

Attorney General of Missouri

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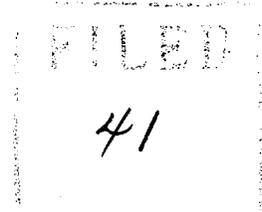
JOHN ASHCROFT
ATTORNEY GENERAL

(314) 751-3321

January 7, 1982

OPINION LETTER NO. 41

The Honorable Travis Morrison
Representative, District 152
Route 1, Box 216B
West Plains, Missouri 65775



Dear Representative Morrison:

This letter is in response to your request for an opinion of this office on whether the Missouri Division of Employment Security has the authority to amend its regulation 8 CSR 10-4.100 to conform to recent changes in Section 3304(a)(15) of the Federal Unemployment Tax Act, 26 U.S.C. §§ 3301-3311.

In your opinion request you explained that "[t]he Division believes that it lacks the authority to revise its regulation since it claims to already be in conformity." In reference to our requirement of a written legal opinion on the question you submitted, prepared by counsel for the agency, you stated: "I have asked by copy of this opinion request to the Division for their attorneys to supply the information requested."

As of this writing we have not received from the Division of Employment Security any affirmation of your first-quoted statement, and we have not received any information as to the Division's legal position regarding the matters set forth in your opinion request.

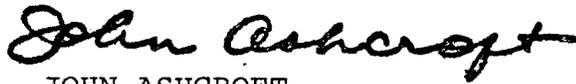
However, we observe that Section 288.390, RSMo 1978, provides that:

If the Federal Unemployment Tax Act, the Federal Social Security Act or other related federal laws are amended to provide minimum standards for the payment of unemployment benefits, such standards shall become a part of this law to the extent necessary to entitle employers subject to this law to claim the maximum allowable credit against the federal unemployment tax. The provisions of this section shall be implemented by regulation by the division.

The Honorable Travis Morrison

We believe that Section 288.390 provides ample authority for the Division of Employment Security to amend its regulations to conform to the provisions of the Federal Unemployment Tax Act establishing minimum standards for the payment of unemployment benefits, to the extent necessary to entitle employers subject to the Missouri Employment Security Law, Chapter 288, RSMo, to claim the maximum allowable credit against the federal unemployment tax.

Very truly yours,



JOHN ASHCROFT
Attorney General