

HOUSE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NOS. 1268 & 1211

1 AN ACT

2 To repeal sections 285.300, 288.030, 288.036,  
3 288.038, 288.040, 288.050, 288.060, 288.110,  
4 288.121, 288.128, 288.270, 288.290, 288.310,  
5 and 288.330, RSMo, and to enact in lieu  
6 thereof eighteen new sections relating to  
7 employees, with penalty provisions and an  
8 emergency clause.

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

11 Section A. Section 285.300, 288.030, 288.036, 288.038,  
12 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.270,  
13 288.290, 288.310, and 288.330, RSMo, are repealed and eighteen  
14 new sections enacted in lieu thereof, to be known as 285.300,  
15 288.030, 288.036, 288.038, 288.040, 288.050, 288.060, 288.110,  
16 288.121, 288.128, 288.270, 288.290, 288.310, 288.330, 288.385,  
17 288.395, 288.396, and 288.397, to read as follows:

18 285.300. 1. Every employer doing business in the state  
19 shall require each newly hired employee to fill out a federal W-4  
20 withholding form. A copy of each withholding form or an  
21 equivalent form containing data required by section 285.304 which

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

23 2. Any employer that has employees who are employed in two  
24 or more states and transmits reports magnetically or

1 electronically may comply with subsection 1 of this section by:

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

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

7 288.030. 1. As used in this chapter, unless the context  
8 clearly requires otherwise:

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

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

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

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

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

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

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

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

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

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

22          (11) "Deputy" means a representative of the division  
23 designated to make investigations and administrative  
24 determinations on claims or matters of employer liability or to

1 perform related work;

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

4 (13) "Director" means the administrative head of the  
5 division of employment security;

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

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

23 (16) "Employment office" means a free public employment  
24 office operated by this or any other state as a part of a state

1 controlled system of public employment offices including any  
2 location designated by the state as being a part of the one-stop  
3 career system;

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

8 (18) "Fund" means the unemployment compensation fund  
9 established by this chapter;

10 (19) "Governmental entity" means the state, any political  
11 subdivision thereof, any instrumentality of any one or more of  
12 the foregoing which is wholly owned by this state and one or more  
13 other states or political subdivisions and any instrumentality of  
14 this state or any political subdivision thereof and one or more  
15 other states or political subdivisions;

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

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

21 (22) As to initial claims filed after December 31, 1990,  
22 "insured worker" means a worker who has been paid wages for  
23 insured work in the amount of one thousand dollars or more in at  
24 least one calendar quarter of such worker's base period and total

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

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

16 (24) "Misconduct", means an act of wanton or willful  
17 disregard of the employer's interest, a deliberate violation of  
18 the employer's rules, a disregard of standards of behavior which  
19 the employer has the right to expect of his or her employee, or  
20 negligence in such degree or recurrence as to manifest  
21 culpability, wrongful intent or evil design, or show an  
22 intentional and substantial disregard of the employer's interest  
23 or of the employee's duties and obligations to the employer;

24 (25) "Referee" means a representative of the division

1 designated to serve on an appeals tribunal;

2 [(25)] (26) "State" includes, in addition to the states of  
3 the United States of America, the District of Columbia, Puerto  
4 Rico, the Virgin Islands, and the Dominion of Canada;

5 [(26)] (27) "Temporary help firm", means a firm that hires  
6 its own employees and assigns them to clients to support or  
7 supplement the clients' workforce in work situations such as  
8 employee absences, temporary skill shortages, seasonal workloads,  
9 and special assignments and projects;

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

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

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

20 (c) An individual's "week of unemployment" shall begin the  
21 first day of the calendar week in which the individual registers  
22 at an employment office except that, if for good cause the  
23 individual's registration is delayed, the week of unemployment  
24 shall begin the first day of the calendar week in which the

1 individual would have otherwise registered. The requirement of  
2 registration may by regulation be postponed or eliminated in  
3 respect to claims for partial unemployment or may by regulation  
4 be postponed in case of a mass layoff due to a temporary  
5 cessation of work;

6 [(27)] (30) "Waiting week" means the first week of  
7 unemployment for which a claim is allowed in a benefit year or if  
8 no waiting week has occurred in a benefit year in effect on the  
9 effective date of a shared work plan, the first week of  
10 participation in a shared work unemployment compensation program  
11 pursuant to section 288.500.

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

21 288.036. 1. "Wages" means all remuneration, payable or  
22 paid, for personal services including commissions and bonuses  
23 and, except as provided in subdivision [(8)] (7) of this section,  
24 the cash value of all remuneration paid in any medium other than

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

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

1 unemployment fund; except that:

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

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

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

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

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

7           (c) Death;

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

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

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

23           (b) Under or to an annuity plan which, at the time of such  
24 payments, meets the requirements of section 404(a)(2) of the

1 Federal Internal Revenue Code (26 U.S.C.A. Sec. 404);

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

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

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

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

23 [(9)] (8) Beginning on October 1, 1996, any payment to, or  
24 on behalf of, an employee or the employee's beneficiary under a

1 cafeteria plan, if such payment would not be treated as wages  
2 pursuant to the Federal Unemployment Tax Act.

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

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

24 (2) ~~[Four]~~ Five hundred ~~[fifty]~~ million or more, then the

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

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

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

1 fifty-five dollars for calendar years 2006 and 2007, and two  
2 hundred sixty dollars for calendar year 2008 and each calendar  
3 year thereafter. If such benefit amount is not a multiple of one  
4 dollar, such amount shall be reduced to the nearest lower full  
5 dollar amount.

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

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

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

24 (a) The claimant is participating in training approved

1 pursuant to Section 236 of the Trade Act of 1974, as amended, (19  
2 U.S.C.A. Sec. 2296, as amended); [or]

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

9 (c) The claimant is participating in a state-approved drug  
10 or alcohol treatment program;

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

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

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

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

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

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

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

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

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

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

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

12 For the purposes of complying with this subsection the claimant  
13 shall at a minimum register with a Missouri career center and  
14 participate in vocational counseling services offered by the  
15 state in order to fulfill the requirement of participation in  
16 reemployment services.

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

22 3. (1) Benefits based on "service in employment", defined  
23 in subsections 7 and 8 of section 288.034, shall be payable in

1 the same amount, on the same terms and subject to the same  
2 conditions as compensation payable on the basis of other service  
3 subject to this law; except that:

4 (a) With respect to service performed in an instructional,  
5 research, or principal administrative capacity for an educational  
6 institution, benefits shall not be paid based on such services  
7 for any week of unemployment commencing during the period between  
8 two successive academic years or terms, or during a similar  
9 period between two regular but not successive terms, or during a  
10 period of paid sabbatical leave provided for in the individual's  
11 contract, to any individual if such individual performs such  
12 services in the first of such academic years (or terms) and if  
13 there is a contract or a reasonable assurance that such  
14 individual will perform services in any such capacity for any  
15 educational institution in the second of such academic years or  
16 terms;

17 (b) With respect to services performed in any capacity  
18 (other than instructional, research, or principal administrative  
19 capacity) for an educational institution, benefits shall not be  
20 paid on the basis of such services to any individual for any week  
21 which commences during a period between two successive academic  
22 years or terms if such individual performs such services in the  
23 first of such academic years or terms and there is a contract or  
24 a reasonable assurance that such individual will perform such

1 services in the second of such academic years or terms;

2 (c) With respect to services described in paragraphs (a)  
3 and (b) of this subdivision, benefits shall not be paid on the  
4 basis of such services to any individual for any week which  
5 commences during an established and customary vacation period or  
6 holiday recess if such individual performed such services in the  
7 period immediately before such vacation period or holiday recess,  
8 and there is reasonable assurance that such individual will  
9 perform such services immediately following such vacation period  
10 or holiday recess;

11 (d) With respect to services described in paragraphs (a)  
12 and (b) of this subdivision, benefits payable on the basis of  
13 services in any such capacity shall be denied as specified in  
14 paragraphs (a), (b), and (c) of this subdivision, to any  
15 individual who performed such services at an educational  
16 institution while in the employ of an educational service agency,  
17 and for this purpose the term "educational service agency" means  
18 a governmental agency or governmental entity which is established  
19 and operated exclusively for the purpose of providing such  
20 services to one or more educational institutions.

21 (2) If compensation is denied for any week pursuant to  
22 paragraph (b) or (d) of subdivision (1) of this subsection, to  
23 any individual performing services at an educational institution  
24 in any capacity (other than instructional, research or principal

1 administrative capacity), and such individual was not offered an  
2 opportunity to perform such services for the second of such  
3 academic years or terms, such individual shall be entitled to a  
4 retroactive payment of the compensation for each week for which  
5 the individual filed a timely claim for compensation and for  
6 which compensation was denied solely by reason of paragraph (b)  
7 or (d) of subdivision (1) of this subsection.

8 4. (1) A claimant shall be ineligible for waiting week  
9 credit, benefits or shared work benefits for any week for which  
10 he or she is receiving or has received remuneration exceeding his  
11 or her weekly benefit amount or shared work benefit amount in the  
12 form of:

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

16 (b) A governmental or other pension, retirement or retired  
17 pay, annuity, or other similar periodic payment which is based on  
18 the previous work of such claimant to the extent that such  
19 payment is provided from funds provided by a base period or  
20 chargeable employer pursuant to a plan maintained or contributed  
21 to by such employer; but, except for such payments made pursuant  
22 to the Social Security Act or the Railroad Retirement Act of 1974  
23 (or the corresponding provisions of prior law), the provisions of  
24 this paragraph shall not apply if the services performed for such

1 employer by the claimant after the beginning of the base period  
2 (or remuneration for such services) do not affect eligibility for  
3 or increase the amount of such pension, retirement or retired  
4 pay, annuity or similar payment.

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

11 (3) Notwithstanding the provisions of subdivisions (1) and  
12 (2) of this subsection, if a claimant has contributed in any way  
13 to the Social Security Act or the Railroad Retirement Act of  
14 1974, or the corresponding provisions of prior law, no part of  
15 the payments received pursuant to such federal law shall be  
16 deductible from the amount of benefits received pursuant to this  
17 chapter.

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

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

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

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

1 financing or directly interested in the dispute.

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

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

22 8. Benefits shall not be payable on the basis of services  
23 performed by an alien, unless such alien is an individual who was  
24 lawfully admitted for permanent residence at the time such

1 services were performed, was lawfully present for purposes of  
2 performing such services, or was permanently residing in the  
3 United States under color of law at the time such services were  
4 performed (including an alien who was lawfully present in the  
5 United States as a result of the application of the provisions of  
6 Section 212(d)(5) of the Immigration and Nationality Act).

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

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

16 288.050. 1. Notwithstanding the other provisions of this  
17 law, a claimant shall be disqualified for waiting week credit or  
18 benefits until after the claimant has earned wages for work  
19 insured pursuant to the unemployment compensation laws of any  
20 state equal to ten times the claimant's weekly benefit amount if  
21 the deputy finds:

22 (1) That the claimant has left work voluntarily without  
23 good cause attributable to such work or to the claimant's  
24 employer[; except that]. A temporary employee of a temporary

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

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

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

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

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

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

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

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

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

1 for the individual;

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

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

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

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

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

1 until such time as the claimant has earned wages for work insured  
2 under the unemployment laws of this state or other state as  
3 prescribed in this section. In addition to the disqualification  
4 for benefits pursuant to this provision the division may in the  
5 more aggravated cases of misconduct, cancel all or any part of  
6 the individual's wage credits, which were established through the  
7 individual's employment by the employer who discharged such  
8 individual, according to the seriousness of the misconduct. A  
9 disqualification provided for pursuant to this subsection shall  
10 not apply to any week which occurs after the claimant has earned  
11 wages for work insured pursuant to the unemployment compensation  
12 laws of any state in an amount equal to eight times the  
13 claimant's weekly benefit amount. If a claimant is disqualified  
14 on a second or subsequent occasion within the base period or  
15 subsequent to the base period, the claimant shall be required to  
16 earn wages in an amount equal to or in excess of eight times the  
17 claimant's weekly benefit amount for each disqualification, and  
18 such additionally required wages shall run consecutively.

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

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

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

10 288.060. 1. All benefits shall be paid through employment  
11 offices in accordance with such regulations as the division may  
12 prescribe.

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

16 3. Each eligible insured worker who is partially unemployed  
17 in any week shall be paid for such week a partial benefit. Such  
18 partial benefit shall be an amount equal to the difference  
19 between his weekly benefit amount and that part of his wages for  
20 such week in excess of [twenty] forty dollars, and, if such  
21 partial benefit amount is not a multiple of one dollar, such  
22 amount shall be reduced to the nearest lower full dollar amount.  
23 [Termination pay, severance pay or] Provided further, however,  
24 that an individual shall be considered to be unemployed as to

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

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

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

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

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

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

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

17           288.110. Any individual, type of organization or employing  
18 unit which has acquired substantially all of the business of an  
19 employer, excepting in any such case any assets retained by such  
20 employer incident to the liquidation of his obligations, and in  
21 respect to which the division finds that immediately after such  
22 change such business of the predecessor employer is continued  
23 without interruption solely by the successor, shall stand in the  
24 position of such predecessor employer in all respects, including

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

1 was only one predecessor or there were only predecessors with  
2 identical rates. If the predecessors' rates were not identical,  
3 the division shall calculate a rate as of the date of acquisition  
4 applicable to the successor for the remainder of the rate year,  
5 which rate shall be based on the combined experience of all  
6 predecessor employers. In the event that any successor was,  
7 prior to an acquisition, an employer, and there is a difference  
8 in the contribution rate established for such calendar year  
9 applicable to any acquired or acquiring employer, the division  
10 shall make a recalculation [as of the date of acquisition] of the  
11 contribution rate applicable to any successor employer based upon  
12 the combined experience of all predecessor and successor  
13 employers[, which] as of the date of the acquisition, unless the  
14 date of the acquisition is other than the first day of the  
15 calendar quarter. If the date of any such acquisition is other  
16 than the first day of the calendar quarter the division shall  
17 make the recalculation of the rate on the first day of the next  
18 calendar quarter after the acquisition. When the date of the  
19 acquisition is other than the first day of a calendar quarter the  
20 successor employer shall use its rate for the calendar quarter in  
21 which the acquisition was made. The revised contribution rate  
22 shall apply to employment after the [date of any such  
23 acquisition] rate recalculation. For this purpose a calculation  
24 date different from July first may be established. When the

1 division has determined that a successor or successors stand in  
2 the position of a predecessor employer, the predecessor's  
3 liability shall be terminated as of the date of the acquisition.

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

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

19 [Notwithstanding the table in this section, each employer's  
20 contribution rate calculated for the four calendar quarters of  
21 calendar year 1994 shall be increased by forty percent, instead  
22 of thirty percent, as previously indicated in the table in this  
23 section. After the forty percent increase, each employer's

1 contribution rate for the four calendar quarters of calendar year  
2 1994 shall be increased by adding three-tenths of one percent.]  
3 Beginning on January 1, 2005, and continuing until such time as  
4 the trust fund balance including any outstanding indebtedness, is  
5 greater than or equal to zero the contribution rate of any  
6 employer who is paying the maximum contribution rate of six  
7 percent shall be increased by forty percent.

8 2. Effective January 1, 2005, an employer's total  
9 contribution rate shall equal the employer's base rate plus a  
10 temporary solvency charge of one-tenth of one percent added to  
11 the base rate plus the increase authorized under subsection 1 of  
12 this section. The temporary solvency charge shall expire upon  
13 the last day of the fourth calendar quarter following the  
14 effective date of this section.

15 288.128. 1. In addition to all other contributions due  
16 under this chapter, if the fund is utilizing moneys advanced by  
17 the federal government under the provisions of 42 U.S.C.A.,  
18 section 1321 pursuant to section 288.330[, ] or if the fund is not  
19 utilizing moneys advanced by the federal government from the  
20 proceeds of bonds issued under section 288.330, from financial  
21 agreements under subdivision (17) of subsection 2 of section  
22 288.330, or a combination of bonds and financial agreements each  
23 employer shall be assessed an amount solely for the payment of  
24 interest due on such federal advancements, or if the fund is not

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

1 by the federal government the principal, interest, and  
2 administrative expenses related to bonds, financial agreements  
3 under subdivision (17) of subsection 2 of section 288.330, or a  
4 combination of bonds and financial agreements shall be deposited  
5 in the special employment security fund.

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

20 288.270. The provisions of the Wagner-Peyser Act (29  
21 U.S.C.A. Sec. 49 et seq.), as amended, are hereby accepted by  
22 this state and the division of employment security is hereby  
23 designated and constituted the agency of this state for the  
24 purposes of said act. The division shall establish and maintain

1 free public employment offices in such number and in such places  
2 as may be necessary for the proper administration of this chapter  
3 and for the purposes of performing such functions as are within  
4 the purview of the Wagner-Peyser Act. To the extent allowed by  
5 law, such departments, divisions, and agencies may contract with  
6 private entities for the purpose of providing employment and  
7 reemployment services.

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

13 (1) All contributions and payments in lieu of contributions  
14 collected under this law;

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

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

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

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

20 and

21 (6) All funds set aside or appropriated by the Congress of  
22 the United States or any federal agency, to be deposited to the  
23 fund. All moneys in the funds shall be mingled and undivided,  
24 except that all money credited to this state's account in the

1 Unemployment Trust Fund pursuant to Section 903 of the Social  
2 Security Act, as amended, and which has been appropriated for  
3 expenses of administration, shall be used only for the purposes  
4 set out in subsection 5 of this section and shall not be included  
5 in the cash balance in the unemployment compensation fund for the  
6 purposes of sections 288.100 and 288.113 to 288.126.

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

12 (1) A clearing account;

13 (2) An unemployment trust fund account; and

14 (3) A benefit account.

15 To ensure that employment trust fund moneys are utilized only for  
16 the purpose authorized no other fund shall be established with  
17 increased employer taxes that are offset by a reduction of  
18 unemployment contributions, except for the special employment  
19 security fund created in section 288.310.

20 3. All moneys payable to the fund, upon their receipt by  
21 the division, shall immediately be deposited in the clearing  
22 account. Refunds of contributions or payments made necessary  
23 under the provisions of sections 288.140 and 288.340 may be paid

1 from the clearing account or the benefit account. After  
2 clearance, all moneys in the clearing account shall be  
3 immediately deposited with the Secretary of the Treasury of the  
4 United States of America to the credit of the account of this  
5 state in the Unemployment Trust Fund, established and maintained  
6 pursuant to Section 904 of the Social Security Act, as amended,  
7 any provisions of law in this state relating to the deposit,  
8 administration, release, or disbursement of state moneys in the  
9 possession or custody of the state treasurer to the contrary  
10 notwithstanding. The benefit account shall consist of all moneys  
11 requisitioned from the Missouri account in the federal  
12 Unemployment Trust Fund. Except as otherwise provided, moneys in  
13 the clearing and benefit accounts may be deposited in any bank or  
14 public depository in which general funds of the state may be  
15 deposited, but no public deposit insurance charge or premium  
16 shall be paid out of the fund. Moneys in the clearing and  
17 benefit accounts shall not be commingled with other state funds  
18 but shall be maintained in separate accounts on the books of the  
19 depository bank. All funds required by this law to be deposited  
20 in any state depository shall be secured by such depository to  
21 the same extent and in the same manner as is or may hereafter be  
22 required by section 30.270, RSMo, and all the amendments thereto;  
23 provided, that the division shall do those acts directed to be  
24 done by the governor, attorney general and state treasurer, or

1 any of them, under section 30.270, RSMo, which are not  
2 inconsistent with the other provisions of this law. Collateral  
3 pledged for this purpose shall be kept separate and distinct from  
4 any collateral pledged to secure other funds of the state, or, if  
5 combined, shall be first used to satisfy and make whole the  
6 accounts herein established. The treasurer shall give a separate  
7 bond conditioned upon the faithful performance of his duties as  
8 custodian of the fund in an amount not to exceed twenty-five  
9 thousand dollars and in the form prescribed by law or approved by  
10 the attorney general. Premiums for such bonds shall be paid from  
11 the administration fund. All sums recovered for losses sustained  
12 by the fund shall be deposited therein.

13 4. Moneys shall be requisitioned from the Missouri account  
14 in the federal Unemployment Trust Fund solely for the payment of  
15 benefits or for refunds of contributions or payments in lieu of  
16 contributions in accordance with regulations prescribed by the  
17 director, except that money credited to this state's account  
18 pursuant to Section 903 of the Social Security Act, as amended,  
19 shall be used exclusively as provided in subsection 5 of this  
20 section. The director shall from time to time requisition from  
21 the federal Unemployment Trust Fund such amounts, not exceeding  
22 the amounts standing to the Missouri account therein, as he deems  
23 necessary for the payment of benefits and refunds for a  
24 reasonable future period. Upon its receipt the treasurer shall

1 deposit such money in the benefit account and shall issue his  
2 warrants for the payment of benefits solely from such benefit  
3 account. Expenditures of such moneys in the benefit account and  
4 refunds from the clearing account shall not be subject to any  
5 provisions of law requiring specific appropriations or other  
6 formal release by state officers of moneys belonging to this  
7 state in their custody. All warrants issued by the treasurer for  
8 the payment of benefits and refunds shall bear the signature of  
9 the treasurer and the countersignature of the director or other  
10 duly authorized division representative. Any balance of moneys  
11 requisitioned from the federal Unemployment Trust Fund which  
12 remains unclaimed or unpaid in the benefit account after the  
13 expiration of the period for which such sums were requisitioned  
14 shall either be deducted from estimates for, and may be utilized  
15 for the payment of, benefits during succeeding periods, or, in  
16 the discretion of the director, shall be redeposited with the  
17 Secretary of the Treasury of the United States of America to the  
18 credit of the Missouri account in the federal Unemployment Trust  
19 Fund as provided in subsection 3 of this section.

20 5. (1) Money credited to the account of this state in the  
21 Unemployment Trust Fund by the Secretary of the Treasury of the  
22 United States of America pursuant to Section 903 of the Social  
23 Security Act, as amended, may be requisitioned and used for the  
24 payment of expenses incurred for the administration of this law

1 pursuant to a specific appropriation by the legislature, provided  
2 that the expenses are incurred and the money is requisitioned as  
3 needed after the enactment of an appropriation law which:

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

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

9 (c) Limits the amount which may be obligated during a  
10 twelve-month period beginning on July first and ending on the  
11 next June thirtieth to an amount which does not exceed the amount  
12 by which the aggregate of the amount transferred to the account  
13 of this state in the Unemployment Trust Fund pursuant to  
14 subsections (a) and (b) of Section 903 of the Social Security  
15 Act, as amended, exceeds the aggregate of the amounts used by  
16 this state pursuant to this subsection and charged against the  
17 amounts transferred to the account of this state in the  
18 Unemployment Trust Fund.

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

22 (3) For purposes of subdivision (1) of this subsection,  
23 amounts used by this state for administration shall be chargeable  
24 against transferred amounts at the exact time the obligation is

1 entered into.

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

7 (5) Money appropriated as provided under subdivision (1) of  
8 this subsection for the payment of expenses of administration  
9 shall be requisitioned as needed for the payment of obligations  
10 incurred under such appropriation and, upon requisition, shall be  
11 deposited in the unemployment compensation administration fund  
12 from which such payments shall be made. Money so deposited  
13 shall, until expended, remain a part of the unemployment  
14 compensation fund and, if it will not be expended, shall be  
15 returned promptly to the account of this state in the  
16 Unemployment Trust Fund.

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

23 6. The provisions of subsections 1, 2, 3, 4, and 5 of this  
24 section, to the extent that they relate to the federal

1 Unemployment Trust Fund, shall be operative only so long as such  
2 federal Unemployment Trust Fund continues to exist and so long as  
3 the Secretary of the Treasury of the United States of America  
4 continues to maintain a separate book account of all funds  
5 deposited therein by contributions from employers of this state  
6 for benefit purposes, and by money credited pursuant to Section  
7 903 of the Social Security Act, as amended, together with a  
8 proportionate share of the earnings apportioned to the Missouri  
9 account of such federal Unemployment Trust Fund, from which no  
10 other state is permitted to make or authorize withdrawals. If  
11 and when such Unemployment Trust Fund ceases to exist, or such  
12 separate book account is no longer maintained, all moneys,  
13 properties, or securities therein belonging to the unemployment  
14 compensation fund of this state shall be transferred to the  
15 treasurer of the unemployment compensation fund, who shall hold,  
16 invest, transfer, sell, deposit, and release such moneys,  
17 properties or securities in a manner approved by the director in  
18 accordance with the provisions of this law; provided, that such  
19 moneys shall be invested in the following readily marketable  
20 classes of securities: bonds or other interest-bearing  
21 obligations of the United States of America, or securities on  
22 which the payment of principal and interest are guaranteed by the  
23 United States of America, and bonds or other interest-bearing  
24 obligations of the state of Missouri; and provided, further, that

1 such investments shall at all times be so made that all the  
2 assets of the fund shall always be readily convertible into cash  
3 when needed for the payment of benefits. The treasurer shall  
4 dispose of securities or other properties belonging to the  
5 unemployment compensation fund only under the direction of the  
6 director.

7 7. Notwithstanding any other provision of this law, any  
8 interest or penalties found to have been erroneously collected  
9 and which is ordered to be refunded shall, if paid into the  
10 unemployment compensation fund, be refunded out of the  
11 unemployment compensation fund and, if paid into the special  
12 employment security fund, shall be refunded out of the special  
13 employment security fund; except that, in the event any interest  
14 and penalties paid into the unemployment compensation fund shall  
15 be transferred to the special employment security fund, the  
16 refund of any such interest and penalties shall be made from the  
17 special employment security fund.

18 288.310. 1. There is hereby created in the state treasury  
19 a special fund to be known as the "Special Employment Security  
20 Fund". All interest and penalties collected under the provisions  
21 of this law, including moneys collected pursuant to section  
22 288.128 for the payment of interest due on federal advances  
23 received pursuant to section 288.330, or if the fund is not  
24 utilizing moneys advanced by the federal government the payment

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

1 expenditures against such funds when received. Subject to the  
2 approval of the director of the department of labor and  
3 industrial relations, the moneys in this fund, except for moneys  
4 collected pursuant to section 288.128, shall be used by the  
5 department of labor and industrial relations for the payment of  
6 costs of administration which are found not to have been properly  
7 and validly chargeable against federal grants or other funds  
8 received for or in the unemployment compensation administration  
9 fund. Such moneys, except for moneys collected pursuant to  
10 section 288.128, shall be available either to satisfy the  
11 obligations incurred by the department of labor and industrial  
12 relations for the division directly or by requesting the board of  
13 fund commissioners to transfer the required amount from the  
14 special employment security fund to the unemployment compensation  
15 administration fund. The board of fund commissioners shall upon  
16 receipt of a written request of the department of labor and  
17 industrial relations make any such transfer. No expenditures of  
18 this fund or transfer herein provided, except for moneys  
19 collected pursuant to section 288.128, shall be made unless and  
20 until the director of the department of labor and industrial  
21 relations finds that no other funds are available or can properly  
22 be used to finance such expenditures, except that as hereinafter  
23 authorized expenditures from such fund may be made for the  
24 purpose of acquiring lands and buildings, or for the erection of

1 buildings on lands so acquired, which are deemed necessary by the  
2 director of the department of labor and industrial relations for  
3 the proper administration of this law. The director of the  
4 department of labor and industrial relations shall order the  
5 transfer of such funds or the payment of any such obligation and  
6 such funds shall be paid by the state treasurer on requisitions  
7 drawn by the director of the department of labor and industrial  
8 relations directing the state auditor to issue his or her warrant  
9 therefor. Any such warrant shall be drawn by the state auditor  
10 based upon bills of particulars and vouchers certified by an  
11 officer or employee designated by the director of the department  
12 of labor and industrial relations. Such certification shall  
13 among other things include a duly certified copy of the director  
14 of the department of labor and industrial relations' findings  
15 hereinbefore referred to. The moneys in this fund, except for  
16 moneys collected pursuant to section 288.128, are hereby  
17 specifically made available to replace, within a reasonable time,  
18 any moneys received by this state pursuant to section 302 of the  
19 Federal Social Security Act (42 U.S.C.A. Sec. 502), as amended,  
20 which, because of any action or contingency, have been lost or  
21 have been expended for purposes other than, or in amounts in  
22 excess of, those necessary for the proper administration of the  
23 employment security law. The moneys in this fund shall be  
24 continuously available to the director of the department of labor

1 and industrial relations for expenditure in accordance with the  
2 provisions of this section and shall not lapse at any time or be  
3 transferred to any other fund except as herein provided.

4 2. The director of the department of labor and industrial  
5 relations, subject to the approval of the board of public  
6 buildings, is authorized and empowered to use all or any part of  
7 the funds in the special employment security fund, except for  
8 moneys collected pursuant to section 288.128, for the purpose of  
9 acquiring suitable office space for the division by way of  
10 purchase, lease, contract or in any other manner, including the  
11 right to use such funds or any part thereof to purchase land and  
12 erect thereon such buildings as he or she shall deem necessary or  
13 to assist in financing the construction of any building erected  
14 by the state of Missouri or any of its agencies wherein available  
15 space will be provided for the division under lease or contract  
16 between the department of labor and industrial relations and the  
17 state of Missouri or such other agency. The director of the  
18 department of labor and industrial relations may transfer from  
19 the unemployment compensation administration fund to the special  
20 employment security fund amounts not exceeding funds specifically  
21 available to the department of labor and industrial relations for  
22 that purpose, equivalent to the fair reasonable rental value of  
23 any land and buildings acquired for its use until such time as  
24 the full amount of the purchase price of such land and buildings

1 and such cost of repair and maintenance thereof as was expended  
2 from the special employment security fund has been returned to  
3 such fund.

4 3. The director of the department of labor and industrial  
5 relations may also transfer from the unemployment compensation  
6 administration fund to the special employment security fund  
7 amounts not exceeding funds specifically available to the  
8 department of labor and industrial relations for that purpose,  
9 equivalent to the fair reasonable rental value of space used by  
10 the department of labor and industrial relations in any building  
11 erected by the state of Missouri or any of its agencies until  
12 such time as the department of labor and industrial relations'  
13 proportionate amount of the purchase price of such building and  
14 the department of labor and industrial relations' proportionate  
15 amount of such costs of repair and maintenance thereof as was  
16 expended from the special employment security fund has been  
17 returned to such fund.

18 288.330. 1. Benefits shall be deemed to be due and payable  
19 only to the extent that moneys are available to the credit of the  
20 unemployment compensation fund and neither the state nor the  
21 division shall be liable for any amount in excess of such sums.  
22 [Neither the state of Missouri, nor any person or agency acting  
23 for it, may under any circumstance, by issuing bonds or otherwise  
24 borrow money from any source whatsoever to pay benefits

1 hereunder, except as provided in 42 U.S.C.A. Section 1321.] The  
2 governor is authorized to apply for an advance to the state  
3 unemployment fund and to accept the responsibility for the  
4 repayment of such advance [in accordance with the conditions  
5 specified in Title XII of the Social Security Act, as amended,]  
6 in order to secure to this state and its citizens the advantages  
7 available under the provisions of [such title] federal law. In  
8 the event the fund balance including any outstanding loans or  
9 indebtedness is greater than or equal to zero and the governor  
10 applies for an advance as provided in 42 U.S.C. Section 1321 or  
11 the state is required to incur other indebtedness as authorized  
12 in this chapter in order to maintain funding for the payment of  
13 benefits as authorized by this chapter, the state of Missouri  
14 shall be obligated to pay the interest incurred as a result of  
15 such advance or indebtedness.

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

24 (2) For the purposes of this subsection, "bond" means any

1 type of obligation issued under this section, including any bond,  
2 note, tax anticipation note or similar instrument.

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

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

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

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

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

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

1 or employee is involved.

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

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

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

24 (f) The commissioners executing the bonds of the commission

1 shall not be subject to any personal liability or accountability  
2 by reason of the issuance of the bonds.

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

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

22 (5) The commission shall provide for the payment of the  
23 principal of the bonds, any redemption premiums, the interest on  
24 the bonds, and the costs attributable to the bonds being issued

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (14) The commission may enter into any contract or  
23 agreement deemed necessary or desirable to effectuate cost  
24 effective financing hereunder. Such agreements may include

1 credit enhancement, credit support, or interest rate agreements.  
2 Any fees or costs associated with such agreements shall be deemed  
3 administrative expenses for the purposes of calculating  
4 assessments relating to payment of the principal, interest, and  
5 administrative expenses related to bonds pursuant to the  
6 provisions of section 288.128.

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

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

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

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

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

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

15 288.385. 1. Except as otherwise specifically provided by  
16 law, it shall be unlawful for the director of the division of  
17 employment security, any officer, employee, agent or deputy or  
18 former director, officer, employee, agent or deputy of the  
19 division of employment security, any person engaged or retained  
20 by the division of employment security on an independent contract  
21 basis, any person to whom authorized or unauthorized disclosure  
22 is made by the division of employment security, or any person who  
23 lawfully or unlawfully inspects any report or return filed with  
24 the division of employment security or to whom a copy, an

1 abstract or a portion of any report or return is furnished by the  
2 division of employment security to make known in any manner, to  
3 permit the inspection or use of or to divulge to anyone any  
4 information relative to any such report or return, any  
5 information obtained by an investigation conducted by the  
6 department in the discharge of an official duty, or any  
7 information received by the director in cooperation with the  
8 United States or other states in the enforcement of the  
9 employment laws of this state. Such confidential information is  
10 limited to information received by the division in connection  
11 with the administration of the employment security laws of this  
12 state.

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

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

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

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

1 felony.

2 4. The department of labor and industrial relations by and  
3 through the division may analyze and project financial data for  
4 proposed legislation. In doing so the department and the  
5 division shall provide any financial data, projections, or models  
6 relating to pending legislation to the sponsor or sponsors of  
7 such legislation at least forty-eight hours prior to making such  
8 information public. Failure to comply with this subsection shall  
9 result in a five hundred dollar civil penalty per violation  
10 levied against the agent or employee of the department or  
11 division responsible for such violation.

12 288.395. Any person or entity perpetrating a fraud or  
13 misrepresentation under this chapter for which a penalty has not  
14 herein been specifically provided, shall be guilty of a class A  
15 misdemeanor and, in addition, shall be liable to this state for a  
16 civil penalty not to exceed ten thousand dollars or double the  
17 value of the fraud, whichever is greater. Any person or entity  
18 who has previously pled guilty to or has been found guilty of  
19 perpetrating a fraud or misrepresentation under this chapter and  
20 who subsequently violated any such provisions shall be guilty of  
21 a class D felony.

22 288.396. The department of labor and industrial relations  
23 may contract with a private entity for the purpose of identifying  
24 and recovering overpayments to employees and collection of

1 delinquent employer contributions.

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

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