

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 1268 & 1211
92ND GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industrial Relations, April 23, 2004, with recommendation that the Senate Committee Substitute do pass.

4224S.08C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 285.300, 288.030, 288.036, 288.038, 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.270, 288.290, 288.310, and 288.330, RSMo, and to enact in lieu thereof nineteen new sections relating to employees, with penalty provisions and an emergency clause.

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

Section A. Section 285.300, 288.030, 288.036, 288.038, 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.270, 288.290, 288.310, and 288.330, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 285.300, 288.030, 288.036, 288.038, 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.270, 288.290, 288.310, 288.330, 288.385, 288.395, 288.397, 1, and 2, to read as follows:

285.300. 1. Every employer doing business in the state shall require each newly hired employee to fill out a federal W-4 withholding form. A copy of each withholding form or an equivalent form containing data required by section 285.304 which may be provided in an electronic or magnetic format, shall be sent to the department of revenue by the employer within twenty days after the date the employer hires the employee or in the case of an employer transmitting a report magnetically or electronically, by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart. For purposes of this section, the date the employer hires the employee shall be the earlier of the date the employee signs the W-4 form or its equivalent, or the first date the employee reports to work, or performs labor or services. Such forms shall be forwarded by the department of revenue to the division of child support enforcement on a weekly basis and the information shall be entered into the database, to be known as

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

13 the "State Directory of New Hires". The information reported shall be provided to the
14 National Directory of New Hires established in 42 U.S.C. section 653, other state
15 agencies or contractors of the division as required or allowed by federal statutes or
16 regulations. **The division of employment security shall cross-check Missouri**
17 **unemployment compensation recipients against any federal new hire database**
18 **or any other database containing Missouri or other states' wage information**
19 **which is maintained by the federal government on a weekly basis.**

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

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

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

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

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

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

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

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

17 (5) "Calendar quarter" means the period of three consecutive calendar months
18 ending on March thirty-first, June thirtieth, September thirtieth, or December
19 thirty-first;

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

23 (7) "Commission" means the labor and industrial relations commission of

24 Missouri;

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

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

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

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

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

37 (13) "Director" means the administrative head of the division of employment
38 security;

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

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

52 (16) "Employment office" means a free public employment office operated by this
53 or any other state as a part of a state controlled system of public employment offices
54 including any location designated by the state as being a part of the one-stop career
55 system;

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

59 (18) "Fund" means the unemployment compensation fund established by this

60 chapter;

61 (19) "Governmental entity" means the state, any political subdivision thereof, any
62 instrumentality of any one or more of the foregoing which is wholly owned by this state
63 and one or more other states or political subdivisions and any instrumentality of this
64 state or any political subdivision thereof and one or more other states or political
65 subdivisions;

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

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

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

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

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

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

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

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

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

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

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

108 (c) An individual's "week of unemployment" shall begin the first day of the
109 calendar week in which the individual registers at an employment office except that, if
110 for good cause the individual's registration is delayed, the week of unemployment shall
111 begin the first day of the calendar week in which the individual would have otherwise
112 registered. The requirement of registration may by regulation be postponed or
113 eliminated in respect to claims for partial unemployment or may by regulation be
114 postponed in case of a mass layoff due to a temporary cessation of work;

115 [(27)] (30) "Waiting week" means the first week of unemployment for which a
116 claim is allowed in a benefit year or if no waiting week has occurred in a benefit year in
117 effect on the effective date of a shared work plan, the first week of participation in a
118 shared work unemployment compensation program pursuant to section 288.500.

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

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

7 this chapter, treated as having been paid by the employing unit. Severance pay shall
8 be considered as wages [to the extent required pursuant to the Federal Unemployment
9 Tax Act, 26 U.S.C. Section 3306(b)]. Vacation pay and holiday pay shall be considered
10 as wages for the week with respect to which it is payable. The term "wages" shall not
11 include:

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

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

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

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

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

42 (b) Medical and hospitalization expenses in connection with sickness or accident

43 disability; or

44 (c) Death;

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

50 [(4)] (3) The amount of any payment made by an employing unit to, or on behalf
51 of, an individual performing services for it or his or her beneficiary:

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

56 (b) Under or to an annuity plan which, at the time of such payments, meets the
57 requirements of section 404(a)(2) of the Federal Internal Revenue Code (26 U.S.C.A. Sec.
58 404);

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

64 [(6)] (5) Remuneration paid in any medium other than cash to an individual for
65 services not in the course of the employing unit's trade or business;

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

72 [(8)] (7) For the purpose of determining wages paid for agricultural labor as
73 defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for
74 domestic service as defined in subsection 13 of section 288.034, only cash wages paid
75 shall be considered;

76 [(9)] (8) Beginning on October 1, 1996, any payment to, or on behalf of, an
77 employee or the employee's beneficiary under a cafeteria plan, if such payment would not
78 be treated as wages pursuant to the Federal Unemployment Tax Act.

79 2. The increases or decreases to the state taxable wage base for calendar year
80 [1999] **2005**, and each calendar year thereafter, shall be determined by the provisions
81 within this subsection. **On January 1, 2005**, the state taxable wage base for calendar
82 year [1999, and] **2005 shall be eleven thousand dollars for the balance of the**
83 **calendar year. The state taxable wage base for** each calendar year thereafter[,]
84 shall be determined by the preceding September thirtieth balance of the unemployment
85 compensation trust fund, less any outstanding federal Title XII advances received
86 pursuant to section 288.330, **or if the fund is not utilizing moneys advanced by**
87 **the federal government, then less the principal, interest, and administrative**
88 **expenses related to bonds issued under section 288.330, or the principal,**
89 **interest, and administrative expenses related to financial agreements under**
90 **subdivision (17) of subsection 2 of section 288.330, or the principal, interest,**
91 **and administrative expenses related to a combination of bonds and financial**
92 **agreements.** When the September thirtieth unemployment compensation trust fund
93 balance, less any outstanding federal Title XII advances received pursuant to section
94 288.330, is:

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

97 (2) [Four] **Five** hundred [fifty] million or more, then the state taxable wage base
98 for the subsequent calendar year shall be decreased by five hundred dollars. In no event,
99 however, shall the state taxable wage base increase beyond [ten] **eleven** thousand [five
100 hundred] dollars, or decrease to less than seven thousand dollars.

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

 288.038. With respect to initial claims filed [during calendar years 1998, 1999,
2 2000 and 2001] **after the effective date of this section** and each calendar year
3 thereafter, the "maximum weekly benefit amount" means four percent of the total wages
4 paid to an eligible insured worker during that quarter of the worker's base period in
5 which the worker's wages were the highest, but the maximum weekly benefit amount
6 shall not exceed [two hundred five dollars in the calendar year 1998, two hundred twenty
7 dollars in the calendar year 1999, two hundred thirty-five dollars in the calendar year
8 2000, and] two hundred fifty dollars in the calendar [year 2001, and] **years 2004 and**

9 **2005, two hundred sixty dollars for calendar years 2006 and 2007, and two**
10 **hundred seventy dollars for calendar year 2008 and each calendar year thereafter.**
11 such benefit amount is not a multiple of one dollar, such amount shall be reduced to the
12 nearest lower full dollar amount.

288.040. 1. A claimant who is unemployed and has been determined to be an
2 insured worker shall be eligible for benefits for any week only if the deputy finds that:
3 (1) The claimant has registered for work at and thereafter has continued to
4 report at an employment office in accordance with such regulations as the division may
5 prescribe;

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

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

17 (b) The claimant is temporarily unemployed through no fault of his or her own
18 and has a definite recall date within eight weeks of his or her first day of unemployment;
19 however, upon application of the employer responsible for the claimant's unemployment,
20 such eight-week period may be extended at the discretion of the director; **or**

21 **(c) The claimant is participating in a state-approved drug or alcohol**
22 **treatment program;**

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

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

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

31 (c) The claimant resides in a county with an unemployment rate, as published
32 by the division, of ten percent or more and in which the county seat is more than forty

33 miles from the nearest division office;

34 (d) The director of the division of employment security has determined that the
35 claimant belongs to a group or class of workers whose opportunities for reemployment
36 will not be enhanced by reporting in person, or is prevented from reporting due to
37 emergency conditions that limit access by the general public to an office that serves the
38 area where the claimant resides, but only during the time such circumstances exist.
39 Ineligibility pursuant to this subdivision shall begin on the first day of the week which
40 the claimant was scheduled to claim and shall end on the last day of the week preceding
41 the week during which the claimant does report in person to the division's office;

42 (4) Prior to the first week of a period of total or partial unemployment for which
43 the claimant claims benefits he **or she** has been totally or partially unemployed for a
44 waiting period of one week. No more than one waiting week will be required in any
45 benefit year. [The one-week waiting period shall become compensable after
46 unemployment during which benefits are payable for nine consecutive weeks.] No week
47 shall be counted as a week of total or partial unemployment for the purposes of this
48 subsection unless it occurs within the benefit year which includes the week with respect
49 to which the claimant claims benefits;

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

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

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

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

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

62 3. (1) Benefits based on "service in employment", defined in subsections 7 and
63 8 of section 288.034, shall be payable in the same amount, on the same terms and subject
64 to the same conditions as compensation payable on the basis of other service subject to
65 this law; except that:

66 (a) With respect to service performed in an instructional, research, or principal
67 administrative capacity for an educational institution, benefits shall not be paid based
68 on such services for any week of unemployment commencing during the period between

69 two successive academic years or terms, or during a similar period between two regular
70 but not successive terms, or during a period of paid sabbatical leave provided for in the
71 individual's contract, to any individual if such individual performs such services in the
72 first of such academic years (or terms) and if there is a contract or a reasonable
73 assurance that such individual will perform services in any such capacity for any
74 educational institution in the second of such academic years or terms;

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

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

88 (d) With respect to services described in paragraphs (a) and (b) of this
89 subdivision, benefits payable on the basis of services in any such capacity shall be denied
90 as specified in paragraphs (a), (b), and (c) of this subdivision, to any individual who
91 performed such services at an educational institution while in the employ of an
92 educational service agency, and for this purpose the term "educational service agency"
93 means a governmental agency or governmental entity which is established and operated
94 exclusively for the purpose of providing such services to one or more educational
95 institutions.

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

104 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared

105 work benefits for any week for which he or she is receiving or has received remuneration
106 exceeding his or her weekly benefit amount or shared work benefit amount in the form
107 of:

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

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

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

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

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

135 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any
136 week for which the deputy finds that such claimant's total or partial unemployment is
137 due to a stoppage of work which exists because of a labor dispute in the factory,
138 establishment or other premises in which such claimant is or was last employed. In the
139 event the claimant secures other employment from which he or she is separated during
140 the existence of the labor dispute, the claimant must have obtained bona fide

141 employment as a permanent employee for at least the major part of each of two weeks
142 in such subsequent employment to terminate his or her ineligibility. If, in any case,
143 separate branches of work which are commonly conducted as separate businesses at
144 separate premises are conducted in separate departments of the same premises, each
145 such department shall for the purposes of this subsection be deemed to be a separate
146 factory, establishment or other premises. This subsection shall not apply if it is shown
147 to the satisfaction of the deputy that:

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

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

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

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

169 8. Benefits shall not be payable on the basis of services performed by an alien,
170 unless such alien is an individual who was lawfully admitted for permanent residence
171 at the time such services were performed, was lawfully present for purposes of
172 performing such services, or was permanently residing in the United States under color
173 of law at the time such services were performed (including an alien who was lawfully
174 present in the United States as a result of the application of the provisions of Section
175 212(d)(5) of the Immigration and Nationality Act).

176 (1) Any data or information required of individuals applying for benefits to

177 determine whether benefits are not payable to them because of their alien status shall
178 be uniformly required from all applicants for benefits.

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

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

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

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

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

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

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

30 (e) If the deputy finds the claimant quit such work due to such

31 **claimant reasonably fearing for his or her physical health and safety by**
32 **reason of domestic violence. The claimant shall be required to demonstrate**
33 **that continued employment places the claimant in immediate danger of**
34 **further violence and that he or she:**

35 **a. Does not reside with the alleged abuser; and**

36 **b. Has filed for and received an ex parte, temporary or permanent**
37 **order of protection against the alleged abuser; or**

38 **c. Has filed with the appropriate police jurisdiction a report of the**
39 **alleged violence.**

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

44 (3) That the claimant failed without good cause either to apply for available
45 suitable work when so directed by the deputy, or to accept suitable work when offered
46 the claimant, either through the division or directly by an employer by whom the
47 individual was formerly employed, or to return to the individual's customary
48 self-employment, if any, when so directed by the deputy. **An offer of work shall be**
49 **conclusively established if an employer notifies the claimant in writing of**
50 **such offer by sending an acknowledgment via any form of certified mail**
51 **issued by the United States Postal Service stating such offer to the claimant**
52 **at his or her last known address. Nothing in this subdivision shall be**
53 **construed to limit the means by which the deputy may establish that the**
54 **claimant has been sufficiently notified of available work.**

55 (a) In determining whether or not any work is suitable for an individual, the
56 division shall consider, among other factors and in addition to those enumerated in
57 paragraph (b) of this subdivision, the degree of risk involved to the individual's health,
58 safety and morals, the individual's physical fitness and prior training, the individual's
59 experience and prior earnings, the individual's length of unemployment, the individual's
60 prospects for securing work in the individual's customary occupation, the distance of
61 available work from the individual's residence and the individual's prospect of obtaining
62 local work; except that, if an individual has moved from the locality in which the
63 individual actually resided when such individual was last employed to a place where
64 there is less probability of the individual's employment at such individual's usual type
65 of work and which is more distant from or otherwise less accessible to the community in
66 which the individual was last employed, work offered by the individual's most recent

67 employer if similar to that which such individual performed in such individual's last
68 employment and at wages, hours, and working conditions which are substantially similar
69 to those prevailing for similar work in such community, or any work which the individual
70 is capable of performing at the wages prevailing for such work in the locality to which
71 the individual has moved, if not hazardous to such individual's health, safety or morals,
72 shall be deemed suitable for the individual;

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

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

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

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

82 2. [Notwithstanding the other provisions of this law,] If a deputy finds that a
83 claimant has been discharged for misconduct connected with the claimant's work, such
84 claimant[, depending upon the seriousness of the misconduct as determined by the
85 deputy according to the circumstances in each case,] shall be disqualified for waiting
86 week credit or benefits [for not less than four nor more than sixteen weeks for which the
87 claimant claims benefits and is otherwise eligible], **and no benefits shall be paid nor**
88 **shall the cost of any benefits be charged against any employer for any period**
89 **of employment within the base period until the claimant has earned wages for**
90 **work insured under the unemployment laws of this state or any other state**
91 **as prescribed in this section.** In addition to the disqualification for benefits
92 pursuant to this provision the division may in the more aggravated cases of misconduct,
93 cancel all or any part of the individual's wage credits, which were established through
94 the individual's employment by the employer who discharged such individual, according
95 to the seriousness of the misconduct. A disqualification provided for pursuant to this
96 subsection shall not apply to any week which occurs after the claimant has earned wages
97 for work insured pursuant to the unemployment compensation laws of any state in an
98 amount equal to eight times the claimant's weekly benefit amount. **Should a claimant**
99 **be disqualified on a second or subsequent occasion within the base period or**
100 **subsequent to the base period the claimant shall be required to earn wages**
101 **in an amount equal to or in excess of eight times the claimant's weekly**
102 **benefit amount for each disqualification, such additionally required wages**

103 shall run consecutively. For the purpose of this chapter, a professionally
104 administered and documented positive chemical test result for a controlled
105 substance as defined under section 195.010, RSMo, or for blood alcohol
106 content of eight-hundredths of one percent or more by weight of alcohol in
107 the claimant's blood shall be deemed misconduct connected with work. The
108 employer shall have notified the employee of the employer's controlled
109 substance and alcohol workplace policy by conspicuously posting the policy
110 in the workplace, by including the policy in an employee handbook, or by a
111 statement of such policy in a collective bargaining agreement governing
112 employment of the employee. The policy shall state that a positive test result
113 shall be deemed misconduct and may result in suspension or termination of
114 employment. Use of a controlled substance as defined under section 195.010,
115 RSMo, under, and in conformity with, the lawful order of a healthcare
116 practitioner shall not be deemed to be misconduct connected with work for
117 the purposes of this section.

118 3. [A pattern of] Absenteeism or tardiness may constitute misconduct regardless
119 of whether the last incident alone [which results] **resulting** in the discharge constitutes
120 misconduct.

121 4. Notwithstanding the provisions of subsection 1 of this section, a claimant may
122 not be determined to be disqualified for benefits because the claimant is in training
123 approved pursuant to section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec.
124 2296, as amended), or because the claimant left work which was not "suitable
125 employment" to enter such training. For the purposes of this subsection "suitable
126 employment" means, with respect to a worker, work of a substantially equal or higher
127 skill level than the worker's past adversely affected employment, and wages for such
128 work at not less than eighty percent of the worker's average weekly wage as determined
129 for the purposes of the Trade Act of 1974.

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

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

5 3. Each eligible insured worker who is partially unemployed in any week shall
6 be paid for such week a partial benefit. Such partial benefit shall be an amount equal
7 to the difference between his weekly benefit amount and that part of his wages for such
8 week in excess of [twenty] **forty** dollars, and, if such partial benefit amount is not a
9 multiple of one dollar, such amount shall be reduced to the nearest lower full dollar

10 amount. [Termination pay, severance pay or] **Provided further, however, that an**
11 **individual shall be considered to be unemployed as to receipt of severance**
12 **pay for any week the individual is registered at as well as attending any state**
13 **institution of higher education or public secondary school. In addition, an**
14 **individual shall be considered to be unemployed as to receipt of severance**
15 **pay for any week the individual is registered at as well as attending a labor**
16 **and industrial relations commission qualified vocational, educational, or**
17 **training program that meets commission established minimum**
18 **standards. The commission shall annually update and review the list of**
19 **qualified programs.** Pay received by an eligible insured worker who is a member of
20 the organized militia for training or duty authorized by section 502(a)(1) of Title 32,
21 United States Code, [or who is an elected official] shall not be considered wages for the
22 purpose of this subsection.

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

42 5. In the event that benefits are due a deceased person and no petition has been
43 filed for the probate of the will or for the administration of the estate of such person
44 within thirty days after his death, the division may by regulation provide for the
45 payment of such benefits to such person or persons as the division finds entitled thereto

46 and every such payment shall be a valid payment to the same extent as if made to the
47 legal representatives of the deceased.

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

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

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

 288.110. Any individual, type of organization or employing unit which has
2 acquired substantially all of the business of an employer, excepting in any such case any
3 assets retained by such employer incident to the liquidation of his obligations, and in
4 respect to which the division finds that immediately after such change such business of
5 the predecessor employer is continued without interruption solely by the successor, shall
6 stand in the position of such predecessor employer in all respects, including the
7 predecessor's separate account, actual contribution and benefit experience, annual
8 payrolls, and liability for current or delinquent contributions, interest and penalties. If
9 two or more individuals, organizations, or employing units acquired at approximately the
10 same time substantially all of the business of an employer (excepting in any such case
11 any assets retained by such employer incident to the liquidation of his obligations) and
12 in respect to which the division finds that immediately after such change all portions of
13 such business of the predecessor are continued without interruption solely by such
14 successors, each such individual, organization, or employing unit shall stand in the
15 position of such predecessor with respect to the proportionate share of the predecessor's
16 separate account, actual contribution and benefit experience and annual payroll as
17 determined by the portion of the predecessor's taxable payroll applicable to the portion
18 of the business acquired, and each such individual, organization or employing unit shall
19 be liable for current or delinquent contributions, interest and penalties of the
20 predecessor in the same relative proportion. Further, any successor under this section
21 which was not an employer at the time the acquisition occurred, shall pay contributions
22 for the balance of the current rate year at the same contribution rate as the contribution

23 rate of the predecessor whether such rate is more or less than two and seven-tenths
 24 percent, provided there was only one predecessor or there were only predecessors with
 25 identical rates. If the predecessors' rates were not identical, the division shall calculate
 26 a rate as of the date of acquisition applicable to the successor for the remainder of the
 27 rate year, which rate shall be based on the combined experience of all predecessor
 28 employers. In the event that any successor was, prior to an acquisition, an employer,
 29 and there is a difference in the contribution rate established for such calendar year
 30 applicable to any acquired or acquiring employer, the division shall make a recalculation
 31 [as of the date of acquisition] of the contribution rate applicable to any successor
 32 employer based upon the combined experience of all predecessor and successor
 33 employers[, which] **as of the date of the acquisition, unless the date of the**
 34 **acquisition is other than the first day of the calendar quarter. If the date of**
 35 **any such acquisition is other than the first day of the calendar quarter the**
 36 **division shall make the recalculation of the rate on the first day of the next**
 37 **calendar quarter after the acquisition. When the date of the acquisition is**
 38 **other than the first day of a calendar quarter the successor employer shall**
 39 **use its rate for the calendar quarter in which the acquisition was made. The**
 40 revised contribution rate shall apply to employment after the [date of any such
 41 acquisition] **rate recalculation.** For this purpose a calculation date different from July
 42 first may be established. When the division has determined that a successor or
 43 successors stand in the position of a predecessor employer, the predecessor's liability
 44 shall be terminated as of the date of the acquisition.

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

	Balance in Trust Fund		Percentage
	Less Than	Equals or Exceeds	of Increase
11	[\$400,000,000] \$450,000,000	[\$350,000,000] \$400,000,000	10%
12	[\$350,000,000] \$400,000,000	[\$300,000,000] \$350,000,000	20%
13	[\$300,000,000] \$350,000,000		30%

14 [Notwithstanding the table in this section, each employer's contribution rate calculated

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

23 **2. Effective January 1, 2005, an employer's total contribution rate shall**
24 **equal the employer's base rate plus a temporary solvency charge of one-tenth**
25 **of one percent added to the base rate plus the increase authorized under**
26 **subsection 1 of this section. The temporary solvency charge shall expire upon**
27 **the last day of the fourth calendar quarter following the effective date of this**
28 **section.**

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

24 employer's proportionate share shall be the product obtained by multiplying such
25 employer's total taxable wages for the preceding calendar year by the rate specified in
26 this section. Each employer shall be notified of the amount due under this section by
27 June thirtieth of each year and such amount shall be considered delinquent thirty days
28 thereafter. The moneys collected from each employer for the payment of interest due on
29 federal advances **or if the fund is not utilizing moneys advanced by the federal**
30 **government, then the payment of principal, interest, and administrative**
31 **expenses related to bonds, or the payment of the principal, interest, and**
32 **administrative expenses related to financial agreements under subdivision**
33 **(17) of subsection 2 of section 288.330, or the payment of the principal,**
34 **interest, and administrative expenses related to a combination of bonds and**
35 **financial agreements** shall be deposited in the special employment security fund.

36 2. If on December thirty-first of any year the money collected under this section
37 exceeds the amount of interest due on federal advancements by one hundred thousand
38 dollars or more, then each employer's experience rating account shall be credited with
39 an amount which bears the same ratio to the excess moneys collected under this section
40 as that employer's payment collected under this section bears to the total amount
41 collected under this section. Further, if on December thirty-first of any year the moneys
42 collected under this section exceed the amount of interest due on the federal
43 advancements by less than one hundred thousand dollars, the balance shall be
44 transferred from the special employment security fund to the Secretary of the Treasury
45 of the United States to be credited to the account of this state in the unemployment trust
46 fund.

288.270. The provisions of the Wagner-Peyser Act (29 U.S.C.A. Sec. 49 et seq.),
2 as amended, are hereby accepted by this state and the division of employment security
3 is hereby designated and constituted the agency of this state for the purposes of said
4 act. The division shall establish and maintain free public employment offices in such
5 number and in such places as may be necessary for the proper administration of this
6 chapter and for the purposes of performing such functions as are within the purview of
7 the Wagner-Peyser Act. **To the extent allowed by law, such departments,**
8 **divisions, and agencies may contract with private entities for the purpose of**
9 **providing employment and reemployment services. Any contract let for the**
10 **performance of services under this section shall include provisions which**
11 **specify that only citizens of the United States and persons authorized to work**
12 **in the United States pursuant to federal law shall be employed in the**
13 **performance of services under the contract or any subcontract awarded**

14 under the contract.

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

5 (1) All contributions and payments in lieu of contributions collected under this
6 law;

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

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

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

11 (5) All voluntary contributions permitted under the law; and

12 (6) All funds set aside or appropriated by the Congress of the United States or
13 any federal agency, to be deposited to the fund. All moneys in the funds shall be
14 mingled and undivided, except that all money credited to this state's account in the
15 Unemployment Trust Fund pursuant to Section 903 of the Social Security Act, as
16 amended, and which has been appropriated for expenses of administration, shall be used
17 only for the purposes set out in subsection 5 of this section and shall not be included in
18 the cash balance in the unemployment compensation fund for the purposes of sections
19 288.100 and 288.113 to 288.126.

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

24 (1) A clearing account;

25 (2) An unemployment trust fund account; and

26 (3) A benefit account.

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

31 3. All moneys payable to the fund, upon their receipt by the division, shall
32 immediately be deposited in the clearing account. Refunds of contributions or payments
33 made necessary under the provisions of sections 288.140 and 288.340 may be paid from
34 the clearing account or the benefit account. After clearance, all moneys in the clearing
35 account shall be immediately deposited with the Secretary of the Treasury of the United

36 States of America to the credit of the account of this state in the Unemployment Trust
37 Fund, established and maintained pursuant to Section 904 of the Social Security Act, as
38 amended, any provisions of law in this state relating to the deposit, administration,
39 release, or disbursement of state moneys in the possession or custody of the state
40 treasurer to the contrary notwithstanding. The benefit account shall consist of all
41 moneys requisitioned from the Missouri account in the federal Unemployment Trust
42 Fund. Except as otherwise provided, moneys in the clearing and benefit accounts may
43 be deposited in any bank or public depository in which general funds of the state may
44 be deposited, but no public deposit insurance charge or premium shall be paid out of the
45 fund. Moneys in the clearing and benefit accounts shall not be commingled with other
46 state funds but shall be maintained in separate accounts on the books of the depository
47 bank. All funds required by this law to be deposited in any state depository shall be
48 secured by such depository to the same extent and in the same manner as is or may
49 hereafter be required by section 30.270, RSMo, and all the amendments thereto;
50 provided, that the division shall do those acts directed to be done by the governor,
51 attorney general and state treasurer, or any of them, under section 30.270, RSMo, which
52 are not inconsistent with the other provisions of this law. Collateral pledged for this
53 purpose shall be kept separate and distinct from any collateral pledged to secure other
54 funds of the state, or, if combined, shall be first used to satisfy and make whole the
55 accounts herein established. The treasurer shall give a separate bond conditioned upon
56 the faithful performance of his duties as custodian of the fund in an amount not to
57 exceed twenty-five thousand dollars and in the form prescribed by law or approved by
58 the attorney general. Premiums for such bonds shall be paid from the administration
59 fund. All sums recovered for losses sustained by the fund shall be deposited therein.

60 4. Moneys shall be requisitioned from the Missouri account in the federal
61 Unemployment Trust Fund solely for the payment of benefits or for refunds of
62 contributions or payments in lieu of contributions in accordance with regulations
63 prescribed by the director, except that money credited to this state's account pursuant
64 to Section 903 of the Social Security Act, as amended, shall be used exclusively as
65 provided in subsection 5 of this section. The director shall from time to time requisition
66 from the federal Unemployment Trust Fund such amounts, not exceeding the amounts
67 standing to the Missouri account therein, as he deems necessary for the payment of
68 benefits and refunds for a reasonable future period. Upon its receipt the treasurer shall
69 deposit such money in the benefit account and shall issue his warrants for the payment
70 of benefits solely from such benefit account. Expenditures of such moneys in the benefit
71 account and refunds from the clearing account shall not be subject to any provisions of

72 law requiring specific appropriations or other formal release by state officers of moneys
73 belonging to this state in their custody. All warrants issued by the treasurer for the
74 payment of benefits and refunds shall bear the signature of the treasurer and the
75 countersignature of the director or other duly authorized division representative. Any
76 balance of moneys requisitioned from the federal Unemployment Trust Fund which
77 remains unclaimed or unpaid in the benefit account after the expiration of the period for
78 which such sums were requisitioned shall either be deducted from estimates for, and
79 may be utilized for the payment of, benefits during succeeding periods, or, in the
80 discretion of the director, shall be redeposited with the Secretary of the Treasury of the
81 United States of America to the credit of the Missouri account in the federal
82 Unemployment Trust Fund as provided in subsection 3 of this section.

83 5. (1) Money credited to the account of this state in the Unemployment Trust
84 Fund by the Secretary of the Treasury of the United States of America pursuant to
85 Section 903 of the Social Security Act, as amended, may be requisitioned and used for
86 the payment of expenses incurred for the administration of this law pursuant to a
87 specific appropriation by the legislature, provided that the expenses are incurred and the
88 money is requisitioned as needed after the enactment of an appropriation law which:

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

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

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

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

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

106 (4) Money credited to the account of this state pursuant to Section 903 of the
107 Social Security Act, as amended, may not be withdrawn or used except for the payment

108 of benefits and for the payment of expenses for the administration of this law and of
109 public employment offices pursuant to this subsection.

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

117 (6) Money credited to the account of the state in the federal Unemployment Trust
118 Fund by the Secretary of the Treasury of the United States of America pursuant to Title
119 42, Section 903 of the Social Security Act with respect to the federal fiscal years 1999,
120 2000 and 2001, shall be used solely for the administration of the unemployment
121 compensation program.

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

144 director.

145 7. Notwithstanding any other provision of this law, any interest or penalties
146 found to have been erroneously collected and which is ordered to be refunded shall, if
147 paid into the unemployment compensation fund, be refunded out of the unemployment
148 compensation fund and, if paid into the special employment security fund, shall be
149 refunded out of the special employment security fund; except that, in the event any
150 interest and penalties paid into the unemployment compensation fund shall be
151 transferred to the special employment security fund, the refund of any such interest and
152 penalties shall be made from the special employment security fund.

288.310. 1. There is hereby created in the state treasury a special fund to be
2 known as the "Special Employment Security Fund". All interest and penalties collected
3 under the provisions of this law, including moneys collected pursuant to section 288.128
4 for the payment of interest due on federal advances received pursuant to section 288.330,
5 **or if the fund is not utilizing moneys advanced by the federal government,**
6 **then the payment of principal, interest, and administrative expenses related**
7 **to bonds issued under section 288.330, or the payment of the principal,**
8 **interest, and administrative expenses related to financial agreements under**
9 **subdivision (17) of subsection 2 of section 288.330, or the payment of the**
10 **principal, interest, and administrative expenses related to a combination of**
11 **bonds and financial agreements** shall be paid into this fund. The moneys collected
12 pursuant to section 288.128 shall be used [exclusively] for the payment of interest due
13 on federal advances received pursuant to section 288.330, **or if the fund is not**
14 **utilizing moneys advanced by the federal government, then the payment of**
15 **principal, interest, and administrative expenses related to bonds issued under**
16 **that section, or the payment of principal, interest, and administrative**
17 **expenses related to financial agreements under subdivision (17) of subsection**
18 **2 of section 288.330, or the payment of the principal, interest, and**
19 **administrative expenses related to a combination of bonds and financial**
20 **agreements.** Such moneys, except for moneys collected pursuant to section 288.128,
21 shall not be expended or available for expenditure in any manner which would permit
22 their substitution for, or a corresponding reduction in, federal funds which would in the
23 absence of such money be available to finance expenditures for the administration of the
24 employment security law, but nothing in this section shall prevent such moneys, except
25 for moneys collected pursuant to section 288.128, from being used as a revolving fund,
26 to cover expenditures, necessary and proper under the law, for which federal funds have
27 been duly requested but not yet received, subject to the charging of such expenditures

28 against such funds when received. Subject to the approval of the director of the
29 department of labor and industrial relations, the moneys in this fund, except for moneys
30 collected pursuant to section 288.128, shall be used by the department of labor and
31 industrial relations for the payment of costs of administration which are found not to
32 have been properly and validly chargeable against federal grants or other funds received
33 for or in the unemployment compensation administration fund. Such moneys, except for
34 moneys collected pursuant to section 288.128, shall be available either to satisfy the
35 obligations incurred by the department of labor and industrial relations for the division
36 directly or by requesting the board of fund commissioners to transfer the required
37 amount from the special employment security fund to the unemployment compensation
38 administration fund. The board of fund commissioners shall upon receipt of a written
39 request of the department of labor and industrial relations make any such transfer. No
40 expenditures of this fund or transfer herein provided, except for moneys collected
41 pursuant to section 288.128, shall be made unless and until the director of the
42 department of labor and industrial relations finds that no other funds are available or
43 can properly be used to finance such expenditures, except that as hereinafter authorized
44 expenditures from such fund may be made for the purpose of acquiring lands and
45 buildings, or for the erection of buildings on lands so acquired, which are deemed
46 necessary by the director of the department of labor and industrial relations for the
47 proper administration of this law. The director of the department of labor and industrial
48 relations shall order the transfer of such funds or the payment of any such obligation
49 and such funds shall be paid by the state treasurer on requisitions drawn by the director
50 of the department of labor and industrial relations directing the state auditor to issue
51 his or her warrant therefor. Any such warrant shall be drawn by the state auditor based
52 upon bills of particulars and vouchers certified by an officer or employee designated by
53 the director of the department of labor and industrial relations. Such certification shall
54 among other things include a duly certified copy of the director of the department of
55 labor and industrial relations' findings hereinbefore referred to. The moneys in this
56 fund, except for moneys collected pursuant to section 288.128, are hereby specifically
57 made available to replace, within a reasonable time, any moneys received by this state
58 pursuant to section 302 of the Federal Social Security Act (42 U.S.C.A. Sec. 502), as
59 amended, which, because of any action or contingency, have been lost or have been
60 expended for purposes other than, or in amounts in excess of, those necessary for the
61 proper administration of the employment security law. The moneys in this fund shall
62 be continuously available to the director of the department of labor and industrial
63 relations for expenditure in accordance with the provisions of this section and shall not

64 lapse at any time or be transferred to any other fund except as herein provided.

65 2. The director of the department of labor and industrial relations, subject to the
66 approval of the board of public buildings, is authorized and empowered to use all or any
67 part of the funds in the special employment security fund, except for moneys collected
68 pursuant to section 288.128, for the purpose of acquiring suitable office space for the
69 division by way of purchase, lease, contract or in any other manner, including the right
70 to use such funds or any part thereof to purchase land and erect thereon such buildings
71 as he or she shall deem necessary or to assist in financing the construction of any
72 building erected by the state of Missouri or any of its agencies wherein available space
73 will be provided for the division under lease or contract between the department of labor
74 and industrial relations and the state of Missouri or such other agency. The director of
75 the department of labor and industrial relations may transfer from the unemployment
76 compensation administration fund to the special employment security fund amounts not
77 exceeding funds specifically available to the department of labor and industrial relations
78 for that purpose, equivalent to the fair reasonable rental value of any land and buildings
79 acquired for its use until such time as the full amount of the purchase price of such land
80 and buildings and such cost of repair and maintenance thereof as was expended from the
81 special employment security fund has been returned to such fund.

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

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

9 conditions specified in Title XII of the Social Security Act, as amended,] in order to
10 secure to this state and its citizens the advantages available under the provisions of
11 [such title] federal law.

12 **2. (1) The purpose of this subsection is to provide a method of**
13 **financing the replenishment of the state's unemployment compensation fund**
14 **as an alternative to borrowing or obtaining advances from the federal**
15 **unemployment trust fund or for refinancing those loans or advances, and to**
16 **provide a method through which the state may continue its unemployment**
17 **compensation program at the least possible cost to the state and its**
18 **employers.**

19 **(2) For the purposes of this subsection, "bond" means any type of**
20 **obligation issued under this section, including any bond, note, tax**
21 **anticipation note or similar instrument.**

22 **(3) There is hereby created for the purposes of implementing the**
23 **provisions of this subsection a body corporate and politic to be known as the**
24 **"Missouri Commission on Employment Security Financing". The powers of the**
25 **commission shall be vested in seven commissioners who shall be residents of**
26 **this state and be appointed by the governor with the advice and consent of**
27 **the senate except that the director of the division of employment security**
28 **shall serve as a nonvoting ex officio member of the commission. The**
29 **commission shall have all powers necessary to effectuate its purposes**
30 **including without limitation the power to provide a seal, keep records of its**
31 **proceedings, provide for professional services, and elect a chair from its**
32 **members. Not more than four of the commissioners shall be of the same**
33 **political party.**

34 **(a) The commissioners shall serve five-year terms with each term**
35 **beginning July first and ending on June thirtieth, except that of the**
36 **commissioners first appointed one shall be appointed for a term of two years,**
37 **two shall be appointed for a term of three years, two shall be appointed for**
38 **a term of four years, and two shall be appointed for a term of five years. Each**
39 **commissioner appointed thereafter shall be appointed for a term ending five**
40 **years from the date of expiration of the term for which his or her predecessor**
41 **was appointed, except that a person appointed to fill a vacancy prior to the**
42 **expiration of such a term shall be appointed for the remainder of the term. No**
43 **commissioner appointed under this subsection by the governor shall serve**
44 **more than two consecutive full terms. Each commissioner shall hold office for**
45 **the term of his or her appointment and until his or her successor is appointed**

46 **and qualified.**

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

48 **a. No officer or employee of this state shall be deemed to have forfeited**
49 **or shall forfeit his or her office or employment by reason of his or her**
50 **acceptance of an appointment as a commissioner to the commission or for his**
51 **or her service to the commission;**

52 **b. It shall not constitute a conflict of interest for a director, officer, or**
53 **employee of any financial institution, investment banking firm, brokerage**
54 **firm, commercial bank or trust company, architectural firm, insurance**
55 **company, or any other firm, person, or corporation, to serve as a**
56 **commissioner of the commission, provided such trustee, director, officer, or**
57 **employee shall abstain from deliberation, action, and vote by the commission**
58 **in each instance where the business affiliation or public office association of**
59 **any such trustee, director, officer, or employee is involved.**

60 **(c) Before entering into his or her duties each commissioner shall**
61 **execute a surety bond in the sum of fifty thousand dollars, or in lieu thereof**
62 **the chair of the commission may execute a blanket bond covering all members**
63 **of the commission with each surety bond to be conditioned upon the faithful**
64 **performance of the duties of the office or offices covered and to be executed**
65 **by a surety company authorized to transact business in this state as a surety**
66 **and to be approved by the attorney general and filed in the office of the**
67 **secretary of state. The cost of each such bond shall be paid by the**
68 **commission.**

69 **(d) Commissioners shall receive no compensation for the performance**
70 **of their duties under this subsection, but each commissioner shall be**
71 **reimbursed from the funds of the commission for his or her actual and**
72 **necessary expenses incurred in carrying out his or her official duties under**
73 **this subsection.**

74 **(e) In the event that any of the commissioners or officers of the**
75 **commission whose signatures or facsimile signatures appear on any bonds**
76 **shall cease to be commissioners or officers before the delivery of such bonds,**
77 **their signatures or facsimile signatures shall be valid and sufficient for all**
78 **purposes as if such commissioners or officers had remained in office until**
79 **delivery of such bonds.**

80 **(f) The commissioners executing the bonds of the commission shall not**
81 **be subject to any personal liability or accountability by reason of the issuance**
82 **of the bonds.**

83 **(g) The commission shall following the close of each fiscal year submit**
84 **an annual report of its activities for the preceding year to the governor and**
85 **the general assembly. Each report shall set forth a complete operating and**
86 **financial statement for the commission during the fiscal year it covers. At**
87 **least once in each year an independent certified public accountant shall audit**
88 **the records and accounts of the commission.**

89 **(4) The commission is authorized to issue, sell, and deliver bonds which**
90 **shall mature no later than ten years after issuance in the name of the**
91 **commission in an amount determined by the commission not to exceed a total**
92 **of four hundred fifty million dollars of indebtedness that results in reducing**
93 **or avoiding the need to borrow or obtain an advance under 42 U.S.C., Section**
94 **1321, or any similar federal legislation, or in an amount necessary to**
95 **refinance any borrowing or advance previously made by the state for those**
96 **purposes. The commission shall make an affirmative finding that the issuance**
97 **of bonds for the purposes established in this section results in a savings to**
98 **the state and its employers.**

99 **(5) The commission shall provide for the payment of the principal of**
100 **the bonds, any redemption premiums, the interest on the bonds, and the costs**
101 **attributable to the bonds being issued or outstanding as provided in this**
102 **subsection and in section 288.310. Unless the commission directs otherwise,**
103 **the bonds shall be repaid in the same time frame and in the same amounts as**
104 **would be required for loans issued pursuant to 42 U.S.C. Section 1321;**
105 **however, in no case shall bond indebtedness continue beyond five consecutive**
106 **years.**

107 **(6) The commission may irrevocably pledge money received from the**
108 **contributions received under section 288.128 as revenue for the payment of**
109 **bonds and deposited in an account created for such purpose in the special**
110 **employment security fund or other money legally available to it.**

111 **(7) Bonds issued under this section shall not constitute debts of this**
112 **state or of any agency, political corporation, or political subdivision of this**
113 **state and are not a pledge of the faith and credit of this state or of any of**
114 **those governmental entities. The bonds are payable only from revenue**
115 **provided for under this chapter. The bonds shall contain a statement to the**
116 **effect that:**

117 **(a) Neither the state nor any agency, political corporation, or political**
118 **subdivision of the state shall be obligated to pay the principal or interest on**
119 **the bonds except as provided by this section; and**

120 **(b) Neither the full faith and credit nor the taxing power of the state**
121 **nor any agency, political corporation, or political subdivision of the state is**
122 **pledged to the payment of the principal, premium, if any, or interest on the**
123 **bonds except as provided by this section.**

124 **(8) The owner of any bonds issued under this section shall at the time**
125 **of purchase agree to waive any right of recovery and forever hold harmless**
126 **the state and any agency, political corporation, or political subdivision**
127 **thereof. The bond owner shall agree the sole source of revenue for repayment**
128 **of such bonds shall be those revenues derived from contributions received**
129 **under section 288.128.**

130 **(9) The state pledges and agrees with the owners of any bonds issued**
131 **under this section that the state will not limit or alter the rights vested in the**
132 **commission to fulfill the terms of any agreements made with the owners or**
133 **in any way impair the rights and remedies of the owners until the bonds are**
134 **fully discharged except as provided by this section.**

135 **(10) The commission may provide for the flow of funds and the**
136 **establishment and maintenance of separate accounts within the special**
137 **employment security fund, including the interest and sinking account, the**
138 **reserve account, and other necessary accounts, and may make additional**
139 **covenants with respect to the bonds in the documents authorizing the**
140 **issuance of bonds including refunding bonds. The resolutions authorizing the**
141 **issuance of bonds may also prohibit the further issuance of bonds or other**
142 **obligations payable from appropriated moneys or may reserve the right to**
143 **issue additional bonds to be payable from appropriated moneys on a parity**
144 **with or subordinate to the lien and pledge in support of the bonds being**
145 **issued and may contain other provisions and covenants as determined by the**
146 **commission.**

147 **(11) The commission may issue bonds to refund all or any part of the**
148 **outstanding bonds issued under this section including matured but unpaid**
149 **interest.**

150 **(12) The bonds issued by the commission, any transaction relating to**
151 **the bonds, and profits made from the sale of the bonds are free from taxation**
152 **by the state or by any municipality, court, special district, or other political**
153 **subdivision of the state.**

154 **(13) As determined necessary by the commission the proceeds of the**
155 **bonds less the cost of issuance shall be placed in the state's unemployment**
156 **compensation fund and may be used for the purposes for which that fund may**

157 otherwise be used. If those net proceeds are not placed immediately in the
158 unemployment compensation fund they shall be held in the special
159 employment security fund in an account designated for that purpose until
160 they are transferred to the unemployment compensation fund.

161 (14) The commission may enter into any contract or agreement deemed
162 necessary or desirable to effectuate cost effective financing hereunder. Such
163 agreements may include credit enhancement, credit support, or interest rate
164 agreements. Any fees or costs associated with such agreements shall be
165 deemed administrative expenses for the purposes of calculating assessments
166 relating to payment of the principal, interest, and administrative expenses
167 related to bonds pursuant to the provisions of section 288.128.

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

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

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

179 (b) The commission is authorized to enter financial agreements with
180 any lender that result in reducing or avoiding the need to borrow or obtain
181 an advance under 42 U.S.C., Section 1321, or any similar federal
182 legislation. The total amount of the outstanding obligation under the
183 agreement shall not exceed the difference of four hundred fifty million dollars
184 and the bond indebtedness incurred under this subsection. In no instance
185 shall such indebtedness under any financial agreement continue for more
186 than five consecutive years. Repayment of obligations to lenders shall be
187 made from the special employment security fund, section 288.310.

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

194 returned ratably to those who contributed thereto.

288.385. 1. Except as otherwise specifically provided by law, it shall be
2 unlawful for the director of the division of employment security, any officer,
3 employee, agent or deputy or former director, officer, employee, agent or
4 deputy of the division of employment security, any person engaged or
5 retained by the division of employment security on an independent contract
6 basis, any person to whom authorized or unauthorized disclosure is made by
7 the division of employment security, or any person who lawfully or unlawfully
8 inspects any report or return filed with the division of employment security
9 or to whom a copy, an abstract or a portion of any report or return is
10 furnished by the division of employment security to make known in any
11 manner, to permit the inspection or use of or to divulge to anyone any
12 information relative to any such report or return, any information obtained
13 by an investigation conducted by the department in the discharge of an
14 official duty, or any information received by the director in cooperation with
15 the United States or other states in the enforcement of the employment laws
16 of this state. Such confidential information is limited to information received
17 by the division in connection with the administration of the employment
18 security laws of this state.

19 2. Nothing in this section shall be construed to prohibit the disclosure
20 of information, returns, reports, or facts shown thereby, as described in
21 subsection 1 of this section, by any officer, clerk or other employee of the
22 division of employment security charged with the custody of such
23 information:

24 (1) To an employee or the employee's duly authorized representative
25 under regulations which the director of the division of employment security
26 may prescribe; or

27 (2) In any action or proceeding, civil, criminal or mixed, brought to
28 enforce the employment security laws of this state.

29 3. Any person violating any provision of subsection 1 or 2 of this
30 section shall, upon conviction, be guilty of a class D felony.

31 4. The department of labor and industrial relations by and through the
32 division may analyze and project financial data for proposed legislation. In
33 doing so the department and the division shall provide any financial data,
34 projections, or models relating to pending legislation to the sponsor or
35 sponsors of such legislation at least forty-eight hours prior to making such
36 information public. Failure to comply with this subsection shall result in a

37 five hundred dollar civil penalty per violation levied against the agent or
38 employee of the department or division responsible for such violation.

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

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

Section 1. 1. There is hereby created a Missouri State Unemployment
2 Council ("the council"). The council shall consist of nine appointed voting
3 members and two appointed nonvoting members. All appointees shall be
4 persons whose training and experience qualify them to deal with the difficult
5 problems of unemployment compensation, particularly legal, accounting,
6 actuarial, economic, and social aspects of unemployment compensation.

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

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

22 representation. One nonvoting member shall be appointed from the house of
23 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. One voting
26 member shall be appointed on account of his or her vocation, employment, or
27 affiliations being classed as representative of employers. One voting member
28 shall be appointed on account of his or her vocation, employment, or
29 affiliations being classed as representative of employees. One voting member
30 shall be appointed to represent the public interest separate from employee
31 or employer representation. One nonvoting member shall be appointed from
32 the senate.

33 2. The council shall organize itself and select a chairperson or co-
34 chairpersons and other officers from the nine voting members. Six voting
35 members shall constitute a quorum and the council shall act only upon the
36 affirmative vote of at least five of the voting members. The council shall meet
37 no less than four times yearly. Members of the council shall serve without
38 compensation, but are to be reimbursed the amount of actual
39 expenses. Actual expenses shall be paid from the special employment security
40 fund under section 288.310.

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

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

57 5. The council shall advise the division in carrying out the purposes of
58 this chapter. The council shall submit annually by January fifteenth to the

59 governor and the general assembly its recommendations regarding
60 amendments of this chapter, the status of unemployment insurance, the
61 projected maintenance of the solvency of unemployment insurance, and the
62 adequacy of unemployment compensation.

63 6. The council shall present to the division every proposal of the
64 council for changes in this chapter and shall seek the division's concurrence
65 with the proposal. The division shall give careful consideration to every
66 proposal submitted by the council for legislative or administrative action and
67 shall review each legislative proposal for possible incorporation into
68 department of labor and industrial relations recommendations.

69 7. The council shall have access to only the records of the division that
70 are necessary for the administration of this chapter and to the reasonable
71 services of the employees of the division. It may request the director or any
72 of the employees appointed by the director or any employee subject to this
73 chapter, to appear before it and to testify relative to the functioning of this
74 chapter and to other relevant matters. The council may conduct research of
75 its own, make and publish reports, and recommend to the division needed
76 changes in this chapter or in the rules of the division as it considers
77 necessary.

78 8. The council, unless prohibited by a concurrent resolution of the
79 general assembly, shall be authorized to commission an outside study of the
80 solvency, adequacy, and staffing and operational efficiency of the Missouri
81 unemployment system. The study shall be conducted every five years, the
82 first being conducted in fiscal year 2005. The study shall be funded subject
83 to appropriation from the special employment security fund under section
84 288.310.

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

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

