

# SENATE BILL NO. 729

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

3909S.01H

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Section A. Section 143.121, RSMo, is repealed and ten new  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 or 116-260, enacted by the 116th United States Congress,  
13 for the tax year beginning on or after January 1, 2020, and  
14 ending on or before December 31, 2020, and deducted from  
15 Missouri adjusted gross income pursuant to section 143.171.  
16 The amount added under this subdivision shall also not  
17 include any amount of a federal income tax refund

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

18 attributable to a tax credit reducing a taxpayer's federal  
19 tax liability under any other federal law that provides  
20 direct economic impact payments to taxpayers to mitigate  
21 financial challenges related to the COVID-19 pandemic, and  
22 deducted from Missouri adjusted gross income under section  
23 143.171;

24 (2) Interest on certain governmental obligations  
25 excluded from federal gross income by 26 U.S.C. Section 103  
26 of the Internal Revenue Code, as amended. The previous  
27 sentence shall not apply to interest on obligations of the  
28 state of Missouri or any of its political subdivisions or  
29 authorities and shall not apply to the interest described in  
30 subdivision (1) of subsection 3 of this section. The amount  
31 added pursuant to this subdivision shall be reduced by the  
32 amounts applicable to such interest that would have been  
33 deductible in computing the taxable income of the taxpayer  
34 except only for the application of 26 U.S.C. Section 265 of  
35 the Internal Revenue Code, as amended. The reduction shall  
36 only be made if it is at least five hundred dollars;

37 (3) The amount of any deduction that is included in  
38 the computation of federal taxable income pursuant to 26  
39 U.S.C. Section 168 of the Internal Revenue Code as amended  
40 by the Job Creation and Worker Assistance Act of 2002 to the  
41 extent the amount deducted relates to property purchased on  
42 or after July 1, 2002, but before July 1, 2003, and to the  
43 extent the amount deducted exceeds the amount that would  
44 have been deductible pursuant to 26 U.S.C. Section 168 of  
45 the Internal Revenue Code of 1986 as in effect on January 1,  
46 2002;

47 (4) The amount of any deduction that is included in  
48 the computation of federal taxable income for net operating  
49 loss allowed by 26 U.S.C. Section 172 of the Internal

50 Revenue Code of 1986, as amended, other than the deduction  
51 allowed by 26 U.S.C. Section [172(b)(1)(G)] **172(b)(1)(F)** and  
52 26 U.S.C. Section [172(i)] **172(h)** of the Internal Revenue  
53 Code of 1986, as amended, for a net operating loss the  
54 taxpayer claims in the tax year in which the net operating  
55 loss occurred or carries forward for a period of more than  
56 twenty years and carries backward for more than two years.  
57 Any amount of net operating loss taken against federal  
58 taxable income but disallowed for Missouri income tax  
59 purposes pursuant to this subdivision after June 18, 2002,  
60 may be carried forward and taken against any income on the  
61 Missouri income tax return for a period of not more than  
62 twenty years from the year of the initial loss; and

63 (5) For nonresident individuals in all taxable years  
64 ending on or after December 31, 2006, the amount of any  
65 property taxes paid to another state or a political  
66 subdivision of another state for which a deduction was  
67 allowed on such nonresident's federal return in the taxable  
68 year unless such state, political subdivision of a state, or  
69 the District of Columbia allows a subtraction from income  
70 for property taxes paid to this state for purposes of  
71 calculating income for the income tax for such state,  
72 political subdivision of a state, or the District of  
73 Columbia;

74 (6) For all tax years beginning on or after January 1,  
75 2018, any interest expense paid or accrued in a previous  
76 taxable year, but allowed as a deduction under 26 U.S.C.  
77 Section 163, as amended, in the current taxable year by  
78 reason of the carryforward of disallowed business interest  
79 provisions of 26 U.S.C. Section 163(j), as amended. For the  
80 purposes of this subdivision, an interest expense is  
81 considered paid or accrued only in the first taxable year

82 the deduction would have been allowable under 26 U.S.C.  
83 Section 163, as amended, if the limitation under 26 U.S.C.  
84 Section 163(j), as amended, did not exist.

85 3. There shall be subtracted from the taxpayer's  
86 federal adjusted gross income the following amounts to the  
87 extent included in federal adjusted gross income:

88 (1) Interest received on deposits held at a federal  
89 reserve bank or interest or dividends on obligations of the  
90 United States and its territories and possessions or of any  
91 authority, commission or instrumentality of the United  
92 States to the extent exempt from Missouri income taxes  
93 pursuant to the laws of the United States. The amount  
94 subtracted pursuant to this subdivision shall be reduced by  
95 any interest on indebtedness incurred to carry the described  
96 obligations or securities and by any expenses incurred in  
97 the production of interest or dividend income described in  
98 this subdivision. The reduction in the previous sentence  
99 shall only apply to the extent that such expenses including  
100 amortizable bond premiums are deducted in determining the  
101 taxpayer's federal adjusted gross income or included in the  
102 taxpayer's Missouri itemized deduction. The reduction shall  
103 only be made if the expenses total at least five hundred  
104 dollars;

105 (2) The portion of any gain, from the sale or other  
106 disposition of property having a higher adjusted basis to  
107 the taxpayer for Missouri income tax purposes than for  
108 federal income tax purposes on December 31, 1972, that does  
109 not exceed such difference in basis. If a gain is  
110 considered a long-term capital gain for federal income tax  
111 purposes, the modification shall be limited to one-half of  
112 such portion of the gain;

113           (3) The amount necessary to prevent the taxation  
114 pursuant to this chapter of any annuity or other amount of  
115 income or gain which was properly included in income or gain  
116 and was taxed pursuant to the laws of Missouri for a taxable  
117 year prior to January 1, 1973, to the taxpayer, or to a  
118 decedent by reason of whose death the taxpayer acquired the  
119 right to receive the income or gain, or to a trust or estate  
120 from which the taxpayer received the income or gain;

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

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

127           (6) The portion of capital gain specified in section  
128 135.357 that would otherwise be included in federal adjusted  
129 gross income;

130           (7) The amount that would have been deducted in the  
131 computation of federal taxable income pursuant to 26 U.S.C.  
132 Section 168 of the Internal Revenue Code as in effect on  
133 January 1, 2002, to the extent that amount relates to  
134 property purchased on or after July 1, 2002, but before July  
135 1, 2003, and to the extent that amount exceeds the amount  
136 actually deducted pursuant to 26 U.S.C. Section 168 of the  
137 Internal Revenue Code as amended by the Job Creation and  
138 Worker Assistance Act of 2002;

139           (8) For all tax years beginning on or after January 1,  
140 2005, the amount of any income received for military service  
141 while the taxpayer serves in a combat zone which is included  
142 in federal adjusted gross income and not otherwise excluded  
143 therefrom. As used in this section, "combat zone" means any  
144 area which the President of the United States by Executive

145 Order designates as an area in which Armed Forces of the  
146 United States are or have engaged in combat. Service is  
147 performed in a combat zone only if performed on or after the  
148 date designated by the President by Executive Order as the  
149 date of the commencing of combat activities in such zone,  
150 and on or before the date designated by the President by  
151 Executive Order as the date of the termination of combatant  
152 activities in such zone;

153 (9) For all tax years ending on or after July 1, 2002,  
154 with respect to qualified property that is sold or otherwise  
155 disposed of during a taxable year by a taxpayer and for  
156 which an additional modification was made under subdivision  
157 (3) of subsection 2 of this section, the amount by which  
158 additional modification made under subdivision (3) of  
159 subsection 2 of this section on qualified property has not  
160 been recovered through the additional subtractions provided  
161 in subdivision (7) of this subsection;

162 (10) **The amount contributed to the Missouri earned**  
163 **family and medical leave fund established under section**  
164 **285.435;**

165 (11) For all tax years beginning on or after January  
166 1, 2014, the amount of any income received as payment from  
167 any program which provides compensation to agricultural  
168 producers who have suffered a loss as the result of a  
169 disaster or emergency, including the:

- 170 (a) Livestock Forage Disaster Program;  
171 (b) Livestock Indemnity Program;  
172 (c) Emergency Assistance for Livestock, Honeybees, and  
173 Farm-Raised Fish;  
174 (d) Emergency Conservation Program;  
175 (e) Noninsured Crop Disaster Assistance Program;  
176 (f) Pasture, Rangeland, Forage Pilot Insurance Program;

177 (g) Annual Forage Pilot Program;

178 (h) Livestock Risk Protection Insurance Plan;

179 (i) Livestock Gross Margin Insurance Plan;

180 [(11)] (12) For all tax years beginning on or after  
181 January 1, 2018, any interest expense paid or accrued in the  
182 current taxable year, but not deducted as a result of the  
183 limitation imposed under 26 U.S.C. Section 163(j), as  
184 amended. For the purposes of this subdivision, an interest  
185 expense is considered paid or accrued only in the first  
186 taxable year the deduction would have been allowable under  
187 26 U.S.C. Section 163, as amended, if the limitation under  
188 26 U.S.C. Section 163(j), as amended, did not exist; and

189 [(12)] (13) One hundred percent of any retirement  
190 benefits received by any taxpayer as a result of the  
191 taxpayer's service in the Armed Forces of the United States,  
192 including reserve components and the National Guard of this  
193 state, as defined in 32 U.S.C. Sections 101(3) and 109, and  
194 any other military force organized under the laws of this  
195 state.

196 4. There shall be added to or subtracted from the  
197 taxpayer's federal adjusted gross income the taxpayer's  
198 share of the Missouri fiduciary adjustment provided in  
199 section 143.351.

200 5. There shall be added to or subtracted from the  
201 taxpayer's federal adjusted gross income the modifications  
202 provided in section 143.411.

203 6. In addition to the modifications to a taxpayer's  
204 federal adjusted gross income in this section, to calculate  
205 Missouri adjusted gross income there shall be subtracted  
206 from the taxpayer's federal adjusted gross income any gain  
207 recognized pursuant to 26 U.S.C. Section 1033 of the  
208 Internal Revenue Code of 1986, as amended, arising from

209 compulsory or involuntary conversion of property as a result  
210 of condemnation or the imminence thereof.

211         7. (1) As used in this subsection, "qualified health  
212 insurance premium" means the amount paid during the tax year  
213 by such taxpayer for any insurance policy primarily  
214 providing health care coverage for the taxpayer, the  
215 taxpayer's spouse, or the taxpayer's dependents.

216         (2) In addition to the subtractions in subsection 3 of  
217 this section, one hundred percent of the amount of qualified  
218 health insurance premiums shall be subtracted from the  
219 taxpayer's federal adjusted gross income to the extent the  
220 amount paid for such premiums is included in federal taxable  
221 income. The taxpayer shall provide the department of  
222 revenue with proof of the amount of qualified health  
223 insurance premiums paid.

224         8. (1) Beginning January 1, 2014, in addition to the  
225 subtractions provided in this section, one hundred percent  
226 of the cost incurred by a taxpayer for a home energy audit  
227 conducted by an entity certified by the department of  
228 natural resources under section 640.153 or the  
229 implementation of any energy efficiency recommendations made  
230 in such an audit shall be subtracted from the taxpayer's  
231 federal adjusted gross income to the extent the amount paid  
232 for any such activity is included in federal taxable  
233 income. The taxpayer shall provide the department of  
234 revenue with a summary of any recommendations made in a  
235 qualified home energy audit, the name and certification  
236 number of the qualified home energy auditor who conducted  
237 the audit, and proof of the amount paid for any activities  
238 under this subsection for which a deduction is claimed. The  
239 taxpayer shall also provide a copy of the summary of any



240 recommendations made in a qualified home energy audit to the  
241 department of natural resources.

242 (2) At no time shall a deduction claimed under this  
243 subsection by an individual taxpayer or taxpayers filing  
244 combined returns exceed one thousand dollars per year for  
245 individual taxpayers or cumulatively exceed two thousand  
246 dollars per year for taxpayers filing combined returns.

247 (3) Any deduction claimed under this subsection shall  
248 be claimed for the tax year in which the qualified home  
249 energy audit was conducted or in which the implementation of  
250 the energy efficiency recommendations occurred. If  
251 implementation of the energy efficiency recommendations  
252 occurred during more than one year, the deduction may be  
253 claimed in more than one year, subject to the limitations  
254 provided under subdivision (2) of this subsection.

255 (4) A deduction shall not be claimed for any otherwise  
256 eligible activity under this subsection if such activity  
257 qualified for and received any rebate or other incentive  
258 through a state-sponsored energy program or through an  
259 electric corporation, gas corporation, electric cooperative,  
260 or municipally owned utility.

261 9. The provisions of subsection 8 of this section  
262 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 state weekly pay", the total wages earned  
7 by all employees who have contributed to the fund in the  
8 past twelve months, divided by the total number of such  
9 employees, the quotient of which is divided by the average**

10 number of weeks worked by all employees who have contributed  
11 to the fund in the last twelve months;

12 (2) "Average weekly pay", the total wages earned by an  
13 employee in the past twelve months, divided by the number of  
14 weeks worked by the employee in such twelve-month period, or  
15 the weekly salary of the employee at the time that family or  
16 medical leave is taken, whichever is greater provided that  
17 the average weekly pay shall never exceed the average state  
18 weekly pay;

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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