

SENATE BILL NO. 416

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

1893S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof ten new sections relating to leave from employment, with a referendum clause.

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

Section A. Section 143.121, RSMo, is repealed and ten new
2 sections enacted in lieu thereof, to be known as sections
3 143.121, 285.400, 285.405, 285.410, 285.415, 285.420, 285.425,
4 285.430, 285.435, and 285.440, to read as follows:

143.121. 1. The Missouri adjusted gross income of a
2 resident individual shall be the taxpayer's federal adjusted
3 gross income subject to the modifications in this section.

4 2. There shall be added to the taxpayer's federal
5 adjusted gross income:

6 (1) The amount of any federal income tax refund
7 received for a prior year which resulted in a Missouri
8 income tax benefit. The amount added pursuant to this
9 subdivision shall not include any amount of a federal income
10 tax refund attributable to a tax credit reducing a
11 taxpayer's federal tax liability pursuant to Public Law 116-
12 136, enacted by the 116th United States Congress, for the
13 tax year beginning on or after January 1, 2020, and ending
14 on or before December 31, 2020, and deducted from Missouri
15 adjusted gross income pursuant to section 143.171;

16 (2) Interest on certain governmental obligations
17 excluded from federal gross income by 26 U.S.C. Section 103

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

18 of the Internal Revenue Code, as amended. The previous
19 sentence shall not apply to interest on obligations of the
20 state of Missouri or any of its political subdivisions or
21 authorities and shall not apply to the interest described in
22 subdivision (1) of subsection 3 of this section. The amount
23 added pursuant to this subdivision shall be reduced by the
24 amounts applicable to such interest that would have been
25 deductible in computing the taxable income of the taxpayer
26 except only for the application of 26 U.S.C. Section 265 of
27 the Internal Revenue Code, as amended. The reduction shall
28 only be made if it is at least five hundred dollars;

29 (3) The amount of any deduction that is included in
30 the computation of federal taxable income pursuant to 26
31 U.S.C. Section 168 of the Internal Revenue Code as amended
32 by the Job Creation and Worker Assistance Act of 2002 to the
33 extent the amount deducted relates to property purchased on
34 or after July 1, 2002, but before July 1, 2003, and to the
35 extent the amount deducted exceeds the amount that would
36 have been deductible pursuant to 26 U.S.C. Section 168 of
37 the Internal Revenue Code of 1986 as in effect on January 1,
38 2002;

39 (4) The amount of any deduction that is included in
40 the computation of federal taxable income for net operating
41 loss allowed by 26 U.S.C. Section 172 of the Internal
42 Revenue Code of 1986, as amended, other than the deduction
43 allowed by 26 U.S.C. Section [172(b)(1)(G)] **172(b)(1)(F)**
44 and 26 U.S.C. Section [172(i)] **172(h)** of the Internal
45 Revenue Code of 1986, as amended, for a net operating loss
46 the taxpayer claims in the tax year in which the net
47 operating loss occurred or carries forward for a period of
48 more than twenty years and carries backward for more than
49 two years. Any amount of net operating loss taken against

50 federal taxable income but disallowed for Missouri income
51 tax purposes pursuant to this subdivision after June 18,
52 2002, may be carried forward and taken against any income on
53 the Missouri income tax return for a period of not more than
54 twenty years from the year of the initial loss; and

55 (5) For nonresident individuals in all taxable years
56 ending on or after December 31, 2006, the amount of any
57 property taxes paid to another state or a political
58 subdivision of another state for which a deduction was
59 allowed on such nonresident's federal return in the taxable
60 year unless such state, political subdivision of a state, or
61 the District of Columbia allows a subtraction from income
62 for property taxes paid to this state for purposes of
63 calculating income for the income tax for such state,
64 political subdivision of a state, or the District of
65 Columbia;

66 (6) For all tax years beginning on or after January 1,
67 2018, any interest expense paid or accrued in a previous
68 taxable year, but allowed as a deduction under 26 U.S.C.
69 Section 163, as amended, in the current taxable year by
70 reason of the carryforward of disallowed business interest
71 provisions of 26 U.S.C. Section 163(j), as amended. For the
72 purposes of this subdivision, an interest expense is
73 considered paid or accrued only in the first taxable year
74 the deduction would have been allowable under 26 U.S.C.
75 Section 163, as amended, if the limitation under 26 U.S.C.
76 Section 163(j), as amended, did not exist.

77 3. There shall be subtracted from the taxpayer's
78 federal adjusted gross income the following amounts to the
79 extent included in federal adjusted gross income:

80 (1) Interest received on deposits held at a federal
81 reserve bank or interest or dividends on obligations of the

82 United States and its territories and possessions or of any
83 authority, commission or instrumentality of the United
84 States to the extent exempt from Missouri income taxes
85 pursuant to the laws of the United States. The amount
86 subtracted pursuant to this subdivision shall be reduced by
87 any interest on indebtedness incurred to carry the described
88 obligations or securities and by any expenses incurred in
89 the production of interest or dividend income described in
90 this subdivision. The reduction in the previous sentence
91 shall only apply to the extent that such expenses including
92 amortizable bond premiums are deducted in determining the
93 taxpayer's federal adjusted gross income or included in the
94 taxpayer's Missouri itemized deduction. The reduction shall
95 only be made if the expenses total at least five hundred
96 dollars;

97 (2) The portion of any gain, from the sale or other
98 disposition of property having a higher adjusted basis to
99 the taxpayer for Missouri income tax purposes than for
100 federal income tax purposes on December 31, 1972, that does
101 not exceed such difference in basis. If a gain is
102 considered a long-term capital gain for federal income tax
103 purposes, the modification shall be limited to one-half of
104 such portion of the gain;

105 (3) The amount necessary to prevent the taxation
106 pursuant to this chapter of any annuity or other amount of
107 income or gain which was properly included in income or gain
108 and was taxed pursuant to the laws of Missouri for a taxable
109 year prior to January 1, 1973, to the taxpayer, or to a
110 decedent by reason of whose death the taxpayer acquired the
111 right to receive the income or gain, or to a trust or estate
112 from which the taxpayer received the income or gain;

113 (4) Accumulation distributions received by a taxpayer
114 as a beneficiary of a trust to the extent that the same are
115 included in federal adjusted gross income;

116 (5) The amount of any state income tax refund for a
117 prior year which was included in the federal adjusted gross
118 income;

119 (6) The portion of capital gain specified in section
120 135.357 that would otherwise be included in federal adjusted
121 gross income;

122 (7) The amount that would have been deducted in the
123 computation of federal taxable income pursuant to 26 U.S.C.
124 Section 168 of the Internal Revenue Code as in effect on
125 January 1, 2002, to the extent that amount relates to
126 property purchased on or after July 1, 2002, but before July
127 1, 2003, and to the extent that amount exceeds the amount
128 actually deducted pursuant to 26 U.S.C. Section 168 of the
129 Internal Revenue Code as amended by the Job Creation and
130 Worker Assistance Act of 2002;

131 (8) For all tax years beginning on or after January 1,
132 2005, the amount of any income received for military service
133 while the taxpayer serves in a combat zone which is included
134 in federal adjusted gross income and not otherwise excluded
135 therefrom. As used in this section, "combat zone" means any
136 area which the President of the United States by Executive
137 Order designates as an area in which Armed Forces of the
138 United States are or have engaged in combat. Service is
139 performed in a combat zone only if performed on or after the
140 date designated by the President by Executive Order as the
141 date of the commencing of combat activities in such zone,
142 and on or before the date designated by the President by
143 Executive Order as the date of the termination of combatant
144 activities in such zone;

145 (9) For all tax years ending on or after July 1, 2002,
146 with respect to qualified property that is sold or otherwise
147 disposed of during a taxable year by a taxpayer and for
148 which an additional modification was made under subdivision
149 (3) of subsection 2 of this section, the amount by which
150 additional modification made under subdivision (3) of
151 subsection 2 of this section on qualified property has not
152 been recovered through the additional subtractions provided
153 in subdivision (7) of this subsection;

154 (10) **The amount contributed to the Missouri earned**
155 **family and medical leave fund established under section**
156 **285.435;**

157 (11) For all tax years beginning on or after January
158 1, 2014, the amount of any income received as payment from
159 any program which provides compensation to agricultural
160 producers who have suffered a loss as the result of a
161 disaster or emergency, including the:

- 162 (a) Livestock Forage Disaster Program;
- 163 (b) Livestock Indemnity Program;
- 164 (c) Emergency Assistance for Livestock, Honeybees, and
165 Farm-Raised Fish;
- 166 (d) Emergency Conservation Program;
- 167 (e) Noninsured Crop Disaster Assistance Program;
- 168 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 169 (g) Annual Forage Pilot Program;
- 170 (h) Livestock Risk Protection Insurance Plan; and
- 171 (i) Livestock Gross Margin Insurance Plan; and

172 [(11)] (12) For all tax years beginning on or after
173 January 1, 2018, any interest expense paid or accrued in the
174 current taxable year, but not deducted as a result of the
175 limitation imposed under 26 U.S.C. Section 163(j), as
176 amended. For the purposes of this subdivision, an interest

177 expense is considered paid or accrued only in the first
178 taxable year the deduction would have been allowable under
179 26 U.S.C. Section 163, as amended, if the limitation under
180 26 U.S.C. Section 163(j), as amended, did not exist.

181 4. There shall be added to or subtracted from the
182 taxpayer's federal adjusted gross income the taxpayer's
183 share of the Missouri fiduciary adjustment provided in
184 section 143.351.

185 5. There shall be added to or subtracted from the
186 taxpayer's federal adjusted gross income the modifications
187 provided in section 143.411.

188 6. In addition to the modifications to a taxpayer's
189 federal adjusted gross income in this section, to calculate
190 Missouri adjusted gross income there shall be subtracted
191 from the taxpayer's federal adjusted gross income any gain
192 recognized pursuant to 26 U.S.C. Section 1033 of the
193 Internal Revenue Code of 1986, as amended, arising from
194 compulsory or involuntary conversion of property as a result
195 of condemnation or the imminence thereof.

196 7. (1) As used in this subsection, "qualified health
197 insurance premium" means the amount paid during the tax year
198 by such taxpayer for any insurance policy primarily
199 providing health care coverage for the taxpayer, the
200 taxpayer's spouse, or the taxpayer's dependents.

201 (2) In addition to the subtractions in subsection 3 of
202 this section, one hundred percent of the amount of qualified
203 health insurance premiums shall be subtracted from the
204 taxpayer's federal adjusted gross income to the extent the
205 amount paid for such premiums is included in federal taxable
206 income. The taxpayer shall provide the department of
207 revenue with proof of the amount of qualified health
208 insurance premiums paid.

209 8. (1) Beginning January 1, 2014, in addition to the
210 subtractions provided in this section, one hundred percent
211 of the cost incurred by a taxpayer for a home energy audit
212 conducted by an entity certified by the department of
213 natural resources under section 640.153 or the
214 implementation of any energy efficiency recommendations made
215 in such an audit shall be subtracted from the taxpayer's
216 federal adjusted gross income to the extent the amount paid
217 for any such activity is included in federal taxable
218 income. The taxpayer shall provide the department of
219 revenue with a summary of any recommendations made in a
220 qualified home energy audit, the name and certification
221 number of the qualified home energy auditor who conducted
222 the audit, and proof of the amount paid for any activities
223 under this subsection for which a deduction is claimed. The
224 taxpayer shall also provide a copy of the summary of any
225 recommendations made in a qualified home energy audit to the
226 department of natural resources.

227 (2) At no time shall a deduction claimed under this
228 subsection by an individual taxpayer or taxpayers filing
229 combined returns exceed one thousand dollars per year for
230 individual taxpayers or cumulatively exceed two thousand
231 dollars per year for taxpayers filing combined returns.

232 (3) Any deduction claimed under this subsection shall
233 be claimed for the tax year in which the qualified home
234 energy audit was conducted or in which the implementation of
235 the energy efficiency recommendations occurred. If
236 implementation of the energy efficiency recommendations
237 occurred during more than one year, the deduction may be
238 claimed in more than one year, subject to the limitations
239 provided under subdivision (2) of this subsection.

240 (4) A deduction shall not be claimed for any otherwise
241 eligible activity under this subsection if such activity
242 qualified for and received any rebate or other incentive
243 through a state-sponsored energy program or through an
244 electric corporation, gas corporation, electric cooperative,
245 or municipally owned utility.

246 9. The provisions of subsection 8 of this section
247 shall expire on December 31, 2020.

285.400. 1. The provisions of sections 285.400 to
2 285.440 shall be known and may be cited as the "Missouri
3 Earned Family and Medical Leave Act".

4 2. As used in sections 285.400 to 285.440, the
5 following terms shall mean:

6 (1) "Average weekly pay", the total wages earned by an
7 employee in the past twelve months, divided by the number of
8 weeks worked by the employee in such twelve-month period, or
9 the weekly salary of the employee at the time that family or
10 medical leave is taken, whichever is greater provided that
11 the average weekly pay shall never exceed the average state
12 weekly pay;

13 (2) "Average state weekly pay", the total wages earned
14 by all employees who have contributed to the fund in the
15 past twelve months, divided by the total number of such
16 employees, the quotient of which is divided by the average
17 number of weeks worked by all employees who have contributed
18 to the fund in the last twelve months;

19 (3) "Care", includes, but is not limited to, physical
20 care, emotional support, visitation, assistance in
21 treatment, transportation, arranging for a change in care,
22 assistance with essential daily living matters, and personal
23 attendant services;

24 (4) "Child", a biological, adopted, or foster son or
25 daughter, a stepson or stepdaughter, a legal ward, a son or
26 daughter of a domestic or civil union partner, or the person
27 to whom the employee stands in loco parentis who is under
28 nineteen years of age or nineteen years of age or older but
29 incapable of self-care because of mental or physical
30 impairment;

31 (5) "Department", the department of labor and
32 industrial relations;

33 (6) "Employee", any person performing service for
34 remuneration unless it is shown to the satisfaction of the
35 department that such services were performed by an
36 independent contractor. In determining the existence of the
37 independent contractor relationship, the common law of
38 agency right to control shall be applied. The common law of
39 agency right to control test shall include but not be
40 limited to: if the alleged employer retains the right to
41 control the manner and means by which the results are to be
42 accomplished, the person who performs the service is an
43 employee. If only the results are controlled, the person
44 performing the service is an independent contractor;

45 (7) "Employer", any person acting directly or
46 indirectly in the interest of an employer in relation to an
47 employee;

48 (8) "Family member", a child, parent, grandparent,
49 grandchild, sibling, spouse, domestic or civil union
50 partner, or household member, or any ward as that term is
51 defined in section 475.010;

52 (9) "Family or medical leave", any of the following:

53 (a) Leave to bond with a minor child within the first
54 year of the child's birth or placement in connection with
55 foster care or adoption;

56 (b) Leave to care for a family member who has a
57 serious health condition;

58 (c) Leave due to an employee's own serious health
59 condition; or

60 (d) Leave to assume any familial responsibility
61 because a spouse, child, or parent of an employee is on, or
62 has been notified of an impending call to, active duty in
63 the uniformed services;

64 (10) "Fund", the Missouri earned family and medical
65 leave fund established in section 285.435;

66 (11) "Grandchild", a child of the employee's child;

67 (12) "Grandparent", a parent of the employee's parent;

68 (13) "Health care provider", any physician, hospital,
69 health maintenance organization, ambulatory surgical center,
70 long-term care facility including those licensed under
71 chapter 198, dentist, registered or licensed practical
72 nurse, optometrist, podiatrist, pharmacist, chiropractor,
73 physical therapist, psychologist, physician-in-training, and
74 any other person or entity that provides health care
75 services under the authority of a license or certificate of
76 this state or any other state or foreign country;

77 (14) "Parent", a biological, foster, or adoptive
78 parent, a parent-in-law, a stepparent, a legal guardian, or
79 other person who stood in loco parentis to the employee when
80 the employee was a child;

81 (15) "Parent-in-law", the parent of a spouse or
82 domestic or civil union partner;

83 (16) "Serious health condition", an illness, injury,
84 impairment, or physical or mental condition that involves
85 inpatient care in a hospital, hospice, or residential health
86 care facility, or continuing medical treatment or continuing
87 supervision by a health care provider. The term shall

88 include medical attention, services, or counseling for
89 victims of stalking, domestic violence, abuse, or sexual
90 assault, as such terms are defined in section 455.010, or
91 victims of trafficking for the purpose of sexual
92 exploitation as described in section 566.209;

93 (17) "Sibling", a person related to another person by
94 blood, adoption, or affinity through a common legal or
95 biological parent;

96 (18) "Spouse", a partner to a lawful marriage;

97 (19) "Uniformed services":

98 (a) Active and reserve components of the Army, Navy,
99 Air Force, Marine Corps, or Coast Guard of the United States;

100 (b) The Merchant Marine, the commissioned corps of the
101 Public Health Service, or the commissioned corps of the
102 National Oceanic and Atmospheric Administration of the
103 United States; or

104 (c) The Missouri National Guard.

285.405. 1. There is hereby established the "Missouri
2 Earned Family and Medical Leave Program" to provide up to
3 six weeks of wage replacement benefits to employees who take
4 time off work for family or medical leave. The department
5 shall administer and implement the program and the
6 provisions of sections 285.400 to 285.440, and shall pay
7 Missouri family or medical leave benefits as specified in
8 such sections.

9 2. An employee shall be eligible to receive Missouri
10 earned family or medical leave program benefits equal to one
11 hundred percent of his or her average weekly pay for each
12 full week during which he or she has taken family or medical
13 leave. An employee may take family or medical leave for a
14 partial week and shall only be eligible to receive the
15 fraction of the average weekly pay which is equal to the

16 number of days of leave taken divided by the number of days
17 for which such employee would have otherwise worked in the
18 respective week had the employee not taken family or medical
19 leave. Any leave taken shall be in full-day increments.

20 3. No more than six weeks of Missouri earned family
21 and medical leave benefits shall be paid to an employee
22 within any fifty-two-week period.

23 4. An employee shall file a claim for Missouri earned
24 family and medical leave benefits with the department not
25 later than the forty-first consecutive day following the
26 first compensable day with respect to which the claim is
27 made for benefits, which time shall be extended by the
28 department upon a showing of good cause. If a first claim
29 is not complete, the claim form shall be returned to the
30 employee for completion, and it shall be completed and
31 returned not later than the tenth consecutive day after the
32 date it was verifiably sent by the department to the
33 employee, except that such time shall be extended by the
34 department upon a showing of good cause.

35 5. No employee shall be eligible for Missouri earned
36 family and medical leave program benefits with respect to
37 any day:

38 (1) That he or she is eligible to receive unemployment
39 compensation benefits under chapter 288 or under an
40 unemployment compensation act of any other state or of the
41 federal government; or

42 (2) That he or she has received, or is entitled to
43 receive, any other benefits under chapter 287.

44 6. No employee shall be eligible for Missouri earned
45 family and medical leave benefits until such employee has
46 paid into the Missouri earned family and medical leave fund
47 for fifty-two weeks.

48 7. An employee who is entitled to leave under the
49 Missouri earned family and medical leave act and the Family
50 and Medical Leave Act (FMLA) under 29 U.S.C. Section 2601 et
51 seq. shall take family or medical leave under sections
52 285.400 to 285.440 concurrent with leave taken under the
53 FMLA.

54 8. The first payment of Missouri earned family and
55 medical leave benefits shall be made to an employee within
56 two weeks after the completed claim is received by the
57 department or the day the family or medical leave began,
58 whichever is later. Subsequent payments shall be made
59 bimonthly.

 285.410. 1. (1) An employee shall establish
2 eligibility for each uninterrupted family or medical care
3 leave period by filing a first claim for benefits supported
4 by the certificate of a treating health care provider that
5 establishes the serious health condition of the family
6 member that warrants the care of the employee, or that
7 establishes the serious health condition of the employee.
8 For subsequent periods of uninterrupted leave after the
9 period covered by the initial certificate or any preceding
10 continued claim, a claimant shall file a continued claim for
11 those benefits supported by the certificate of a treating
12 health care provider.

13 (2) For employees seeking leave in order to assume a
14 familial responsibility due to a spouse, child, or parent
15 being on active duty in the uniformed services, eligibility
16 for leave shall be established by providing, in a manner
17 satisfactory to the department, proof of the family member
18 being on active duty.

19 (3) For employees seeking leave due to a serious
20 health condition related to seeking medical attention,

21 services, or counseling for victims of stalking, domestic
22 violence, abuse, or sexual assault, as such terms are
23 defined in section 455.010, or victims of trafficking for
24 purposes of sexual exploitation as described in section
25 566.209, the certificate required by subdivision (1) of this
26 subsection may be provided by any of the following:

27 (a) A health care provider;

28 (b) A court which has jurisdiction over a judicial
29 proceeding relating to the serious health condition of the
30 employee or the serious health condition of the family
31 member of the employee; or

32 (c) A law enforcement officer with knowledge of the
33 serious health condition of the employee or the serious
34 health condition of the family member of the employee.

35 2. The certificates required under subsection 1 of
36 this section shall be developed by the department. In order
37 to establish medical eligibility of the serious health
38 condition of the family member that warrants the care of the
39 employee, or to establish medical eligibility of the serious
40 health condition of the employee, the information on the
41 certificate shall be within the physician's or health care
42 provider's knowledge and shall be based on a physical
43 examination and documented medical history of the family
44 member or employee. The certificate shall contain all of
45 the following:

46 (1) A diagnosis and diagnostic code prescribed in the
47 International Classification of Diseases or, if no diagnosis
48 has yet been obtained, a detailed statement of symptoms;

49 (2) The date, if known, on which the condition
50 commenced;

51 (3) The probable duration of the condition;

52 (4) An estimate of the amount of time that the
53 physician or health care provider believes the employee
54 needs to care for the family member or himself or herself;
55 and

56 (5) If applicable, a statement that the serious health
57 condition warrants the participation of the employee to
58 provide care for his or her family member.

59 3. The department shall develop a certificate form
60 that is separate and distinct from the certificate required
61 in subsection 1 of this section for an employee taking leave
62 to bond with a minor child within the first year of the
63 child's birth or placement in connection with foster care or
64 adoption.

65 4. Any claim of an individual who obtains care and
66 treatment outside the state shall be supported by a
67 certificate of a treating health care provider duly licensed
68 or certified by the state or foreign country in which the
69 claimant is receiving care and treatment.

70 5. Nothing in this section shall be construed to
71 preclude the department from requesting additional medical
72 evidence to supplement any claim. Any cost incurred for
73 procuring additional medical evidence shall be paid by the
74 employee. The department may require that the additional
75 evidence include any or all of the following:

76 (1) Identification of diagnoses;
77 (2) Identification of symptoms;
78 (3) A statement setting forth the facts of the serious
79 health condition of the employee or such employee's family
80 member, which shall be completed by any of the following
81 individuals:

82 (a) The health care provider treating the employee or
83 family member of the employee;

84 (b) The registrar, authorized medical officer, or
85 other duly authorized official of the hospital or health
86 care facility treating the employee or family member of the
87 employee; or

88 (c) An examining physician or other representative of
89 the department;

90 (4) An affidavit from an employee averring that the
91 employee or such employee's spouse gave birth to a child or
92 has adopted or received a child in connection with foster
93 care.

285.415. Employees shall provide at least thirty days
2 advance notice to their employer before family and medical
3 leave is to begin if the need for the leave is foreseeable.
4 If thirty days notice is not practicable, notice shall be
5 given to the employer as soon as practicable.

285.420. 1. Except as provided in subsection 4 of
2 this section, an employee may file a notice of appeal from
3 any determination of eligibility for benefits made by the
4 department with the administrative hearing commission
5 pursuant to chapter 621. Such appeal shall be made by mail
6 or in person within thirty days after the date on which a
7 copy of the department's decision was received by the
8 employee.

9 2. The administrative hearing commission's proposed
10 decision and order shall be final and not subject to further
11 appeal, unless within thirty days after the decision is
12 served on the interested parties, a party files a petition
13 for judicial review as provided in chapter 536.

14 3. A determination of the amount of benefits payable
15 under sections 285.400 to 285.440 shall not serve as a basis
16 for appeal under this section. However, the determination
17 shall be subject to request by the employee on family or

18 medical leave for redetermination by the department at any
19 time within one year from the date of delivery or mailing of
20 such determination, or any redetermination thereof. A
21 redetermination shall be furnished to the individual in
22 writing.

23 4. A denial of benefits shall become final in the
24 absence of timely appeal therefrom. The department may
25 redetermine a denial of benefits at any time within one year
26 from delivery or mailing of such denial to correct an error
27 in identity, omission of fact, or misapplication of law with
28 respect to the facts.

29 5. A determination of allowance of benefits shall
30 become final in the absence of timely appeal therefrom. The
31 department may redetermine such allowance at any time within
32 two years following the application year in which such
33 allowance was made in order to recover any benefits for
34 which recovery is provided under this section.

35 6. A redetermination of benefits may be made at any
36 time for any of the following reasons:

37 (1) To conform to a final court decision applicable to
38 either an initial determination or a determination of denial
39 or allowance of benefits;

40 (2) In the event of a back pay award or settlement
41 affecting the allowance of benefits; or

42 (3) In the case of misrepresentation or willful
43 failure to report a material fact.

44 Written notice of any such redetermination shall be promptly
45 given by mail or delivered to such interested parties as
46 were notified of the initial determination of denial or
47 allowance of benefits and any new interested party or

48 parties who, under such rule as the department may adopt,
49 would be an interested party.

285.425. 1. Notwithstanding any provision of law to
2 the contrary, it shall be unlawful for any person to
3 discharge or in any other manner discriminate against an
4 employee because the employee has made a claim for,
5 indicated an intent to make a claim for, or received
6 Missouri earned family and medical leave benefits.

7 2. (1) Any person who violates the provisions of
8 subsection 1 of this section shall be liable to any employee
9 of such person who is affected by the violation for such
10 equitable relief as may be appropriate including employment,
11 reinstatement, or promotion and for damages equal to the sum
12 of:

13 (a) The amount of:

14 a. Any wages, salary, employment benefits, or other
15 compensation denied or lost to such individual by reason of
16 the violation; or

17 b. In a case in which wages, salary, employment
18 benefits, or other compensation have not been denied or lost
19 to the individual, any actual monetary losses sustained by
20 the individual as a direct result of the violation, such as
21 the cost of providing care, up to a sum equal to sixty
22 calendar days of wages or salary for the individual;

23 (b) The interest on the amount described in paragraph
24 (a) of this subdivision, such interest rate being equal to
25 the market rate as determined by the director of the
26 division of finance under section 408.030; and

27 (c) An additional amount as liquidated damages equal
28 to the sum of the amount described in paragraph (a) of this
29 subdivision and the interest described in paragraph (b) of
30 this subdivision, except that if a person who has violated

31 subsection 1 of this section proves to the satisfaction of
32 the court that the act or omission was in good faith and
33 that the person had reasonable grounds for believing that
34 the act or omission was not a violation, such court may
35 reduce the amount of such liquidated damages.

36 (2) The court may additionally require reasonable
37 attorney's fees, expert witness fees, and other court costs
38 to be paid by a defendant.

39 3. An action to recover the relief prescribed in
40 subsection 2 of this section may be maintained against any
41 person in any court of competent jurisdiction by the
42 employee affected.

43 4. The department may bring an action seeking relief
44 on behalf of an employee under this section. The right to
45 bring an action provided under subsection 3 of this section
46 shall terminate upon the filing of a complaint by the
47 department. If any damages are recovered in such action,
48 such damages shall be held in a special deposit account and
49 paid directly to each employee affected.

50 5. An action may be brought under this section not
51 later than three years after the date of the alleged
52 violation for which the action is brought. An action
53 brought under this section shall be considered to be
54 commenced on the date when the complaint is filed.

285.430. 1. The department shall develop and
2 implement an outreach program to ensure that employees who
3 may be eligible to receive Missouri earned family and
4 medical leave benefits under sections 285.400 to 285.440 are
5 made aware of such benefits. Outreach information shall
6 easily explain eligibility requirements, the claims process,
7 weekly benefit amounts, maximum benefits payable, notice and
8 medical certification requirements, reinstatement and

9 nondiscrimination rights, confidentiality, and the
10 relationship between employment protection, leave from
11 employment, wage replacement benefits, and other laws,
12 collective bargaining agreements, and employer policies.

13 2. Not later than three years after the effective date
14 of sections 285.400 to 285.440, the state auditor shall
15 submit to the general assembly a report on the Missouri
16 earned family and medical leave benefits paid for any month
17 during the one-year period beginning on January 1, 2025.
18 The report shall include the following:

19 (1) An identification of the total number of
20 applications for such benefits filed, and the average number
21 of days between when an application is received and when a
22 determination is made;

23 (2) An identification of the total number of requests
24 for review of an initial adverse determination of
25 eligibility for such benefits made, and the average number
26 of days between when such review is requested and when a
27 final determination of eligibility is made; and

28 (3) An identification of the total number of monthly
29 benefit claim reports for such benefits filed, and the
30 average number of days between the date such report is
31 received and the date on which the initial determination of
32 eligibility with respect to the claim report is made.

285.435. 1. (1) There is hereby created in the state
2 treasury the "Missouri Earned Family and Medical Leave
3 Fund", which shall consist of money collected under this
4 section. The state treasurer shall be custodian of the
5 fund. In accordance with sections 30.170 and 30.180, the
6 state treasurer may approve disbursements. The fund shall
7 be a dedicated fund and money in the fund shall be used
8 solely by the department of labor and industrial relations

9 for the purpose of distributing Missouri earned family and
10 medical leave program benefits.

11 (2) The state treasurer shall invest moneys in the
12 fund in the same manner as other funds are invested. Any
13 interest and moneys earned on such investments shall be
14 credited to the fund.

15 2. (1) In order to provide funding to implement the
16 provisions of sections 285.400 to 285.440, employees shall
17 contribute one quarter of one percent of their average
18 weekly pay to the Missouri earned family and medical leave
19 fund beginning January 1, 2023.

20 (2) For purposes of this section, in determining the
21 average weekly pay of an employee, the total wages of an
22 employee shall not exceed the contribution and benefit base
23 established by the Commissioner of Social Security
24 Administration under 42 U.S.C. 430.

25 (3) Notwithstanding the provisions of section 285.405
26 to the contrary, if there is not sufficient resources in the
27 fund, the department may, at its discretion, reduce the
28 benefit amount each employee is eligible to receive. If the
29 benefit amount is reduced, each employee shall receive the
30 same percent of his or her average weekly wage.

31 (4) No employee shall receive benefits from the fund
32 until January 1, 2025.

33 3. Under section 23.253 of the Missouri sunset act:

34 (1) The provisions of the new program authorized under
35 sections 285.400 to 285.440 shall automatically sunset on
36 December 31, 2028, unless reauthorized by an act of the
37 general assembly;

38 (2) If such program is reauthorized, the program
39 authorized under sections 285.400 to 285.440 shall

40 automatically sunset six years after the effective date of
41 the reauthorization of such sections; and

42 (3) Sections 285.400 to 285.440 shall terminate on
43 September first of the calendar year immediately following
44 the calendar year in which the program authorized under such
45 sections is sunset.

285.440. Any rule or portion of a rule, as that term
2 is defined in section 536.010, that is created under the
3 authority delegated in sections 285.400 to 285.435 shall
4 become effective only if it complies with and is subject to
5 all of the provisions of chapter 536 and, if applicable,
6 section 536.028. This section and chapter 536 are
7 nonseverable and if any of the powers vested with the
8 general assembly pursuant to chapter 536 to review, to delay
9 the effective date, or to disapprove and annul a rule are
10 subsequently held unconstitutional, then the grant of
11 rulemaking authority and any rule proposed or adopted after
12 December 8, 2022, shall be invalid and void.

Section B. This act is hereby submitted to the
2 qualified voters of this state for approval or rejection at
3 an election which is hereby ordered and which shall be held
4 and conducted on Tuesday next following the first Monday in
5 November, 2022, pursuant to the laws and constitutional
6 provisions of this state for the submission of referendum
7 measures by the general assembly, and this act shall become
8 effective when approved by a majority of the votes cast
9 thereon at such election and not otherwise.

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