

SECOND REGULAR SESSION

SENATE BILL NO. 680

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR O'LAUGHLIN.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3751S.011

AN ACT

To repeal section 288.036 as enacted by house bill no. 150, ninety-eighth general assembly, first regular session, section 288.036 as enacted by house bill no. 1456, ninety-third general assembly, second regular session, section 288.060 as enacted by house bill no. 150, ninety-eighth general assembly, first regular session, and section 288.060 as enacted by house bill no. 163, ninety-sixth general assembly, first regular session, and to enact in lieu thereof two new sections relating to employment security.

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

Section A. Section 288.036 as enacted by house bill no. 150, ninety-eighth
2 general assembly, first regular session, section 288.036 as enacted by house bill
3 no. 1456, ninety-third general assembly, second regular session, section 288.060
4 as enacted by house bill no. 150, ninety-eighth general assembly, first regular
5 session, and section 288.060 as enacted by house bill no. 163, ninety-sixth general
6 assembly, first regular session, are repealed and two new sections enacted in lieu
7 thereof, to be known as sections 288.036 and 288.060, to read as follows:

[288.036. 1. "Wages" means all remuneration, payable or
2 paid, for personal services including commissions and bonuses and,
3 except as provided in subdivision (7) of this section, the cash value
4 of all remuneration paid in any medium other than
5 cash. Gratuities, including tips received from persons other than
6 the employing unit, shall be considered wages only if required to be
7 reported as wages pursuant to the Federal Unemployment Tax Act,
8 26 U.S.C. Section 3306, and shall be, for the purposes of this
9 chapter, treated as having been paid by the employing

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

10 unit. Severance pay shall be considered as wages to the extent
11 required pursuant to the Federal Unemployment Tax Act, 26
12 U.S.C. Section 3306(b). Vacation pay, termination pay, severance
13 pay and holiday pay shall be considered as wages for the week with
14 respect to which it is payable. The total amount of wages derived
15 from severance pay, if paid to an insured in a lump sum, shall be
16 prorated on a weekly basis at the rate of pay received by the
17 insured at the time of termination for the purposes of determining
18 unemployment benefits eligibility. The term "wages" shall not
19 include:

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

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

31 (b) Medical and hospitalization expenses in connection with
32 sickness or accident disability; or

33 (c) Death;

34 (2) The amount of any payment on account of sickness or
35 accident disability, or medical or hospitalization expenses in
36 connection with sickness or accident disability, made by an
37 employing unit to, or on behalf of, an individual performing
38 services for it after the expiration of six calendar months following
39 the last calendar month in which the individual performed services
40 for such employing unit;

41 (3) The amount of any payment made by an employing unit
42 to, or on behalf of, an individual performing services for it or his or
43 her beneficiary:

44 (a) From or to a trust described in 26 U.S.C. Section 401(a)
45 which is exempt from tax pursuant to 26 U.S.C. Section 501(a) at

46 the time of such payment unless such payment is made to an
47 employee of the trust as remuneration for services rendered as
48 such an employee and not as a beneficiary of the trust; or

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

52 (4) The amount of any payment made by an employing unit
53 (without deduction from the remuneration of the individual in
54 employment) of the tax imposed pursuant to Section 3101 of the
55 Federal Internal Revenue Code (26 U.S.C.A. Section 3101) upon an
56 individual with respect to remuneration paid to an employee for
57 domestic service in a private home or for agricultural labor;

58 (5) Remuneration paid in any medium other than cash to
59 an individual for services not in the course of the employing unit's
60 trade or business;

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

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

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

77 2. The increases or decreases to the state taxable wage base
78 for the remainder of calendar year 2004 shall be eight thousand
79 dollars, and the state taxable wage base in calendar year 2005, and
80 each calendar year thereafter, shall be determined by the
81 provisions within this subsection. On January 1, 2005, the state

82 taxable wage base for calendar year 2005, 2006, and 2007 shall be
83 eleven thousand dollars. The taxable wage base for calendar year
84 2008 shall be twelve thousand dollars. The state taxable wage
85 base for each calendar year thereafter shall be determined by the
86 average balance of the unemployment compensation trust fund of
87 the four preceding calendar quarters (September thirtieth, June
88 thirtieth, March thirty-first, and December thirty-first of the
89 preceding calendar year), less any outstanding federal Title XII
90 advances received pursuant to section 288.330, less the principal,
91 interest, and administrative expenses related to any credit
92 instrument issued under section 288.030, and less the principal,
93 interest, and administrative expenses related to any financial
94 agreements under subdivision (17) of subsection 2 of section
95 288.330. When the average balance of the unemployment
96 compensation trust fund of the four preceding quarters (September
97 thirtieth, June thirtieth, March thirty-first, and December
98 thirty-first of the preceding calendar year), as so determined is:

99 (1) Less than, or equal to, three hundred fifty million
100 dollars, then the wage base shall increase by one thousand dollars;
101 or

102 (2) Six hundred fifty million or more, then the state taxable
103 wage base for the subsequent calendar year shall be decreased by
104 five hundred dollars. In no event, however, shall the state taxable
105 wage base increase beyond twelve thousand five hundred dollars,
106 or decrease to less than seven thousand dollars. For calendar year
107 2009, the tax wage base shall be twelve thousand five hundred
108 dollars. For calendar year 2010 and each calendar year thereafter,
109 in no event shall the state taxable wage base increase beyond
110 thirteen thousand dollars, or decrease to less than seven thousand
111 dollars.

112 For any calendar year, the state taxable wage base shall not be
113 reduced to less than that part of the remuneration which is subject
114 to a tax under a federal law imposing a tax against which credit
115 may be taken for contributions required to be paid into a state
116 unemployment compensation trust fund. Nothing in this section
117 shall be construed to prevent the wage base from increasing or

118 decreasing by increments of five hundred dollars.]

288.036. 1. "Wages" means all remuneration, payable or paid, for
2 personal services including commissions and bonuses and, except as provided in
3 subdivision (7) of this [section] **subsection**, the cash value of all remuneration
4 paid in any medium other than cash. Gratuities, including tips received from
5 persons other than the employing unit, shall be considered wages only if required
6 to be reported as wages [pursuant to] **under** the Federal Unemployment Tax Act,
7 26 U.S.C. Section [3306] **3301, et seq., as amended**, and shall be, for the
8 purposes of this chapter, treated as having been paid by the employing
9 unit. Severance pay shall be considered as wages to the extent required
10 [pursuant to] **under** the Federal Unemployment Tax Act, 26 U.S.C. Section
11 3306(b). Vacation pay, **termination pay, severance pay**, and holiday pay shall
12 be considered as wages for the week with respect to which it is payable. **The**
13 **total amount of wages derived from severance pay, if paid to an insured**
14 **in a lump sum, shall be pro-rated on a weekly basis at the rate of pay**
15 **received by the insured at the time of termination for the purposes of**
16 **determining unemployment benefits eligibility.** The term "wages" shall not
17 include:

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

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

27 (b) Medical and hospitalization expenses in connection with sickness or
28 accident disability; or

29 (c) Death;

30 (2) The amount of any payment on account of sickness or accident
31 disability, or medical or hospitalization expenses in connection with sickness or
32 accident disability, made by an employing unit to, or on behalf of, an individual
33 performing services for it after the expiration of six calendar months following the
34 last calendar month in which the individual performed services for such
35 employing unit;

36 (3) The amount of any payment made by an employing unit to, or on
37 behalf of, an individual performing services for it or his or her beneficiary:

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

43 (b) Under or to an annuity plan which, at the time of such payments,
44 meets the requirements of Section 404(a)(2) of the Federal Internal Revenue Code
45 (26 U.S.C.A. Section 404);

46 (4) The amount of any payment made by an employing unit (without
47 deduction from the remuneration of the individual in employment) of the tax
48 imposed pursuant to Section 3101 of the Federal Internal Revenue Code (26
49 U.S.C.A. Section 3101) upon an individual with respect to remuneration paid to
50 an employee for domestic service in a private home or for agricultural labor;

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

53 (6) Remuneration paid in the form of meals provided to an individual in
54 the service of an employing unit where such remuneration is furnished on the
55 employer's premises and at the employer's convenience, except that remuneration
56 in the form of meals that is considered wages and required to be reported as
57 wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306
58 shall be reported as wages as required thereunder;

59 (7) For the purpose of determining wages paid for agricultural labor as
60 defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and
61 for domestic service as defined in subsection 13 of section 288.034, only cash
62 wages paid shall be considered;

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

66 2. The increases or decreases to the state taxable wage base for the
67 remainder of calendar year 2004 shall be eight thousand dollars, and the state
68 taxable wage base in calendar year 2005, and each calendar year thereafter, shall
69 be determined by the provisions within this subsection. On January 1, 2005, the
70 state taxable wage base for calendar year 2005, 2006, and 2007 shall be eleven
71 thousand dollars. The taxable wage base for calendar year 2008 shall be twelve

72 thousand dollars. The state taxable wage base for each calendar year thereafter
73 shall be determined by the average balance of the unemployment compensation
74 trust fund of the four preceding calendar quarters (September thirtieth, June
75 thirtieth, March thirty-first, and December thirty-first of the preceding calendar
76 year), less any outstanding federal Title XII advances received pursuant to
77 section 288.330, less the principal, interest, and administrative expenses related
78 to any credit instrument issued under section 288.030, and less the principal,
79 interest, and administrative expenses related to any financial agreements under
80 subdivision (17) of subsection 2 of section 288.330. When the average balance of
81 the unemployment compensation trust fund of the four preceding quarters
82 (September thirtieth, June thirtieth, March thirty-first, and December thirty-first
83 of the preceding calendar year), as so determined is:

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

86 (2) Six hundred fifty million or more, then the state taxable wage base for
87 the subsequent calendar year shall be decreased by five hundred dollars. In no
88 event, however, shall the state taxable wage base increase beyond twelve
89 thousand five hundred dollars, or decrease to less than seven thousand
90 dollars. For calendar year 2009, the tax wage base shall be twelve thousand five
91 hundred dollars. For calendar year 2010 and each calendar year thereafter, in
92 no event shall the state taxable wage base increase beyond thirteen thousand
93 dollars, or decrease to less than seven thousand dollars.

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

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

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

8 3. Each eligible insured worker who is partially unemployed
in any week shall be paid for such week a partial benefit. Such

9 partial benefit shall be an amount equal to the difference between
10 his or her weekly benefit amount and that part of his or her wages
11 for such week in excess of twenty dollars, and, if such partial
12 benefit amount is not a multiple of one dollar, such amount shall
13 be reduced to the nearest lower full dollar amount. For calendar
14 year 2007 and each year thereafter, such partial benefit shall be an
15 amount equal to the difference between his or her weekly benefit
16 amount and that part of his or her wages for such week in excess
17 of twenty dollars or twenty percent of his or her weekly benefit
18 amount, whichever is greater, and, if such partial benefit amount
19 is not a multiple of one dollar, such amount shall be reduced to the
20 nearest lower full dollar amount. Pay received by an eligible
21 insured worker who is a member of the organized militia for
22 training or duty authorized by Section 502(a)(1) of Title 32, United
23 States Code, shall not be considered wages for the purpose of this
24 subsection.

25 4. The division shall compute the wage credits for each
26 individual by crediting him or her with the wages paid to him or
27 her for insured work during each quarter of his or her base period
28 or twenty-six times his or her weekly benefit amount, whichever is
29 the lesser. In addition, if a claimant receives wages in the form of
30 termination pay or severance pay and such payment appears in a
31 base period established by the filing of an initial claim, the
32 claimant may, at his or her option, choose to have such payment
33 included in the calendar quarter in which it was paid or choose to
34 have it prorated equally among the quarters comprising the base
35 period of the claim. For the purpose of this section, wages shall be
36 counted as wage credits for any benefit year, only if such benefit
37 year begins subsequent to the date on which the employing unit by
38 whom such wages were paid has become an employer. The wage
39 credits of an individual earned during the period commencing with
40 the end of a prior base period and ending on the date on which he
41 or she filed an allowed initial claim shall not be available for
42 benefit purposes in a subsequent benefit year unless, in addition
43 thereto, such individual has subsequently earned either wages for
44 insured work in an amount equal to at least five times his or her

45 current weekly benefit amount or wages in an amount equal to at
46 least ten times his or her current weekly benefit amount.

47 5. The duration of benefits payable to any insured worker
48 during any benefit year shall be limited to:

49 (1) Twenty weeks if the Missouri average unemployment
50 rate is nine percent or higher;

51 (2) Nineteen weeks if the Missouri average unemployment
52 rate is between eight and one-half percent and nine percent;

53 (3) Eighteen weeks if the Missouri average unemployment
54 rate is eight percent up to and including eight and one-half
55 percent;

56 (4) Seventeen weeks if the Missouri average unemployment
57 rate is between seven and one-half percent and eight percent;

58 (5) Sixteen weeks if the Missouri average unemployment
59 rate is seven percent up to and including seven and one-half
60 percent;

61 (6) Fifteen weeks if the Missouri average unemployment
62 rate is between six and one-half percent and seven percent;

63 (7) Fourteen weeks if the Missouri average unemployment
64 rate is six percent up to and including six and one-half percent;

65 (8) Thirteen weeks if the Missouri average unemployment
66 rate is below six percent.

67 As used in this subsection, the phrase "Missouri average
68 unemployment rate" means the average of the seasonally adjusted
69 statewide unemployment rates as published by the United States
70 Department of Labor, Bureau of Labor Statistics, for the time
71 periods of January first through March thirty-first and July first
72 through September thirtieth. The average of the seasonally
73 adjusted statewide unemployment rates for the time period of
74 January first through March thirty-first shall be effective on and
75 after July first of each year and shall be effective through
76 December thirty-first. The average of the seasonally adjusted
77 statewide unemployment rates for the time period of July first
78 through September thirtieth shall be effective on and after January
79 first of each year and shall be effective through June thirtieth; and

80 (9) The provisions of this subsection shall become effective

81 January 1, 2016.

82 6. In the event that benefits are due a deceased person and
83 no petition has been filed for the probate of the will or for the
84 administration of the estate of such person within thirty days after
85 his or her death, the division may by regulation provide for the
86 payment of such benefits to such person or persons as the division
87 finds entitled thereto and every such payment shall be a valid
88 payment to the same extent as if made to the legal representatives
89 of the deceased.

90 7. The division is authorized to cancel any benefit warrant
91 remaining outstanding and unpaid one year after the date of its
92 issuance and there shall be no liability for the payment of any such
93 benefit warrant thereafter.

94 8. The division may establish an electronic funds transfer
95 system to transfer directly to claimants' accounts in financial
96 institutions benefits payable to them pursuant to this chapter. To
97 receive benefits by electronic funds transfer, a claimant shall
98 satisfactorily complete a direct deposit application form authorizing
99 the division to deposit benefit payments into a designated checking
100 or savings account. Any electronic funds transfer system created
101 pursuant to this subsection shall be administered in accordance
102 with regulations prescribed by the division.

103 9. The division may issue a benefit warrant covering more
104 than one week of benefits.

105 10. Prior to January 1, 2005, the division shall institute
106 procedures including, but not limited to, name, date of birth, and
107 Social Security verification matches for remote claims filing via the
108 use of telephone or the internet in accordance with such
109 regulations as the division shall prescribe. At a minimum, the
110 division shall verify the Social Security number and date of birth
111 when an individual claimant initially files for unemployment
112 insurance benefits. If verification information does not match what
113 is on file in division databases to what the individual is stating, the
114 division shall require the claimant to submit a division-approved
115 form requesting an affidavit of eligibility prior to the payment of
116 additional future benefits. The division of employment security

117 shall cross-check unemployment compensation applicants and
118 recipients with Social Security Administration data maintained by
119 the federal government at least weekly. The division of
120 employment security shall cross-check at least monthly
121 unemployment compensation applicants and recipients with
122 department of revenue drivers license databases.]

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

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

5 3. Each eligible insured worker who is partially unemployed in any week
6 shall be paid for such week a partial benefit. Such partial benefit shall be an
7 amount equal to the difference between his or her weekly benefit amount and
8 that part of his or her wages for such week in excess of twenty dollars, and, if
9 such partial benefit amount is not a multiple of one dollar, such amount shall be
10 reduced to the nearest lower full dollar amount. For calendar year 2007 and each
11 year thereafter, such partial benefit shall be an amount equal to the difference
12 between his or her weekly benefit amount and that part of his or her wages for
13 such week in excess of twenty dollars or twenty percent of his or her weekly
14 benefit amount, whichever is greater, and, if such partial benefit amount is not
15 a multiple of one dollar, such amount shall be reduced to the nearest lower full
16 dollar amount. [Termination pay, severance pay, or] Pay received by an eligible
17 insured worker who is a member of the organized militia for training or duty
18 authorized by Section 502(a)(1) of Title 32, United States Code, shall not be
19 considered wages for the purpose of this subsection.

20 4. The division shall compute the wage credits for each individual by
21 crediting him or her with the wages paid to him or her for insured work during
22 each quarter of his or her base period or twenty-six times his or her weekly
23 benefit amount, whichever is the lesser. In addition, if a claimant receives wages
24 in the form of termination pay or severance pay and such payment appears in a
25 base period established by the filing of an initial claim, the claimant may, at his
26 or her option, choose to have such payment included in the calendar quarter in
27 which it was paid or choose to have it prorated equally among the quarters
28 comprising the base period of the claim. The maximum total amount of benefits
29 payable to any insured worker during any benefit year shall not exceed twenty
30 times his or her weekly benefit amount, or thirty-three and one-third percent of

31 his or her wage credits, whichever is the lesser. For the purpose of this section,
32 wages shall be counted as wage credits for any benefit year, only if such benefit
33 year begins subsequent to the date on which the employing unit by whom such
34 wages were paid has become an employer. The wage credits of an individual
35 earned during the period commencing with the end of a prior base period and
36 ending on the date on which he or she filed an allowed initial claim shall not be
37 available for benefit purposes in a subsequent benefit year unless, in addition
38 thereto, such individual has subsequently earned either wages for insured work
39 in an amount equal to at least five times his or her current weekly benefit
40 amount or wages in an amount equal to at least ten times his or her current
41 weekly benefit amount.

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

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

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

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

62 9. Prior to January 1, 2005, the division shall institute procedures
63 including, but not limited to, name, date of birth, and Social Security verification
64 matches for remote claims filing via the use of telephone or the internet in
65 accordance with such regulations as the division shall prescribe. At a minimum,
66 the division shall verify the Social Security number and date of birth when an

67 individual claimant initially files for unemployment insurance benefits. If
68 verification information does not match what is on file in division databases to
69 what the individual is stating, the division shall require the claimant to submit
70 a division-approved form requesting an affidavit of eligibility prior to the payment
71 of additional future benefits. The division of employment security shall
72 cross-check unemployment compensation applicants and recipients with Social
73 Security Administration data maintained by the federal government at least
74 weekly. The division of employment security shall cross-check at least monthly
75 unemployment compensation applicants and recipients with department of
76 revenue drivers license databases.

✓

Bill

Copy