

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1456

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:

1 Section A. Sections 288.030, 288.032, 288.035, 288.036,
2 288.038, 288.040, 288.045, 288.050, 288.060, 288.120, 288.121,
3 288.122, 288.128, 288.175, 288.190, 288.330, 288.380, 288.381,
4 and 288.500, RSMo, are repealed and twenty-one new sections
5 enacted in lieu thereof, to be known as sections 288.030,
6 288.032, 288.035, 288.036, 288.038, 288.040, 288.045, 288.046,
7 288.050, 288.060, 288.120, 288.121, 288.122, 288.128, 288.175,
8 288.190, 288.330, 288.380, 288.381, 288.500, and 290.595, to read
9 as follows:

10 288.030. 1. As used in this chapter, unless the context
11 clearly requires otherwise, the following terms mean:

12 (1) "Appeals tribunal", a referee or a body consisting of
13 three referees appointed to conduct hearings and make decisions

1 on appeals from administrative determinations, petitions for
2 reassessment, and claims referred pursuant to subsection 2 of
3 section 288.070;

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

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

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

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

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

25 (7) "Commission", the labor and industrial relations
26 commission of Missouri;

27 (8) "Common paymaster", two or more related corporations in
28 which one of the corporations has been designated to disburse

1 remuneration to concurrently employed individuals of any of the
2 related corporations;

3 (9) "Contributions", the money payments to the unemployment
4 compensation fund required by this chapter, exclusive of interest
5 and penalties;

6 (10) "Decision", a ruling made by an appeals tribunal or
7 the commission after a hearing;

8 (11) "Deputy", a representative of the division designated
9 to make investigations and administrative determinations on
10 claims or matters of employer liability or to perform related
11 work;

12 (12) "Determination", any administrative ruling made by the
13 division without a hearing;

14 (13) "Director", the administrative head of the division of
15 employment security;

16 (14) "Division", the division of employment security which
17 administers this chapter;

18 (15) "Employing unit", any individual, organization,
19 partnership, corporation, common paymaster, or other legal
20 entity, including the legal representatives thereof, which has
21 or, subsequent to June 17, 1937, had in its employ one or more
22 individuals performing services for it within this state. All
23 individuals performing services within this state for any
24 employing unit which maintains two or more separate
25 establishments within this state shall be deemed to be employed
26 by a single employing unit for all the purposes of this chapter.
27 Each individual engaged to perform or to assist in performing the
28 work of any person in the service of an employing unit shall be

1 deemed to be engaged by such employing unit for all the purposes
2 of this chapter, whether such individual was engaged or paid
3 directly by such employing unit or by such person, provided the
4 employing unit had actual or constructive knowledge of the work;

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

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

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

16 (19) "Governmental entity", the state, any political
17 subdivision thereof, any instrumentality of any one or more of
18 the foregoing which is wholly owned by this state and one or more
19 other states or political subdivisions and any instrumentality of
20 this state or any political subdivision thereof and one or more
21 other states or political subdivisions;

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

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

27 (22) (a) As to initial claims filed after December 31,
28 1990, "insured worker", a worker who has been paid wages for

1 insured work in the amount of one thousand dollars or more in at
2 least one calendar quarter of such worker's base period and total
3 wages in the worker's base period equal to at least one and
4 one-half times the insured wages in that calendar quarter of the
5 base period in which the worker's insured wages were the highest,
6 or in the alternative, a worker who has been paid wages in at
7 least two calendar quarters of such worker's base period and
8 whose total base period wages are at least one and one-half times
9 the maximum taxable wage base, taxable to any one employer, in
10 accordance with subsection 2 of section 288.036. For the
11 purposes of this definition, "wages" shall be considered as wage
12 credits with respect to any benefit year, only if such benefit
13 year begins subsequent to the date on which the employing unit by
14 which such wages were paid has become an employer;

15 (b) As to initial claims filed after December 31, 2004,
16 wages for insured work in the amount of one thousand two hundred
17 dollars or more, after December 31, 2005, one thousand three
18 hundred dollars or more, after December 31, 2006, one thousand
19 four hundred dollars or more, after December 31, 2007, one
20 thousand five hundred dollars or more in at least one calendar
21 quarter of such worker's base period and total wages in the
22 worker's base period equal to at least one and one-half times the
23 insured wages in that calendar quarter of the base period in
24 which the worker's insured wages were the highest, or in the
25 alternative, a worker who has been paid wages in at least two
26 calendar quarters of such worker's base period and whose total
27 base period wages are at least one and one-half times the maximum
28 taxable wage base, taxable to any one employer, in accordance

1 with subsection 2 of section 288.036;

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

4 (24)] "Misconduct", an act of wanton or willful disregard of
5 the employer's interest, a deliberate violation of the employer's
6 rules, a disregard of standards of behavior which the employer
7 has the right to expect of his or her employee, or negligence in
8 such degree or recurrence as to manifest culpability, wrongful
9 intent or evil design, or show an intentional and substantial
10 disregard of the employer's interest or of the employee's duties
11 and obligations to the employer;

12 [(25)] (24) "Referee", a representative of the division
13 designated to serve on an appeals tribunal;

14 [(26)] (25) "State" includes, in addition to the states of
15 the United States of America, the District of Columbia, Puerto
16 Rico, the Virgin Islands, and the Dominion of Canada;

17 [(27)] (26) "Temporary employee", an employee assigned to
18 work for the clients of a temporary help firm;

19 [(28)] (27) "Temporary help firm", a firm that hires its
20 own employees and assigns them to clients to support or
21 supplement the clients' workforce in work situations such as
22 employee absences, temporary skill shortages, seasonal workloads,
23 and special assignments and projects;

24 [(29)] (28) (a) An individual shall be deemed "totally
25 unemployed" in any week during which the individual performs no
26 services and with respect to which no wages are payable to such
27 individual;

28 (b) a. An individual shall be deemed "partially

unemployed" in any week of less than full-time work if the wages payable to such individual for such week do not equal or exceed the individual's weekly benefit amount plus twenty dollars;

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

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

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

2. The Missouri average annual wage shall be computed as of June thirtieth of each year, and shall be applicable to the

1 following calendar year. The Missouri average annual wage shall
2 be calculated by dividing the total wages reported as paid for
3 insured work in the preceding calendar year by the average of
4 mid-month employment reported by employers for the same calendar
5 year. The Missouri average weekly wage shall be computed by
6 dividing the Missouri average annual wage as computed in this
7 subsection by fifty-two.

8 288.032. 1. After December 31, 1977, "employer" means:

9 (1) Any employing unit which in any calendar quarter in
10 either the current or preceding calendar year paid for service in
11 employment wages of one thousand five hundred dollars or more
12 except that for the purposes of this definition, wages paid for
13 "agricultural labor" as defined in paragraph (a) of subdivision
14 (1) of subsection 12 of section 288.034 and for "domestic
15 services" as defined in subdivisions (2) and (13) of subsection
16 12 of section 288.034 shall not be considered;

17 (2) Any employing unit which for some portion of a day in
18 each of twenty different calendar weeks, whether or not such
19 weeks were consecutive, in either the current or the preceding
20 calendar year, had in employment at least one individual
21 (irrespective of whether the same individual was in employment in
22 each such day); except that for the purposes of this definition,
23 services performed in "agricultural labor" as defined in
24 paragraph (a) of subdivision (1) of subsection 12 of section
25 288.034 and in "domestic services" as defined in subdivisions (2)
26 and (13) of subsection 12 of section 288.034 shall not be
27 considered;

28 (3) Any governmental entity for which service in employment

as defined in subsection 7 of section 288.034 is performed;

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

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

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

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

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

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

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

2. (1) Notwithstanding any other provisions of this law, any employer, individual, organization, partnership, corporation, other legal entity or employing unit that meets the definition of

1 "lessor employing unit", as defined in subdivision (5) of this
2 subsection, shall be liable for contributions on wages paid by
3 the lessor employing unit to individuals performing services for
4 client lessees of the lessor employing unit. Unless the lessor
5 employing unit has timely complied with the provisions of
6 subdivision (3) of this subsection, any employer, individual,
7 organization, partnership, corporation, other legal entity or
8 employing unit which is leasing individuals from any lessor
9 employing unit shall be jointly and severally liable for any
10 unpaid contributions, interest and penalties due pursuant to this
11 law from any lessor employing unit attributable to wages for
12 services performed for the client lessee entity by individuals
13 leased to the client lessee entity, and the lessor employing unit
14 shall keep separate records and submit separate quarterly
15 contribution and wage reports for each of its client lessee
16 entities. Delinquent contributions, interest and penalties shall
17 be collected in accordance with the provisions of this chapter.

18 (2) Notwithstanding the provisions of subdivision (1) of
19 this subsection, any governmental entity or nonprofit
20 organization that meets the definition of "lessor employing
21 unit", as defined in subdivision (5) of this subsection, and has
22 elected to become liable for payments in lieu of contributions as
23 provided in subsection 3 of section 288.090, shall pay the
24 division payments in lieu of contributions, interest, penalties
25 and surcharges in accordance with section 288.090 on benefits
26 paid to individuals performing services for the client lessees of
27 the lessor employing unit. If the lessor employing unit has not
28 timely complied with the provisions of subdivision (3) of this

1 subsection, any client lessees with services attributable to and
2 performed for the client lessees shall be jointly and severally
3 liable for any unpaid payments in lieu of contributions,
4 interest, penalties and surcharges due pursuant to this law. The
5 lessor employing unit shall keep separate records and submit
6 separate quarterly contribution and wage reports for each of its
7 client lessees. Delinquent payments in lieu of contributions,
8 interest, penalties and surcharges shall be collected in
9 accordance with subsection 3 of section 288.090. The election to
10 be liable for payments in lieu of contributions made by a
11 governmental entity or nonprofit organization meeting the
12 definition of "lessor employing unit" may be terminated by the
13 division in accordance with subsection 3 of section 288.090.

14 (3) In order to relieve a client lessees from joint and
15 several liability and the separate reporting requirements imposed
16 pursuant to this subsection, any lessor employing unit may post
17 and maintain a surety bond issued by a corporate surety
18 authorized to do business in Missouri in an amount equivalent to
19 the contributions or payments in lieu of contributions for which
20 the lessor employing unit was liable in the last calendar year in
21 which he or she accrued contributions or payments in lieu of
22 contributions, or one hundred thousand dollars, whichever amount
23 is the greater, to ensure prompt payment of contributions or
24 payments in lieu of contributions, interest, penalties and
25 surcharges for which the lessor employing unit may be, or
26 becomes, liable pursuant to this law. In lieu of a surety bond,
27 the lessor employing unit may deposit in a depository designated
28 by the director, securities with marketable value equivalent to

1 the amount required for a surety bond. The securities so
2 deposited shall include authorization to the director to sell any
3 securities in an amount sufficient to pay any contributions or
4 payments in lieu of contributions, interest, penalties and
5 surcharges which the lessor employing unit fails to promptly pay
6 when due. In lieu of a surety bond or securities as described in
7 this subdivision, any lessor employing unit may provide the
8 director with an irrevocable letter of credit, as defined in
9 section 409.5-103, RSMo, issued by any state or federally
10 chartered financial institution, in an amount equivalent to the
11 amount required for a surety bond as described in this
12 subdivision. In lieu of a surety bond, securities or an
13 irrevocable letter of credit, a lessor employing unit may obtain
14 a certificate of deposit issued by any state or federally
15 chartered financial institution, in an amount equivalent to the
16 amount required for a surety bond as described in this
17 subdivision. The certificate of deposit shall be pledged to the
18 director until release by the director. As used in this
19 subdivision, the term "certificate of deposit" means a
20 certificate representing any deposit of funds in a state or
21 federally chartered financial institution for a specified period
22 of time which earns interest at a fixed or variable rate, where
23 such funds cannot be withdrawn prior to a specified time without
24 forfeiture of some or all of the earned interest.

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

1 engaged in the business of leasing individuals to client lessees
2 shall comply with subdivision (3) of this subsection before
3 entering into a written lease agreement with client lessees.

4 (5) As used in this subsection, the term "lessor employing
5 unit" means an independently established business entity,
6 governmental entity as defined in subsection 1 of section 288.030
7 or nonprofit organization as defined in subsection 3 of section
8 288.090 which, pursuant to a written lease agreement between the
9 lessor employing unit and the client lessees, engages in the
10 business of providing individuals to any other employer,
11 individual, organization, partnership, corporation, other legal
12 entity or employing unit referred to in this subsection as a
13 client lessee.

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

20 3. After September 30, 1986, notwithstanding any provision
21 of section 288.034, for the purpose of this law, in no event
22 shall a for-hire motor carrier as regulated by the Missouri
23 division of motor carrier and railroad safety or whose operations
24 are confined to a commercial zone be determined to be the
25 employer of a lessor as defined in [section 288.030 or of a
26 driver receiving remuneration from a lessor] 49 CFR section
27 376.2(f), or of a driver receiving remuneration from a lessor as
28 defined in 49 CFR section 376.2(f), provided, however, the term

1 "for-hire motor carrier" shall in no event include an
2 organization described in Section 501(c)(3) of the Internal
3 Revenue Code or any governmental entity.

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

10 288.035. Notwithstanding the provisions of section 288.034,
11 RSMo, in the case of an individual who is the owner, as defined
12 in subsection 43 of section 301.010, RSMo, and operator of a
13 motor vehicle which is leased or contracted with a driver to a
14 for-hire common or contract motor vehicle carrier operating
15 within a commercial zone as defined in section 390.020 or
16 390.041, or operating under a certificate issued by [the motor
17 carrier and railroad safety division of the department of
18 economic development under provisions of this chapter or by the
19 interstate commerce commission] the Missouri department of
20 transportation or by the United States Department of
21 Transportation or any of its subagencies, such owner/operator
22 shall not be deemed to be an employee, provided, however, such
23 individual owner and operator shall be deemed to be in employment
24 if the for-hire common or contract vehicle carrier is an
25 organization described in section 501(c)(3) of the Internal
26 Revenue Code or any governmental entity.

27 288.036. 1. "Wages" means all remuneration, payable or
28 paid, for personal services including commissions and bonuses

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

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

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

24 (b) Medical and hospitalization expenses in connection with
25 sickness or accident disability; or

26 (c) Death;

27 (2) The amount of any payment on account of sickness or
28 accident disability, or medical or hospitalization expenses in

1 connection with sickness or accident disability, made by an
2 employing unit to, or on behalf of, an individual performing
3 services for it after the expiration of six calendar months
4 following the last calendar month in which the individual
5 performed services for such employing unit;

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

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

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

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

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

26 (6) Remuneration paid in the form of meals provided to an
27 individual in the service of an employing unit where such
28 remuneration is furnished on the employer's premises and at the

1 employer's convenience, except that remuneration in the form of
2 meals that is considered wages and required to be reported as
3 wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C.
4 Sec. 3306 shall be reported as wages as required thereunder;

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

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

14 2. The increases or decreases to the state taxable wage
15 base for the remainder of calendar year 2004 shall be eight
16 thousand dollars, and the state taxable wage base in calendar
17 year 2005, and each calendar year thereafter, shall be determined
18 by the provisions within this subsection. On January 1, 2005,
19 the state taxable wage base for calendar year 2005, 2006, and
20 2007 shall be eleven thousand dollars. The taxable wage base for
21 calendar year 2008[, and each year thereafter,] shall be twelve
22 thousand dollars. The state taxable wage base for each calendar
23 year thereafter shall be determined by the [preceding September
24 thirtieth balance] average balance of the unemployment
25 compensation trust fund of the four preceding calendar quarters
26 (September thirtieth, June thirtieth, March thirty-first, and
27 December thirty-first of the preceding calendar year), less any
28 outstanding federal Title XII advances received pursuant to

1 section 288.330, [or if the fund is not utilizing moneys advanced
2 by the federal government, then less the principal, interest, and
3 administrative expenses related to credit instruments issued
4 under section 288.330, or the principal, interest, and
5 administrative expenses related to financial agreements under
6 subdivision (17) of subsection 2 of section 288.330, or the
7 principal, interest, and administrative expenses related to a
8 combination of Title XII advances, credit instruments, and
9 financial agreements] less the principal, interest, and
10 administrative expenses related to any credit instrument issued
11 under section 288.030, and less the principal, interest, and
12 administrative expenses related to any financial agreements under
13 subdivision (17) of subsection 2 of section 288.330. When the
14 [September thirtieth unemployment compensation trust fund
15 balance, or, if the] average balance[, less any federal advances]
16 of the unemployment compensation trust fund of the four preceding
17 quarters (September thirtieth, June thirtieth, March
18 thirty-first, and December thirty-first of the preceding calendar
19 year) [is less any outstanding federal Title XII advances
20 received pursuant to section 288.330], as so determined is:

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

24 (2) Six hundred fifty million or more, then the state
25 taxable wage base for the subsequent calendar year shall be
26 decreased by five hundred dollars. In no event, however, shall
27 the state taxable wage base increase beyond twelve thousand five
28 hundred dollars, or decrease to less than seven thousand dollars.

1 For calendar year 2009, the tax wage base shall be twelve
2 thousand five hundred dollars. For calendar year 2010 and each
3 calendar year thereafter, in no event shall the state taxable
4 wage base increase beyond thirteen thousand dollars, or decrease
5 to less than seven thousand dollars.

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

14 288.038. [With respect to initial claims filed during
15 calendar years 2004 and 2005, the "maximum weekly benefit amount"
16 means four percent of the total wages paid to an eligible insured
17 worker during that quarter of the worker's base period in which
18 the worker's wages were the highest, but the maximum weekly
19 benefit amount shall not exceed two hundred fifty dollars in the
20 calendar years 2004 and 2005.] With respect to initial claims
21 filed during calendar [years] year 2006 [and 2007], the "maximum
22 weekly benefit amount" means three and three fourths percent of
23 the total wages paid to an eligible insured worker during that
24 quarter of the worker's base period in which the worker's wages
25 were the highest. With respect to initial claims filed during
26 calendar year 2007 and each calendar year thereafter, the
27 "maximum weekly benefit amount" means [three and three-fourths]
28 four percent of the [total] average quarterly wages paid to an

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

17 288.040. 1. A claimant who is unemployed and has been
18 determined to be an insured worker shall be eligible for benefits
19 for any week only if the deputy finds that:

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

23 (2) The claimant is able to work and is available for work.
24 No person shall be deemed available for work unless such person
25 has been and is actively and earnestly seeking work. Upon the
26 filing of an initial or renewed claim, and prior to the filing of
27 each weekly claim thereafter, the deputy shall notify each
28 claimant of the number of work search contacts required to

1 constitute an active search for work. No person shall be
2 considered not available for work, pursuant to this subdivision,
3 solely because he or she is a substitute teacher or is on jury
4 duty. A claimant shall not be determined to be ineligible
5 pursuant to this subdivision because of not actively and
6 earnestly seeking work if:

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

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

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

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

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

27 (c) The claimant resides in a county with an unemployment
28 rate, as published by the division, of ten percent or more and in

1 which the county seat is more than forty miles from the nearest
2 division office;

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

10
11 Ineligibility pursuant to this subdivision shall begin on the
12 first day of the week which the claimant was scheduled to claim
13 and shall end on the last day of the week preceding the week
14 during which the claimant does report in person to the division's
15 office;

16 (4) Prior to the first week of a period of total or partial
17 unemployment for which the claimant claims benefits he or she has
18 been totally or partially unemployed for a waiting period of one
19 week. No more than one waiting week will be required in any
20 benefit year. During calendar year 2008 and each calendar year
21 thereafter, the one-week waiting period shall become compensable
22 once his or her remaining balance on the claim is equal to or
23 less than the compensable amount for the waiting period. No week
24 shall be counted as a week of total or partial unemployment for
25 the purposes of this subsection unless it occurs within the
26 benefit year which includes the week with respect to which the
27 claimant claims benefits;

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

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

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

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

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

16 3. (1) Benefits based on "service in employment", defined
17 in subsections 7 and 8 of section 288.034, shall be payable in
18 the same amount, on the same terms and subject to the same
19 conditions as compensation payable on the basis of other service
20 subject to this law; except that:

21 (a) With respect to service performed in an instructional,
22 research, or principal administrative capacity for an educational
23 institution, benefits shall not be paid based on such services
24 for any week of unemployment commencing during the period between
25 two successive academic years or terms, or during a similar
26 period between two regular but not successive terms, or during a
27 period of paid sabbatical leave provided for in the individual's
28 contract, to any individual if such individual performs such

1 services in the first of such academic years (or terms) and if
2 there is a contract or a reasonable assurance that such
3 individual will perform services in any such capacity for any
4 educational institution in the second of such academic years or
5 terms;

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

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

24 (d) With respect to services described in paragraphs (a)
25 and (b) of this subdivision, benefits payable on the basis of
26 services in any such capacity shall be denied as specified in
27 paragraphs (a), (b), and (c) of this subdivision to any
28 individual who performed such services at an educational

1 institution while in the employ of an educational service agency,
2 and for this purpose the term "educational service agency" means
3 a governmental agency or governmental entity which is established
4 and operated exclusively for the purpose of providing such
5 services to one or more educational institutions.

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

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

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

25 (b) A governmental or other pension, retirement or retired
26 pay, annuity, or other similar periodic payment which is based on
27 the previous work of such claimant to the extent that such
28 payment is provided from funds provided by a base period or

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

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

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

23 5. A claimant shall be ineligible for waiting week credit
24 or benefits for any week for which or a part of which he or she
25 has received or is seeking unemployment benefits pursuant to an
26 unemployment insurance law of another state or the United States;
27 provided, that if it be finally determined that the claimant is
28 not entitled to such unemployment benefits, such ineligibility

1 shall not apply.

2 6. (1) A claimant shall be ineligible for waiting week
3 credit or benefits for any week for which the deputy finds that
4 such claimant's total or partial unemployment is due to a
5 stoppage of work which exists because of a labor dispute in the
6 factory, establishment or other premises in which such claimant
7 is or was last employed. In the event the claimant secures other
8 employment from which he or she is separated during the existence
9 of the labor dispute, the claimant must have obtained bona fide
10 employment as a permanent employee for at least the major part of
11 each of two weeks in such subsequent employment to terminate his
12 or her ineligibility. If, in any case, separate branches of work
13 which are commonly conducted as separate businesses at separate
14 premises are conducted in separate departments of the same
15 premises, each such department shall for the purposes of this
16 subsection be deemed to be a separate factory, establishment or
17 other premises. This subsection shall not apply if it is shown
18 to the satisfaction of the deputy that:

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

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

27 (2) "Stoppage of work" as used in this subsection means a
28 substantial diminution of the activities, production or services

1 at the establishment, plant, factory or premises of the employing
2 unit. This definition shall not apply to a strike where the
3 employees in the bargaining unit who initiated the strike are
4 participating in the strike. Such employees shall not be
5 eligible for waiting week credit or benefits during the period
6 when the strike is in effect, regardless of diminution, unless
7 the employer has been found guilty of an unfair labor practice by
8 the National Labor Relations Board or a federal court of law for
9 an act or actions preceding or during the strike.

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

20 8. Benefits shall not be payable on the basis of services
21 performed by an alien, unless such alien is an individual who was
22 lawfully admitted for permanent residence at the time such
23 services were performed, was lawfully present for purposes of
24 performing such services, or was permanently residing in the
25 United States under color of law at the time such services were
26 performed (including an alien who was lawfully present in the
27 United States as a result of the application of the provisions of
28 Section 212(d)(5) of the Immigration and Nationality Act).

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

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

10 9. The directors of the division of employment security and
11 the division of workforce development shall submit to the
12 governor, the speaker of the house of representatives, and the
13 president pro tem of the senate no later than October 15, 2006, a
14 report outlining their recommendations for how to improve work
15 search verification and claimant re-employment activities. The
16 recommendations shall include, but not limited to how to best
17 utilize "greathires.org", and how to reduce the average duration
18 of unemployment insurance claims. Each calendar year thereafter,
19 the directors shall submit a report containing their
20 recommendations on these issues by December thirty-first of each
21 year.

22 288.045. 1. If a claimant is at work with a detectible
23 amount of alcohol or a controlled substance as defined in section
24 195.010, RSMo, in the claimant's system, in violation of the
25 employer's alcohol and controlled substance workplace policy, the
26 claimant shall have committed misconduct connected with the
27 claimant's work.

28 2. [For carboxy-tetrahydrocannabinol, a chemical test

1 result of fifty nannograms per milliliter or more shall be
2 considered a detectible amount. For alcohol, a blood alcohol
3 content of eight-hundredths of one percent or more by weight of
4 alcohol in the claimant's blood shall be considered a detectible
5 amount.

6 3. If the] A test [is] conducted by a laboratory certified
7 by the United States Department of [Transportation, the test
8 results] Health and Human Services or another accrediting
9 organization, certifying organization or professional society
10 approved by the division and the laboratory's trial packet shall
11 be included in the administrative record and considered as
12 evidence.

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

24 [5. For this section to be applicable, testing] 4. Test
25 results shall be [conducted only if sufficient cause exists to
26 suspect alcohol or controlled substance use by the claimant. If
27 sufficient cause exists to suspect prior alcohol or controlled
28 substance use by the claimant, or] admissible if the employer's

1 policy clearly states [that there will] an employee may be
2 subject to random, preemployment, reasonable suspicion or post-
3 accident testing[, then testing of the claimant may be conducted
4 randomly.

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

10 7.]. An employer may require a preemployment test for
11 alcohol or controlled substance use as a condition of employment,
12 and test results shall be admissible so long as the claimant was
13 informed of the test requirement prior to taking the test. A
14 random, preemployment, reasonable suspicion or post-accident test
15 result, conducted under this section, which is positive for
16 alcohol or controlled substance use shall be considered
17 misconduct.

18 5. The application [of the alcohol and controlled substance
19 testing provisions] of this section for alcohol and controlled
20 substance testing, relating only to methods of testing, criteria
21 for testing, chain of custody for samples or specimens and due
22 process for employee notification procedures shall not apply in
23 the event that the claimant is subject to the provisions of any
24 applicable collective bargaining agreement, [which] so long as
25 said agreement contains methods for alcohol or controlled
26 substance testing that meet or exceed the minimum standards
27 established in this section. Nothing in this chapter is intended
28 to authorize any employer to test any applicant or employee for

1 alcohol or drugs in any manner inconsistent with Missouri or
2 United States constitution, law, statute or regulation, including
3 those imposed by the Americans with Disabilities Act and the
4 National Labor Relations Act.

5 [8.] 6. All specimen collection [and testing] for drugs
6 and alcohol under this chapter shall be performed in accordance
7 with the procedures provided for by the United States Department
8 of Transportation rules for workplace drug and alcohol testing
9 compiled at 49 C.F.R., Part 40. Any employer that performs drug
10 testing or specimen collection shall use chain-of-custody
11 procedures established by regulations of the United States
12 Department of Transportation. "Specimen" means tissue, fluid, or
13 a product of the human body capable of revealing the presence of
14 alcohol or drugs or their metabolites. "Chain of custody" refers
15 to the methodology of tracking specified materials or substances
16 for the purpose of maintaining control and accountability from
17 initial collection to final disposition for all such materials or
18 substances, and providing for accountability at each stage in
19 handling, testing, and storing specimens and reporting test
20 results.

21 [9. For this section to be applicable,] 7. The employee
22 may request that a confirmation test on the specimen be
23 conducted. "Confirmation test" means a second analytical
24 procedure used to identify the presence of a specific drug or
25 alcohol or metabolite in a specimen, which test must be different
26 in scientific principle from that of the initial test procedure
27 and must be capable of providing requisite specificity,
28 sensitivity and quantitative accuracy. In the event that a

1 confirmation test is requested, such shall be obtained from a
2 separate, unrelated certified laboratory and shall be at the
3 employee's expense only if said test confirms the original,
4 positive test results [as specified in subsection 2 of this
5 section]. For purposes of this section, "confirmation test"
6 shall be a split specimen test.

7 [10.] 8. Use of a controlled substance as defined under
8 section 195.010, RSMo, under and in conformity with the lawful
9 order of a healthcare practitioner, shall not be deemed to be
10 misconduct connected with work for the purposes of this section.

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

15 [12.] 10. Any employer that initiates an alcohol and drug
16 testing policy after January 1, 2005, shall ensure that at least
17 sixty days elapse between a general one-time notice to all
18 employees that an alcohol and drug testing workplace policy is
19 being implemented and the effective date of the program.

20 [13. (1) In applying provisions of this chapter, it is the
21 intent of the legislature to reject and abrogate previous case
22 law interpretations of "misconduct connected with work" requiring
23 a finding of evidence of impairment of work performance,
24 including, but not limited to, the holdings contained in Baldor
25 Electric Company v. Raylene Reasoner and Missouri Division of
26 Employment Security, 66 S.W.3d 130 (Mo.App. E.D. 2001).

27 (2) In determining whether or not misconduct connected with
28 work has occurred, neither the state, any agency of the state,

1 nor any court of the state of Missouri shall require a finding of
2 evidence of impairment of work performance.

3 14.] 11. Notwithstanding any provision of this chapter to
4 the contrary, any claimant found to be in violation of this
5 section shall be subject to the cancellation of all or part of
6 the claimants wage credits as provided by [subdivision (2) of]
7 subsection 2 of section 288.050.

8 288.046. 1. In applying provisions of this chapter, it is
9 the intent of the general assembly to reject and abrogate
10 previous case law interpretations of "misconduct connected with
11 work" requiring a finding of evidence of impairment of work
12 performance, including but not limited to, the holdings contained
13 in Baldor Electric Company v. Raylene Reasoner and Missouri
14 Division of Employment Security, 66 S.W.3d 130 (Mo.App. E.D.
15 2001).

16 2. In determining whether misconduct connected with work
17 has occurred, neither the state, any agency of the state, nor any
18 court of the state of Missouri shall require a finding of
19 evidence of impairment of work performance.

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

26 (1) That the claimant has left work voluntarily without
27 good cause attributable to such work or to the claimant's
28 employer. A temporary employee of a temporary help firm will be

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

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

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

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

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

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

6 (3) That the claimant failed without good cause either to
7 apply for available suitable work when so directed by [the] a
8 deputy of the division or designated staff of an employment
9 office as defined in subsection 16 of section 288.030, or to
10 accept suitable work when offered the claimant, either through
11 the division or directly by an employer by whom the individual
12 was formerly employed, or to return to the individual's customary
13 self-employment, if any, when so directed by the deputy. An
14 offer of work shall be rebuttably presumed if an employer
15 notifies the claimant in writing of such offer by sending an
16 acknowledgment via any form of certified mail issued by the
17 United States Postal Service stating such offer to the claimant
18 at the claimant's last known address. Nothing in this
19 subdivision shall be construed to limit the means by which the
20 deputy may establish that the claimant has or has not been
21 sufficiently notified of available work.

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

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

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

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

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

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

4 2. If a deputy finds that a claimant has been discharged
5 for misconduct connected with the claimant's work, such claimant
6 shall be disqualified for waiting week credit and benefits, and
7 no benefits shall be paid nor shall the cost of any benefits be
8 charged against any employer for any period of employment within
9 the base period until the claimant has earned wages for work
10 insured under the unemployment laws of this state or any other
11 state as prescribed in this section. In addition to the
12 disqualification for benefits pursuant to this provision the
13 division may in the more aggravated cases of misconduct, cancel
14 all or any part of the individual's wage credits, which were
15 established through the individual's employment by the employer
16 who discharged such individual, according to the seriousness of
17 the misconduct. A disqualification provided for pursuant to this
18 subsection shall not apply to any week which occurs after the
19 claimant has earned wages for work insured pursuant to the
20 unemployment compensation laws of any state in an amount equal to
21 six times the claimant's weekly benefit amount. Should a
22 claimant be disqualified on a second or subsequent occasion
23 within the base period or subsequent to the base period the
24 claimant shall be required to earn wages in an amount equal to or
25 in excess of six times the claimant's weekly benefit amount for
26 each disqualification.

27 3. Absenteeism or tardiness [may] shall constitute a
28 rebuttable presumption of misconduct, regardless of whether the

1 last incident alone constitutes misconduct[. In determining
2 whether the degree of absenteeism or tardiness constitutes a
3 pattern for which misconduct may be found, the division shall
4 consider whether], if the discharge was the result of a violation
5 of the employer's attendance policy, provided the employee had
6 received knowledge of such policy prior to the occurrence of any
7 absence or tardy upon which the discharge is based.

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

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

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

26 3. Each eligible insured worker who is partially unemployed
27 in any week shall be paid for such week a partial benefit. Such
28 partial benefit shall be an amount equal to the difference

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

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

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

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

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

28 7. The division may establish an electronic funds transfer

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

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

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

[monthly] weekly. The division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

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

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

24 2. Using the same mathematical principles used in
25 constructing the table provided in subsection 1 of this section,
26 the following table has been constructed. The contribution rate
27 for the following calendar year of any employer participating in
28 a shared work plan under section 288.500 during the current

calendar year or any calendar year during a prior three-year period shall be determined from the balance in such employer's experience rating account as of the previous June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, from the following table:

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
-----	-27.0	9.0%
-27.0	-26.0	8.8%
-26.0	-25.0	8.6%
-25.0	-24.0	8.4%
-24.0	-23.0	8.2%
-23.0	-22.0	8.0%
-22.0	-21.0	7.8%
-21.0	-20.0	7.6%
-20.0	-19.0	7.4%
-19.0	-18.0	7.2%
-18.0	-17.0	7.0%
-17.0	-16.0	6.8%
-16.0	-15.0	6.6%
-15.0	-14.0	6.4%
-14.0	-13.0	6.2%
-13.0	-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%

1	-8.0	-7.0	5.0%
2	-7.0	-6.0	4.8%
3	-6.0	-5.0	4.6%
4	-5.0	-4.0	4.4%
5	-4.0	-3.0	4.2%
6	-3.0	-2.0	4.0%
7	-2.0	-1.0	3.8%
8	-1.0	0	3.6%
9	0	2.5	2.7%
10	2.5	3.5	2.6%
11	3.5	4.5	2.5%
12	4.5	5.0	2.4%
13	5.0	5.5	2.3%
14	5.5	6.0	2.2%
15	6.0	6.5	2.1%
16	6.5	7.0	2.0%
17	7.0	7.5	1.9%
18	7.5	8.0	1.8%
19	8.0	8.5	1.7%
20	8.5	9.0	1.6%
21	9.0	9.5	1.5%
22	9.5	10.0	1.4%
23	10.0	10.5	1.3%
24	10.5	11.0	1.2%
25	11.0	11.5	1.1%
26	11.5	12.0	1.0%
27	12.0	12.5	0.9%
28	12.5	13.0	0.8%

1	13.0	13.5	0.6%
2	13.5	14.0	0.4%
3	14.0	14.5	0.3%
4	14.5	15.0	0.2%
5	15.0	----	0.0%

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

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

exceed one and one-half percent in any given year.

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

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

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

2. For calendar [years 2005, 2006, and] year 2007 and each year thereafter, an employer's total contribution rate shall equal the employer's contribution rate plus a temporary debt indebtedness assessment equal to the amount to be determined in subdivision (6) of subsection 2 of section 288.330 added to the contribution rate plus the increase authorized under subsection 1 of this section. Any moneys overcollected beyond the actual

administrative, interest and principal repayment costs for the credit instruments used shall be deposited into the state unemployment insurance trust fund and credited to the employer's experience account. [The temporary debt indebtedness assessment shall expire upon the last day of the fourth calendar quarter of 2007.]

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

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

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

1 employer whose calculated contribution rate under section 288.120
2 is six percent or greater.

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

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

22 2. If on December thirty-first of any year the money
23 collected under [this] subsection 1 of this section exceeds the
24 amount of interest due on federal advancements by one hundred
25 thousand dollars or more, then each employer's experience rating
26 account shall be credited with an amount which bears the same
27 ratio to the excess moneys collected under this section as that
28 employer's payment collected under this section bears to the

1 total amount collected under this section. Further, if on
2 December thirty-first of any year the moneys collected under this
3 section exceed the amount of interest due on the federal
4 advancements by less than one hundred thousand dollars, the
5 balance shall be transferred from the special employment security
6 fund to the Secretary of the Treasury of the United States to be
7 credited to the account of this state in the unemployment trust
8 fund.

9 3. [In addition to all other contributions due under this
10 chapter,] If the fund is utilizing moneys from the proceeds of
11 credit instruments issued under section 288.330, or from the
12 moneys advanced under financial agreements under subdivision (17)
13 of subsection 2 of section 288.330, or a combination of credit
14 instrument proceeds and moneys advanced under financial
15 agreements each employer [shall] may be assessed a credit
16 instrument and financing agreement repayment surcharge. The
17 total of such surcharge shall be calculated as an amount up to
18 one hundred fifty percent of the amount required in the
19 twelve-month period following the due date for the payment of
20 such surcharge for the payment of the principal, interest, and
21 administrative expenses related to such credit instruments, or in
22 the case of financial agreements for the payment of principal,
23 interest, and administrative expenses related to such financial
24 agreements, or in the case of a combination of credit instruments
25 and financial agreements for the payment of principal, interest,
26 and administrative expenses for both. The total annual surcharge
27 to be collected shall be calculated by the division as a
28 percentage of the total statewide contributions collected during

1 the previous calendar year. Each employer's proportionate share
2 shall be the product obtained by multiplying the [total statewide
3 credit instrument and financing agreement repayment surcharge by
4 a number obtained by dividing the employer's total taxable wages
5 for the prior year by the total taxable wages in the state for
6 the prior year] percentage calculated under this subsection by
7 each employer's contributions due under this chapter for each
8 filing period during the preceding calendar year. Each employer
9 shall be notified by the division of the amount due under this
10 section by [(January)] April thirtieth of each year and such
11 amount shall be considered delinquent thirty days thereafter.

12 288.175. 1. Notwithstanding any other provisions to the
13 contrary, the division may collect any debt by interception of
14 the debtor's federal income tax refund, in the manner and to the
15 extent allowed by federal law.

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

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

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

27 288.190. 1. The director shall designate an impartial
28 referee or referees to hear and decide disputed determinations,

1 claims referred pursuant to subsection 2 of section 288.070, and
2 petitions for reassessment. No employee of the division shall
3 participate on behalf of the division in any case in which the
4 division employee is an interested party.

5 2. The manner in which disputed determinations, referred
6 claims, and petitions for reassessment shall be presented and the
7 conduct of hearings shall be in accordance with regulations
8 prescribed by the division for determining the rights of the
9 parties, whether or not such regulations conform to common law or
10 statutory rules of evidence and other technical rules of
11 procedure. When the same or substantially similar evidence is
12 relevant and material to the matters in issue in claims by more
13 than one individual or in claims by a single individual in
14 respect to two or more weeks of unemployment, the same time and
15 place for considering each such claim or claims may be fixed,
16 hearings thereon jointly conducted, a single record of the
17 proceedings made, and evidence introduced with respect to one
18 proceeding considered as introduced in the others, if in the
19 judgment of the appeals tribunal or the commission having
20 jurisdiction of the proceeding such consolidation would not be
21 prejudicial to any party. A full and complete record shall be
22 kept of all proceedings in connection with a disputed
23 determination, referred claim, or petition for reassessment. The
24 appeals tribunal shall include in the record and consider as
25 evidence all records of the division that are material to the
26 issues. All testimony at any hearing shall be recorded but need
27 not be transcribed unless the matter is further appealed.

28 3. Unless an appeal on a disputed determination or referred

1 claim is withdrawn, an appeals tribunal, after affording the
2 parties reasonable opportunity for fair hearing, shall affirm,
3 modify, or reverse the determination of the deputy, or shall
4 remand the matter to the deputy with directions. In addition, in
5 any case wherein the appellant, after having been duly notified
6 of the date, time, and place of the hearing, shall fail to appear
7 at such hearing, the appeals tribunal may enter an order
8 dismissing the appeal. The director may transfer to another
9 appeals tribunal the proceedings on an appeal determination
10 before an appeals tribunal. The parties shall be duly notified
11 of an appeals tribunal's decision or order, together with its
12 reason therefor, which shall be deemed to be the final decision
13 or order of the division unless, within thirty days after the
14 date of notification or mailing of such decision, further appeal
15 is initiated pursuant to section 288.200; except that, within
16 thirty days of either notification or mailing of the appeals
17 tribunal's decision or order, the appeals tribunal, on its own
18 motion, or on motion of any party to the case, may reconsider any
19 decision or order when it appears that such reconsideration is
20 essential to the accomplishment of the object and purpose of this
21 law. The authority of the appeals tribunal to reconsider any
22 decision or order under this section shall continue throughout
23 the thirty-day time limit, regardless of whether any party has
24 initiated further appeal under section 288.200 during the thirty-
25 day period.

26 4. Unless a petition for reassessment is withdrawn or is
27 allowed without a hearing, the petitioners shall be given a
28 reasonable opportunity for a fair hearing before an appeals

1 tribunal upon each such petition. The appeals tribunal shall
2 promptly notify the interested parties of its decision upon such
3 petition together with its reason therefor. In addition, in any
4 case wherein the appellant, after having been duly notified of
5 the date, time, and place of the hearing, shall fail to appear at
6 such hearing, the appeals tribunal may enter an order dismissing
7 the appeal. In the absence of the filing of an application for
8 review of such decision, the decision, whether it results in a
9 reassessment or otherwise, shall become final thirty days after
10 the date of notification or mailing thereof; except that, within
11 thirty days of either notification or mailing of the appeals
12 tribunal's decision or order, the appeals tribunal, on its own
13 motion, or on motion of any party to the case, may reconsider any
14 decision or order when it appears that such reconsideration is
15 essential to the accomplishment of the object and purposes of
16 this law. The authority of the appeals tribunal to reconsider
17 any decision under this section shall continue throughout the
18 thirty-day time limit, regardless of whether any party has
19 initiated further appeal under section 288.200 during that
20 thirty-day period.

21 5. Any party subject to any decision of an appeals tribunal
22 pursuant to this chapter has a right to counsel and shall be
23 notified prior to a hearing conducted pursuant to this chapter
24 that a decision of the appeals tribunal is presumptively
25 conclusive for the purposes of this chapter as provided in
26 section 288.200.

27 288.330. 1. Benefits shall be deemed to be due and payable
28 only to the extent that moneys are available to the credit of the

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

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

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

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

1 chair, and the commissioner of administration shall serve as
2 secretary. Staff support for the board shall be provided by the
3 commissioner of administration;

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

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

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

15 (c) In the event that any of the board members or officers
16 of the board whose signatures or facsimile signatures appear on
17 any credit instrument shall cease to be board members or officers
18 before the delivery of such credit instrument, their signatures
19 or facsimile signatures shall be valid and sufficient for all
20 purposes as if such board members or officers had remained in
21 office until delivery of such credit instrument.

22 (d) Neither the board members executing the credit
23 instruments of the board nor any other board members shall be
24 subject to any personal liability or accountability by reason of
25 the issuance of the credit instruments.

26 (4) The board is authorized, by offering for public
27 negotiated sale, to issue, sell, and deliver credit instruments,
28 bearing interest at a fixed or variable rate as shall be

1 determined by the board, which shall mature no later than [three]
2 ten years after issuance, in the name of the board in an amount
3 determined by the board [not to exceed a total of four hundred
4 fifty million dollars, less the principal amount of any financing
5 agreement entered into under subdivision (17) of this
6 subsection], provided that the unpaid principal amount of any
7 outstanding credit instruments, combined with the unpaid
8 principal amount of any financing agreement entered into under
9 subdivision (17) of this subsection, shall not exceed four
10 hundred fifty million dollars at any one time. Such credit
11 instruments may be issued, sold, and delivered for the purposes
12 set forth in subdivision (1) of this subsection. Such credit
13 instrument may only be issued upon the approval of a resolution
14 authorizing such issuance by a simple majority of the members of
15 the board, with no other proceedings required. [No credit
16 instrument may be outstanding hereunder after January 15, 2008.]

17 (5) The board shall provide for the payment of the
18 principal of the credit instruments, any redemption premiums, the
19 interest on the credit instruments, and the costs attributable to
20 the credit instruments being issued or outstanding as provided in
21 this chapter [subsection and in section 288.310]. Unless the
22 board directs otherwise, the credit instrument shall be repaid in
23 the same time frame and in the same amounts as would be required
24 for loans issued pursuant to 42 U.S.C. Section 1321; however, in
25 no case shall credit instruments be outstanding for more than
26 [three] ten years [and further provided that no credit
27 instruments shall be outstanding hereunder after January 15,
28 2008].

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

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

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

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

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

7 (9) The board may prescribe the form, details, and
8 incidents of the credit instruments and make such covenants that
9 in its judgment are advisable or necessary to properly secure the
10 payment thereof. If such credit instruments shall be
11 authenticated by the bank or trust company acting as registrar
12 for such by the manual signature of a duly authorized officer or
13 employee thereof, the duly authorized officers of the board
14 executing and attesting such credit instruments may all do so by
15 facsimile signature provided such signatures have been duly filed
16 as provided in the uniform facsimile signature of public
17 officials law, sections 105.273 to 105.278, RSMo, when duly
18 authorized by resolution of the board, and the provisions of
19 section 108.175, RSMo, shall not apply to such credit
20 instruments. The board may provide for the flow of funds and the
21 establishment and maintenance of separate accounts within the
22 special employment security fund, including the interest and
23 sinking account, the reserve account, and other necessary
24 accounts, and may make additional covenants with respect to the
25 credit instruments in the documents authorizing the issuance of
26 credit instruments including refunding credit instruments. The
27 resolutions authorizing the issuance of credit instruments may
28 also prohibit the further issuance of credit instruments or other

1 obligations payable from appropriated moneys or may reserve the
2 right to issue additional credit instruments to be payable from
3 appropriated moneys on a parity with or subordinate to the lien
4 and pledge in support of the credit instruments being issued and
5 may contain other provisions and covenants as determined by the
6 board, provided that any terms, provisions or covenants provided
7 in any resolution of the board shall not be inconsistent with the
8 provisions of this section.

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

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

22 (12) As determined necessary by the board the proceeds of
23 the credit instruments less the cost of issuance shall be placed
24 in the state's unemployment compensation fund and may be used for
25 the purposes for which that fund may otherwise be used. If those
26 net proceeds are not placed immediately in the unemployment
27 compensation fund they shall be held in the special employment
28 security fund in an account designated for that purpose until

1 they are transferred to the unemployment compensation fund
2 provided that the proceeds of refunding credit instruments may be
3 placed in an escrow account or such other account or instrument
4 as determined necessary by the board.

5 (13) The board may enter into any contract or agreement
6 deemed necessary or desirable to effectuate cost-effective
7 financing hereunder. Such agreements may include credit
8 enhancement, credit support, or interest rate agreements
9 including, but not limited to, arrangements such as municipal
10 bond insurance; surety bonds; tax anticipation notes; liquidity
11 facilities; forward agreements; tender agreements; remarketing
12 agreements; option agreements; interest rate swap, exchange, cap,
13 lock or floor agreements; letters of credit; and purchase
14 agreements. Any fees or costs associated with such agreements
15 shall be deemed administrative expenses for the purposes of
16 calculating the credit instrument and financing agreement
17 repayment surcharge under subsection 3 of section 288.128. The
18 board, with consideration of all other costs being equal, shall
19 give preference to Missouri-headquartered financial institutions,
20 or those out-of-state-based financial institutions with at least
21 one hundred Missouri employees.

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

25 (15) If the United States Secretary of Labor holds that a
26 provision of this subsection or of any provision related to the
27 levy or use of the credit instrument and financial agreement
28 repayment surcharge does not conform with a federal statute or

1 would result in the loss to the state of any federal funds
2 otherwise available to it the board, in cooperation with the
3 department of labor and industrial relations, may administer this
4 subsection, and other provisions related to the credit instrument
5 and financial agreement repayment surcharge, to conform with the
6 federal statute until the general assembly meets in its next
7 regular session and has an opportunity to amend this subsection
8 or other sections, as applicable.

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

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

15 (b) The board is authorized to enter financial agreements
16 with any lender for the purposes set forth in subdivision (1) of
17 this subsection, or to refinance other financial agreements in
18 whole or in part, upon the approval of the simple majority of the
19 members of the board of a resolution authorizing such financial
20 agreements, with no other proceedings required. The total amount
21 of the outstanding obligation under all such agreements at any
22 one time shall not exceed the difference of four hundred fifty
23 million dollars and the principal amount of credit instruments
24 [issued] outstanding under this subsection. In no instance shall
25 the outstanding obligation under any financial agreement continue
26 for more than [three] ten years[, and no such financial
27 agreement, whether entered into for refinancing purposes or
28 otherwise, shall be outstanding after January 15, 2008].

1 Repayment of obligations to lenders shall be made from the
2 special employment security fund, section 288.310, subject to
3 appropriation by the general assembly.

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

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

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

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

27 (e) The board may prescribe the form, details and incidents
28 of the financing agreements and make such covenants that in its

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

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

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

23 3. In event of the suspension of this law, any unobligated
24 funds in the unemployment compensation fund, and returned by the
25 United States Treasurer because such Federal Social Security Act
26 is inoperative, shall be held in custody by the treasurer and
27 under supervision of the division until the legislature shall
28 provide for the disposition thereof. In event no disposition is

1 made by the legislature at the next regular meeting subsequent to
2 suspension of said law, then all unobligated funds shall be
3 returned ratably to those who contributed thereto.

4 4. For purposes of this section, as contained in senate
5 substitute no. 2 for senate committee substitute for house
6 substitute for house committee substitute for house bill nos.
7 1268 and 1211, ninety-second general assembly, second regular
8 session, the revisor of statutes shall renumber subdivision (16)
9 of subsection 2 of such section as subdivision (17) of such
10 subsection and renumber subdivision (17) of subsection 2 of such
11 section as subdivision (16) of such subsection.

12 288.380. 1. Any agreement by a worker to waive, release,
13 or commute such worker's rights to benefits or any other rights
14 pursuant to this chapter or pursuant to an employment security
15 law of any other state or of the federal government shall be
16 void. Any agreement by a worker to pay all or any portion of any
17 contributions required shall be void. No employer shall directly
18 or indirectly make any deduction from wages to finance the
19 employer's contributions required from him or her, or accept any
20 waiver of any right pursuant to this chapter by any individual in
21 his or her employ.

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

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

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

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

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

26 6. No employee of the division or any person who has
27 obtained any list of applicants for work or of claimants for or
28 recipients of benefits pursuant to this chapter shall use or

1 permit the use of such lists for any political purpose.

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

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

27 9. (1) Any individual or employer who receives or denies
28 unemployment benefits by intentionally misrepresenting,

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

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

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

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

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

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

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

1 individual signs and certifies a claim for benefits and fails to
2 disclose or falsifies as to any fact relative to such claim.

3 11. (1) Any assignment, pledge, or encumbrance of any
4 rights to benefits which are or may become due or payable
5 pursuant to this chapter shall be void; and such rights to
6 benefits shall be exempt from levy, execution, attachment, or any
7 other remedy whatsoever provided for the collection of debt; and
8 benefits received by any individual, so long as they are not
9 mingled with other funds of the recipient, shall be exempt from
10 any remedy whatsoever for the collection of all debts except
11 debts incurred for necessities furnished to such individual or
12 the individual's spouse or dependents during the time such
13 individual was unemployed. Any waiver of any exemption provided
14 for in this subsection shall be void; except that this section
15 shall not apply to:

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

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

23 (2) (a) An individual filing a new claim for unemployment
24 compensation shall, at the time of filing such claim, disclose
25 whether or not the individual owes support obligations, as
26 defined pursuant to paragraph (g) of this subdivision or owes
27 uncollected overissuances of food stamp coupons (as defined in
28 Section 13(c)(1) of the Food Stamp Act of 1977). If any such

1 individual discloses that he or she owes support obligations or
2 uncollected overissuances of food stamp coupons, and is
3 determined to be eligible for unemployment compensation, the
4 division shall notify the state or local support enforcement
5 agency enforcing the support obligation or the state food stamp
6 agency to which the uncollected food stamp overissuance is owed
7 that such individual has been determined to be eligible for
8 unemployment compensation;

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

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

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

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

1 pursuant to Section 13(c)(3)(b) of the Food Stamp Act of 1977;

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

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

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

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

28 (g) The term "support obligations" is defined for purposes

1 of this subsection as including only obligations which are being
2 enforced pursuant to a plan described in Section 454 of the
3 Social Security Act which has been approved by the Secretary of
4 Health and Human Services pursuant to Part D of Title IV of the
5 Social Security Act;

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

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

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

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

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

26 b. If, after deductions are made pursuant to subparagraph
27 a. of this paragraph, an individual has remaining unemployment
28 compensation amounts due and owing, and the individual owes

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

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

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

25 13. Any person who, by reason of any error or omission or
26 because of a lack of knowledge of material fact on the part of
27 the division, has received any sum of benefits pursuant to this
28 chapter while any conditions for the receipt of benefits imposed

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

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

21 15. Any person who has received any sum as benefits under
22 the laws of another state, or under any unemployment benefit
23 program of the United States administered by another state while
24 any conditions for the receipt of benefits imposed by the law of
25 such other state were not fulfilled in his or her case, shall
26 after an opportunity for a fair hearing pursuant to subsection 2
27 of section 288.190 have such sums deducted from any further
28 benefits payable to such person pursuant to this chapter, but

1 only if there exists between this state and such other state a
2 reciprocal agreement under which such entity agrees to recover
3 benefit overpayments, in like fashion, on behalf of this state.

4 288.381. 1. The provisions of subsection 6 of section
5 288.070 notwithstanding, benefits paid to a claimant pursuant to
6 subsection 5 of section 288.070 to which the claimant was not
7 entitled based on a subsequent determination, redetermination or
8 decision which has become final, shall be collectible by the
9 division as provided in subsections [11 and] 12 and 13 of section
10 288.380.

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

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

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

9 288.500. 1. There is created under this section a
10 voluntary "Shared Work Unemployment Compensation Program". In
11 connection therewith, the division may adopt rules and establish
12 procedures, not inconsistent with this section, which are
13 necessary to administer this program.

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) The employer has filed all reports required to be filed

1 under this chapter for all past and current periods and has paid
2 all contributions due for all past and current periods;

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

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

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

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

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

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

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

24 6. No shared work plan which will subsidize seasonal
25 employers during the off-season or subsidize employers, at least
26 fifty percent of the employees of which have normal weekly hours
27 of work equaling thirty-two hours or less, shall be approved by
28 the division. No shared work plan benefits will be initiated

1 [for pay periods] when the reduced hours [reflect] coincide with
2 holiday earnings already committed to be paid by the employer.
3 Shared work-plan benefits may not be denied in any week
4 containing a holiday for which holiday earnings are committed to
5 be paid by the employer unless the shared work benefits to be
6 paid are for the same hours in the same day as the holiday
7 earnings.

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

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

27 9. Each shared work plan approved by the division shall
28 become effective on the first day of the week in which it is

1 approved by the division or on a later date as specified in the
2 shared work plan. Each shared work plan approved by the division
3 shall expire on the last day of the twelfth full calendar month
4 after the effective date of such shared work plan.

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

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

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

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

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

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

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

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

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

1 participating employer under the plan.

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

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

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

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

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

9 290.595. 1. As used in this section the term "proper
10 authorities" shall mean public authorities or authorities of the
11 employer, but shall not include any individual who engaged in the
12 reported illegal conduct.

13 2. Existing common law is hereby codified regarding the
14 public policy exceptions to the at-will employment doctrine based
15 on an employee's whistle-blowing or refusal to commit an illegal
16 act.

17 3. The at-will employment doctrine shall not apply when the
18 elements of a whistle-blower cause of action are established. A
19 whistle-blower cause of action for wrongful discharge in
20 violation of public policy is established if an employee proves
21 by a preponderance of the evidence that:

22 (1) The employee reported to proper authorities serious
23 misconduct that constituted an actual violation of a statute,
24 constitutional provision, or regulation and of well-established
25 and clearly mandated public policy;

26 (2) The employee was discharged; and

27 (3) The discharge was caused by the employee's report to
28 proper authorities.

1 4. The at-will employment doctrine shall not apply when the
2 elements of a refusal to commit an illegal act cause of action
3 are established. A refusal to commit an illegal act cause of
4 action for wrongful discharge in violation of public policy is
5 established if an employee proves by a preponderance of the
6 evidence that:

7 (1) The employer directed the employee to perform conduct
8 that actually violated a statute, constitutional provision, or
9 regulation;

10 (2) The employee specifically refused the directive to
11 perform the unlawful act;

12 (3) The employee was discharged; and

13 (4) The discharge was caused by the employee's refusal to
14 perform the unlawful act.

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