

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2041
94TH GENERAL ASSEMBLY

4500S.04T

2008

AN ACT

To repeal sections 178.585, 288.040, 288.042, 288.070, 288.250, and 290.505, RSMo, and to enact in lieu thereof ten new sections relating to employment, with penalty provisions, an effective date for certain sections, and an emergency clause for a certain section.

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

Section A. Sections 178.585, 288.040, 288.042, 288.070, 288.250, and 290.505, RSMo,
2 are repealed and ten new sections enacted in lieu thereof, to be known as sections 178.585,
3 285.035, 288.040, 288.042, 288.070, 288.131, 288.250, 288.312, 290.505, and 290.523, to read
4 as follows:

178.585. 1. Under rules and regulations of the state board of education, the
2 commissioner of education, in cooperation with the director of the division of [employment
3 security] **workforce development** of the department of [labor and industrial relations] **economic
4 development**, shall establish procedures to provide grants to public high schools,
5 vocational-technical schools, Linn State Technical College, and community colleges solely for
6 the purpose of new programs, curriculum enhancement, equipment and facilities so as to upgrade
7 vocational and technical education in the state.

8 2. Each vocational-technical school, community college, Linn State Technical College,
9 and school district of any public high school receiving a grant authorized by this section shall
10 have an advisory committee composed of local business persons, labor leaders, parents, senior
11 citizens, community leaders and teachers to establish a plan to ensure that students who graduate
12 from the vocational-technical school, community college, Linn State Technical College, or

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

13 public high school proceed to a four-year college or high wage job with workplace-skill
14 development opportunities.

15 3. [Beginning July 1, 1994,] The director of the [division of employment security of the]
16 department of [labor and industrial relations] **economic development** shall provide annually to
17 the commissioner of education a listing of demand occupations in the state including substate
18 projections. The listing shall include those occupations for which, in the judgment of the
19 director of the [division of employment security] **department of economic development**, there
20 is a critical shortage to meet present or future employment needs necessary to the economic
21 growth and competitiveness of the state.

22 4. In any fiscal year, at least seventy-five percent of all moneys for the grant awards
23 authorized by this section shall be to public high schools, vocational-technical schools, Linn
24 State Technical College, or community colleges for new programs, curriculum enhancement or
25 equipment necessary to address demand occupations identified pursuant to subsection 3 of this
26 section.

**285.035. 1. No employer shall require an employee to have personal identification
2 microchip technology implanted into the employee for any reason.**

3 **2. For purposes of this section, "personal identification microchip technology"**
4 **means a subcutaneous or surgically implanted microchip technology device or product that**
5 **contains or is designed to contain a unique identification number and personal information**
6 **that can be non-invasively retrieved or transmitted with an external scanning device.**

7 **3. Any employer who violates this section is guilty of a class A misdemeanor.**

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);

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 not to exceed a total of sixteen weeks at the discretion of the director;

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

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

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

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

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

34
35 Ineligibility pursuant to this subdivision shall begin on the first day of the week which the
36 claimant was scheduled to claim and shall end on the last day of the week preceding the week
37 during which the claimant does report in person to the division's office;

38 (4) Prior to the first week of a period of total or partial unemployment for which the
39 claimant claims benefits he or she has been totally or partially unemployed for a waiting period
40 of one week. No more than one waiting week will be required in any benefit year. During
41 calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become
42 compensable once his or her remaining balance on the claim is equal to or less than the
43 compensable amount for the waiting period. No week shall be counted as a week of total or
44 partial unemployment for the purposes of this subsection unless it occurs within the benefit year
45 which includes the week with respect to which the claimant claims benefits;

46 (5) The claimant has made a claim for benefits **within fourteen days from the last day**
47 **of the week being claimed. The fourteen-day period may, for good cause, be extended to**
48 **twenty-eight days;**

49 (6) **The claimant has reported to an employment office to participate in a**
50 **reemployment assessment and reemployment services as directed by the deputy or**

51 **designated staff of an employment office, unless the deputy determines that good cause**
52 **exists for the claimant's failure to participate in such reemployment assessment and**
53 **reemployment services. For purposes of this section, "reemployment services" may**
54 **include, but not be limited to, the following:**

55 (a) **Providing an orientation to employment office services;**

56 (b) **Providing job search assistance; and**

57 (c) **Providing labor market statistics or analysis;**

58 **Ineligibility under this subdivision shall begin on the first day of the week which the**
59 **claimant was scheduled to report for the reemployment assessment or reemployment**
60 **services and shall end on the last day of the week preceding the week during which the**
61 **claimant does report in person to the employment office for such reemployment assessment**
62 **or reemployment services;**

63 [(6)] (7) The claimant is participating in reemployment services, such as job search
64 assistance services, as directed by the deputy if the claimant has been determined to be likely to
65 exhaust regular benefits and to need reemployment services pursuant to a profiling system
66 established by the division, unless the deputy determines that:

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

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

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

74 3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of
75 section 288.034, shall be payable in the same amount, on the same terms and subject to the same
76 conditions as compensation payable on the basis of other service subject to this law; except that:

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

85 (b) With respect to services performed in any capacity (other than instructional, research,
86 or principal administrative capacity) for an educational institution, benefits shall not be paid on

87 the basis of such services to any individual for any week which commences during a period
88 between two successive academic years or terms if such individual performs such services in the
89 first of such academic years or terms and there is a contract or a reasonable assurance that such
90 individual will perform such services in the second of such academic years or terms;

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

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

104 (2) If compensation is denied for any week pursuant to paragraph (b) or (d) of
105 subdivision (1) of this subsection to any individual performing services at an educational
106 institution in any capacity (other than instructional, research or principal administrative capacity),
107 and such individual was not offered an opportunity to perform such services for the second of
108 such academic years or terms, such individual shall be entitled to a retroactive payment of the
109 compensation for each week for which the individual filed a timely claim for compensation and
110 for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1)
111 of this subsection.

112 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work
113 benefits for any week for which he or she is receiving or has received remuneration exceeding
114 his or her weekly benefit amount or shared work benefit amount in the form of:

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

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

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

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

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

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

140 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for
141 which the deputy finds that such claimant's total or partial unemployment is due to a stoppage
142 of work which exists because of a labor dispute in the factory, establishment or other premises
143 in which such claimant is or was last employed. In the event the claimant secures other
144 employment from which he or she is separated during the existence of the labor dispute, the
145 claimant must have obtained bona fide employment as a permanent employee for at least the
146 major part of each of two weeks in such subsequent employment to terminate his or her
147 ineligibility. If, in any case, separate branches of work which are commonly conducted as
148 separate businesses at separate premises are conducted in separate departments of the same
149 premises, each such department shall for the purposes of this subsection be deemed to be a
150 separate factory, establishment or other premises. This subsection shall not apply if it is shown
151 to the satisfaction of the deputy that:

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

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

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

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

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

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

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

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

288.042. 1. For purposes of this section, a "war on terror veteran" is a Missouri resident who serves or has served in the military and to whom the following criteria apply:

3 (1) The person is or was a member of the [Missouri] national guard or a member of a
4 United States armed forces reserves unit who was officially domiciled in the state of Missouri
5 immediately prior to deployment;

6 (2) The person was deployed as part of his or her military unit at any time after
7 September 11, 2001, and such deployment caused the person to be unable to continue working
8 for his or her employer;

9 (3) The person was employed either part time or full time before deployment; and

10 (4) A Missouri court or United States district court located in Missouri has found that
11 the person was discharged from or laid off from his or her nonmilitary employment during
12 deployment or within thirty days after the completion of his or her deployment.

13 2. Notwithstanding any provisions of sections 288.010 to 288.500, any war on terror
14 veteran shall be entitled to receive veterans' unemployment compensation benefits under this
15 section. A war on terror veteran shall be entitled to a weekly benefit amount of eight percent of
16 the wages paid to the war on terror veteran during that calendar quarter during which the war on
17 terror veteran earned the highest amount within the five completed calendar quarters during
18 which the war on terror veteran received wages immediately before deployment. The maximum
19 amount of a weekly benefit amount shall be one thousand one hundred fifty-three dollars and
20 sixty-four cents.

21 3. A war on terror veteran shall be entitled to a weekly benefit amount for twenty-six
22 weeks. [The division may collect erroneously paid benefits in the manner provided in sections
23 288.160 and 288.170.] **The division of employment security shall pursue recovery of**
24 **overpaid unemployment compensation benefits against any person receiving such overpaid**
25 **benefits through billing, setoffs against state tax refunds, setoffs against federal tax refunds**
26 **to the extent permitted by federal law, intercepts of lottery winnings under section 313.321,**
27 **RSMo, and collection efforts as provided for in sections 288.160, 288.170, and 288.175.**

28 4. Any employer who is found in any Missouri court or United States district court
29 located in Missouri to have terminated, demoted, or taken an adverse employment action against
30 a war on terror veteran due to his or her absence while deployed shall be subject to an
31 administrative penalty in the amount of thirty-five thousand dollars. The director of the division
32 of employment security shall take judicial notice of judgments in suits brought under the
33 Uniformed Service Employment and Reemployment Rights Act (38 U.S.C. 4301). Such
34 judgments may be considered to have a res judicata effect on the director's determination. The
35 administrative penalty shall be collectible in the manner provided in sections 288.160 and
36 288.170.

37 5. A war on terror veteran shall be considered to have been discharged from his or her
38 employment if he or she is not offered the same wages, benefits, and similar work schedule upon
39 his or her return after deployment.

40 6. There is hereby created in the state treasury the "War on Terror Unemployment
41 Compensation Fund", which shall consist of money collected under this section and such other
42 state funds appropriated by the general assembly. The state treasurer shall be custodian of the
43 fund and shall approve disbursements from the fund in accordance with sections 30.170 and
44 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the
45 administration, including payment of benefits and refunds, of this section. Notwithstanding the
46 provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the
47 end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer
48 shall invest moneys in the fund in the same manner as other funds are invested. Any interest and
49 money earned on such investments shall be credited to the fund.

50 7. The division of employment security may promulgate rules to enforce this section.
51 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created
52 under the authority delegated in this section shall become effective only if it complies with and
53 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
54 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested
55 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
56 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
57 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid
58 and void.

288.070. 1. All claims shall be made in accordance with such regulations as the division
2 may prescribe; except that such regulations shall not require the filing of a claim for benefits by
3 the claimant in person for a week of unemployment occurring immediately prior to the claimant's
4 reemployment, but claims in such cases may be made by mail, or otherwise if authorized by
5 regulation. Notice of each initial claim filed by an insured worker which establishes the
6 beginning of such worker's benefit year shall be promptly mailed by the division to each base
7 period employer of such individual, **except notice of an initial claim shall not be mailed to any**
8 **contributing base period employer which paid such individual gross wages in the amount**
9 **of four hundred dollars or less during such individual's base period**, and to the last
10 employing unit whose name is furnished by the individual when such individual files such claim.
11 In similar manner, a notice of each renewed claim filed by an insured worker during a benefit
12 year after a period in such year during which the insured worker was employed shall be given
13 to the last employing unit whose name is furnished by the individual when the individual files
14 such renewed claim or to any other base period or subsequent employer of the worker who has

15 requested such a notice. Any such base period employer or any employing unit, which employed
16 the claimant since the beginning of the base period, who within ten calendar days after the
17 mailing of notice of the initial claim or a renewed claim to the employer or employing unit's last
18 known address files a written protest against the allowance of benefits, and any employing unit
19 from whom the claimant was separated during a week [of continued claim] **claimed** other than
20 a week in which an initial or renewed claim is effective, shall be deemed an interested party to
21 any determination allowing benefits during the benefit year until such time as the issue or issues
22 raised by the protest are resolved by a determination or decision which has become final.

23 **2. If the last employer or any base period employer files a written protest against**
24 **the allowance of benefits based upon the claimant's refusal to accept suitable work when**
25 **offered the claimant, either through the division or directly by such last or base period**
26 **employer, and such protest is filed within ten calendar days of the claimant's refusal of**
27 **work, such employer shall be deemed an interested party to any determination concerning**
28 **the claimant's refusal of work until such time as the issue or issues raised by the protest are**
29 **resolved by a determination or decision which has become final.**

30 **3. Any base period employer or any employing unit, which employed the claimant**
31 **since the beginning of the base period, who files a written protest against the allowance of**
32 **benefits based upon the claimant not being able to work or available for work shall be**
33 **deemed an interested party to any determination concerning claimant's ability to work or**
34 **availability for work until such time as the issue or issues raised by the protest are resolved**
35 **by a determination or decision which has become final.**

36 [2.] **4.** A deputy shall promptly examine each initial claim and make a determination of
37 the claimant's status as an insured worker. Each such determination shall be based on a written
38 statement showing the amount of wages for insured work paid to the claimant by each employer
39 during the claimant's base period and shall include a finding as to whether such wages meet the
40 requirements for the claimant to be an insured worker, and, if so, the first day of the claimant's
41 benefit year, the claimant's weekly benefit amount, and the maximum total amount of benefits
42 which may be payable to the claimant for weeks of unemployment in the claimant's benefit year.
43 The deputy shall in respect to all claims for benefits thereafter filed by such individual in the
44 claimant's benefit year make a written determination as to whether and in what amount the
45 claimant is entitled to benefits for the week or weeks with respect to which the determination is
46 made. Whenever claims involve complex questions of law or fact, the deputy, with the approval
47 of the director, may refer such claims to the appeals tribunal, without making a determination,
48 for a fair hearing and decision as provided in section 288.190.

49 [3.] **5.** The deputy shall, in writing, promptly notify the claimant of such deputy's
50 determination on an initial claim, including the reason therefor, and a copy of the written

51 statement as provided in subsection [2] 4 of this section. The deputy shall promptly notify the
52 claimant and all other interested parties of such deputy's determination on any claim for benefits
53 and shall give the reason therefor; except that, where a determination on a later claim for benefits
54 in a benefit year is the same as the determination on a preceding claim, no additional notice shall
55 be given. A determination shall be final, when unappealed, in respect to any claim to which it
56 applies except that an appeal from a determination on a claim for benefits shall be considered
57 as an appeal from all later claims to which the same determination applies. The deputy may,
58 however, not later than one year following the end of a benefit year, for good cause, reconsider
59 any determination on any claim and shall promptly notify the claimant and other interested
60 parties of such deputy's redetermination and the reasons therefor. Whenever the deputy shall
61 have notified any interested employer of the denial of benefits to a claimant for any week or
62 weeks and shall thereafter allow benefits to such claimant for a subsequent week or weeks, the
63 deputy shall notify such interested employer of the beginning date of the allowance of benefits
64 for such subsequent period.

65 [4.] 6. Unless the claimant or any interested party within thirty calendar days after notice
66 of such determination is either delivered in person or mailed to the last known address of such
67 claimant or interested party files an appeal from such determination, it shall be final. If, pursuant
68 to a determination or redetermination, benefits are payable in any amount or in respect to any
69 week as to which there is no dispute, such amount of benefits shall be promptly paid regardless
70 of any appeal.

71 [5.] 7. Benefits shall be paid promptly in accordance with a determination or
72 redetermination pursuant to this section, or the decision of an appeals tribunal, the labor and
73 industrial relations commission of Missouri or a reviewing court upon the issuance of such
74 determination, redetermination or decision (regardless of the pendency of the period to apply for
75 reconsideration, file an appeal, or petition for judicial review as provided in this section, or
76 section 288.190, 288.200, or 288.210, as the case may be, or the pendency of any such
77 application, appeal, or petition) unless and until such determination, redetermination or decision
78 has been modified or reversed by a subsequent redetermination or decision, in which event
79 benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such
80 modified or reversed redetermination or decision.

81 [6.] 8. Benefits paid during the pendency of the period to apply for reconsideration, file
82 an appeal, or petition for judicial review or during the pendency of any such application, appeal,
83 or petition shall be considered as having been due and payable regardless of any redetermination
84 or decision unless the modifying or reversing redetermination or decision establishes that the
85 claimant willfully failed to disclose or falsified any fact which would have disqualified the

86 claimant or rendered the claimant ineligible for such benefits as contemplated in subsection 9
87 of section 288.380.

88 [7.] **9.** Benefits paid during the pendency of the period to apply for reconsideration, file
89 an appeal, or petition for judicial review or during the pendency of any such application, appeal,
90 or petition which would not have been payable under a redetermination or decision which
91 becomes final shall not be chargeable to any employer. Beginning with benefits paid on and
92 after January 1, 1998, the provisions of this subsection shall not apply to employers who have
93 elected to make payments in lieu of contributions pursuant to subsection 3 of section 288.090.

94 [8.] **10.** The ten-day period mentioned in [subsection] **subsections 1 and 2** of this
95 section and the thirty-day period mentioned in subsection [4] **6** of this section may, for good
96 cause, be extended.

97 **11. Any notice of claim or notice of determination required to be mailed by the**
98 **division to an employer or claimant under this section may be transmitted electronically**
99 **by the division to any employer or claimant requesting such method of delivery. The date**
100 **the division transmits such notice of claim or notice of determination shall be deemed the**
101 **date of mailing for purposes of filing a protest to the notice or claim or filing an appeal**
102 **concerning a notice of determination.**

288.131. For calendar years 2009, 2010, and 2011, each employer that is liable for
2 **contributions under this chapter, except employers with a contribution rate equal to zero,**
3 **shall pay an annual unemployment automation surcharge in an amount equal to five one-**
4 **hundredths of one percent of such employer's total taxable wages for the twelve-month**
5 **period ending the preceding June thirteenth. However, the division may reduce the**
6 **foregoing percentage to ensure that the total amount of surcharge due from all employers**
7 **under this subsection shall not exceed thirteen million dollars annually. Each employer**
8 **liable to pay such surcharge shall be notified of the amount due under this subsection by**
9 **March thirty-first of each year and such amount shall be considered delinquent thirty days**
10 **thereafter. Delinquent unemployment automation surcharge amounts may be collected in**
11 **the manner provided under sections 288.160 and 288.170. All moneys collected under this**
12 **subsection shall be deposited in the unemployment automation fund established in section**
13 **288.312.**

14 **2. For calendar years 2009, 2010, and 2011, the otherwise applicable unemployment**
15 **contribution rate of each employer liable for contributions under this chapter shall be**
16 **reduced by five one-hundredths of one percent, except such contribution rate shall not be**
17 **less than zero.**

288.250. 1. Information obtained from any employing unit or individual pursuant to the
2 administration of this law, shall be held confidential and shall not be published, **further**

3 **disclosed**, or be open to public inspection [(other than to public employees in the performance
4 of their public duties, including, but not limited to, the division of child support enforcement,
5 other child support agencies of the federal government or other states as provided for under
6 chapter 454, RSMo, or federal statutes)] in any manner revealing the individual's or employing
7 unit's identity, but any claimant or employing unit or their authorized representative shall be
8 supplied with information from the division's records to the extent necessary for the proper
9 preparation and presentation of any claim for unemployment compensation benefits or protest
10 of employer liability. Further, upon receipt of a written request from a claimant or his or her
11 authorized representative, the division shall supply information previously submitted to the
12 division by the claimant, the claimant's wage history and the claimant's benefit payment history.
13 In addition, upon receipt of a written request from an authorized representative of an employing
14 unit, the division shall supply information previously submitted to the division by the employing
15 unit, and information concerning the payment of benefits from the employer's account and the
16 unemployment compensation fund, including amounts paid to specific claimants. **A state or
17 federal official or agency may receive disclosures to the extent required by federal law. In
18 the division's discretion, any other party may receive disclosures to the extent authorized
19 by state and federal law.** Any information obtained by the division in the administration of this
20 law shall be privileged and no individual or type of organization shall be held liable for slander
21 or libel on account of any such information.

22 **2. Any person who intentionally discloses or otherwise fails to protect confidential**
23 **information in violation of this section shall be guilty of a class A misdemeanor. For a**
24 **second or subsequent violation, the person shall be guilty of a class D felony.**

288.312. 1. There is hereby created in the state treasury the "Unemployment
2 **Automation Fund", with shall consist of money collected under subsection 1 of section**
3 **288.131, and such other state funds appropriated by the general assembly. The state**
4 **treasurer shall be custodian of the fund and may approve disbursements from the fund in**
5 **accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the**
6 **fund shall be used solely for the purpose of providing automated systems, and the payment**
7 **of associated costs, to improve the administration of the state's unemployment insurance**
8 **program. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, all**
9 **moneys remaining in the fund at the end of the biennium shall not revert to the credit of**
10 **the general revenue fund. The state treasurer shall invest moneys in the fund in the same**
11 **manner as other funds are invested. Any interest and money earned on such investments**
12 **shall be credited to the fund.**

13 **2. The unemployment automation fund shall not be used in whole or in part for any**
14 **purpose or in any manner that would permit its substitution for, or a corresponding**

15 **reduction in, federal funds that would be available in its absence to finance expenditures**
16 **for the administration of this chapter, or cause the appropriate agency of the United States**
17 **government to withhold any part of an administrative grant which would otherwise be**
18 **made.**

290.505. 1. No employer shall employ any of his employees for a workweek longer than
2 forty hours unless such employee receives compensation for his employment in excess of the
3 hours above specified at a rate not less than one and one-half times the regular rate at which he
4 is employed.

5 2. Employees of an amusement or recreation business that meets the criteria set out in
6 29 U.S.C. 213(a) (3) must be paid one and one-half times their regular compensation for any
7 hours worked in excess of fifty-two hours in any one-week period.

8 3. With the exception of employees described in subsection (2), the overtime
9 requirements of subsection (1) shall not apply to employees who are exempt from federal
10 minimum wage or overtime requirements [pursuant to 29 U.S.C. §§ 213(a)-(b)] **including, but**
11 **not limited to, the exemptions or hour calculation formulas specified in 29 U.S.C. Sections**
12 **207 and 213, and any regulations promulgated thereunder.**

13 4. Except as may be otherwise provided under sections 290.500 to 290.530, this
14 section shall be interpreted in accordance with the Fair Labor Standards Act, 29 U.S.C.
15 Section 201, et seq., as amended, and the Portal to Portal Act, 29 U.S.C. Section 251, et seq.,
16 as amended, and any regulations promulgated thereunder.

290.523. The department may, in accordance with chapter 536, RSMo, promulgate
2 such rules and regulations as are necessary for the enforcement and administration of
3 sections 290.500 to 290.530. Any rule or portion of a rule, as that term is defined in section
4 536.010, RSMo, that is created under the authority delegated in this section shall become
5 effective only if it complies with and is subject to all of the provisions of chapter 536,
6 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
7 nonseverable and if any of the powers vested with the general assembly pursuant to
8 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
9 are subsequently held unconstitutional, then the grant of rulemaking authority and any
10 rule proposed or adopted after August 28, 2008, shall be invalid and void.

Section B. Sections 178.585, 288.040, 288.042, 288.070, and 288.250 of this act shall
2 become effective October 1, 2008.

Section C. Because of the need to preserve federal standards relating to overtime
2 payments to employees, section 290.505 of section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace and safety, and is hereby declared

4 to be an emergency act within the meaning of the constitution, and section 290.505 of section

5 A of this act shall be in full force and effect upon its passage and approval.

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