Three voting members and one nonvoting member shall be
25 appointed to the council by the president pro tem of the senate.

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

9 2. The council shall organize itself and select a
10 chairperson or co-chairpersons and other officers from the nine
11 voting members. Six voting members shall constitute a quorum and
12 the council shall act only upon the affirmative vote of at least
13 five of the voting members. The council shall meet no less than
14 four times yearly. Members of the council shall serve without
15 compensation, but are to be reimbursed the amount of actual
16 expenses. Actual expenses shall be paid from the special
17 employment security fund under section 288.310.

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

20 4. Each nonvoting member shall serve for a term of four
21 years or until he or she is no longer a member of the general
22 assembly whichever occurs first. A nonvoting member's term shall
23 be a maximum of four years. Each voting member shall serve for a
24 term of three years. For the initial appointment, the governor-
25 appointed employer representative, the speaker of the house-

1 appointed employee representative, and the president pro tem of
2 the senate-appointed public interest representative shall serve
3 an initial term of one year. For the initial appointment, the
4 governor-appointed employee representative, the speaker of the
5 house-appointed public interest representative, and the president
6 pro tem of the senate-appointed employer representative shall
7 serve an initial term of two years. At the end of a voting
8 member's term he or she may be reappointed; however, he or she
9 shall serve no more than two terms excluding the initial term for
10 a maximum of eight years.

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

18 6. The council shall present to the division every proposal
19 of the council for changes in this chapter and shall seek the
20 division's concurrence with the proposal. The division shall
21 give careful consideration to every proposal submitted by the
22 council for legislative or administrative action and shall review
23 each legislative proposal for possible incorporation into
24 department of labor and industrial relations recommendations.

25 7. The council shall have access to only the records of the

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

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

19 Section 2. The department of labor and industrial relations
20 may contract with a private entity for the purpose of identifying
21 and recovering overpayments to employees and collection of
22 delinquent employer contributions.

23 Section B. Because immediate action is necessary to reduce
24 or avoid the need to borrow or obtain advances under 42 U.S.C.,
25 Section 1321, section A of this act is deemed necessary for the

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