

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

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 sixteen 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13 288.290, 288.310, and 288.330, RSMo, are repealed and sixteen new
14 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 and 288.395, 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

electronically may comply with subsection 1 of this section by:

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

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

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

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

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

(3) "Benefit year" means the one-year period beginning with the first day of the first week with respect to which an insured worker first files an initial claim for determination of such worker's insured status, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual, providing the individual is then an insured worker, next files such an initial claim after the end of the 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] 2004, and each calendar year
5 thereafter, shall be determined by the provisions within this
6 subsection. Upon the first day of the next calender quarter
7 after the effective date of this section, the state taxable wage
8 base for calendar year [1999, and] 2004 shall be ten thousand
9 dollars for the balance of the calendar year. The state taxable
10 wage base for each calendar year thereafter[,] shall be
11 determined by the preceding September thirtieth balance of the
12 unemployment compensation trust fund, less any outstanding
13 federal Title XII advances received pursuant to section 288.330
14 and the principal, interest, and administrative expenses related
15 to bonds issued under section 288.330. When the September
16 thirtieth unemployment compensation trust fund balance, less any
17 outstanding federal Title XII advances received pursuant to
18 section 288.330, is:

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

22 (2) [Four] Five hundred [fifty] million or more, then the
23 state taxable wage base for the subsequent calendar year shall be
24 decreased by five hundred dollars. In no event, however, shall

1 the state taxable wage base increase beyond [ten] eleven thousand
2 [five hundred] dollars, or decrease to less than seven thousand
3 dollars.

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

11 288.038. With respect to initial claims filed [during
12 calendar years 1998, 1999, 2000 and 2001] after the effective
13 date of this section and each calendar year thereafter, the
14 "maximum weekly benefit amount" means four percent of the total
15 wages paid to an eligible insured worker during that quarter of
16 the worker's base period in which the worker's wages were the
17 highest, but the maximum weekly benefit amount shall not exceed
18 [two hundred five dollars in the calendar year 1998, two hundred
19 twenty dollars in the calendar year 1999, two hundred thirty-five
20 dollars in the calendar year 2000, and] two hundred fifty dollars
21 in the calendar [year 2001, and] years 2004 and 2005, two hundred
22 fifty-five dollars for calendar years 2006 and 2007, and two
23 hundred sixty dollars for calendar year 2008 and each calendar

1 year thereafter. If such benefit amount is not a multiple of one
2 dollar, such amount shall be reduced to the nearest lower full
3 dollar amount.

4 288.040. 1. A claimant who is unemployed and has been
5 determined to be an insured worker shall be eligible for benefits
6 for any week only if the deputy finds that:

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

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

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

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

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

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

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

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

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

23 (d) The director of the division of employment security has
24 determined that the claimant belongs to a group or class of

1 workers whose opportunities for reemployment will not be enhanced
2 by reporting in person, or is prevented from reporting due to
3 emergency conditions that limit access by the general public to
4 an office that serves the area where the claimant resides, but
5 only during the time such circumstances exist.

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

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

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

23 (6) The claimant is participating in reemployment services,

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

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

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

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

15 3. (1) Benefits based on "service in employment", defined
16 in subsections 7 and 8 of section 288.034, shall be payable in
17 the same amount, on the same terms and subject to the same
18 conditions as compensation payable on the basis of other service
19 subject to this law; except that:

20 (a) With respect to service performed in an instructional,
21 research, or principal administrative capacity for an educational
22 institution, benefits shall not be paid based on such services
23 for any week of unemployment commencing during the period between
24 two successive academic years or terms, or during a similar

1 period between two regular but not successive terms, or during a
2 period of paid sabbatical leave provided for in the individual's
3 contract, to any individual if such individual performs such
4 services in the first of such academic years (or terms) and if
5 there is a contract or a reasonable assurance that such
6 individual will perform services in any such capacity for any
7 educational institution in the second of such academic years or
8 terms;

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

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

1 perform such services immediately following such vacation period
2 or holiday recess;

3 (d) With respect to services described in paragraphs (a)
4 and (b) of this subdivision, benefits payable on the basis of
5 services in any such capacity shall be denied as specified in
6 paragraphs (a), (b), and (c) of this subdivision, to any
7 individual who performed such services at an educational
8 institution while in the employ of an educational service agency,
9 and for this purpose the term "educational service agency" means
10 a governmental agency or governmental entity which is established
11 and operated exclusively for the purpose of providing such
12 services to one or more educational institutions.

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

24 4. (1) A claimant shall be ineligible for waiting week

1 credit, benefits or shared work benefits for any week for which
2 he or she is receiving or has received remuneration exceeding his
3 or her weekly benefit amount or shared work benefit amount in the
4 form of:

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

8 (b) A governmental or other pension, retirement or retired
9 pay, annuity, or other similar periodic payment which is based on
10 the previous work of such claimant to the extent that such
11 payment is provided from funds provided by a base period or
12 chargeable employer pursuant to a plan maintained or contributed
13 to by such employer; but, except for such payments made pursuant
14 to the Social Security Act or the Railroad Retirement Act of 1974
15 (or the corresponding provisions of prior law), the provisions of
16 this paragraph shall not apply if the services performed for such
17 employer by the claimant after the beginning of the base period
18 (or remuneration for such services) do not affect eligibility for
19 or increase the amount of such pension, retirement or retired
20 pay, annuity or similar payment.

21 (2) If the remuneration referred to in this subsection is
22 less than the benefits which would otherwise be due, the claimant
23 shall be entitled to receive for such week, if otherwise
24 eligible, benefits reduced by the amount of such remuneration,

1 and, if such benefit is not a multiple of one dollar, such amount
2 shall be lowered to the next multiple of one dollar.

3 (3) Notwithstanding the provisions of subdivisions (1) and
4 (2) of this subsection, if a claimant has contributed in any way
5 to the Social Security Act or the Railroad Retirement Act of
6 1974, or the corresponding provisions of prior law, no part of
7 the payments received pursuant to such federal law shall be
8 deductible from the amount of benefits received pursuant to this
9 chapter.

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

17 6. (1) A claimant shall be ineligible for waiting week
18 credit or benefits for any week for which the deputy finds that
19 such claimant's total or partial unemployment is due to a
20 stoppage of work which exists because of a labor dispute in the
21 factory, establishment or other premises in which such claimant
22 is or was last employed. In the event the claimant secures other
23 employment from which he or she is separated during the existence
24 of the labor dispute, the claimant must have obtained bona fide

1 employment as a permanent employee for at least the major part of
2 each of two weeks in such subsequent employment to terminate his
3 or her ineligibility. If, in any case, separate branches of work
4 which are commonly conducted as separate businesses at separate
5 premises are conducted in separate departments of the same
6 premises, each such department shall for the purposes of this
7 subsection be deemed to be a separate factory, establishment or
8 other premises. This subsection shall not apply if it is shown
9 to the satisfaction of the deputy that:

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

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

18 (2) "Stoppage of work" as used in this subsection means a
19 substantial diminution of the activities, production or services
20 at the establishment, plant, factory or premises of the employing
21 unit. This definition shall not apply to a strike where the
22 employees in the bargaining unit who initiated the strike are
23 participating in the strike. Such employees shall not be
24 eligible for waiting week credit or benefits during the period

1 when the strike is in effect, regardless of diminution, unless
2 the employer has been found guilty of an unfair labor practice by
3 the National Labor Relations Board or a federal court of law for
4 an act or actions preceding or during the strike.

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

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

23 (1) Any data or information required of individuals
24 applying for benefits to determine whether benefits are not

1 payable to them because of their alien status shall be uniformly
2 required from all applicants for benefits.

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

8 288.050. 1. Notwithstanding the other provisions of this
9 law, a claimant shall be disqualified for waiting week credit or
10 benefits until after the claimant has earned wages for work
11 insured pursuant to the unemployment compensation laws of any
12 state equal to ten times the claimant's weekly benefit amount if
13 the deputy finds:

14 (1) That the claimant has left work voluntarily without
15 good cause attributable to such work or to the claimant's
16 employer[; except that]. A temporary employee of a temporary
17 help firm will be deemed to have voluntarily quit employment if
18 the employee does not contact the temporary help firm for
19 reassignment prior to filing for benefits. Failure to contact
20 the temporary help firm will not be deemed a voluntary quit
21 unless the claimant has been advised of the obligation to contact
22 the firm upon completion of assignments and that unemployment
23 benefits may be denied for failure to do so. The claimant shall
24 not be disqualified:

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

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

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

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

22 (2) That the claimant has retired pursuant to the terms of
23 a labor agreement between the claimant's employer and a union
24 duly elected by the employees as their official representative or

1 in accordance with an established policy of the claimant's
2 employer; or

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

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

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

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

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

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

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

7 2. [Notwithstanding the other provisions of this law,] If a
8 deputy finds that a claimant has been discharged for misconduct
9 connected with the claimant's work, such claimant[, depending
10 upon the seriousness of the misconduct as determined by the
11 deputy according to the circumstances in each case,] shall be
12 disqualified for waiting week credit or benefits [for not less
13 than four nor more than sixteen weeks for which the claimant
14 claims benefits and is otherwise eligible], and no benefits shall
15 be paid nor shall the cost of any benefits be charged against any
16 employer for any period of employment within the base period,
17 until such time as the claimant has earned wages for work insured
18 under the unemployment laws of this state or other state as
19 prescribed in this section. In addition to the disqualification
20 for benefits pursuant to this provision the division may in the
21 more aggravated cases of misconduct, cancel all or any part of
22 the individual's wage credits, which were established through the
23 individual's employment by the employer who discharged such
24 individual, according to the seriousness of the misconduct. A

1 disqualification provided for pursuant to this subsection shall
2 not apply to any week which occurs after the claimant has earned
3 wages for work insured pursuant to the unemployment compensation
4 laws of any state in an amount equal to eight times the
5 claimant's weekly benefit amount. If a claimant is disqualified
6 on a second or subsequent occasion within the base period or
7 subsequent to the base period, the claimant shall be required to
8 earn wages in an amount equal to or in excess of eight times the
9 claimant's weekly benefit amount for each disqualification, and
10 such additionally required wages shall run consecutively.

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

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

1 the Trade Act of 1974.

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

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

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

15 [Termination pay, severance pay or] Provided further, however,
16 that an individual shall be considered to be unemployed as to
17 receipt of severance pay for any week the individual is
18 registered at as well as attending any state institution of
19 higher education or public secondary school. In addition, an
20 individual shall be considered to be unemployed as to receipt of
21 severance pay for any week the individual is registered at as
22 well as attending a labor and industrial relations commission
23 qualified vocational, educational, or training program that meets
24 commission established minimum standards. The commission shall

1 annually update and review the list of qualified programs. Pay
2 received by an eligible insured worker who is a member of the
3 organized militia for training or duty authorized by section
4 502(a)(1) of Title 32, United States Code, [or who is an elected
5 official] shall not be considered wages for the purpose of this
6 subsection.

7 4. The division shall compute the wage credits for each
8 individual by crediting him with the wages paid to him for
9 insured work during each quarter of his base period or twenty-six
10 times his weekly benefit amount, whichever is the lesser. In
11 addition, if a claimant receives wages in the form of termination
12 pay or severance pay and such payment appears in a base period
13 established by the filing of an initial claim, the claimant may,
14 at his option, choose to have such payment included in the
15 calendar quarter in which it was paid or choose to have it
16 prorated equally among the quarters comprising the base period of
17 the claim. The maximum total amount of benefits payable to any
18 insured worker during any benefit year shall not exceed
19 twenty-six times his weekly benefit amount, or thirty-three and
20 one-third percent of his wage credits, whichever is the lesser.
21 For the purpose of this section, wages shall be counted as wage
22 credits for any benefit year, only if such benefit year begins
23 subsequent to the date on which the employing unit by whom such
24 wages were paid has become an employer. The wage credits of an

1 individual earned during the period commencing with the end of a
2 prior base period and ending on the date on which he filed an
3 allowed initial claim shall not be available for benefit purposes
4 in a subsequent benefit year unless, in addition thereto, such
5 individual has subsequently earned either wages for insured work
6 in an amount equal to at least five times his current weekly
7 benefit amount or wages in an amount equal to at least ten times
8 his current weekly benefit amount.

9 5. In the event that benefits are due a deceased person and
10 no petition has been filed for the probate of the will or for the
11 administration of the estate of such person within thirty days
12 after his death, the division may by regulation provide for the
13 payment of such benefits to such person or persons as the
14 division finds entitled thereto and every such payment shall be a
15 valid payment to the same extent as if made to the legal
16 representatives of the deceased.

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

21 7. The division may establish an electronic funds transfer
22 system to transfer directly to claimants' accounts in financial
23 institutions benefits payable to them pursuant to this chapter.
24 To receive benefits by electronic funds transfer, a claimant

1 shall satisfactorily complete a direct deposit application form
2 authorizing the division to deposit benefit payments into a
3 designated checking or savings account. Any electronic funds
4 transfer system created pursuant to this subsection shall be
5 administered in accordance with regulations prescribed by the
6 division.

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

9 288.110. Any individual, type of organization or employing
10 unit which has acquired substantially all of the business of an
11 employer, excepting in any such case any assets retained by such
12 employer incident to the liquidation of his obligations, and in
13 respect to which the division finds that immediately after such
14 change such business of the predecessor employer is continued
15 without interruption solely by the successor, shall stand in the
16 position of such predecessor employer in all respects, including
17 the predecessor's separate account, actual contribution and
18 benefit experience, annual payrolls, and liability for current or
19 delinquent contributions, interest and penalties. If two or more
20 individuals, organizations, or employing units acquired at
21 approximately the same time substantially all of the business of
22 an employer (excepting in any such case any assets retained by
23 such employer incident to the liquidation of his obligations) and
24 in respect to which the division finds that immediately after

1 such change all portions of such business of the predecessor are
2 continued without interruption solely by such successors, each
3 such individual, organization, or employing unit shall stand in
4 the position of such predecessor with respect to the
5 proportionate share of the predecessor's separate account, actual
6 contribution and benefit experience and annual payroll as
7 determined by the portion of the predecessor's taxable payroll
8 applicable to the portion of the business acquired, and each such
9 individual, organization or employing unit shall be liable for
10 current or delinquent contributions, interest and penalties of
11 the predecessor in the same relative proportion. Further, any
12 successor under this section which was not an employer at the
13 time the acquisition occurred, shall pay contributions for the
14 balance of the current rate year at the same contribution rate as
15 the contribution rate of the predecessor whether such rate is
16 more or less than two and seven-tenths percent, provided there
17 was only one predecessor or there were only predecessors with
18 identical rates. If the predecessors' rates were not identical,
19 the division shall calculate a rate as of the date of acquisition
20 applicable to the successor for the remainder of the rate year,
21 which rate shall be based on the combined experience of all
22 predecessor employers. In the event that any successor was,
23 prior to an acquisition, an employer, and there is a difference
24 in the contribution rate established for such calendar year

1 applicable to any acquired or acquiring employer, the division
2 shall make a recalculation [as of the date of acquisition] of the
3 contribution rate applicable to any successor employer based upon
4 the combined experience of all predecessor and successor
5 employers[, which] as of the date of the acquisition, unless the
6 date of the acquisition is other than the first day of the
7 calendar quarter. If the date of any such acquisition is other
8 than the first day of the calendar quarter the division shall
9 make the recalculation of the rate on the first day of the next
10 calendar quarter after the acquisition. When the date of the
11 acquisition is other than the first day of a calendar quarter the
12 successor employer shall use its rate for the calendar quarter in
13 which the acquisition was made. The revised contribution rate
14 shall apply to employment after the [date of any such
15 acquisition] rate recalculation. For this purpose a calculation
16 date different from July first may be established. When the
17 division has determined that a successor or successors stand in
18 the position of a predecessor employer, the predecessor's
19 liability shall be terminated as of the date of the acquisition.

20 288.121. 1. On October first of each calendar year, if the
21 average balance, less any federal advances, of the unemployment
22 compensation trust fund of the four preceding quarters (September
23 thirtieth, June thirtieth, March thirty-first and December
24 thirty-first of the preceding calendar year) is less than four

1 hundred fifty million dollars, then each employer's contribution
2 rate calculated for the four calendar quarters of the succeeding
3 calendar year shall be increased by the percentage determined
4 from the following table:

Balance in Trust Fund				Percentage of Increase
Less Than		Equals or Exceeds		
8	[\$400,000,000]	<u>\$450,000,000</u>	[\$350,000,000]	<u>\$400,000,000</u> 10%
9	[\$350,000,000]	<u>\$400,000,000</u>	[\$300,000,000]	<u>\$350,000,000</u> 20%
10	[\$300,000,000]	<u>\$350,000,000</u>		30%

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

23 2. Upon the first day of the next calendar quarter after

1 the effective date of this section, an employer's total
2 contribution rate shall equal the employer's base rate plus a
3 temporary solvency charge of one-tenth of one percent added to
4 the base rate plus the increase authorized under subsection 1 of
5 this section. The temporary solvency charge shall expire upon
6 the last day of the fourth calender quarter following the
7 effective date of this section.

8 288.128. 1. In addition to all other contributions due
9 under this chapter, if the fund is utilizing moneys advanced by
10 the federal government under the provisions of 42 U.S.C.A.,
11 section 1321 pursuant to section 288.330[,] or from the proceeds
12 of bonds issued under section 288.330 or from financial
13 agreements under subdivision (17) of subsection 2 of section
14 288.330, each employer shall be assessed an amount solely for the
15 payment of interest due on such federal advancements, or in the
16 case of issuance of bonds for the payment of the principal, and
17 administrative expenses related to such bonds or in the case of
18 financial agreements for the payment of principal, interest, and
19 administrative expenses related to such financial agreements.
20 The rate shall be determined by dividing the interest due on
21 federal advancements or the principal, interest, and
22 administrative expenses related to bonds or the principal,
23 interest, and administrative expenses related to financial
24 agreements under subdivision (17) of subsection 2 of section

1 288.330, by ninety-five percent of the total taxable wages paid
2 by all Missouri employers in the preceding calendar year. Each
3 employer's proportionate share shall be the product obtained by
4 multiplying such employer's total taxable wages for the preceding
5 calendar year by the rate specified in this section. Each
6 employer shall be notified of the amount due under this section
7 by June thirtieth of each year and such amount shall be
8 considered delinquent thirty days thereafter. The moneys
9 collected from each employer for the payment of interest due on
10 federal advances or principal, interest, and administrative
11 expenses related to bonds or financial agreements under
12 subdivision (17) of subsection 2 of section 288.330 shall be
13 deposited in the special employment security fund.

14 2. If on December thirty-first of any year the money
15 collected under this section exceeds the amount of interest due
16 on federal advancements by one hundred thousand dollars or more,
17 then each employer's experience rating account shall be credited
18 with an amount which bears the same ratio to the excess moneys
19 collected under this section as that employer's payment collected
20 under this section bears to the total amount collected under this
21 section. Further, if on December thirty-first of any year the
22 moneys collected under this section exceed the amount of interest
23 due on the federal advancements by less than one hundred thousand
24 dollars, the balance shall be transferred from the special

1 employment security fund to the Secretary of the Treasury of the
2 United States to be credited to the account of this state in the
3 unemployment trust fund.

4 288.270. The provisions of the Wagner-Peyser Act (29
5 U.S.C.A. Sec. 49 et seq.), as amended, are hereby accepted by
6 this state and the division of employment security is hereby
7 designated and constituted the agency of this state for the
8 purposes of said act. The division shall establish and maintain
9 free public employment offices in such number and in such places
10 as may be necessary for the proper administration of this chapter
11 and for the purposes of performing such functions as are within
12 the purview of the Wagner-Peyser Act. To the extent allowed by
13 law, such departments, divisions, and agencies may contract with
14 private entities for the purpose of providing employment and
15 reemployment services.

16 288.290. 1. There is hereby established as a special fund,
17 separate and apart from all public moneys or funds of this state,
18 an "Unemployment Compensation Fund", which shall be administered
19 by the division exclusively for the purposes of this law. This
20 fund shall consist of:

21 (1) All contributions and payments in lieu of contributions
22 collected under this law;

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

24 (3) Any property or securities acquired through the use of

1 moneys belonging to the fund;

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

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

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

15 2. The director shall designate a treasurer and custodian
16 of the fund and he or she shall administer the fund and shall
17 issue his or her warrants upon it in accordance with such
18 regulations as the director shall prescribe. He or she shall
19 maintain within the fund three separate accounts:

20 (1) A clearing account;

21 (2) An unemployment trust fund account; and

22 (3) A benefit account.

23 To ensure that employment trust fund moneys are utilized only for

1 the purpose authorized no other fund shall be established with
2 increased employer taxes that are offset by a reduction of
3 unemployment contributions, except for the special employment
4 security fund created in section 288.310.

5 3. All moneys payable to the fund, upon their receipt by
6 the division, shall immediately be deposited in the clearing
7 account. Refunds of contributions or payments made necessary
8 under the provisions of sections 288.140 and 288.340 may be paid
9 from the clearing account or the benefit account. After
10 clearance, all moneys in the clearing account shall be
11 immediately deposited with the Secretary of the Treasury of the
12 United States of America to the credit of the account of this
13 state in the Unemployment Trust Fund, established and maintained
14 pursuant to Section 904 of the Social Security Act, as amended,
15 any provisions of law in this state relating to the deposit,
16 administration, release, or disbursement of state moneys in the
17 possession or custody of the state treasurer to the contrary
18 notwithstanding. The benefit account shall consist of all moneys
19 requisitioned from the Missouri account in the federal
20 Unemployment Trust Fund. Except as otherwise provided, moneys in
21 the clearing and benefit accounts may be deposited in any bank or
22 public depository in which general funds of the state may be
23 deposited, but no public deposit insurance charge or premium
24 shall be paid out of the fund. Moneys in the clearing and

1 benefit accounts shall not be commingled with other state funds
2 but shall be maintained in separate accounts on the books of the
3 depository bank. All funds required by this law to be deposited
4 in any state depository shall be secured by such depository to
5 the same extent and in the same manner as is or may hereafter be
6 required by section 30.270, RSMo, and all the amendments thereto;
7 provided, that the division shall do those acts directed to be
8 done by the governor, attorney general and state treasurer, or
9 any of them, under section 30.270, RSMo, which are not
10 inconsistent with the other provisions of this law. Collateral
11 pledged for this purpose shall be kept separate and distinct from
12 any collateral pledged to secure other funds of the state, or, if
13 combined, shall be first used to satisfy and make whole the
14 accounts herein established. The treasurer shall give a separate
15 bond conditioned upon the faithful performance of his duties as
16 custodian of the fund in an amount not to exceed twenty-five
17 thousand dollars and in the form prescribed by law or approved by
18 the attorney general. Premiums for such bonds shall be paid from
19 the administration fund. All sums recovered for losses sustained
20 by the fund shall be deposited therein.

21 4. Moneys shall be requisitioned from the Missouri account
22 in the federal Unemployment Trust Fund solely for the payment of
23 benefits or for refunds of contributions or payments in lieu of
24 contributions in accordance with regulations prescribed by the

1 director, except that money credited to this state's account
2 pursuant to Section 903 of the Social Security Act, as amended,
3 shall be used exclusively as provided in subsection 5 of this
4 section. The director shall from time to time requisition from
5 the federal Unemployment Trust Fund such amounts, not exceeding
6 the amounts standing to the Missouri account therein, as he deems
7 necessary for the payment of benefits and refunds for a
8 reasonable future period. Upon its receipt the treasurer shall
9 deposit such money in the benefit account and shall issue his
10 warrants for the payment of benefits solely from such benefit
11 account. Expenditures of such moneys in the benefit account and
12 refunds from the clearing account shall not be subject to any
13 provisions of law requiring specific appropriations or other
14 formal release by state officers of moneys belonging to this
15 state in their custody. All warrants issued by the treasurer for
16 the payment of benefits and refunds shall bear the signature of
17 the treasurer and the countersignature of the director or other
18 duly authorized division representative. Any balance of moneys
19 requisitioned from the federal Unemployment Trust Fund which
20 remains unclaimed or unpaid in the benefit account after the
21 expiration of the period for which such sums were requisitioned
22 shall either be deducted from estimates for, and may be utilized
23 for the payment of, benefits during succeeding periods, or, in
24 the discretion of the director, shall be redeposited with the

1 Secretary of the Treasury of the United States of America to the
2 credit of the Missouri account in the federal Unemployment Trust
3 Fund as provided in subsection 3 of this section.

4 5. (1) Money credited to the account of this state in the
5 Unemployment Trust Fund by the Secretary of the Treasury of the
6 United States of America pursuant to Section 903 of the Social
7 Security Act, as amended, may be requisitioned and used for the
8 payment of expenses incurred for the administration of this law
9 pursuant to a specific appropriation by the legislature, provided
10 that the expenses are incurred and the money is requisitioned as
11 needed after the enactment of an appropriation law which:

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

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

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

1 amounts transferred to the account of this state in the
2 Unemployment Trust Fund.

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

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

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

15 (5) Money appropriated as provided under subdivision (1) of
16 this subsection for the payment of expenses of administration
17 shall be requisitioned as needed for the payment of obligations
18 incurred under such appropriation and, upon requisition, shall be
19 deposited in the unemployment compensation administration fund
20 from which such payments shall be made. Money so deposited
21 shall, until expended, remain a part of the unemployment
22 compensation fund and, if it will not be expended, shall be
23 returned promptly to the account of this state in the
24 Unemployment Trust Fund.

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

7 6. The provisions of subsections 1, 2, 3, 4, and 5 of this
8 section, to the extent that they relate to the federal
9 Unemployment Trust Fund, shall be operative only so long as such
10 federal Unemployment Trust Fund continues to exist and so long as
11 the Secretary of the Treasury of the United States of America
12 continues to maintain a separate book account of all funds
13 deposited therein by contributions from employers of this state
14 for benefit purposes, and by money credited pursuant to Section
15 903 of the Social Security Act, as amended, together with a
16 proportionate share of the earnings apportioned to the Missouri
17 account of such federal Unemployment Trust Fund, from which no
18 other state is permitted to make or authorize withdrawals. If
19 and when such Unemployment Trust Fund ceases to exist, or such
20 separate book account is no longer maintained, all moneys,
21 properties, or securities therein belonging to the unemployment
22 compensation fund of this state shall be transferred to the
23 treasurer of the unemployment compensation fund, who shall hold,
24 invest, transfer, sell, deposit, and release such moneys,

1 properties or securities in a manner approved by the director in
2 accordance with the provisions of this law; provided, that such
3 moneys shall be invested in the following readily marketable
4 classes of securities: bonds or other interest-bearing
5 obligations of the United States of America, or securities on
6 which the payment of principal and interest are guaranteed by the
7 United States of America, and bonds or other interest-bearing
8 obligations of the state of Missouri; and provided, further, that
9 such investments shall at all times be so made that all the
10 assets of the fund shall always be readily convertible into cash
11 when needed for the payment of benefits. The treasurer shall
12 dispose of securities or other properties belonging to the
13 unemployment compensation fund only under the direction of the
14 director.

15 7. Notwithstanding any other provision of this law, any
16 interest or penalties found to have been erroneously collected
17 and which is ordered to be refunded shall, if paid into the
18 unemployment compensation fund, be refunded out of the
19 unemployment compensation fund and, if paid into the special
20 employment security fund, shall be refunded out of the special
21 employment security fund; except that, in the event any interest
22 and penalties paid into the unemployment compensation fund shall
23 be transferred to the special employment security fund, the
24 refund of any such interest and penalties shall be made from the

1 special employment security fund.

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

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

1 relations finds that no other funds are available or can properly
2 be used to finance such expenditures, except that as hereinafter
3 authorized expenditures from such fund may be made for the
4 purpose of acquiring lands and buildings, or for the erection of
5 buildings on lands so acquired, which are deemed necessary by the
6 director of the department of labor and industrial relations for
7 the proper administration of this law. The director of the
8 department of labor and industrial relations shall order the
9 transfer of such funds or the payment of any such obligation and
10 such funds shall be paid by the state treasurer on requisitions
11 drawn by the director of the department of labor and industrial
12 relations directing the state auditor to issue his or her warrant
13 therefor. Any such warrant shall be drawn by the state auditor
14 based upon bills of particulars and vouchers certified by an
15 officer or employee designated by the director of the department
16 of labor and industrial relations. Such certification shall
17 among other things include a duly certified copy of the director
18 of the department of labor and industrial relations' findings
19 hereinbefore referred to. The moneys in this fund, except for
20 moneys collected pursuant to section 288.128, are hereby
21 specifically made available to replace, within a reasonable time,
22 any moneys received by this state pursuant to section 302 of the
23 Federal Social Security Act (42 U.S.C.A. Sec. 502), as amended,
24 which, because of any action or contingency, have been lost or

1 have been expended for purposes other than, or in amounts in
2 excess of, those necessary for the proper administration of the
3 employment security law. The moneys in this fund shall be
4 continuously available to the director of the department of labor
5 and industrial relations for expenditure in accordance with the
6 provisions of this section and shall not lapse at any time or be
7 transferred to any other fund except as herein provided.

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

1 available to the department of labor and industrial relations for
2 that purpose, equivalent to the fair reasonable rental value of
3 any land and buildings acquired for its use until such time as
4 the full amount of the purchase price of such land and buildings
5 and such cost of repair and maintenance thereof as was expended
6 from the special employment security fund has been returned to
7 such fund.

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

22 288.330. 1. Benefits shall be deemed to be due and payable
23 only to the extent that moneys are available to the credit of the
24 unemployment compensation fund and neither the state nor the

1 division shall be liable for any amount in excess of such sums.
2 [Neither the state of Missouri, nor any person or agency acting
3 for it, may under any circumstance, by issuing bonds or otherwise
4 borrow money from any source whatsoever to pay benefits
5 hereunder, except as provided in 42 U.S.C.A. Section 1321.] The
6 governor is authorized to apply for an advance to the state
7 unemployment fund and to accept the responsibility for the
8 repayment of such advance [in accordance with the conditions
9 specified in Title XII of the Social Security Act, as amended,]
10 in order to secure to this state and its citizens the advantages
11 available under the provisions of [such title] federal law. In
12 the event the special employment security fund balance including
13 any outstanding loans or indebtedness is greater than or equal to
14 zero and the governor applies for an advance as provided in 42
15 U.S.C. Section 1321 or the state is required to incur other
16 indebtedness as authorized in this chapter in order to maintain
17 funding for the payment of benefits as authorized by this
18 chapter, the state of Missouri shall be obligated to pay the
19 interest incurred as a result of such advance or indebtedness.

20 2. (1) The purpose of this subsection is to provide a
21 method of financing the replenishment of the state's unemployment
22 compensation fund as an alternative to borrowing or obtaining
23 advances from the federal unemployment trust fund or for
24 refinancing those loans or advances, and to provide a method

1 through which the state may continue its unemployment
2 compensation program at the least possible cost to the state and
3 its employers.

4 (2) For the purposes of this subsection, "bond" means any
5 type of obligation issued under this section, including any bond,
6 note, or bond anticipation note or similar instrument.

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

21 (a) The commissioners shall serve five-year terms with each
22 term beginning July first and ending on June thirtieth, except
23 that of the commissioners first appointed one shall be appointed
24 for a term of two years, two shall be appointed for a term of

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

13 (b) Before entering into his or her duties each
14 commissioner shall execute a surety bond in the sum of fifty
15 thousand dollars, or in lieu thereof the chair of the commission
16 may execute a blanket bond covering all members of the commission
17 with each surety bond to be conditioned upon the faithful
18 performance of the duties of the office or offices covered and to
19 be executed by a surety company authorized to transact business
20 in this state as a surety and to be approved by the attorney
21 general and filed in the office of the secretary of state. The
22 cost of each such bond shall be paid by the commission.

23 (c) Commissioners shall receive no compensation for the
24 performance of their duties under this subsection, but each

1 commissioner shall be reimbursed from the funds of the commission
2 for his or her actual and necessary expenses incurred in carrying
3 out his or her official duties under this subsection.

4 (d) In the event that any of the commissioners or officers
5 of the commission whose signatures or facsimile signatures appear
6 on any bonds shall cease to be commissioners or officers before
7 the delivery of such bonds, their signatures or facsimile
8 signatures shall be valid and sufficient for all purposes as if
9 such commissioners or officers had remained in office until
10 delivery of such bonds.

11 (e) The commissioners executing the bonds of the commission
12 shall not be subject to any personal liability or accountability
13 by reason of the issuance of the bonds.

14 (f) The commission shall following the close of each fiscal
15 year submit an annual report of its activities for the preceding
16 year to the governor and the general assembly. Each report shall
17 set forth a complete operating and financial statement for the
18 commission during the fiscal year it covers. At least once in
19 each year an independent certified public accountant shall audit
20 the records and accounts of the commission.

21 (4) The commission is authorized to issue, sell, and
22 deliver bonds which shall mature no later than ten years after
23 issuance in the name of the commission in an amount determined by
24 the commission not to exceed a total of four hundred fifty

1 million dollars of indebtedness that results in reducing or
2 avoiding the need to borrow or obtain an advance under 42 U.S.C.,
3 Section 1321, or any similar federal legislation, or in an amount
4 necessary to refinance any borrowing or advance previously made
5 by the state for those purposes. The commission shall make an
6 affirmative finding that the issuance of bonds for the purposes
7 established in this section results in a savings to the state and
8 its employers.

9 (5) The commission shall provide for the payment of the
10 principal of the bonds, any redemption premiums, the interest on
11 the bonds, and the costs attributable to the bonds being issued
12 or outstanding as provided in this subsection and in section
13 288.310. Unless the commission directs otherwise, the bonds
14 shall be repaid in the same time frame and in the same amounts as
15 would be required for loans issued pursuant to 42 U.S.C. Section
16 1321; however, in no case shall bond indebtedness continue beyond
17 five consecutive years.

18 (6) The commission may irrevocably pledge money received
19 from the contributions received under section 288.128 as revenue
20 for the payment of bonds and deposited in an account created for
21 such purpose in the special employment security fund or other
22 money legally available to it provided that the general assembly
23 has first appropriated such contributions or other moneys
24 deposited in such account for the payment of bonds.

1 (7) Bonds issued under this section shall not constitute
2 debts of this state or of any agency, political corporation, or
3 political subdivision of this state and are not a pledge of the
4 faith and credit of this state or of any of those governmental
5 entities. The bonds are payable only from revenue provided for
6 under this chapter. The bonds shall contain a statement to the
7 effect that:

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

12 (b) Neither the full faith and credit nor the taxing power
13 of the state nor any agency, political corporation, or political
14 subdivision of the state is pledged to the payment of the
15 principal, premium, if any, or interest on the bonds except as
16 provided by this section.

17 (8) The owner of any bonds issued under this section shall
18 at the time of purchase agree to waive any right of recovery and
19 forever hold harmless the state and any agency, political
20 corporation, or political subdivision thereof. The bond owner
21 shall agree the sole source of revenue for repayment of such
22 bonds shall be those revenues derived from contributions received
23 under section 288.128.

24 (9) The state pledges and agrees with the owners of any

1 bonds issued under this section that the state will not limit or
2 alter the rights vested in the commission to fulfill the terms of
3 any agreements made with the owners or in any way impair the
4 rights and remedies of the owners until the bonds are fully
5 discharged except as provided by this section.

6 (10) The commission may provide for the flow of funds and
7 the establishment and maintenance of separate accounts within the
8 special employment security fund, including the interest and
9 sinking account, the reserve account, and other necessary
10 accounts, and may make additional covenants with respect to the
11 bonds in the documents authorizing the issuance of bonds
12 including refunding bonds. The resolutions authorizing the
13 issuance of bonds may also prohibit the further issuance of bonds
14 or other obligations payable from appropriated moneys or may
15 reserve the right to issue additional bonds to be payable from
16 appropriated moneys on a parity with or subordinate to the lien
17 and pledge in support of the bonds being issued and may contain
18 other provisions and covenants as determined by the commission.

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

22 (12) The bonds issued by the commission, any transaction
23 relating to the bonds, and profits made from the sale of the
24 bonds are free from taxation by the state or by any municipality,

1 court, special district, or other political subdivision of the
2 state.

3 (13) As determined necessary by the commission the proceeds
4 of the bonds less the cost of issuance shall be placed in the
5 state's unemployment compensation fund and may be used for the
6 purposes for which that fund may otherwise be used. If those net
7 proceeds are not placed immediately in the unemployment
8 compensation fund they shall be held in the special employment
9 security fund in an account designated for that purpose until
10 they are transferred to the unemployment compensation fund.

11 (14) The commission may enter into any contract or
12 agreement deemed necessary or desirable to effectuate cost
13 effective financing hereunder. Such agreements may include
14 credit enhancement, credit support, or interest rate agreements.
15 Any fees or costs associated with such agreements shall be deemed
16 administrative expenses for the purposes of calculating
17 assessments relating to payment of the principal, interest, and
18 administrative expenses related to bonds pursuant to the
19 provisions of section 288.128.

20 (15) To the extent this section conflicts with other laws
21 the provisions of this section prevail.

22 (16) If the United States Secretary of Labor holds that a
23 provision of this subsection does not conform with a federal
24 statute or would result in the loss to the state of any federal

1 funds otherwise available to it the commission may administer
2 this subsection to conform with the federal statute until the
3 general assembly meets in its next regular session and has an
4 opportunity to amend this subsection.

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

7 (b) The commission is authorized to enter financial
8 agreements with any lender that result in reducing or avoiding
9 the need to borrow or obtain an advance under 42 U.S.C., Section
10 1321, or any similar federal legislation. The total amount of
11 the outstanding obligation under the agreement shall not exceed
12 the difference of four hundred fifty million dollars and the bond
13 indebtedness incurred under this subsection. In no instance
14 shall such indebtedness under any financial agreement continue
15 for more than five consecutive years. Repayment of obligations
16 to lenders shall be made from the special employment security
17 fund, section 288.310.

18 3. In event of the suspension of this law, any unobligated
19 funds in the unemployment compensation fund, and returned by the
20 United States Treasurer because such Federal Social Security Act
21 is inoperative, shall be held in custody by the treasurer and
22 under supervision of the division until the legislature shall
23 provide for the disposition thereof. In event no disposition is
24 made by the legislature at the next regular meeting subsequent to

1 suspension of said law, then all unobligated funds shall be
2 returned ratably to those who contributed thereto.

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

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

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

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

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

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

24 Section B. Because immediate action is necessary to reduce

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