

## SENATE SUBSTITUTE

FOR

## HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILLS NOS. 1083, 1085, 1050, 1035, 1036, 873 &amp; 1097

## AN ACT

To repeal 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 unemployment benefits, with an emergency clause for a certain section.

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

Section A. 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and section 288.060 as enacted by house bill no. 163, ninety-sixth general assembly, first regular session, are repealed and two new sections enacted in lieu thereof, to be known as sections 288.060 and 288.552, to read as follows:

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

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

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty

percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. Pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

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

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

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

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

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

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

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

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

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

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

90 As used in this subsection, the phrase "Missouri  
91 average unemployment rate" means the average of  
92 the seasonally adjusted statewide unemployment  
93 rates as published by the United States  
94 Department of Labor, Bureau of Labor Statistics,  
95 for the time periods of January first through  
96 March thirty-first and July first through  
97 September thirtieth. The average of the  
98 seasonally adjusted statewide unemployment rates  
99 for the time period of January first through  
100 March thirty-first shall be effective on and  
101 after July first of each year and shall be  
102 effective through December thirty-first. The  
103 average of the seasonally adjusted statewide  
104 unemployment rates for the time period of July  
105 first through September thirtieth shall be  
106 effective on and after January first of each  
107 year and shall be effective through June  
108 thirtieth; and

109           (9) The provisions of this subsection  
110 shall become effective January 1, 2016.

111       6. In the event that benefits are due a  
112 deceased person and no petition has been filed  
113 for the probate of the will or for the  
114 administration of the estate of such person  
115 within thirty days after his or her death, the  
116 division may by regulation provide for the  
117 payment of such benefits to such person or  
118 persons as the division finds entitled thereto  
119 and every such payment shall be a valid payment  
120 to the same extent as if made to the legal  
121 representatives of the deceased.

122       7. The division is authorized to cancel  
123 any benefit warrant remaining outstanding and  
124 unpaid one year after the date of its issuance  
125 and there shall be no liability for the payment  
126 of any such benefit warrant thereafter.

127       8. The division may establish an  
128 electronic funds transfer system to transfer  
129 directly to claimants' accounts in financial  
130 institutions benefits payable to them pursuant  
131 to this chapter. To receive benefits by  
132 electronic funds transfer, a claimant shall  
133 satisfactorily complete a direct deposit  
134 application form authorizing the division to  
135 deposit benefit payments into a designated  
136 checking or savings account. Any electronic  
137 funds transfer system created pursuant to this  
138 subsection shall be administered in accordance  
139 with regulations prescribed by the division.

140           9. The division may issue a benefit  
141 warrant covering more than one week of benefits.  
142           10. Prior to January 1, 2005, the division  
143 shall institute procedures including, but not  
144 limited to, name, date of birth, and Social  
145 Security verification matches for remote claims  
146 filing via the use of telephone or the internet  
147 in accordance with such regulations as the  
148 division shall prescribe. At a minimum, the  
149 division shall verify the Social Security number  
150 and date of birth when an individual claimant  
151 initially files for unemployment insurance  
152 benefits. If verification information does not  
153 match what is on file in division databases to  
154 what the individual is stating, the division  
155 shall require the claimant to submit a division-  
156 approved form requesting an affidavit of  
157 eligibility prior to the payment of additional  
158 future benefits. The division of employment  
159 security shall cross-check unemployment  
160 compensation applicants and recipients with  
161 Social Security Administration data maintained  
162 by the federal government at least weekly. The  
163 division of employment security shall cross-  
164 check at least monthly unemployment compensation  
165 applicants and recipients with department of  
166 revenue drivers license databases.]

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

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

7           3. Each eligible insured worker who is partially  
8 unemployed in any week shall be paid for such week a partial  
9 benefit. Such partial benefit shall be an amount equal to  
10 the difference between his or her weekly benefit amount and  
11 that part of his or her wages for such week in excess of  
12 twenty dollars, and, if such partial benefit amount is not a  
13 multiple of one dollar, such amount shall be reduced to the  
14 nearest lower full dollar amount. For calendar year 2007  
15 and each year thereafter, such partial benefit shall be an  
16 amount equal to the difference between his or her weekly  
17 benefit amount and that part of his or her wages for such  
18 week in excess of twenty dollars or twenty percent of his or

19 her weekly benefit amount, whichever is greater, and, if  
20 such partial benefit amount is not a multiple of one dollar,  
21 such amount shall be reduced to the nearest lower full  
22 dollar amount. Termination pay, severance pay, or pay  
23 received by an eligible insured worker who is a member of  
24 the organized militia for training or duty authorized by  
25 Section 502(a)(1) of Title 32, United States Code, shall not  
26 be considered wages for the purpose of this subsection.

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

52 subsequently earned either wages for insured work in an  
53 amount equal to at least five times his or her current  
54 weekly benefit amount or wages in an amount equal to at  
55 least ten times his or her current weekly benefit amount.

56 5. (1) The duration of benefits payable to any  
57 insured worker during any benefit year shall be limited to:

58 (a) Twenty weeks if the Missouri average unemployment  
59 rate is higher than nine percent;

60 (b) Nineteen weeks if the Missouri average  
61 unemployment rate is higher than eight and one-half percent  
62 but no higher than nine percent;

63 (c) Eighteen weeks if the Missouri average  
64 unemployment rate is higher than eight percent but no higher  
65 than eight and one-half percent;

66 (d) Seventeen weeks if the Missouri average  
67 unemployment rate is higher than seven and one-half percent  
68 but no higher than eight percent;

69 (e) Sixteen weeks if the Missouri average unemployment  
70 rate is higher than seven percent but no higher than seven  
71 and one-half percent;

72 (f) Fifteen weeks if the Missouri average unemployment  
73 rate is higher than six and one-half percent but no higher  
74 than seven percent;

75 (g) Fourteen weeks if the Missouri average  
76 unemployment rate is higher than six percent but no higher  
77 than six and one-half percent;

78 (h) Thirteen weeks if the Missouri average  
79 unemployment rate is higher than five and one-half percent  
80 but no higher than six percent; and

81 (i) Twelve weeks if the Missouri average unemployment  
82 rate is at or below five and one-half percent.

83 (2) As used in this subsection, the phrase "Missouri  
84 average unemployment rate" means the average of the

seasonally adjusted statewide unemployment rates as published by the United States Department of Labor, Bureau of Labor Statistics, for the time periods of January first through March thirty-first and July first through September thirtieth. The average of the seasonally adjusted statewide unemployment rates for the time period of January first through March thirty-first shall be effective on and after July first of each year and shall be effective through December thirty-first. The average of the seasonally adjusted statewide unemployment rates for the time period of July first through September thirtieth shall be effective on and after January first of each year and shall be effective through June thirtieth.

(3) The provisions of this subsection shall become effective January 1, 2022.

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

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

**[7.]** 8. The division may establish an electronic funds transfer system to transfer directly to claimants' accounts in financial institutions benefits payable to them pursuant to this chapter. To receive benefits by electronic funds

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

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

[9.] 10. Prior to January 1, 2005, the division shall institute procedures including, but not limited to, name, date of birth, and Social Security verification matches for remote claims filing via the use of telephone or the internet in accordance with such regulations as the division shall prescribe. At a minimum, the division shall verify the Social Security number and date of birth when an individual claimant initially files for unemployment insurance benefits. If verification information does not match what is on file in division databases to what the individual is stating, the division shall require the claimant to submit a division-approved form requesting an affidavit of eligibility prior to the payment of additional future benefits. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government at least weekly. The division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

11. The division shall promulgate rules and regulations to administer this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is



151 subject to all of the provisions of chapter 536 and, if  
152 applicable, section 536.028. This section and chapter 536  
153 are nonseverable and if any of the powers vested with the  
154 general assembly pursuant to chapter 536 to review, to delay  
155 the effective date, or to disapprove and annul a rule are  
156 subsequently held unconstitutional, then the grant of  
157 rulemaking authority and any rule proposed or adopted after  
158 August 28, 2021, shall be invalid and void.

288.552. 1. Notwithstanding any provision of law to  
2 the contrary, the department of labor and industrial  
3 relations, and any division thereof, shall waive the  
4 repayment of any unemployment benefits that were incorrectly  
5 but nonfraudulently distributed to claimants from the  
6 unemployment trust fund after March 27, 2020, but before  
7 December 31, 2020, or incorrectly but nonfraudulently funded  
8 by moneys received by the state of Missouri from the United  
9 States government under:

10 (1) The federal Coronavirus Aid, Relief, and Economic  
11 Security Act (CARES Act), Pub. L. 116-136;

12 (2) The Continued Assistance for Unemployed Workers  
13 Act of 2020, as found in the federal Consolidated  
14 Appropriations Act, 2021, Pub. L. 116-260; or

15 (3) Any subsequent federal Coronavirus-related  
16 legislation or program designed, in whole or in part, to  
17 provide employment security relief;

18 to the extent that federal law grants the state of Missouri  
19 the authority to waive the repayment of such incorrectly but  
20 nonfraudulently distributed benefits.

21 2. A waiver of repayment granted to a claimant under  
22 subsection 1 of this section shall meet the following  
23 criteria:

24 (1) The waiver relates to an incorrectly but  
25 nonfraudulently distributed payment of employment security

benefits in which there was no fault on the part of the claimant;

(2) The repayment of such benefits by the claimant would be contrary to equity and good conscience; and

(3) The decision to grant the waiver to a claimant is made on an individualized basis.

3. Any claimant denied a waiver pursuant to this section shall be granted an opportunity for a fair hearing before the appeals tribunal pursuant to section 288.190. The filing of an appeal shall stay the collection of the overpayment or overpayments for which the waiver was denied until such time that a decision is issued that has become final. The decision of the appeals tribunal shall be reviewable by the labor and industrial relations commission pursuant to section 288.200.

4. (1) Any claimant who is denied a waiver pursuant to this section shall be sent a notice by the department, not later than ninety calendar days after the effective date of this section, by both electronic mail and by mail postage prepaid with a preaddressed return card notifying them of the right to appeal such decision. If the department does not receive a response within sixty calendar days from the claimant, the department shall send another notice by certified mail with a preaddressed return card.

(2) Each notice required by subdivision (1) of this subsection shall include instructions on how to file an appeal and shall also include the following in bold at the top:

"ATTENTION: YOU HAVE BEEN OVERPAID UNEMPLOYMENT BENEFITS.

- BY LAW, YOU ARE REQUIRED TO REPAY ALL OVERPAID UNEMPLOYMENT BENEFITS.

- 58       • YOU MAY APPEAL THIS REQUIREMENT.
- 59       • IF YOU RETURN THIS CARD TO THE DEPARTMENT OF
- 60       LABOR AND INDUSTRIAL RELATIONS WITHIN 60 DAYS
- 61       INDICATING THAT YOU WILL APPEAL, COLLECTION WILL
- 62       NOT COMMENCE UNTIL AFTER THE APPEAL HAS
- 63       COMPLETED."

64       (3) If a claimant responds to a notice described in

65       this subsection indicating that he or she plans to appeal,

66       the department and any division thereof shall cease all

67       efforts to recover the overpaid benefits. Notwithstanding

68       any provision of law to the contrary, under no circumstance

69       shall the department or any division thereof attempt to

70       recover the overpaid benefits while the case is pending

71       appeal, provided that the claimant shall file an appeal not

72       later than sixty calendar days after notifying the

73       department of his or her intent to appeal.

Section B Because immediate action is necessary to

2 protect the financial welfare of the residents of this

3 state, the enactment of section 288.552 of this act is

4 deemed necessary for the immediate preservation of the

5 public health, welfare, peace, and safety, and is hereby

6 declared to be an emergency act within the meaning of the

7 constitution, and the enactment of section 288.552 of

8 section A of this act shall be in full force and effect upon

9 its passage and approval.