

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE #2 FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1456**  
**93RD GENERAL ASSEMBLY**

4598S.09T

2006

---

---

**AN ACT**

To repeal sections 288.030, 288.032, 288.035, 288.036, 288.038, 288.040, 288.045, 288.050, 288.060, 288.120, 288.121, 288.122, 288.128, 288.175, 288.190, 288.330, 288.380, 288.381, and 288.500, RSMo, and to enact in lieu thereof twenty-one new sections relating to employment security, with penalty provisions and an effective date.

---

---

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

Section A. Sections 288.030, 288.032, 288.035, 288.036, 288.038, 288.040, 288.045,  
2 288.050, 288.060, 288.120, 288.121, 288.122, 288.128, 288.175, 288.190, 288.330, 288.380,  
3 288.381, and 288.500, RSMo, are repealed and twenty-one new sections enacted in lieu thereof,  
4 to be known as sections 288.030, 288.032, 288.035, 288.036, 288.038, 288.040, 288.042  
5 288.045, 288.046, 288.050, 288.060, 288.120, 288.121, 288.122, 288.128, 288.175, 288.190,  
6 288.330, 288.380, 288.381, and 288.500 to read as follows:

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

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

- 3           (1) "Appeals tribunal", a referee or a body consisting of three referees appointed to  
4     conduct hearings and make decisions on appeals from administrative determinations, petitions  
5     for reassessment, and claims referred pursuant to subsection 2 of section 288.070;
- 6           (2) "Base period", the first four of the last five completed calendar quarters immediately  
7     preceding the first day of an individual's benefit year;
- 8           (3) "Benefit year", the one-year period beginning with the first day of the first week with  
9     respect to which an insured worker first files an initial claim for determination of such worker's  
10    insured status, and thereafter the one-year period beginning with the first day of the first week  
11    with respect to which the individual, providing the individual is then an insured worker, next  
12    files such an initial claim after the end of the individual's last preceding benefit year;
- 13          (4) "Benefits", the money payments payable to an insured worker, as provided in this  
14    chapter, with respect to such insured worker's unemployment;
- 15          (5) "Calendar quarter", the period of three consecutive calendar months ending on March  
16    thirty-first, June thirtieth, September thirtieth, or December thirty-first;
- 17          (6) "Claimant", an individual who has filed an initial claim for determination of such  
18    individual's status as an insured worker, a notice of unemployment, a certification for waiting  
19    week credit, or a claim for benefits;
- 20          (7) "Commission", the labor and industrial relations commission of Missouri;
- 21          (8) "Common paymaster", two or more related corporations in which one of the  
22    corporations has been designated to disburse remuneration to concurrently employed individuals  
23    of any of the related corporations;
- 24          (9) "Contributions", the money payments to the unemployment compensation fund  
25    required by this chapter, exclusive of interest and penalties;
- 26          (10) "Decision", a ruling made by an appeals tribunal or the commission after a hearing;
- 27          (11) "Deputy", a representative of the division designated to make investigations and  
28    administrative determinations on claims or matters of employer liability or to perform related  
29    work;
- 30          (12) "Determination", any administrative ruling made by the division without a hearing;
- 31          (13) "Director", the administrative head of the division of employment security;
- 32          (14) "Division", the division of employment security which administers this chapter;
- 33          (15) "Employing unit", any individual, organization, partnership, corporation, common  
34    paymaster, or other legal entity, including the legal representatives thereof, which has or,  
35    subsequent to June 17, 1937, had in its employ one or more individuals performing services for  
36    it within this state. All individuals performing services within this state for any employing unit  
37    which maintains two or more separate establishments within this state shall be deemed to be  
38    employed by a single employing unit for all the purposes of this chapter. Each individual

39 engaged to perform or to assist in performing the work of any person in the service of an  
40 employing unit shall be deemed to be engaged by such employing unit for all the purposes of this  
41 chapter, whether such individual was engaged or paid directly by such employing unit or by such  
42 person, provided the employing unit had actual or constructive knowledge of the work;

43 (16) "Employment office", a free public employment office operated by this or any other  
44 state as a part of a state controlled system of public employment offices including any location  
45 designated by the state as being a part of the one-stop career system;

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

49 (18) "Fund", the unemployment compensation fund established by this chapter;

50 (19) "Governmental entity", the state, any political subdivision thereof, any  
51 instrumentality of any one or more of the foregoing which is wholly owned by this state and one  
52 or more other states or political subdivisions and any instrumentality of this state or any political  
53 subdivision thereof and one or more other states or political subdivisions;

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

56 (21) "Insured work", employment in the service of an employer;

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

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

75 been paid wages in at least two calendar quarters of such worker's base period and whose total  
76 base period wages are at least one and one-half times the maximum taxable wage base, taxable  
77 to any one employer, in accordance with subsection 2 of section 288.036;

78 (23) [ "Lessor", in a lease, the party granting the use of equipment, with or without a  
79 driver to another;

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

86 [(25)] (24) "Referee", a representative of the division designated to serve on an appeals  
87 tribunal;

88 [(26)] (25) "State" includes, in addition to the states of the United States of America, the  
89 District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada;

90 [(27)] (26) "Temporary employee", an employee assigned to work for the clients of a  
91 temporary help firm;

92 [(28)] (27) "Temporary help firm", a firm that hires its own employees and assigns them  
93 to clients to support or supplement the clients' workforce in work situations such as employee  
94 absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

95 [(29)] (28) (a) An individual shall be deemed "totally unemployed" in any week during  
96 which the individual performs no services and with respect to which no wages are payable to  
97 such individual;

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

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

105 (c) An individual's "week of unemployment" shall begin the first day of the calendar  
106 week in which the individual registers at an employment office except that, if for good cause the  
107 individual's registration is delayed, the week of unemployment shall begin the first day of the  
108 calendar week in which the individual would have otherwise registered. The requirement of  
109 registration may by regulation be postponed or eliminated in respect to claims for partial

110 unemployment or may by regulation be postponed in case of a mass layoff due to a temporary  
111 cessation of work;

112 [(30)] (29) "Waiting week", the first week of unemployment for which a claim is allowed  
113 in a benefit year or if no waiting week has occurred in a benefit year in effect on the effective  
114 date of a shared work plan, the first week of participation in a shared work unemployment  
115 compensation program pursuant to section 288.500.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

60 The election to be liable for payments in lieu of contributions made by a governmental entity or  
61 nonprofit organization meeting the definition of "lessor employing unit" may be terminated by  
62 the division in accordance with subsection 3 of section 288.090.

63 (3) In order to relieve a client lessees from joint and several liability and the separate  
64 reporting requirements imposed pursuant to this subsection, any lessor employing unit may post  
65 and maintain a surety bond issued by a corporate surety authorized to do business in Missouri  
66 in an amount equivalent to the contributions or payments in lieu of contributions for which the  
67 lessor employing unit was liable in the last calendar year in which he or she accrued  
68 contributions or payments in lieu of contributions, or one hundred thousand dollars, whichever  
69 amount is the greater, to ensure prompt payment of contributions or payments in lieu of  
70 contributions, interest, penalties and surcharges for which the lessor employing unit may be, or  
71 becomes, liable pursuant to this law. In lieu of a surety bond, the lessor employing unit may  
72 deposit in a depository designated by the director, securities with marketable value equivalent  
73 to the amount required for a surety bond. The securities so deposited shall include authorization  
74 to the director to sell any securities in an amount sufficient to pay any contributions or payments  
75 in lieu of contributions, interest, penalties and surcharges which the lessor employing unit fails  
76 to promptly pay when due. In lieu of a surety bond or securities as described in this subdivision,  
77 any lessor employing unit may provide the director with an irrevocable letter of credit, as defined  
78 in section 409.5-103, RSMo, issued by any state or federally chartered financial institution, in  
79 an amount equivalent to the amount required for a surety bond as described in this subdivision.  
80 In lieu of a surety bond, securities or an irrevocable letter of credit, a lessor employing unit may  
81 obtain a certificate of deposit issued by any state or federally chartered financial institution, in  
82 an amount equivalent to the amount required for a surety bond as described in this subdivision.  
83 The certificate of deposit shall be pledged to the director until release by the director. As used  
84 in this subdivision, the term "certificate of deposit" means a certificate representing any deposit  
85 of funds in a state or federally chartered financial institution for a specified period of time which  
86 earns interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a  
87 specified time without forfeiture of some or all of the earned interest.

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

93 (5) As used in this subsection, the term "lessor employing unit" means an independently  
94 established business entity, governmental entity as defined in subsection 1 of section 288.030  
95 or nonprofit organization as defined in subsection 3 of section 288.090 which, pursuant to a

96 written lease agreement between the lessor employing unit and the client lessees, engages in the  
97 business of providing individuals to any other employer, individual, organization, partnership,  
98 corporation, other legal entity or employing unit referred to in this subsection as a client lessee.

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

103 3. After September 30, 1986, notwithstanding any provision of section 288.034, for the  
104 purpose of this law, in no event shall a for-hire motor carrier as regulated by the Missouri  
105 division of motor carrier and railroad safety or whose operations are confined to a commercial  
106 zone be determined to be the employer of a lessor as defined in [section 288.030 or of a driver  
107 receiving remuneration from a lessor] **49 CFR section 376.2(f), or of a driver receiving**  
108 **remuneration from a lessor as defined in 49 CFR section 376.2(f)**, provided, however, the  
109 term "for-hire motor carrier" shall in no event include an organization described in Section  
110 501(c)(3) of the Internal Revenue Code or any governmental entity.

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

288.035. Notwithstanding the provisions of section 288.034, RSMo, in the case of an  
2 individual who is the owner, **as defined in subsection 43 of section 301.010, RSMo**, and  
3 operator of a motor vehicle which is leased or contracted with a driver to a for-hire common or  
4 contract motor vehicle carrier operating within a commercial zone as defined in section 390.020  
5 or 390.041, or operating under a certificate issued by [the motor carrier and railroad safety  
6 division of the department of economic development under provisions of this chapter or by the  
7 interstate commerce commission] **the Missouri department of transportation or by the**  
8 **United States Department of Transportation or any of its subagencies**, such owner/operator  
9 shall not be deemed to be an employee, provided, however, such individual owner and operator  
10 shall be deemed to be in employment if the for-hire common or contract vehicle carrier is an  
11 organization described in section 501(c)(3) of the Internal Revenue Code or any governmental  
12 entity.

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



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

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

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

19 (b) Medical and hospitalization expenses in connection with sickness or accident  
20 disability; or

21 (c) Death;

22 (2) The amount of any payment on account of sickness or accident disability, or medical  
23 or hospitalization expenses in connection with sickness or accident disability, made by an  
24 employing unit to, or on behalf of, an individual performing services for it after the expiration  
25 of six calendar months following the last calendar month in which the individual performed  
26 services for such employing unit;

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

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

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

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

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

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

47 (7) For the purpose of determining wages paid for agricultural labor as defined in  
48 paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for domestic service as  
49 defined in subsection 13 of section 288.034, only cash wages paid shall be considered;

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

53 2. The increases or decreases to the state taxable wage base for the remainder of calendar  
54 year 2004 shall be eight thousand dollars, and the state taxable wage base in calendar year 2005,  
55 and each calendar year thereafter, shall be determined by the provisions within this subsection.  
56 On January 1, 2005, the state taxable wage base for calendar year 2005, 2006, and 2007 shall be  
57 eleven thousand dollars. The taxable wage base for calendar year 2008[, and each year  
58 thereafter,] shall be twelve thousand dollars. The state taxable wage base for each calendar year  
59 thereafter shall be determined by the [preceding September thirtieth balance] **average balance**  
60 of the unemployment compensation trust fund **of the four preceding calendar quarters**  
61 **(September thirtieth, June thirtieth, March thirty-first, and December thirty-first of the**  
62 **preceding calendar year)**, less any outstanding federal Title XII advances received pursuant to  
63 section 288.330, [or if the fund is not utilizing moneys advanced by the federal government, then  
64 less the principal, interest, and administrative expenses related to credit instruments issued under  
65 section 288.330, or the principal, interest, and administrative expenses related to financial  
66 agreements under subdivision (17) of subsection 2 of section 288.330, or the principal, interest,  
67 and administrative expenses related to a combination of Title XII advances, credit instruments,  
68 and financial agreements] **less the principal, interest, and administrative expenses related**  
69 **to any credit instrument issued under section 288.030, and less the principal, interest, and**  
70 **administrative expenses related to any financial agreements under subdivision (17) of**  
71 **subsection 2 of section 288.330.** When the [September thirtieth unemployment compensation  
72 trust fund balance, or, if the] average balance[, less any federal advances] of the unemployment  
73 compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March  
74 thirty-first, and December thirty-first of the preceding calendar year) [is less any outstanding  
75 federal Title XII advances received pursuant to section 288.330], **as so determined** is:

76 (1) Less than, or equal to, three hundred fifty million dollars, then the wage base shall  
77 increase by one thousand dollars; or

78 (2) Six hundred fifty million or more, then the state taxable wage base for the subsequent  
79 calendar year shall be decreased by five hundred dollars. In no event, however, shall the state  
80 taxable wage base increase beyond twelve thousand **five hundred** dollars, or decrease to less  
81 than seven thousand dollars. For calendar year 2009, the tax wage base shall be twelve thousand  
82 five hundred dollars. For calendar year 2010 and each calendar year thereafter, in no event shall  
83 the state taxable wage base increase beyond thirteen thousand dollars, or decrease to less than  
84 seven thousand dollars.

85

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

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

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

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

5 (2) The claimant is able to work and is available for work. No person shall be deemed  
6 available for work unless such person has been and is actively and earnestly seeking work. Upon

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

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

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

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

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

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

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

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

34

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

38 (4) Prior to the first week of a period of total or partial unemployment for which the  
39 claimant claims benefits he or she has been totally or partially unemployed for a waiting period  
40 of one week. No more than one waiting week will be required in any benefit year. During  
41 calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become  
42 compensable once his or her remaining balance on the claim is equal to or less than the

43 compensable amount for the waiting period. No week shall be counted as a week of total or  
44 partial unemployment for the purposes of this subsection unless it occurs within the benefit year  
45 which includes the week with respect to which the claimant claims benefits;

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

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

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

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

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

58 3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of  
59 section 288.034, shall be payable in the same amount, on the same terms and subject to the same  
60 conditions as compensation payable on the basis of other service subject to this law; except that:

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

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

75 (c) With respect to services described in paragraphs (a) and (b) of this subdivision,  
76 benefits shall not be paid on the basis of such services to any individual for any week which  
77 commences during an established and customary vacation period or holiday recess if such  
78 individual performed such services in the period immediately before such vacation period or

79 holiday recess, and there is reasonable assurance that such individual will perform such services  
80 immediately following such vacation period or holiday recess;

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

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

96 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work  
97 benefits for any week for which he or she is receiving or has received remuneration exceeding  
98 his or her weekly benefit amount or shared work benefit amount in the form of:

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

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

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

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

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

124 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for  
125 which the deputy finds that such claimant's total or partial unemployment is due to a stoppage  
126 of work which exists because of a labor dispute in the factory, establishment or other premises  
127 in which such claimant is or was last employed. In the event the claimant secures other  
128 employment from which he or she is separated during the existence of the labor dispute, the  
129 claimant must have obtained bona fide employment as a permanent employee for at least the  
130 major part of each of two weeks in such subsequent employment to terminate his or her  
131 ineligibility. If, in any case, separate branches of work which are commonly conducted as  
132 separate businesses at separate premises are conducted in separate departments of the same  
133 premises, each such department shall for the purposes of this subsection be deemed to be a  
134 separate factory, establishment or other premises. This subsection shall not apply if it is shown  
135 to the satisfaction of the deputy that:

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

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

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

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

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

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

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

167           **9. The directors of the division of employment security and the division of**  
168 **workforce development shall submit to the governor, the speaker of the house of**  
169 **representatives, and the president pro tem of the senate no later than October 15, 2006, a**  
170 **report outlining their recommendations for how to improve work search verification and**  
171 **claimant re-employment activities. The recommendations shall include, but not limited to**  
172 **how to best utilize "greathires.org", and how to reduce the average duration of**  
173 **unemployment insurance claims. Each calendar year thereafter, the directors shall submit**  
174 **a report containing their recommendations on these issues by December thirty-first of each**  
175 **year.**

**288.042. 1. For purposes of this chapter, a “war on terror veteran” is a person who**  
2 **serves or has served in the military and to whom the following criteria apply:**

3           **(1) The person is or was a member of the national guard or a member of a United**  
4 **States armed forces reserves unit;**

5           **(2) The person was deployed as part of his or her military unit at any time after**  
6 **September 11, 2001, and such deployment caused the person to be unable to continue**  
7 **working for his or her employer;**

8           **(3) The person was employed either part time or full time before deployment; and**



9           (4) The person was unemployed in his or her non-military employment either  
10 during or within thirty days after the completion of his or her deployment.

11           2. Notwithstanding any provisions of sections 288.010 to 288.500, any war on terror  
12 veteran shall be entitled to receive unemployment compensation benefits under this  
13 chapter. A war on terror veteran shall be entitled to a maximum weekly benefit of eight  
14 percent of the wages paid to the war on terror veteran during that quarter during which  
15 the war on terror veteran earned the highest amount within the five quarters during which  
16 the war on terror veteran received wages before deployment. The maximum amount of a  
17 maximum weekly benefit shall be one thousand one hundred fifty-three dollars and sixty-  
18 four cents, annually adjusted by the consumer price index.

19           3. A war on terror veteran shall be entitled to a maximum weekly benefit for  
20 twenty-six weeks.

21           4. Any employer who is found in any Missouri court or United States district court  
22 located in Missouri to have terminated, demoted, or taken an adverse employment action  
23 against a war on terror veteran due to his or her absence while deployed shall be subject  
24 to an administrative penalty in the amount of twenty-five thousand dollars. The director  
25 shall take judicial notice of judgments in suits brought under the Uniformed Service  
26 Employment and Reemployment Rights Act (38 U.S.C. 4301). Such judgments may be  
27 considered to have a res judicata effect on the director's determination.

28           5. A war on terror veteran shall not be considered to have voluntarily quit his or her  
29 employment if he or she is not offered the same wages, benefits, and similar work schedule  
30 upon his or her return after deployment.

31           6. There is hereby created in the state treasury the "War on Terror Unemployment  
32 Compensation Fund", which shall consist of money collected under this section. The state  
33 treasurer shall be custodian of the fund and shall approve disbursements from the fund  
34 in accordance with section 30.170 and 30.180, RSMo. Upon appropriation, money in the  
35 fund shall be used solely for the administration of this section. Notwithstanding the  
36 provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at  
37 the end of the biennium shall not revert to the credit of the general revenue fund. The state  
38 treasurer shall invest moneys in the fund in the same manner as other funds are invested.  
39 Any interest and money earned on such investments shall be credited to the fund.

40           7. The division of employment security may promulgate rules to enforce this section.  
41 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is  
42 created under the authority delegated in this section shall become effective only if it  
43 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
44 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable

45 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
46 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
47 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
48 **adopted after August 28, 2006, shall be invalid and void.**

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

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

9 3. If the] **A** test [is] conducted by a laboratory certified by the United States Department  
10 of [Transportation, the test results] **Health and Human Services, or another certifying**  
11 **organization so long as the certification requirements meet the minimum standards of the**  
12 **United States Department of Health and Human Services,** and the laboratory's trial packet  
13 shall be included in the administrative record and considered as evidence.

14 [4. For this section to be applicable,] **3.** The claimant must have previously been notified  
15 of the employer's alcohol and controlled substance workplace policy by conspicuously posting  
16 the policy in the workplace, by including the policy in a written personnel policy or handbook,  
17 or by statement of such policy in a collective bargaining agreement governing employment of  
18 the employee. The policy, **public posting, handbook, collective bargaining agreement or**  
19 **other written notice provided to the employee** must state that a positive test result [shall be  
20 deemed misconduct and] may result in suspension or termination of employment.

21 [5. For this section to be applicable, testing] **4. Test results** shall be [conducted only if  
22 sufficient cause exists to suspect alcohol or controlled substance use by the claimant. If  
23 sufficient cause exists to suspect prior alcohol or controlled substance use by the claimant, or]  
24 **admissible if** the employer's policy clearly states [that there will] **an employee may be subject**  
25 **to random, preemployment, reasonable suspicion or post-accident testing**[, then testing of the  
26 claimant may be conducted randomly.

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

30 7.] . **An employer may require a preemployment test for alcohol or controlled**  
31 **substance use as a condition of employment, and test results shall be admissible so long as**  
32 **the claimant was informed of the test requirement prior to taking the test. A random,**

33 **preemployment, reasonable suspicion or post-accident test result, conducted under this**  
34 **section, which is positive for alcohol or controlled substance use shall be considered**  
35 **misconduct.**

36 **5.** The application [of the alcohol and controlled substance testing provisions] of this  
37 section **for alcohol and controlled substance testing, relating only to methods of testing,**  
38 **criteria for testing, chain of custody for samples or specimens and due process for**  
39 **employee notification procedures** shall not apply in the event that the claimant is subject to the  
40 provisions of any applicable collective bargaining agreement, [which] **so long as said agreement**  
41 contains methods for alcohol or controlled substance testing **that meet or exceed the minimum**  
42 **standards established in this section.** Nothing in this chapter is intended to authorize any  
43 employer to test any applicant or employee for alcohol or drugs in any manner inconsistent with  
44 Missouri or United States constitution, law, statute or regulation, including those imposed by the  
45 Americans with Disabilities Act and the National Labor Relations Act.

46 [8.] **6.** All specimen collection [and testing] for drugs and alcohol under this chapter  
47 shall be performed in accordance with the procedures provided for by the United States  
48 Department of Transportation rules for workplace drug and alcohol testing compiled at 49  
49 C.F.R., Part 40. Any employer that performs drug testing or specimen collection shall use  
50 chain-of-custody procedures established by regulations of the United States Department of  
51 Transportation. "Specimen" means tissue, fluid, or a product of the human body capable of  
52 revealing the presence of alcohol or drugs or their metabolites. "Chain of custody" refers to the  
53 methodology of tracking specified materials or substances for the purpose of maintaining control  
54 and accountability from initial collection to final disposition for all such materials or substances,  
55 and providing for accountability at each stage in handling, testing, and storing specimens and  
56 reporting test results.

57 [9. For this section to be applicable,] **7.** The employee may request that a confirmation  
58 test on the specimen be conducted. "Confirmation test" means a second analytical procedure  
59 used to identify the presence of a specific drug or alcohol or metabolite in a specimen, which test  
60 must be different in scientific principle from that of the initial test procedure and must be capable  
61 of providing requisite specificity, sensitivity and quantitative accuracy. In the event that a  
62 confirmation test is requested, such shall be obtained from a separate, unrelated certified  
63 laboratory and shall be at the employee's expense only if said test confirms **the original, positive**  
64 **test** results [as specified in subsection 2 of this section] . **For purposes of this section,**  
65 **"confirmation test" shall be a split specimen test.**

66 [10.] **8.** Use of a controlled substance as defined under section 195.010, RSMo, under  
67 and in conformity with the lawful order of a healthcare practitioner, shall not be deemed to be  
68 misconduct connected with work for the purposes of this section.

69 [11.] 9. This section shall have no effect on employers who do not avail themselves of  
70 the requirements and regulations for alcohol and controlled drug testing determinations that are  
71 required to affirm misconduct connected with work findings.

72 [12.] 10. Any employer that initiates an alcohol and drug testing policy after January 1,  
73 2005, shall ensure that at least sixty days elapse between a general one-time notice to all  
74 employees that an alcohol and drug testing workplace policy is being implemented and the  
75 effective date of the program.

76 [13. (1) In applying provisions of this chapter, it is the intent of the legislature to reject  
77 and abrogate previous case law interpretations of "misconduct connected with work" requiring  
78 a finding of evidence of impairment of work performance, including, but not limited to, the  
79 holdings contained in Baldor Electric Company v. Raylene Reasoner and Missouri Division of  
80 Employment Security, 66 S.W.3d 130 (Mo.App. E.D. 2001).

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

84 14.] 11. Notwithstanding any provision of this chapter to the contrary, any claimant  
85 found to be in violation of this section shall be subject to the cancellation of all or part of the  
86 claimants wage credits as provided by [subdivision (2) of] subsection 2 of section 288.050.

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

**7 2. In determining whether misconduct connected with work has occurred, neither  
8 the state, any agency of the state, nor any court of the state of Missouri shall require a  
9 finding of evidence of impairment of work performance.**

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

5 (1) That the claimant has left work voluntarily without good cause attributable to such  
6 work or to the claimant's employer. A temporary employee of a temporary help firm will be  
7 deemed to have voluntarily quit employment if the employee does not contact the temporary help  
8 firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will  
9 not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact

10 the firm upon completion of assignments and that unemployment benefits may be denied for  
11 failure to do so. The claimant shall not be disqualified:

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

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

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

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

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

29 (3) That the claimant failed without good cause either to apply for available suitable  
30 work when so directed by [the] **a deputy of the division or designated staff of an employment**  
31 **office as defined in subsection 16 of section 288.030**, or to accept suitable work when offered  
32 the claimant, either through the division or directly by an employer by whom the individual was  
33 formerly employed, or to return to the individual's customary self-employment, if any, when so  
34 directed by the deputy. An offer of work shall be rebuttably presumed if an employer notifies  
35 the claimant in writing of such offer by sending an acknowledgment via any form of certified  
36 mail issued by the United States Postal Service stating such offer to the claimant at the claimant's  
37 last known address. Nothing in this subdivision shall be construed to limit the means by which  
38 the deputy may establish that the claimant has or has not been sufficiently notified of available  
39 work.

40 (a) In determining whether or not any work is suitable for an individual, the division  
41 shall consider, among other factors and in addition to those enumerated in paragraph (b) of this  
42 subdivision, the degree of risk involved to the individual's health, safety and morals, the  
43 individual's physical fitness and prior training, the individual's experience and prior earnings, the  
44 individual's length of unemployment, the individual's prospects for securing work in the  
45 individual's customary occupation, the distance of available work from the individual's residence

46 and the individual's prospect of obtaining local work; except that, if an individual has moved  
47 from the locality in which the individual actually resided when such individual was last  
48 employed to a place where there is less probability of the individual's employment at such  
49 individual's usual type of work and which is more distant from or otherwise less accessible to  
50 the community in which the individual was last employed, work offered by the individual's most  
51 recent employer if similar to that which such individual performed in such individual's last  
52 employment and at wages, hours, and working conditions which are substantially similar to those  
53 prevailing for similar work in such community, or any work which the individual is capable of  
54 performing at the wages prevailing for such work in the locality to which the individual has  
55 moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable  
56 for the individual;

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

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

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

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

65 2. If a deputy finds that a claimant has been discharged for misconduct connected with  
66 the claimant's work, such claimant shall be disqualified for waiting week credit and benefits, and  
67 no benefits shall be paid nor shall the cost of any benefits be charged against any employer for  
68 any period of employment within the base period until the claimant has earned wages for work  
69 insured under the unemployment laws of this state or any other state as prescribed in this section.

70 In addition to the disqualification for benefits pursuant to this provision the division may in the  
71 more aggravated cases of misconduct, cancel all or any part of the individual's wage credits,  
72 which were established through the individual's employment by the employer who discharged  
73 such individual, according to the seriousness of the misconduct. A disqualification provided for  
74 pursuant to this subsection shall not apply to any week which occurs after the claimant has  
75 earned wages for work insured pursuant to the unemployment compensation laws of any state  
76 in an amount equal to six times the claimant's weekly benefit amount. **Should a claimant be**  
77 **disqualified on a second or subsequent occasion within the base period or subsequent to**  
78 **the base period the claimant shall be required to earn wages in an amount equal to or in**  
79 **excess of six times the claimant's weekly benefit amount for each disqualification.**

80 3. Absenteeism or tardiness may constitute **a rebuttable presumption of** misconduct,  
81 regardless of whether the last incident alone constitutes misconduct[. In determining whether

82 the degree of absenteeism or tardiness constitutes a pattern for which misconduct may be found,  
83 the division shall consider whether] , if the discharge was the result of a violation of the  
84 employer's attendance policy, provided the employee had received knowledge of such policy  
85 prior to the occurrence of any absence or tardy upon which the discharge is based.

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

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

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

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

18 4. The division shall compute the wage credits for each individual by crediting him or  
19 her with the wages paid to him or her for insured work during each quarter of his or her base  
20 period or twenty-six times his or her weekly benefit amount, whichever is the lesser. In addition,  
21 if a claimant receives wages in the form of termination pay or severance pay and such payment  
22 appears in a base period established by the filing of an initial claim, the claimant may, at his or  
23 her option, choose to have such payment included in the calendar quarter in which it was paid  
24 or choose to have it prorated equally among the quarters comprising the base period of the claim.

25 The maximum total amount of benefits payable to any insured worker during any benefit year  
26 shall not exceed twenty-six times his or her weekly benefit amount, or thirty-three and one-third  
27 percent of his or her wage credits, whichever is the lesser. For the purpose of this section, wages  
28 shall be counted as wage credits for any benefit year, only if such benefit year begins subsequent  
29 to the date on which the employing unit by whom such wages were paid has become an  
30 employer. The wage credits of an individual earned during the period commencing with the end  
31 of a prior base period and ending on the date on which he or she filed an allowed initial claim  
32 shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto,  
33 such individual has subsequently earned either wages for insured work in an amount equal to at  
34 least five times his or her current weekly benefit amount or wages in an amount equal to at least  
35 ten times his or her current weekly benefit amount.

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

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

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

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

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



61 recommended by the United States Department of Labor, or absent a recommendation,] at least  
 62 [monthly] **weekly**. The division of employment security shall cross-check at least monthly  
 63 unemployment compensation applicants and recipients with department of revenue drivers  
 64 license databases.

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

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
-----	-12.0	6.0%
-12.0	-11.0	5.8%
-11.0	-10.0	5.6%
-10.0	-9.0	5.4%
-9.0	-8.0	5.2%
-8.0	-7.0	5.0%
-7.0	-6.0	4.8%
-6.0	-5.0	4.6%
-5.0	-4.0	4.4%
-4.0	-3.0	4.2%
-3.0	-2.0	4.0%
-2.0	-1.0	3.8%
-1.0	0	3.6%
0	2.5	2.7%
2.5	3.5	2.6%
3.5	4.5	2.5%
4.5	5.0	2.4%
5.0	5.5	2.3%
5.5	6.0	2.2%
6.0	6.5	2.1%
6.5	7.0	2.0%
7.0	7.5	1.9%
7.5	8.0	1.8%
8.0	8.5	1.7%
8.5	9.0	1.6%

33	9.0	9.5	1.5%
34	9.5	10.0	1.4%
35	10.0	10.5	1.3%
36	10.5	11.0	1.2%
37	11.0	11.5	1.1%
38	11.5	12.0	1.0%
39	12.0	12.5	0.9%
40	12.5	13.0	0.8%
41	13.0	13.5	0.6%
42	13.5	14.0	0.4%
43	14.0	14.5	0.3%
44	14.5	15.0	0.2%
45	15.0	----	0.0%

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

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll			
55	Equals or Exceeds	Less Than	Contribution Rate
56	-----	-27.0	9.0%
57	-27.0	-26.0	8.8%
58	-26.0	-25.0	8.6%
59	-25.0	-24.0	8.4%
60	-24.0	-23.0	8.2%
61	-23.0	-22.0	8.0%
62	-22.0	-21.0	7.8%
63	-21.0	-20.0	7.6%
64	-20.0	-19.0	7.4%
65	-19.0	-18.0	7.2%
66	-18.0	-17.0	7.0%
67	-17.0	-16.0	6.8%
68	-16.0	-15.0	6.6%

69	-15.0	-14.0	6.4%
70	-14.0	-13.0	6.2%
71	-13.0	-12.0	6.0%
72	-12.0	-11.0	5.8%
73	-11.0	-10.0	5.6%
74	-10.0	-9.0	5.4%
75	-9.0	-8.0	5.2%
76	-8.0	-7.0	5.0%
77	-7.0	-6.0	4.8%
78	-6.0	-5.0	4.6%
79	-5.0	-4.0	4.4%
80	-4.0	-3.0	4.2%
81	-3.0	-2.0	4.0%
82	-2.0	-1.0	3.8%
83	-1.0	0	3.6%
84	0	2.5	2.7%
85	2.5	3.5	2.6%
86	3.5	4.5	2.5%
87	4.5	5.0	2.4%
88	5.0	5.5	2.3%
89	5.5	6.0	2.2%
90	6.0	6.5	2.1%
91	6.5	7.0	2.0%
92	7.0	7.5	1.9%
93	7.5	8.0	1.8%
94	8.0	8.5	1.7%
95	8.5	9.0	1.6%
96	9.0	9.5	1.5%
97	9.5	10.0	1.4%
98	10.0	10.5	1.3%
99	10.5	11.0	1.2%
100	11.0	11.5	1.1%
101	11.5	12.0	1.0%
102	12.0	12.5	0.9%
103	12.5	13.0	0.8%
104	13.0	13.5	0.6%

105	13.5	14.0	0.4%
106	14.0	14.5	0.3%
107	14.5	15.0	0.2%
108	15.0	----	0.0%

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

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

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

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

13  
 14 For calendar years 2005, 2006, and 2007, the contribution rate of any employer who is paying  
 15 the maximum contribution rate shall be increased by forty percent, instead of thirty percent as  
 16 previously indicated in the table in this section.

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

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

Balance in Trust Fund		Percentage of Decrease
More Than	[But] <b>Equal to or</b> Less Than	
11   \$600,000,000	\$750,000,000	7%
12   \$750,000,000		12%

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

288.128. 1. [In addition to all other contributions due under this chapter,] If the fund is  
 2 utilizing moneys advanced by the federal government under the provisions of 42 U.S.C.A.,  
 3 Section 1321 pursuant to section 288.330, [or if the fund is not utilizing moneys advanced by the  
 4 federal government, then from the proceeds of credit instruments issued under section 288.330,  
 5 or from the moneys advanced under financial agreements under subdivision (17) of subsection  
 6 2 of section 288.330, or a combination of credit instruments proceeds and moneys advanced  
 7 under financial agreements,] each employer [shall] **may** be assessed an amount solely for the  
 8 payment of interest due on such federal advancements[, or if the fund is not utilizing moneys  
 9 advanced by the federal government, or in the case of issuance of credit instruments for the

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

32       2. If on December thirty-first of any year the money collected under [this] **subsection**  
33 **1 of this** section exceeds the amount of interest due on federal advancements by one hundred  
34 thousand dollars or more, then each employer's experience rating account shall be credited with  
35 an amount which bears the same ratio to the excess moneys collected under this section as that  
36 employer's payment collected under this section bears to the total amount collected under this  
37 section. Further, if on December thirty-first of any year the moneys collected under this section  
38 exceed the amount of interest due on the federal advancements by less than one hundred  
39 thousand dollars, the balance shall be transferred from the special employment security fund to  
40 the Secretary of the Treasury of the United States to be credited to the account of this state in the  
41 unemployment trust fund.

42       3. [In addition to all other contributions due under this chapter,] If the fund is utilizing  
43 moneys from the proceeds of credit instruments issued under section 288.330, or from the  
44 moneys advanced under financial agreements under subdivision (17) of subsection 2 of section  
45 288.330, or a combination of credit instrument proceeds and moneys advanced under financial

46 agreements each employer [shall] **may** be assessed a credit instrument and financing agreement  
47 repayment surcharge. The total of such surcharge shall be calculated as an amount up to one  
48 hundred fifty percent of the amount required in the twelve-month period following the due date  
49 for the payment of such surcharge for the payment of the principal, interest, and administrative  
50 expenses related to such credit instruments, or in the case of financial agreements for the  
51 payment of principal, interest, and administrative expenses related to such financial agreements,  
52 or in the case of a combination of credit instruments and financial agreements for the payment  
53 of principal, interest, and administrative expenses for both. **The total annual surcharge to be**  
54 **collected shall be calculated by the division as a percentage of the total statewide**  
55 **contributions collected during the previous calendar year.** Each employer's proportionate  
56 share shall be the product obtained by multiplying the [total statewide credit instrument and  
57 financing agreement repayment surcharge by a number obtained by dividing the employer's total  
58 taxable wages for the prior year by the total taxable wages in the state for the prior year]  
59 **percentage calculated under this subsection by each employer's contributions due under**  
60 **this chapter for each filing period during the preceding calendar year.** Each employer shall  
61 be notified **by the division** of the amount due under this section by [(January)] **April** thirtieth  
62 of each year and such amount shall be considered delinquent thirty days thereafter.

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

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

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

9 **4. The division may utilize collection agencies to collect any debt as defined in this**  
10 **section to the extent and manner allowed by federal law.**

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

5 2. The manner in which disputed determinations, referred claims, and petitions for  
6 reassessment shall be presented and the conduct of hearings shall be in accordance with  
7 regulations prescribed by the division for determining the rights of the parties, whether or not  
8 such regulations conform to common law or statutory rules of evidence and other technical rules  
9 of procedure. When the same or substantially similar evidence is relevant and material to the

10 matters in issue in claims by more than one individual or in claims by a single individual in  
11 respect to two or more weeks of unemployment, the same time and place for considering each  
12 such claim or claims may be fixed, hearings thereon jointly conducted, a single record of the  
13 proceedings made, and evidence introduced with respect to one proceeding considered as  
14 introduced in the others, if in the judgment of the appeals tribunal or the commission having  
15 jurisdiction of the proceeding such consolidation would not be prejudicial to any party. A full  
16 and complete record shall be kept of all proceedings in connection with a disputed determination,  
17 referred claim, or petition for reassessment. The appeals tribunal shall include in the record and  
18 consider as evidence all records of the division that are material to the issues. All testimony at  
19 any hearing shall be recorded but need not be transcribed unless the matter is further appealed.

20         3. Unless an appeal on a disputed determination or referred claim is withdrawn, an  
21 appeals tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm,  
22 modify, or reverse the determination of the deputy, or shall remand the matter to the deputy with  
23 directions. In addition, in any case wherein the appellant, after having been duly notified of the  
24 date, time, and place of the hearing, shall fail to appear at such hearing, the appeals tribunal may  
25 enter an order dismissing the appeal. The director may transfer to another appeals tribunal the  
26 proceedings on an appeal determination before an appeals tribunal. The parties shall be duly  
27 notified of an appeals tribunal's decision or order, together with its reason therefor, which shall  
28 be deemed to be the final decision or order of the division unless, within thirty days after the date  
29 of notification or mailing of such decision, further appeal is initiated pursuant to section 288.200;  
30 except that, within thirty days of either notification or mailing of the appeals tribunal's decision  
31 or order, the appeals tribunal, on its own motion, **or on motion of any party to the case,** may  
32 reconsider any decision or order when it appears that such reconsideration is essential to the  
33 accomplishment of the object and purpose of this law. **The authority of the appeals tribunal**  
34 **to reconsider any decision or order under this section shall continue throughout the thirty-**  
35 **day time limit, regardless of whether any party has initiated further appeal under section**  
36 **288.200 during the thirty-day period.**

37         4. Unless a petition for reassessment is withdrawn or is allowed without a hearing, the  
38 petitioners shall be given a reasonable opportunity for a fair hearing before an appeals tribunal  
39 upon each such petition. The appeals tribunal shall promptly notify the interested parties of its  
40 decision upon such petition together with its reason therefor. In addition, in any case wherein  
41 the appellant, after having been duly notified of the date, time, and place of the hearing, shall fail  
42 to appear at such hearing, the appeals tribunal may enter an order dismissing the appeal. In the  
43 absence of the filing of an application for review of such decision, the decision, whether it results  
44 in a reassessment or otherwise, shall become final thirty days after the date of notification or  
45 mailing thereof; except that, within thirty days of either notification or mailing of the appeals



46 tribunal's decision or order, the appeals tribunal, on its own motion, **or on motion of any party**  
47 **to the case**, may reconsider any decision or order when it appears that such reconsideration is  
48 essential to the accomplishment of the object and purposes of this law. **The authority of the**  
49 **appeals tribunal to reconsider any decision under this section shall continue throughout**  
50 **the thirty-day time limit, regardless of whether any party has initiated further appeal**  
51 **under section 288.200 during that thirty-day period.**

52 5. Any party subject to any decision of an appeals tribunal pursuant to this chapter has  
53 a right to counsel and shall be notified prior to a hearing conducted pursuant to this chapter that  
54 a decision of the appeals tribunal is presumptively conclusive for the purposes of this chapter as  
55 provided in section 288.200.

288.330. 1. Benefits shall be deemed to be due and payable only to the extent that  
2 moneys are available to the credit of the unemployment compensation fund and neither the state  
3 nor the division shall be liable for any amount in excess of such sums. The governor is  
4 authorized to apply for an advance to the state unemployment fund and to accept the  
5 responsibility for the repayment of such advance in order to secure to this state and its citizens  
6 the advantages available under the provisions of federal law.

7 2. (1) The purpose of this subsection is to provide a method of providing funds for the  
8 payment of unemployment benefits or maintaining an adequate fund balance in the  
9 unemployment compensation fund, and as an alternative to borrowing or obtaining advances  
10 from the federal unemployment trust fund or for refinancing those loans or advances.

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

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

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

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

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

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

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

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

53           (5) The board shall provide for the payment of the principal of the credit instruments,  
54 any redemption premiums, the interest on the credit instruments, and the costs attributable to the  
55 credit instruments being issued or outstanding as provided in this **chapter** [subsection and in  
56 section 288.310]. Unless the board directs otherwise, the credit instrument shall be repaid in the  
57 same time frame and in the same amounts as would be required for loans issued pursuant to 42  
58 U.S.C. Section 1321; however, in no case shall credit instruments be outstanding for more than  
59 [three] **ten** years [and further provided that no credit instruments shall be outstanding hereunder  
60 after January 15, 2008].

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

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

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

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

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

84           (9) The board may prescribe the form, details, and incidents of the credit instruments and  
85 make such covenants that in its judgment are advisable or necessary to properly secure the  
86 payment thereof. If such credit instruments shall be authenticated by the bank or trust company  
87 acting as registrar for such by the manual signature of a duly authorized officer or employee  
88 thereof, the duly authorized officers of the board executing and attesting such credit instruments  
89 may all do so by facsimile signature provided such signatures have been duly filed as provided  
90 in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo,  
91 when duly authorized by resolution of the board, and the provisions of section 108.175, RSMo,  
92 shall not apply to such credit instruments. The board may provide for the flow of funds and the  
93 establishment and maintenance of separate accounts within the special employment security  
94 fund, including the interest and sinking account, the reserve account, and other necessary  
95 accounts, and may make additional covenants with respect to the credit instruments in the  
96 documents authorizing the issuance of credit instruments including refunding credit instruments.

97 The resolutions authorizing the issuance of credit instruments may also prohibit the further  
98 issuance of credit instruments or other obligations payable from appropriated moneys or may  
99 reserve the right to issue additional credit instruments to be payable from appropriated moneys  
100 on a parity with or subordinate to the lien and pledge in support of the credit instruments being  
101 issued and may contain other provisions and covenants as determined by the board, provided that  
102 any terms, provisions or covenants provided in any resolution of the board shall not be  
103 inconsistent with the provisions of this section.

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

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

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

120 (13) The board may enter into any contract or agreement deemed necessary or desirable  
121 to effectuate cost-effective financing hereunder. Such agreements may include credit  
122 enhancement, credit support, or interest rate agreements including, but not limited to,  
123 arrangements such as municipal bond insurance; surety bonds; tax anticipation notes; liquidity  
124 facilities; forward agreements; tender agreements; remarketing agreements; option agreements;  
125 interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and purchase  
126 agreements. Any fees or costs associated with such agreements shall be deemed administrative  
127 expenses for the purposes of calculating the credit instrument and financing agreement  
128 repayment surcharge under subsection 3 of section 288.128. The board, with consideration of  
129 all other costs being equal, shall give preference to Missouri-headquartered financial institutions,  
130 or those out-of-state-based financial institutions with at least one hundred Missouri employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. For purposes of this section, as contained in senate substitute no. 2 for senate committee substitute for house substitute for house committee substitute for house bill nos. 1268 and 1211, ninety-second general assembly, second regular session, the revisor of statutes shall renumber subdivision (16) of subsection 2 of such section as subdivision (17) of such subsection and renumber subdivision (17) of subsection 2 of such section as subdivision (16) of such subsection.

288.380. 1. Any agreement by a worker to waive, release, or commute such worker's rights to benefits or any other rights pursuant to this chapter or pursuant to an employment security law of any other state or of the federal government shall be void. Any agreement by a worker to pay all or any portion of any contributions required shall be void. No employer shall directly or indirectly make any deduction from wages to finance the employer's contributions

6 required from him or her, or accept any waiver of any right pursuant to this chapter by any  
7 individual in his or her employ.

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

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

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

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

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

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

39         8. In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court  
40 of this state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction  
41 of which the person guilty of contumacy or refusal to obey is found or resides or transacts

42 business, upon application by the director, the commission, an appeals tribunal, or any duly  
43 authorized representative of any one of them shall have jurisdiction to issue to such person an  
44 order requiring such person to appear before the director, the commission, an appeals tribunal  
45 or any duly authorized representative of any one of them, there to produce evidence if so ordered  
46 or there to give testimony touching the matter under investigation or in question; and any failure  
47 to obey such order of the court may be punished by the court as a contempt thereof.

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

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

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

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

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

76 10. An individual who willfully fails to disclose amounts earned during any week with  
77 respect to which benefits are claimed by him or her, willfully fails to disclose or has falsified as



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

88 11. (1) Any assignment, pledge, or encumbrance of any rights to benefits which are or  
89 may become due or payable pursuant to this chapter shall be void; and such rights to benefits  
90 shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for  
91 the collection of debt; and benefits received by any individual, so long as they are not mingled  
92 with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection  
93 of all debts except debts incurred for necessities furnished to such individual or the individual's  
94 spouse or dependents during the time such individual was unemployed. Any waiver of any  
95 exemption provided for in this subsection shall be void; except that this section shall not apply  
96 to:

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

100 (b) Uncollected overissuances (as defined in Section 13(c)(1) of the Food Stamp Act of  
101 1977) of food stamp coupons;

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

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

- 114           a. The amount specified by the individual to the division to be deducted and withheld  
115 pursuant to this paragraph if neither subparagraph b. nor subparagraph c. of this paragraph is  
116 applicable; or
- 117           b. The amount, if any, determined pursuant to an agreement submitted to the division  
118 pursuant to Section 454(20)(B)(i) of the Social Security Act by the state or local support  
119 enforcement agency, unless subparagraph c. of this paragraph is applicable; or the amount (if  
120 any) determined pursuant to an agreement submitted to the state food stamp agency pursuant to  
121 Section 13(c)(3)(a) of the Food Stamp Act of 1977; or
- 122           c. Any amount otherwise required to be so deducted and withheld from such  
123 unemployment compensation pursuant to properly served legal process, as that term is defined  
124 in Section 459(i) of the Social Security Act; or any amount otherwise required to be deducted  
125 and withheld from the unemployment compensation pursuant to Section 13(c)(3)(b) of the Food  
126 Stamp Act of 1977;
- 127           (c) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision  
128 shall be paid by the division to the appropriate state or local support enforcement agency or state  
129 food stamp agency;
- 130           (d) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision  
131 shall, for all purposes, be treated as if it were paid to the individual as unemployment  
132 compensation and paid by such individual to the state or local support enforcement agency in  
133 satisfaction of the individual's support obligations or to the state food stamp agency to which the  
134 uncollected overissuance is owed as repayment of the individual's uncollected overissuance;
- 135           (e) For purposes of paragraphs (a), (b), (c), and (d) of this subdivision, the term  
136 "unemployment compensation" means any compensation payable pursuant to this chapter,  
137 including amounts payable by the division pursuant to an agreement pursuant to any federal law  
138 providing for compensation, assistance, or allowances with respect to unemployment;
- 139           (f) Deductions will be made pursuant to this section only if appropriate arrangements  
140 have been made for reimbursement by the state or local support enforcement agency, or the state  
141 food stamp agency, for the administrative costs incurred by the division pursuant to this section  
142 which are attributable to support obligations being enforced by the state or local support  
143 enforcement agency or which are attributable to uncollected overissuances of food stamp  
144 coupons;
- 145           (g) The term "support obligations" is defined for purposes of this subsection as including  
146 only obligations which are being enforced pursuant to a plan described in Section 454 of the  
147 Social Security Act which has been approved by the Secretary of Health and Human Services  
148 pursuant to Part D of Title IV of the Social Security Act;

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

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

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

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

a. Before withholding any amount for child support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold from any unemployment compensation payable to an individual the amount, as determined by the division, owed pursuant to subsection 12 or 13 of this section;

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

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

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

13. Any person who, by reason of any error or omission or because of a lack of knowledge of material fact on the part of the division, has received any sum of benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not

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

193 **14. Recovering overpaid unemployment compensation benefits shall be pursued by**  
194 **the division against any person receiving such overpaid unemployment compensation**  
195 **benefits through billing, setoffs against state and federal tax refunds to the extent**  
196 **permitted by federal law, intercepts of lottery winnings under section 313.321, RSMo, and**  
197 **collection efforts as provided for in sections 288.160, 288.170, and 288.175.**

198 **15.** Any person who has received any sum as benefits under the laws of another state,  
199 or under any unemployment benefit program of the United States administered by another state  
200 while any conditions for the receipt of benefits imposed by the law of such other state were not  
201 fulfilled in his or her case, shall after an opportunity for a fair hearing pursuant to subsection 2  
202 of section 288.190 have such sums deducted from any further benefits payable to such person  
203 pursuant to this chapter, but only if there exists between this state and such other state a  
204 reciprocal agreement under which such entity agrees to recover benefit overpayments, in like  
205 fashion, on behalf of this state.

288.381. 1. The provisions of subsection 6 of section 288.070 notwithstanding, benefits  
2 paid to a claimant pursuant to subsection 5 of section 288.070 to which the claimant was not  
3 entitled based on a subsequent determination, redetermination or decision which has become  
4 final, shall be collectible by the division as provided in subsections [11 and] 12 **and 13** of section  
5 288.380.

6 2. Notwithstanding any other provision of law to the contrary, when a claimant who has  
7 been separated from his employment receives benefits under this chapter and subsequently  
8 receives a back pay award pursuant to action by a governmental agency, court of competent  
9 jurisdiction or as a result of arbitration proceedings, for a period of time during which no services  
10 were performed, the division shall establish an overpayment equal to the lesser of the amount  
11 of the back pay award or the benefits paid to the claimant which were attributable to the period  
12 covered by the back pay award. After the claimant has been provided an opportunity for a fair  
13 hearing under the provision of section 288.190, the employer shall withhold from the employee's  
14 backpay award the amount of benefits so received and shall pay such amount to the division and  
15 separately designate such amount.

16           3. For the purposes of subsection 2 of this section, the division shall provide the  
17 employer with the amount of benefits paid to the claimant.

18           4. Any individual, company, association, corporation, partnership, bureau, agency or the  
19 agent or employee of the foregoing who interferes with, obstructs, or otherwise causes an  
20 employer to fail to comply with the provisions of subsection 2 of this section shall be liable for  
21 damages in the amount of three times the amount owed by the employer to the division. The  
22 division shall proceed to collect such damages under the provisions of sections 288.160 and  
23 288.170.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54           6. No shared work plan which will subsidize seasonal employers during the off-season  
55 or subsidize employers, at least fifty percent of the employees of which have normal weekly  
56 hours of work equaling thirty-two hours or less, shall be approved by the division. No shared  
57 work plan benefits will be initiated [for pay periods] when the reduced hours [reflect] **coincide**  
58 **with** holiday earnings already committed to be paid by the employer. **Shared work-plan**  
59 **benefits may not be denied in any week containing a holiday for which holiday earnings**  
60 **are committed to be paid by the employer unless the shared work benefits to be paid are**  
61 **for the same hours in the same day as the holiday earnings.**

62           7. The division shall approve or deny a shared work plan not later than the thirtieth day  
63 after the day on which the shared work plan is received by the division. The division shall

64 approve or deny a plan in writing. If the division denies a plan, the division shall notify the  
65 employer of the reasons for the denial. Approval or denial of a plan by the division shall be final  
66 and such determination shall be subject to review in the manner otherwise provided by law. If  
67 approval of a plan is denied by the division, the employer may submit a new plan to the division  
68 for consideration no sooner than forty-five calendar days following the date on which the  
69 division disapproved the employer's previously submitted plan.

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

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

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

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

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

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

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

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

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

104           13. A waiting week served under the provisions of subdivision (3) of subsection 1 of  
105 section 288.040 shall serve to meet the requirements of subdivision (4) of subsection 12 of this  
106 section and a waiting week served under the provisions of subdivision (4) of subsection 12 of  
107 this section shall serve to meet the requirements of section 288.040. Notwithstanding any other  
108 provisions of this chapter, an individual who files a new initial claim during the pendency of the  
109 twelve-month period in which a shared work plan is in effect shall serve a waiting week whether  
110 or not the individual has served a waiting week under this subsection.

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

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

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

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



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

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

Section B. The provisions of this act shall become effective on October 1, 2006.

✓