

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1268 & 1211
92ND GENERAL ASSEMBLY

Reported from the Committee on Workplace Development & Workplace Safety, January 5, 2004, with recommendation that the House Committee Substitute for House Bill Nos. 1268 & 1211 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

4224L.03C

AN ACT

To repeal sections 285.300, 288.030, 288.036, 288.038, 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.270, 288.310, and 288.330, RSMo, and to enact in lieu thereof fifteen new sections relating to employees, with penalty provisions.

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

Section A. Section 285.300, 288.030, 288.036, 288.038, 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.270, 288.310, and 288.330, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 285.300, 288.030, 288.036, 288.038, 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.270, 288.310, 288.330, 288.385, and 288.395, to read as follows:

285.300. 1. Every employer doing business in the state shall require each newly hired employee to fill out a federal W-4 withholding form. A copy of each withholding form or an equivalent form containing data required by section 285.304 which may be provided in an electronic or magnetic format, shall be sent to the department of revenue by the employer within twenty days after the date the employer hires the employee or in the case of an employer transmitting a report magnetically or electronically, by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart. For purposes of this section, the date the employer hires the employee shall be the earlier of the date the employee signs the W-4 form or its equivalent, or the first date the employee reports to work, or performs labor or services. Such forms shall be forwarded by the department of revenue to the division of child support enforcement on a weekly basis and the information shall be entered into the database, to be

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

12 known as the "State Directory of New Hires". The information reported shall be provided to the
13 National Directory of New Hires established in 42 U.S.C. section 653, other state agencies or
14 contractors of the division as required or allowed by federal statutes or regulations. **The division**
15 **of employment security shall cross-check Missouri unemployment compensation recipients**
16 **against any federal new hire database or any other database containing Missouri or other**
17 **states' wage information which is maintained by the federal government on a weekly basis.**

18 2. Any employer that has employees who are employed in two or more states and
19 transmits reports magnetically or electronically may comply with subsection 1 of this section by:

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

22 (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:

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

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

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

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

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

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

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

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

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

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

28 (11) "Deputy" means a representative of the division designated to make investigations
29 and administrative determinations on claims or matters of employer liability or to perform related
30 work;

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

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

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

36 (15) "Employing unit" means any individual, organization, partnership, corporation,
37 common paymaster, or other legal entity, including the legal representatives thereof, which has
38 or, subsequent to June 17, 1937, had in its employ one or more individuals performing services
39 for it within this state. All individuals performing services within this state for any employing
40 unit which maintains two or more separate establishments within this state shall be deemed to
41 be employed by a single employing unit for all the purposes of this chapter. Each individual
42 engaged to perform or to assist in performing the work of any person in the service of an
43 employing unit shall be deemed to be engaged by such employing unit for all the purposes of this
44 chapter, whether such individual was engaged or paid directly by such employing unit or by such
45 person, provided the employing unit had actual or constructive knowledge of the work;

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

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

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

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

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

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

60 (22) As to initial claims filed after December 31, 1990, "insured worker" means a worker
61 who has been paid wages for insured work in the amount of one thousand dollars or more in at

62 least one calendar quarter of such worker's base period and total wages in the worker's base
63 period equal to at least one and one-half times the insured wages in that calendar quarter of the
64 base period in which the worker's insured wages were the highest, or in the alternative, a worker
65 who has been paid wages in at least two calendar quarters of such worker's base period and
66 whose total base period wages are at least one and one-half times the maximum taxable wage
67 base, taxable to any one employer, in accordance with [subdivision (1)] **subsection 2** of section
68 288.036. For the purposes of this definition, "wages" shall be considered as wage credits with
69 respect to any benefit year, only if such benefit year begins subsequent to the date on which the
70 employing unit by which such wages were paid has become an employer;

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

73 (24) **"Misconduct", means an act of wanton or willful disregard of the employer's**
74 **interest, a deliberate violation of the employer's rules, a disregard of standards of behavior**
75 **which the employer has the right to expect of his or her employee, or negligence in such**
76 **degree or recurrence as to manifest culpability, wrongful intent or evil design, or show an**
77 **intentional and substantial disregard of the employer's interest or of the employee's duties**
78 **and obligations to the employer;**

79 (25) "Referee" means a representative of the division designated to serve on an appeals
80 tribunal;

81 [(25)] (26) "State" includes, in addition to the states of the United States of America, the
82 District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada;

83 [(26)] (27) **"Temporary help firm", means a firm that hires its own employees and**
84 **assigns them to clients to support or supplement the clients' workforce in work situations**
85 **such as employee absences, temporary skill shortages, seasonal workloads, and special**
86 **assignments and projects;**

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

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

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

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

98 calendar week in which the individual would have otherwise registered. The requirement of
99 registration may by regulation be postponed or eliminated in respect to claims for partial
100 unemployment or may by regulation be postponed in case of a mass layoff due to a temporary
101 cessation of work;

102 [(27)] **(30)** "Waiting week" means the first week of unemployment for which a claim is
103 allowed in a benefit year or if no waiting week has occurred in a benefit year in effect on the
104 effective date of a shared work plan, the first week of participation in a shared work
105 unemployment compensation program pursuant to section 288.500.

106 2. The Missouri average annual wage shall be computed as of June thirtieth of each year,
107 and shall be applicable to the following calendar year. The Missouri average annual wage shall
108 be calculated by dividing the total wages reported as paid for insured work in the preceding
109 calendar year by the average of mid-month employment reported by employers for the same
110 calendar year. The Missouri average weekly wage shall be computed by dividing the Missouri
111 average annual wage as computed in this subsection by fifty-two.

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

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

21 (a) In addition to the taxable wage, as defined in this subdivision, if on December 31,
22 1995, or on any December thirty-first thereafter, the balance in the unemployment insurance trust

23 fund, less any federal advances, is less than one hundred million dollars, then the amount of the
24 taxable wage then in effect shall be increased by five hundred dollars for all succeeding calendar
25 years;

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

32 (2) The amount of any payment made (including any amount paid by an employing unit
33 for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of,
34 an individual under a plan or system established by an employing unit which makes provision
35 generally for individuals performing services for it or for a class or classes of such individuals,
36 on account of:

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

40 (b) Medical and hospitalization expenses in connection with sickness or accident
41 disability; or

42 (c) Death;

43 [(3)] (2) The amount of any payment on account of sickness or accident disability, or
44 medical or hospitalization expenses in connection with sickness or accident disability, made by
45 an employing unit to, or on behalf of, an individual performing services for it after the expiration
46 of six calendar months following the last calendar month in which the individual performed
47 services for such employing unit;

48 [(4)] (3) The amount of any payment made by an employing unit to, or on behalf of, an
49 individual performing services for it or his or her beneficiary:

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

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

56 [(5)] (4) The amount of any payment made by an employing unit (without deduction
57 from the remuneration of the individual in employment) of the tax imposed pursuant to section
58 3101 of the Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an individual with

59 respect to remuneration paid to an employee for domestic service in a private home or for
60 agricultural labor;

61 [(6)] (5) Remuneration paid in any medium other than cash to an individual for services
62 not in the course of the employing unit's trade or business;

63 [(7)] (6) Remuneration paid in the form of meals provided to an individual in the service
64 of an employing unit where such remuneration is furnished on the employer's premises and at
65 the employer's convenience, except that remuneration in the form of meals that is considered
66 wages and required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26
67 U.S.C. Sec. 3306 shall be reported as wages as required thereunder;

68 [(8)] (7) For the purpose of determining wages paid for agricultural labor as defined in
69 paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for domestic service as
70 defined in subsection 13 of section 288.034, only cash wages paid shall be considered;

71 [(9)] (8) Beginning on October 1, 1996, any payment to, or on behalf of, an employee
72 or the employee's beneficiary under a cafeteria plan, if such payment would not be treated as
73 wages pursuant to the Federal Unemployment Tax Act.

74 2. The increases or decreases to the state taxable wage base for calendar year [1999]
75 **2004**, and each calendar year thereafter, shall be determined by the provisions within this
76 subsection. **Upon the first day of the next calender quarter after the effective date of this**
77 **section, the state taxable wage base for calendar year [1999, and] 2004 shall be ten thousand**
78 **dollars for the balance of the calendar year. The state taxable wage base for** each calendar
79 year thereafter[,] shall be determined by the preceding September thirtieth balance of the
80 unemployment compensation trust fund, less any outstanding federal Title XII advances received
81 pursuant to section 288.330 **and the principal, interest, and administrative expenses related**
82 **to bonds issued under section 288.330.** When the September thirtieth unemployment
83 compensation trust fund balance, less any outstanding federal Title XII advances received
84 pursuant to section 288.330, is:

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

87 (2) [Four] **Five** hundred [fifty] million or more, then the state taxable wage base for the
88 subsequent calendar year shall be decreased by five hundred dollars. In no event, however, shall
89 the state taxable wage base increase beyond [ten] **eleven** thousand [five hundred] dollars, or
90 decrease to less than seven thousand dollars.

91

92 For any calendar year, the state taxable wage base shall not be reduced to less than that part of
93 the remuneration which is subject to a tax under a federal law imposing a tax against which
94 credit may be taken for contributions required to be paid into a state unemployment

95 compensation trust fund. **Nothing in this section shall be construed to prevent the wage base**
96 **from increasing or decreasing by increments of five hundred dollars.**

288.038. With respect to initial claims filed [during calendar years 1998, 1999, 2000 and
2 2001] **after the effective date of this section** and each calendar year thereafter, the "maximum
3 weekly benefit amount" means four percent of the total wages paid to an eligible insured worker
4 during that quarter of the worker's base period in which the worker's wages were the highest, but
5 the maximum weekly benefit amount shall not exceed [two hundred five dollars in the calendar
6 year 1998, two hundred twenty dollars in the calendar year 1999, two hundred thirty-five dollars
7 in the calendar year 2000, and] two hundred fifty dollars in the calendar [year 2001, and] **years**
8 **2004 and 2005, two hundred fifty-five dollars for calendar years 2006 and 2007, and two**
9 **hundred sixty dollars for calendar year 2008 and** each calendar year thereafter. If such
10 benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower
11 full dollar amount.

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

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

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

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

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

19 **(c) The claimant is participating in a state-approved drug or alcohol treatment**
20 **program;**

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

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

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

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

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

36

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

40 (4) Prior to the first week of a period of total or partial unemployment for which the
41 claimant claims benefits he **or she** has been totally or partially unemployed for a waiting period
42 of one week. No more than one waiting week will be required in any benefit year. [The
43 one-week waiting period shall become compensable after unemployment during which benefits
44 are payable for nine consecutive weeks.] No week shall be counted as a week of total or partial
45 unemployment for the purposes of this subsection unless it occurs within the benefit year which
46 includes the week with respect to which the claimant claims benefits;

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

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

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

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

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

59 3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of

60 section 288.034, shall be payable in the same amount, on the same terms and subject to the same
61 conditions as compensation payable on the basis of other service subject to this law; except that:

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

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

76 (c) With respect to services described in paragraphs (a) and (b) of this subdivision,
77 benefits shall not be paid on the basis of such services to any individual for any week which
78 commences during an established and customary vacation period or holiday recess if such
79 individual performed such services in the period immediately before such vacation period or
80 holiday recess, and there is reasonable assurance that such individual will perform such services
81 immediately following such vacation period or holiday recess;

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

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

96 of this subsection.

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

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

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

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

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

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

125 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for
126 which the deputy finds that such claimant's total or partial unemployment is due to a stoppage
127 of work which exists because of a labor dispute in the factory, establishment or other premises
128 in which such claimant is or was last employed. In the event the claimant secures other
129 employment from which he or she is separated during the existence of the labor dispute, the
130 claimant must have obtained bona fide employment as a permanent employee for at least the
131 major part of each of two weeks in such subsequent employment to terminate his or her

132 ineligibility. If, in any case, separate branches of work which are commonly conducted as
133 separate businesses at separate premises are conducted in separate departments of the same
134 premises, each such department shall for the purposes of this subsection be deemed to be a
135 separate factory, establishment or other premises. This subsection shall not apply if it is shown
136 to the satisfaction of the deputy that:

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

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

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

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

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

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

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

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

5 (1) That the claimant has left work voluntarily without good cause attributable to such
6 work or to the claimant's employer[; except that]. **A temporary employee of a temporary help**
7 **firm will be deemed to have voluntarily quit employment if the employee does not contact**
8 **the temporary help firm for reassignment prior to filing for benefits. Failure to contact the**
9 **temporary help firm will not be deemed a voluntary quit unless the claimant has been**
10 **advised of the obligation to contact the firm upon completion of assignments and that**
11 **unemployment benefits may be denied for failure to do so.** The claimant shall not be
12 disqualified:

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

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

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

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

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

30 (3) That the claimant failed without good cause either to apply for available suitable
31 work when so directed by the deputy, or to accept suitable work when offered the claimant, either
32 through the division or directly by an employer by whom the individual was formerly employed,
33 or to return to the individual's customary self-employment, if any, when so directed by the
34 deputy. **An offer of work shall be conclusively established if an employer notifies the**
35 **claimant in writing of such offer by sending an acknowledgment via any form of certified**
36 **mail issued by the United State Postal Service stating such offer to the claimant at his or**

37 **her last known address. Nothing in this subdivision shall be construed to limit the means**
38 **by which the deputy may establish that the claimant has been sufficiently notified of**
39 **available work.**

40 (a) In determining whether or not any work is suitable for an individual, the division
41 shall consider, among other factors and in addition to those enumerated in paragraph (b) of this
42 subdivision, the degree of risk involved to the individual's health, safety and morals, the
43 individual's physical fitness and prior training, the individual's experience and prior earnings, the
44 individual's length of unemployment, the individual's prospects for securing work in the
45 individual's customary occupation, the distance of available work from the individual's residence
46 and the individual's prospect of obtaining local work; except that, if an individual has moved
47 from the locality in which the individual actually resided when such individual was last
48 employed to a place where there is less probability of the individual's employment at such
49 individual's usual type of work and which is more distant from or otherwise less accessible to
50 the community in which the individual was last employed, work offered by the individual's most
51 recent employer if similar to that which such individual performed in such individual's last
52 employment and at wages, hours, and working conditions which are substantially similar to those
53 prevailing for similar work in such community, or any work which the individual is capable of
54 performing at the wages prevailing for such work in the locality to which the individual has
55 moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable
56 for the individual;

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

- 60 a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
61 b. If the wages, hours, or other conditions of the work offered are substantially less
62 favorable to the individual than those prevailing for similar work in the locality;
63 c. If as a condition of being employed the individual would be required to join a
64 company union or to resign from or refrain from joining any bona fide labor organization.

65 2. [Notwithstanding the other provisions of this law,] If a deputy finds that a claimant
66 has been discharged for misconduct connected with the claimant's work, such claimant[,
67 depending upon the seriousness of the misconduct as determined by the deputy according to the
68 circumstances in each case,] shall be disqualified for waiting week credit or benefits [for not less
69 than four nor more than sixteen weeks for which the claimant claims benefits and is otherwise
70 eligible], **and no benefits shall be paid nor shall the cost of any benefits be charged against**
71 **any employer for any period of employment within the base period, until such time as the**
72 **claimant has earned wages for work insured under the unemployment laws of this state or**

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

85 3. A pattern of absenteeism or tardiness may constitute misconduct regardless of whether
86 the last incident alone which results in the discharge constitutes misconduct.

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

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

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

5 3. Each eligible insured worker who is partially unemployed in any week shall be paid
6 for such week a partial benefit. Such partial benefit shall be an amount equal to the difference
7 between his weekly benefit amount and that part of his wages for such week in excess of twenty
8 dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be
9 reduced to the nearest lower full dollar amount. [Termination pay, severance pay or] Pay
10 received by an eligible insured worker who is a member of the organized militia for training or
11 duty authorized by section 502(a)(1) of Title 32, United States Code, or who is an elected official
12 shall not be considered wages for the purpose of this subsection. **For purposes of this**
13 **subsection elected official shall not include a statewide elected official or a member of the**
14 **Missouri general assembly.**

15 4. The division shall compute the wage credits for each individual by crediting him with
16 the wages paid to him for insured work during each quarter of his base period or twenty-six times
17 his weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in
18 the form of termination pay or severance pay and such payment appears in a base period
19 established by the filing of an initial claim, the claimant may, at his option, choose to have such
20 payment included in the calendar quarter in which it was paid or choose to have it prorated
21 equally among the quarters comprising the base period of the claim. The maximum total amount
22 of benefits payable to any insured worker during any benefit year shall not exceed twenty-six
23 times his weekly benefit amount, or thirty-three and one-third percent of his wage credits,
24 whichever is the lesser. For the purpose of this section, wages shall be counted as wage credits
25 for any benefit year, only if such benefit year begins subsequent to the date on which the
26 employing unit by whom such wages were paid has become an employer. The wage credits of
27 an individual earned during the period commencing with the end of a prior base period and
28 ending on the date on which he filed an allowed initial claim shall not be available for benefit
29 purposes in a subsequent benefit year unless, in addition thereto, such individual has
30 subsequently earned either wages for insured work in an amount equal to at least five times his
31 current weekly benefit amount or wages in an amount equal to at least ten times his current
32 weekly benefit amount.

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

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

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

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

288.110. Any individual, type of organization or employing unit which has acquired
2 substantially all of the business of an employer, excepting in any such case any assets retained
3 by such employer incident to the liquidation of his obligations, and in respect to which the

4 division finds that immediately after such change such business of the predecessor employer is
5 continued without interruption solely by the successor, shall stand in the position of such
6 predecessor employer in all respects, including the predecessor's separate account, actual
7 contribution and benefit experience, annual payrolls, and liability for current or delinquent
8 contributions, interest and penalties. If two or more individuals, organizations, or employing
9 units acquired at approximately the same time substantially all of the business of an employer
10 (excepting in any such case any assets retained by such employer incident to the liquidation of
11 his obligations) and in respect to which the division finds that immediately after such change all
12 portions of such business of the predecessor are continued without interruption solely by such
13 successors, each such individual, organization, or employing unit shall stand in the position of
14 such predecessor with respect to the proportionate share of the predecessor's separate account,
15 actual contribution and benefit experience and annual payroll as determined by the portion of the
16 predecessor's taxable payroll applicable to the portion of the business acquired, and each such
17 individual, organization or employing unit shall be liable for current or delinquent contributions,
18 interest and penalties of the predecessor in the same relative proportion. Further, any successor
19 under this section which was not an employer at the time the acquisition occurred, shall pay
20 contributions for the balance of the current rate year at the same contribution rate as the
21 contribution rate of the predecessor whether such rate is more or less than two and seven-tenths
22 percent, provided there was only one predecessor or there were only predecessors with identical
23 rates. If the predecessors' rates were not identical, the division shall calculate a rate as of the date
24 of acquisition applicable to the successor for the remainder of the rate year, which rate shall be
25 based on the combined experience of all predecessor employers. In the event that any successor
26 was, prior to an acquisition, an employer, and there is a difference in the contribution rate
27 established for such calendar year applicable to any acquired or acquiring employer, the division
28 shall make a recalculation [as of the date of acquisition] of the contribution rate applicable to any
29 successor employer based upon the combined experience of all predecessor and successor
30 employers[, which] **as of the date of the acquisition, unless the date of the acquisition is**
31 **other than the first day of the calendar quarter. If the date of any such acquisition is other**
32 **than the first day of the calendar quarter the division shall make the recalculation of the**
33 **rate on the first day of the next calendar quarter after the acquisition. When the date of**
34 **the acquisition is other than the first day of a calendar quarter the successor employer shall**
35 **use its rate for the calendar quarter in which the acquisition was made. The revised**
36 contribution rate shall apply to employment after the [date of any such acquisition] **rate**
37 **recalculation.** For this purpose a calculation date different from July first may be established.
38 When the division has determined that a successor or successors stand in the position of a
39 predecessor employer, the predecessor's liability shall be terminated as of the date of the

40 acquisition.

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

| Balance in Trust Fund | | Percentage |
|-----------------------------------------|-----------------------------------------|-------------|
| Less Than | Equals or Exceeds | of Increase |
| 10 [\$400,000,000] \$450,000,000 | 10 [\$350,000,000] \$400,000,000 | 10% |
| 11 [\$350,000,000] \$400,000,000 | 11 [\$300,000,000] \$350,000,000 | 20% |
| 12 [\$300,000,000] \$350,000,000 | | 30% |

14 Notwithstanding the table in this section, each employer's contribution rate calculated for the four calendar quarters of calendar year 1994 shall be increased by forty percent, instead of thirty percent, as previously indicated in the table in this section. After the forty percent increase, each employer's contribution rate for the four calendar quarters of calendar year 1994 shall be increased by adding three-tenths of one percent.

19 **2. Upon the first day of the next calendar quarter after the effective date of this section, an employer's total contribution rate shall equal the employer's base rate plus a temporary solvency charge of one-tenth of one percent added to the base rate plus the increase authorized under subsection 1 of this section. The temporary solvency charge shall expire upon the last day of the fourth calendar quarter following the effective date of this section.**

288.128. 1. In addition to all other contributions due under this chapter, if the fund is utilizing moneys advanced by the federal government under the provisions of 42 U.S.C.A., section 1321 pursuant to section 288.330[,] **or from the proceeds of bonds issued under section 288.330** each employer shall be assessed an amount solely for the payment of interest due on such federal advancements, **or in the case of issuance of bonds for the payment of the principal, interest, and administrative expenses related to such bonds.** The rate shall be determined by dividing the interest due **on federal advancements or the principal, interest, and administrative expenses related to bonds** by ninety-five percent of the total taxable wages paid by all Missouri employers in the preceding calendar year. Each employer's proportionate share shall be the product obtained by multiplying such employer's total taxable wages for the preceding calendar year by the rate specified in this section. Each employer shall be notified of

12 the amount due under this section by June thirtieth of each year and such amount shall be
13 considered delinquent thirty days thereafter. The moneys collected from each employer for the
14 payment of interest due on federal advances **or principal, interest, and administrative**
15 **expenses related to bonds** shall be deposited in the special employment security fund.

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

25 3. **Moneys collected under this section for the payment of principal, interest, and**
26 **administrative expenses related to bonds issued under section 288.330 shall only be used**
27 **for such purpose following appropriation of such moneys by the general assembly. In the**
28 **event that moneys are collected under this section for the payment of principal, interest,**
29 **and administrative expenses related to bonds and the legislature does not make such an**
30 **appropriation, collections shall be paid into the special employment security fund and be**
31 **used for such purposes as are allowed by law.**

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

288.310. 1. There is hereby created in the state treasury a special fund to be known as
2 the "Special Employment Security Fund". All interest and penalties collected under the
3 provisions of this law, including moneys collected pursuant to section 288.128 for the payment
4 of interest due on federal advances received pursuant to section 288.330, **or the payment of**
5 **principal, interest, and administrative expenses related to bonds issued under section**
6 **288.330** shall be paid into this fund. The moneys collected pursuant to section 288.128 shall be
7 used exclusively for the payment of interest due on federal advances received pursuant to section
8 288.330 **or, subject to appropriation by the general assembly for the payment of principal,**

9 **interest, and administrative expenses related to bonds issued under that section.** Such
10 moneys, except for moneys collected pursuant to section 288.128, shall not be expended or
11 available for expenditure in any manner which would permit their substitution for, or a
12 corresponding reduction in, federal funds which would in the absence of such money be available
13 to finance expenditures for the administration of the employment security law, but nothing in this
14 section shall prevent such moneys, except for moneys collected pursuant to section 288.128,
15 from being used as a revolving fund, to cover expenditures, necessary and proper under the law,
16 for which federal funds have been duly requested but not yet received, subject to the charging
17 of such expenditures against such funds when received. Subject to the approval of the director
18 of the department of labor and industrial relations, the moneys in this fund, except for moneys
19 collected pursuant to section 288.128, shall be used by the department of labor and industrial
20 relations for the payment of costs of administration which are found not to have been properly
21 and validly chargeable against federal grants or other funds received for or in the unemployment
22 compensation administration fund. Such moneys, except for moneys collected pursuant to
23 section 288.128, shall be available either to satisfy the obligations incurred by the department
24 of labor and industrial relations for the division directly or by requesting the board of fund
25 commissioners to transfer the required amount from the special employment security fund to the
26 unemployment compensation administration fund. The board of fund commissioners shall upon
27 receipt of a written request of the department of labor and industrial relations make any such
28 transfer. No expenditures of this fund or transfer herein provided, except for moneys collected
29 pursuant to section 288.128, shall be made unless and until the director of the department of
30 labor and industrial relations finds that no other funds are available or can properly be used to
31 finance such expenditures, except that as hereinafter authorized expenditures from such fund
32 may be made for the purpose of acquiring lands and buildings, or for the erection of buildings
33 on lands so acquired, which are deemed necessary by the director of the department of labor and
34 industrial relations for the proper administration of this law. The director of the department of
35 labor and industrial relations shall order the transfer of such funds or the payment of any such
36 obligation and such funds shall be paid by the state treasurer on requisitions drawn by the
37 director of the department of labor and industrial relations directing the state auditor to issue his
38 or her warrant therefor. Any such warrant shall be drawn by the state auditor based upon bills
39 of particulars and vouchers certified by an officer or employee designated by the director of the
40 department of labor and industrial relations. Such certification shall among other things include
41 a duly certified copy of the director of the department of labor and industrial relations' findings
42 hereinbefore referred to. The moneys in this fund, except for moneys collected pursuant to
43 section 288.128, are hereby specifically made available to replace, within a reasonable time, any
44 moneys received by this state pursuant to section 302 of the Federal Social Security Act (42

45 U.S.C.A. Sec. 502), as amended, which, because of any action or contingency, have been lost
46 or have been expended for purposes other than, or in amounts in excess of, those necessary for
47 the proper administration of the employment security law. The moneys in this fund shall be
48 continuously available to the director of the department of labor and industrial relations for
49 expenditure in accordance with the provisions of this section and shall not lapse at any time or
50 be transferred to any other fund except as herein provided.

51 2. The director of the department of labor and industrial relations, subject to the approval
52 of the board of public buildings, is authorized and empowered to use all or any part of the funds
53 in the special employment security fund, except for moneys collected pursuant to section
54 288.128, for the purpose of acquiring suitable office space for the division by way of purchase,
55 lease, contract or in any other manner, including the right to use such funds or any part thereof
56 to purchase land and erect thereon such buildings as he or she shall deem necessary or to assist
57 in financing the construction of any building erected by the state of Missouri or any of its
58 agencies wherein available space will be provided for the division under lease or contract
59 between the department of labor and industrial relations and the state of Missouri or such other
60 agency. The director of the department of labor and industrial relations may transfer from the
61 unemployment compensation administration fund to the special employment security fund
62 amounts not exceeding funds specifically available to the department of labor and industrial
63 relations for that purpose, equivalent to the fair reasonable rental value of any land and buildings
64 acquired for its use until such time as the full amount of the purchase price of such land and
65 buildings and such cost of repair and maintenance thereof as was expended from the special
66 employment security fund has been returned to such fund.

67 3. The director of the department of labor and industrial relations may also transfer from
68 the unemployment compensation administration fund to the special employment security fund
69 amounts not exceeding funds specifically available to the department of labor and industrial
70 relations for that purpose, equivalent to the fair reasonable rental value of space used by the
71 department of labor and industrial relations in any building erected by the state of Missouri or
72 any of its agencies until such time as the department of labor and industrial relations'
73 proportionate amount of the purchase price of such building and the department of labor and
74 industrial relations' proportionate amount of such costs of repair and maintenance thereof as was
75 expended from the special employment security fund has been returned to such fund.

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

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

15 2. (1) **The purpose of this subsection is to provide a method of financing the**
16 **replenishment of the state's unemployment compensation fund as an alternative to**
17 **borrowing or obtaining advances from the federal unemployment trust fund or for**
18 **refinancing those loans or advances, and to provide a method through which the state may**
19 **continue its unemployment compensation program at the least possible cost to the state and**
20 **its employers.**

21 (2) **For the purposes of this subsection, "bond" means any type of obligation issued**
22 **under this section, including any bond, note, or bond anticipation note or similar**
23 **instrument.**

24 (3) **For the purposes of implementing the provisions of this subsection, there is**
25 **hereby created the "Missouri Commission on Employment Security Financing". The**
26 **membership of the commission shall be comprised of the governor, attorney general, and**
27 **lieutenant governor. The governor is chairman and the lieutenant governor, secretary.**
28 **The speaker of the house of representatives, the president pro tempore of the senate, the**
29 **director of the department of labor and industrial relations, the director of the division of**
30 **employment security, and the state treasurer shall serve as ex officio members of the**
31 **commission but shall not have the power to vote. The commission shall constitute a body**
32 **corporate and politic. The commission shall have all powers necessary to effectuate its**
33 **purposes, including without limitation to provide a seal, keep a record of its proceedings,**
34 **and elect a chairman from amongst its members.**

35 (4) **The commission is authorized to issue, sell, and deliver bonds which shall**
36 **mature no later than ten years after issuance in the name of the commission in an amount**
37 **determined by the commission not to exceed a total of three hundred fifty million dollars**
38 **of indebtedness that results in reducing or avoiding the need to borrow or obtain an**
39 **advance under 42 U.S.C., Section 1321, or any similar federal legislation, or in an amount**
40 **necessary to refinance any borrowing or advance previously made by the state for those**
41 **purposes. The commission shall make an affirmative finding that the issuance of bonds for**

42 the purposes established in this section results in a savings to the state and its employers.

43 (5) The commission shall provide for the payment of the principal of the bonds, any
44 redemption premiums, the interest on the bonds, and the costs attributable to the bonds
45 being issued or outstanding as provided in this subsection and in section 288.310. Unless
46 the commission directs otherwise, the bonds shall be repaid in the same time frame and in
47 the same amounts as would be required for loans issued pursuant to 42 U.S.C. Section
48 1321; however, in no case shall bond indebtedness continue beyond five consecutive years.

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

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

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

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

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

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

76 (10) The commission may provide for the flow of funds and the establishment and
77 maintenance of separate accounts within the special employment security fund, including

78 **the interest and sinking account, the reserve account, and other necessary accounts, and**
79 **may make additional covenants with respect to the bonds in the documents authorizing the**
80 **issuance of bonds including refunding bonds. The resolutions authorizing the issuance of**
81 **bonds may also prohibit the further issuance of bonds or other obligations payable from**
82 **appropriated moneys or may reserve the right to issue additional bonds to be payable from**
83 **appropriated moneys on a parity with or subordinate to the lien and pledge in support of**
84 **the bonds being issued and may contain other provisions and covenants as determined by**
85 **the commission.**

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

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

91 **(13) As determined necessary by the commission the proceeds of the bonds less the**
92 **cost of issuance shall be placed in the state's unemployment compensation fund and may**
93 **be used for the purposes for which that fund may otherwise be used. If those net proceeds**
94 **are not placed immediately in the unemployment compensation fund they shall be held in**
95 **the special employment security fund in an account designated for that purpose until they**
96 **are transferred to the unemployment compensation fund.**

97 **(14) The commission may enter into any contract or agreement deemed necessary**
98 **or desirable to effectuate cost effective financing hereunder. Such agreements may include**
99 **credit enhancement, credit support, or interest rate agreements. Any fees or costs**
100 **associated with such agreements shall be deemed administrative expenses for the purposes**
101 **of calculating assessments relating to payment of the principal, interest, and administrative**
102 **expenses related to bonds pursuant to the provisions of section 288.128.**

103 **(15) To the extent this section conflicts with other laws the provisions of this section**
104 **prevail.**

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

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

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

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

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

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

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

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

288.395. Any person or entity perpetrating a fraud or misrepresentation under this
2 **chapter for which a penalty has not herein been specifically provided, shall be guilty of a**
3 **class A misdemeanor and, in addition, shall be liable to this state for a civil penalty not to**
4 **exceed ten thousand dollars or double the value of the fraud, whichever is greater. Any**
5 **person or entity who has previously pled guilty to or has been found guilty of perpetrating**
6 **a fraud or misrepresentation under this chapter and who subsequently violated any such**
7 **provisions shall be guilty of a class D felony.**