COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2124-01
Bill No.: HB 1059
Subject: Employees - Employers; Health Care; Children and Minors
Type: Original
Date: April 24, 2017

Bill Summary: This proposal establishes the Missouri Earned Family and Medical Leave Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
General Revenue*	$0	$0 or ($187,940)	$0 or ($18,744,986)	$0 or ($18,746,569)
Other*	$0	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
Total Estimated Net Effect on General Revenue	**$0**	**$0 or (Unknown to Greater than $187,940)**	**$0 or (Unknown to Greater than $18,744,986)**	**$0 or (Unknown to Greater than $18,746,569)**

* In FY2016 - 2,129 state employees were on leave without pay status.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Missouri Earned Family and Medical Leave Program Fund	$0	$0 or $139,314,852	$0 or ($119,902,220)	$0 or ($526,158,526)
Total Estimated Net Effect on Other State Funds	**$0**	**$0 or $139,314,852**	**$0 or ($119,902,220)**	**$0 or ($526,158,526)**

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 21 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Federal Funds*	$0	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

*In FY2019 - 2,129 state employees were on leave without pay status.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 20201
General Revenue Fund	0 FTE	0 or 4 FTE	0 or 4 FTE	0 or 4 FTE
Missouri Earned Family and Medical Leave Program Fund	0 FTE	0 or 190 FTE	0 or 190 FTE	0 or 190 FTE
Total Estimated Net Effect on FTE	**0 FTE**	**0 or 194 FTE**	**0 or 194 FTE**	**0 or 194 FTE**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Local Government	**$0**	**$0 or (Unknown to Greater than $800,000)**	**$0 or (Unknown to Greater than $800,000)**	**$0 or (Unknown to Greater than $800,000)**

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal would have the following impact on their organization:

As indicated in Section B of the bill, all of the provisions of this bill are subject to voter approval in November 2018. If the bill were to pass, following is a detailed cost estimate to implement the program. Because the collection of taxes would begin January 1, 2019, DOLIR has estimated six months of operating expenses for FY 2019 in order to "ramp up" to begin processing claims starting January 1, 2020. No more than six months' of benefits would be paid in FY 2020 and the estimate has been adjusted to that effect. All of the expenses would be paid from the Missouri Earned Family and Medical Leave (EFML) Fund.

REVENUE
The Department of Labor and Industrial Relations defers to the Department of Revenue regarding the estimated revenue collections if these provisions are implemented.

COST
Department of Labor and Industrial Relations
This bill creates Sections 285.400 to 285.416 establishing the "Missouri Earned Family and Medical Leave Act" which would be administered by the Department of Labor & Industrial Relations (DOLIR). The program would provide up to eight weeks of wage replacement benefits to employees who take time off work for family or medical leave if they meet the eligibility criteria set forth.

DOLIR estimates the total cost to develop, administer, and maintain the Missouri Earned Family and Medical Leave Program to be over $10 million per year. In estimating, the total costs of the program, the DOLIR made the following assumptions and estimates.

Three states, California, New Jersey, and Rhode Island, provide paid family and medical leave to employees. New Jersey has a civilian workforce similar in size to that of Missouri; therefore, the estimates used for this fiscal note are based on New Jersey's Family Leave Insurance Program. New Jersey's Family Leave Insurance Program provides six week of benefits to bond with a new child or to care for a family member. The weekly benefit amount is two-thirds of an employee's weekly wage. In 2015, New Jersey received 35,293 claims. New Jersey also offers a Temporary Disability Benefit (TDI) program which provides temporary income to workers who are unable to work because of non-work related accidents and illnesses. The TDI program received 93,889 claims. Missouri's Earned Family and Medical Leave program would embody both of New Jersey's programs, so DOLIR estimates Missouri would receive 130,000 claims annually.

ASSUMPTION (continued)

Benefits – Sections 285.400-285.405
The average weekly wage in Missouri was $867.88 for FY 2015. Using the estimate of 130,000 claims and assuming 10% of those claims will be denied, DOLIR estimates it would pay up to $812,335,680 annually (130,000 X .90 X $867.88 X 8 weeks). There is no adjustment to estimated benefit payments made for inflation in this estimate.

Program Operations – Sections 285.410-285.415
DOLIR estimates that five new sections will be required to administer the Missouri Earned Family and Medical Leave Program. The sections would include Claims Processing, Call Center, Appeals, Wage Record Processing, and Overpayment/Collections.

Claims Processing
Section 285.410 states that an employee shall establish eligibility for each uninterrupted family medical care leave period by filing a first claim for benefits. For subsequent periods of uninterrupted leave after the period covered by the initial certificate, a claimant shall file a continued claim for those benefits. The Claims Processing Section would be responsible for processing all initial and continued claims for benefits.

DOLIR estimates 130,000 claims will be filed annually for Missouri Earned Family and Medical Leave. It is estimated that it would take Claims Specialist II (Range 19, Step G) approximately two hours to process a claim. Using this assumption, DOLIR estimates it would need 125.00 FTE (130,000 X 2 ÷ 2,080 = 125) to process claims.

Additionally, DOLIR will require 10.00 Claims Supervisors (Range 21, Step G) to provide supervision for the Claims Specialists; 1.00 Labor and Industrial Relations Manager Band 1 to manage the Claims Processing Section; and 4.00 Senior Office Support Assistants (Range 12, Step F) and 1.00 Administrative Office Support Assistant (Range 15, Step F) to provide administrative support for the section.

Call Center
DOLIR assumes that a Call Center will be required to handle questions and concerns from claimants and employers regarding the Missouri Earned Family and Medical Leave Program. Based on the call volume for other programs, 10.00 Claims Specialist II FTE (Range 19, Step G) will be required to assist callers. The section will also require 1.00 Administrative Office Support Assistant (Range 15, Step F) to provide administrative support and 1.00 Claims Supervisor (Range 21, Step G) to manage the unit.

Appeals
Section 285.412 states that an employee may file a notice of appeal from any determination of eligibility for benefits made by the department by mail or in person within thirty days after the date on which a copy of the department's decision was received by the employee. Upon receipt

ASSUMPTION (continued)

of the notice of appeal, the department shall request the assignment of an administrative law judge (ALJ) in accordance with chapter 536 to conduct a hearing and issue a proposed decision and order. The Appeals Section would be responsible for receiving all appeals, scheduling hearings, docketing, preparing appeals packets, conducting hearings, and issuing decision and orders.

DOLIR estimates that 10% of the 130,000 claims filed annually will result in a denial, and that 50 percent of the denied claims, or 6,500, will be appealed. (130,000 X .10 X .50 = 6,500) DOLIR estimates that all of the activities performed by an ALJ (salaried at $122,762) will take one hour for each appeal, requiring 3.00 FTE to handle appeals (6,500 ÷ 2,080 = 3.125). Further, it is estimated that 6.00 Claims Specialist II (Range 19, Step G) will spend two hours processing each appeal from start to finish (6,500 X 2 ÷ 2,080 = 6.25). The Appeals Section will also require 1.00 Claims Supervisor (Range 21, Step G), 2.00 Administrative Office Support Assistants (Range 15, Step F), and 1.00 Labor and Industrial Relations Manager Band 1 for managerial, clerical, and supervisory duties.

Wage Records Processing

Section 285.415 states that, in order to provide funding to implement the provisions of sections 285.400 to 285.410, employees shall contribute one quarter of one percent of their average weekly pay to the Missouri Earned Family and Medical Leave (EFML) Fund beginning January 1, 2019. DOLIR assumes that employers would withhold this contribution from their employees and submit the contributions along with the wage reports to the department quarterly. The Wage Processing Section will be responsible for processing the contributions and wage reports.

Currently, employers that are liable for Unemployment Insurance (UI) Contributions are required to submit their contribution and wage report quarterly. DOLIR assumes that an interface will be developed between DES and the Missouri EFML Program to access the DES quarterly wage report, allowing employers to submit one report and satisfy the requirements for both UI and the EFML program. The Wage Record Processing Section will only be responsible for processing wage reports for employers that are not liable for Unemployment Insurance.

DES processes an average of 12,000,000 wage items per year and estimates there will be an additional 3,000,000 items (an additional 25%) from employers who do not report to DES for UI purposes. Each FTE in the UI Wage Processing Unit handles an average of 666,667 items per year. Based on this rate, the Wage Processing Section will require 5.00 Contributions Specialist IIs (Range 19, Step G) to process the 3,000,000 additional claims (3,000,000 ÷ 666,667 = 4.5, rounded to 5.00). The Wage Records Processing Section would also require 1.00 Contributions Supervisor (Range 21 Step G) and 1.00 Senior Office Support Assistant (Range 12, Step F) to provide supervision and administrative support for the unit.

ASSUMPTION (continued)

Overpayment & Collections
Section 285.412 states that a determination of allowance of benefits shall become final in the absence of a timely appeal therefore, the department may redetermine such allowance at any time within two years following the application year in which the allowance was made in order to recover any benefits for which recovery is provided under this section. Though there is no language expressly authorizing these activities, for the purposes of this fiscal estimate, DOLIR assumes overpayment and collections duties would be required.

The Overpayment Unit will be responsible for recovering benefits paid to claimants that are later determined ineligible. DOLIR estimates that 5% of the 117,000 benefits claims paid will be redetermined. It takes an average of 2 hours to process each overpayment; therefore, DOLIR estimates that it will require 6.00 Claims Specialist IIs (Range 19, Step G) to process 5,850 overpayments annually. (117,000 X .05 = 5,850 X 2 = 11,700 hours ÷ 2,080 = 5.625, rounded)

The Collections Unit of this section would be responsible for contacting employers regarding missing wage reports. It is estimated that the State of Missouri has 182,000 employers, and of those 5 percent would be delinquent, resulting in 9,100 delinquent employer accounts. DOLIR estimates that it takes a total of 1 hour to work each delinquent account, which would require 4.00 Contributions Specialist IIs (Range 19, Step G) (182,000 X .05 = 9,100 ÷ 2,080 = 4.375, rounded).

Additionally, Overpayment and Collections Section would require 2.00 Legal Counselors (salaried at $47,500) and 1 Senior Office Support Assistant (Range 12, Step F) to advise and assist in collections from employers and individuals who were overpaid that proceed to actions in court. The section will also require 1.00 Labor and Industrial Relations Manager Band 1, 1.00 Contributions Supervisor (Range 21 Step G), and 2.00 Administrative Office Support Assistants (Range 15, Step F), to provide supervisory, managerial, and administrative support.

Expense & Equipment
DOLIR has utilized the standard per FTE costs when calculating operating expenses and equipment for this estimate. Additional mailing costs are detailed below.

Mailing Cost
The Missouri Earned Family and Medical Leave Program would require a high volume of mailing to claimants and employers. DOLIR estimates for FY 2019 there will be a minimum of 182,000 mailings (notice to employers to introduce the program). The estimated cost for this mailing is $83,720. DOLIR further estimates it will generate 923,650 correspondences at a cost of $424,879 annually beginning in FY 2020.

DOLIR estimates 130,000 claim forms and certificates will be mailed annually. Section 285.405.4 states that if a first claim is not complete, the claim form shall be returned to the

ASSUMPTION (continued)

employee for completion. DOLIR assumes that 32,500 claim forms will be returned for completion. This section also states that claimants may request an extension to file their first claim, with good cause. The DOLIR estimates 15% will request an extension (form to be mailed by DOLIR) and DOLIR will be required to send a correspondence granting or denying this extension. This will result in 39,000 additional correspondences.

Section 285.405.8 states that payments for the Missouri Earned Family and Medical Leave Act shall be made bimonthly. The program provides up to eight weeks of wage replacement benefits and the DOLIR assumes that each person will receive the maximum amount. The maximum number of checks mailed would be 468,000 (4 paper checks per claim).

The department estimates that 50% of denied claims will be appealed (6,500). Each appeal will require an appeal packet to be mailed to the claimant resulting in 6,500 mailings. The DOLIR also estimates that of the 117,000 benefits paid an average of 5,850 (5%) will be redetermined. This will result in an overpayment and will require the claimant to be notified by mail.

It is estimated that 182,000 employers would need to file quarterly reports requiring the mailing of an additional 182,000 contributions and wage reports annually. The DOLIR will also notify delinquent employers (9,100 employers) and individuals with outstanding overpayments (5,850 claimants) quarterly. The DOLIR estimates that this would result in an additional 59,800 mailings annually.

MAILING COST SUMMARY	**FY 2019**	**FY 2020***	**FY 2021***
Mailings to Employers	182,000		
Claims		65,000	130,000
Returned Incomplete Claims (25% of total claims)		16,250	32,500
Extension Requests (15% of total claims)		9,750	19,500
Extension Approval/Denial Letter (15% of total claims)		9,750	19,500
Checks (90% of approved claims)		124,000	468,000
Appeal Packets for Denied Claims (50% of the 10% denied claims)		3,250	6,500
Redetermination of Claim Notifications (5% of approved claims)		2,925	5,850
Employer Contribution Reports		91,000	182,000
Quarterly Delinquent Employer Notifications (5% of employers)		18,200	36,400
Quarterly Delinquent Overpayment Notifications (5% of approved claims)		11,700	23,400
Estimated Total Pieces of Mail Processed	182,000	461,825	923,650
**The FY 2020 estimate represents six months since the implementation date would be January 1, 2020. The FY 2021 estimate represents one full year of expenses.*			
Total Cost	$83,720	$212,440	$424,879

ASSUMPTION (continued)

Outreach – Section 285.414
Section 285.414 states that the department shall develop and implement an outreach program to ensure that employees who may be eligible to receive Missouri EFML benefits under sections 285.400 to 285.416 be made aware of such benefits.

The outreach program will educate Missouri's approximately 182,000 employers of the Missouri Earned Family and Medical Leave (EFML) Program. It will also provide Missouri workers with information regarding the eligibility requirements of the program, the claims process, weekly benefit amount, nondiscrimination rights, etc. DOLIR will create new promotional materials for the program, a strategic radio advertisement campaign, and a brochure that targets businesses while still containing information for employees. This brochure will be shared with our partners at the Missouri Job Centers, business associations, and economic development agencies. The DOLIR will also print and mail 182,000 black and white brochures in the 1st quarter and 3rd quarter of FY 2020 and thereafter to all Missouri-registered businesses.

Printing 182,000 Brochures	.05 each	$9,100
182,000 Envelopes	.04 each	$7,280
Postage/Mail Cost for 182,000 Brochures	.46 each	$83,720
Graphic Specialist III (one-time)	6 hours	$179
Quarter Total		$100,279

DOLIR will utilize an existing state contract for radio in a statewide campaign package. The radio campaign will begin in the 3rd quarter of calendar year 2019 and run through the end of calendar year 2020 (18 months). The campaign would include ten 30-second commercials every other week for one and one half years, five pre-emptive matched messages every other week, and four 10-second news sponsorships on the off-week Mondays at four different times. The cost for the package is ($202,335.00/6 quarters) = $33,722.50.

Administrative Services
With the addition of this program to the department's responsibilities, DOLIR assumes that additional administrative services staff will be required including financial management, mail services, facility management, procurement, training, and human resources. For the purposes of this estimate DOLIR projects indirect costs at 5% of program operations costs (personal services and fringe benefits) beginning in FY 2019. One full year of administrative costs would be r This is a new system, which is similar to the UInteract system in which the cost was based upon.

The system realized in FY 2020 ([$6,778,703 + $2,982,496] X .05 = $488,060, rounded).

Information Technology Services Division
This is a new system that is similar to the UInteract system in which the cost was based upon. The system will have an Employee sub-system and Missouri Earned Family and Medical Leave Act Benefit sub-system. They will be Employee establishment and maintenance. Benefit tracking piece for claims, issues, determinations, adjustments, overpayments, fraud, appeals, etc.

ASSUMPTION (continued)

These functions will require new web pages to enter, update, delete, and search for information. Reporting and correspondences will be generated along with scanning and imaging of documents. Interface into UInteract to ensure the claimant is not receiving Unemployment Benefits. An RFP will be created and awarded and will have PMO oversight. The system will require a new database and services from the State Data Center. The extent of information collected is a sizable amount of data.

Oversight will show the following impact to MEFMLP Fund for costs related to DOLIR:

IT equipment in FY2019 in the amount of $43,171 and for IT Consultants to work with the system design and implementation $7,820,550 (104,274 hours at $75 per hour).

Ongoing IT program maintenance in the amount of $11,874,013 in FY2020 and $11,577,943 in FY2021.

IT Equipment Maintenance in the amount of $22,558 in FY2019, $27,745 in FY2020, and $28,438 in FY2021.

Salaries for an additional 190 FTEs in the amount of $3,355,793 in FY2019, $6,778,703 in FY2020, and $6,846,489 in FY2021. Fringe benefits for these additional FTEs will be shown in FY2019 in the amount of $1,963,153, in FY2020 in the amount of $2,982,496, and in FY2021 in the amount of $3,003,682.

Office equipment for the additional 190 FTEs in FY2019 in the amount of $1,429,940 and office expense in the amount of $226,105 in FY2019, $462,815 in FY2020 and $475,103 in FY2021. These dollar amounts include leased building space, janitorial, utilities, telephone charges, and office supplies.

Mailing costs in FY2019 in the amount of $83,720, in FY2020 in the amount of $212,440, and in FY2021 in the amount of $424,879.

Outreach print media costs will be shown as $100,279 in FY2019, $90,100 in FY2020 and FY2021. Outreach radio costs in FY2019 would be $0, in FY2020 $67,445, and in FY2021 $134,890.

Indirect costs are estimated at $265,947 in FY2019, $488,060 in FY2020, and $492,459 in FY2021.

DOLIR estimates benefits paid out from the MEFMLP Fund would begin 1/1/2020 and the cost for FY2020 would be $406,167,840 and in FY2021 $812,335,680.

Officials at the **Office of Administration - Budget and Planning (B&P)** assume this proposal would have a positive fiscal impact on their organization based on the following information:

ASSUMPTION (continued)

Section 285.405 of this bill establishes the Missouri Earned Family and Medical Leave Program (MEFMLP) which allows employees who are not independent contractors to receive up to six weeks of wage replacement benefits from this fund for certain reasons specified in the bill. Section 285.415 of the bill establishes the MEFMLP Fund. Beginning January 1, 2019, employees would be required to contribute one quarter of one percent of their average weekly pay to the Fund.

According to the Bureau of Labor Statistics (BLS), the average weekly earnings for all workers was $876.00 in 2015 and there were 2,715,579 workers at that time. So the total average weekly earnings would be $2,378,847,204. If 0.0025% were deposited into the fund, the fund would earn $5,947,118.01 per week or $309,250,136.52 per year (in a full 52-week year). B&P assumes these collections would begin as early as 1/1/19, so one-half of these collections would accrue in FY2019.

Oversight will show a positive fiscal impact to the MEFMLP Fund of $154,625,068 for FY2019 which reflects 6 months of employee contributions and $309,250,137 for FY2020 and FY2021 which reflects a full year of employee contributions.

Section 143.121 of the bill allows employees to subtract the amount that they are paying into the MEFMLP Fund from their federal adjusted gross income for tax purposes. Since deductions do not reduce taxes on a dollar for dollar basis, this will reduce General Revenue (GR) by an estimated $18,555,008 annually. The numbers may vary in the future due to the impact of SB 509 (2014). B&P assumes this deduction will be for Tax Year 2019, and therefore reduce FY 2020 revenues.

Oversight will show a negative fiscal impact to the General Revenue Fund of $18,555,008 for FY2020 and FY2021 which represents the potential reduction in the amount of personal Missouri income tax collected.

The bill requires Department of Labor and Industrial Relations (DOLIR) to implement the program, administer the fund, and pay the specified medical leave benefits; the department may respond with specific fiscal impacts.

Officials at the **Department of Revenue (DOR)** assume this proposal would have a negative fiscal impact based on the following information:

§143.121- This legislation allows a subtraction from the taxpayer's federal adjusted gross income for amounts contributed to the Missouri Earned Family and Medical Leave Fund.

For Tax Year 2014, taxpayers reported approximately $84 billion as Missouri wages on Missouri Individual Income Tax returns. The new subtraction created in this section reduces revenues by as much as $12.6 million ($84 million in wages x 0.25 percent employee contribution x 6 percent tax rate). The Department of Labor and Industrial Relations may have more accurate amounts for the total amount of Missouri wages.

ASSUMPTION (continued)

Oversight notes that Department of Labor and Industrial Relations defers to Department of Revenue (DOR) for the impact of §143.121; DOR defers to Office of Administration - Budget and Planning Therefore, as previously noted Oversight will use the information provided by B&P for the fiscal impact of §143.121.

§§285.400 – 285.416 - These sections create the Missouri Earned Family and Medical Leave Act allowing employees who take time off for family or medical leave to receive 100 percent of the average weekly pay for each full week of family or medical leave.

Administrative Impact:

Personal Tax would require two (2) Revenue Processing Technicians I (Range 10, Step L) for additional correspondence and error correction.

Collections & Tax Assistance would see additional customer contacts regarding the subtraction to the Missouri Adjusted Gross Income and from notices of adjustment. The section requires two (2) Tax Collection Technicians I (Range 10, Step L), one for every additional 15,000 contacts on the delinquent tax line and one for every 15,000 contacts on the non-delinquent tax line. Each technician requires CARES equipment and license.

Integrated Tax System would require additional funds in the amount of $65,146 to implement the provisions of this legislation.

Oversight will show the fiscal impact to DOR through the General Revenue Fund the following costs:

Salaries for an additional 4 FTEs in FY2019 in the amount of $54,914, in FY2020 in the amount of $110,926, and in FY2021 in the amount of $112,035. The fringe benefits related to these additional FTEs would be $36,969 in FY2019, $74,266 in FY2020, and $74,596 in FY2021.

Equipment for the additional FTEs would be $29,296 in FY2019 and related office expense in the amount of $2,335 in FY2019, $4,786 in FY2020, and $4,930 in FY2021.

Integrated System Changes would be shown in FY2019 in the amount of $65,146 (501 hours at $75 per hour).

Officials at the **Office of Administration - Accounting** assume this proposal could have a negative fiscal impact on their organization based on the following information:

Currently, state employees who require time away from work to address tasks related to family and medical leave may use annual leave, compensatory time, sick leave, or leave without pay.

ASSUMPTION (continued)

The fiscal impact would be limited to employees who use leave without pay. There is no fiscal impact on other leave types.

In FY16, there were approximately 2,129 state employees on a leave without pay status at some point during the year while on FMLA. OA assumes this proposal would not cause the use of leave without pay to increase.

If all employees who require leave related to family and medical leave utilize annual, compensatory, or sick leave, there would be no cost to the proposal. However, if we assume each employee who has family and medical leave would cause them to incur eight weeks of leave without pay, the state would continue to pay the employer's share of their health insurance at approximately $362 per employee, semi-monthly. If 2,129 state employees utilized 8 weeks of leave without pay due to a family and medical leave, the total cost would be $3.1 million. It is highly unlikely that the minimum or the maximum amounts will occur.

The proposal would cost the state $362 for every two weeks of leave without pay utilized related to family and medical leave, but OA has no way of estimating the amount of leave without pay that will be so used.

Oversight will show a fiscal impact of $0 to a negative Unknown with $0 representing no employees would go on leave without pay status and therefore, costs for benefits would not be incurred. And the unknown represents there is not a predictable number of employees whose benefits would be paid by the state due to leave without pay status and unable to calculate a dollar amount.

Officials at the **Office of Secretary of State (SOS)** state each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be $7.8 million based on the cost of the 2016 Presidential Preference Primary.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle

ASSUMPTION (continued)

with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation. In FY 2017 the Secretary of State's Office was appropriated $2.6 million to publish the full text of the measures. In FY 2017, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $2.4 million to publish (an average of $400,000 per issue). The Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials at the **Office of Administration - Personnel**, the **Office of Administration - Administrative Hearing Commission**, the **Joint Committee on Administrative Rules**, and the **Missouri Treasurer's Office** each assume this proposal will not have a fiscal impact on their respective organizations.

In response to a similar proposal from this session (HB 659), officials at the **City of Clayton** and the affiliated organization used to fund recreation assumed the proposal would have a negative fiscal impact estimated to be $300,000 annually.

In response to a similar proposal from this session (HB 659), officials at the **City of Kansas City** assumed the proposal may have a negative fiscal impact on their organization of an indeterminate amount.

In response to a similar proposal from this session (HB 659), officials at **Callaway County** and **St. Louis County** each assumed the proposal will not have a fiscal impact on their respective organizations.

Oversight will show a negative unknown fiscal impact to local political subdivisions beginning in FY2019.

Officials at the **University of Missouri** assume this proposal could have a significant negative fiscal impact to their organization and not able to provide and estimated amount.

Officials at **Metropolitan Community College**, **Northwest Missouri State University**, and **State Technical College of Missouri** each assume this proposal will not have a fiscal impact on their respective organizations.

ASSUMPTION (continued)

In response to a similar proposal from this session (SB 69), Officials at the **Missouri State University** and **Truman State University** each assumed the proposal will not have a fiscal impact on their respective organizations.

In response to a similar proposal from this session (HB 659), Officials at the school district of **West Plains R-VII** assume this proposal will have a negative fiscal impact on their organization estimated to be $40,000 to $75,000 annually for cost of paying employees' salaries while they are on leave. And in response to a similar proposal from this session (SB 69), officials at the school district of West Plains R-VII assume this proposal could have a negative fiscal impact estimated at $15,000 to $40,000 annually.

Officials at the school district of **Kirksville R-III** assume this proposal could have a negative fiscal impact on their organization.

In response to a similar proposal from this session (HB 659), Officials at the school district of **Kirksville R-III** were unable to provide an impact based on the language of the proposal was too confusing. And in response to a similar proposal from this session (SB 69), officials at the school district of Kirksville R-III, assumed the proposal would have a negative fiscal impact on their organization estimated to exceed $800,000.

In response to a similar proposal from this session (SB 69), officials at the school district of **Forsyth R-III** assume this proposal could have a negative fiscal impact on their organization.

Oversight will show a fiscal impact to local school district funds as a negative unknown to greater than $800,000 beginning in FY2019.

Oversight notes that any positive balance in the Missouri Earned Family Medical Leave Act (MEFMLA) Fund would be carried forward to the next year and used to offset costs in the following fiscal year. The MEFMLA Fund cannot have a negative balance; therefore if costs were to exceed the contributions in any fiscal year then additional funding would have to be requested from the General Revenue Fund to prevent the existence of a negative balance in this Fund. As indicated in the following table created by Oversight.

ASSUMPTION (continued)

	FY2019	FY2020	FY2021
Ending Balance FY2019	$139,314,852		
Balance Forwarded to FY 2020	($139,314,852)	$139,314,852	
Revenue		$309,250,137	
Costs		($429,152,357)	
Ending Balance FY2020		$19,412,632	
Balance Forwarded to FY 2021		$19,412,632	$19,412,632
Revenue			$309,250,137
Costs			($825,013,213)
Ending Balance FY2021*			($496,350,444)
General Revenue Transfer of Funds			$496,350,444
Ending Balance FY2021			$0

* Balance in the MEFMLA Fund would be negative at the end of FY2021, therefore additional funds would need to be requested and transferred from the General Revenue Fund to the MEFMLA Fund to offset the negative balance and bring the Fund balance to $0

Officials at the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Columbia, Dardenne Prairie, Des Peres, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to **Oversight's** request for fiscal impact.

Officials at the following counties: Andrew, Atchison, Audrain, Barry, Bollinger, Boone, Buchanan, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Cole, Cooper, DeKalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, Shelby, St. Charles, St. Francois, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

ASSUMPTION (continued)

Officials at the following colleges: Crowder, East Central Community College, Harris-Stowe, Jefferson College, Lincoln University, Metropolitan Community College, Moberly Area Community College, Missouri Southern State University, Missouri Western State University, Missouri State University, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, Three Rivers Community College, Truman State University, and the University of Central Missouri did not respond to **Oversight's** request for fiscal impact.

Officials at the following school districts: Arcadia Valley R-2, Aurora R-8, Avilla R-13, Bakersfield, Belton, Benton County R-2, Bismark R-5, Bloomfield R-14, Blue Springs, Bolivar R-I, Bowling Green R-1, Branson, Brentwood, Bronaugh R-7, Campbell R-2, Carrollton R-7, Caruthersville, Cassville R-4, Central R-III, Chilhowee R-4, Chillicothe R-II, Clarkton C-4, Cole R-I, Columbia, Concordia R-2, Crawford County R-1, Crocker R-II, Delta C-7, East Carter R-2, East Newton R-6, Eldon R-I, Everton R-lll, Fair Grove, Fair Play, Fayette R-3, Forsyth R-3, Fox C-6, Fredericktown R-I, Fulton, Grain Valley, Hancock Place, Hannibal, Harrisonburg R-8, Harrisonville, Hillsboro R-3, Hollister R-5, Humansville R-4, Hurley R-1, Independence, Jefferson City, Kansas City, Kearney R-1, Kennett #39, King City R-1, Kingston 42, Kirbyville R-VI, Laclede County R-1, Laredo R-7, Lee Summit, Leeton R-10, Lewis County C-1, Lindbergh, Lonedell R-14, Macon County R-1, Macon County R-4, Malta Bend, Mehville, Mexico, Middle Grove C-1, Midway R-1, Milan C-2, Moberly, Monroe City R-I, Morgan County R-2, New Haven, Nixa, North St. Francois Co. R-1, Northeast Nodaway R-5, Odessa R-VII, Oregon-Howell R-III, Orrick R-11, Osage County R-II, Osborn R-O, Parkway, Pattonville, Pettis County R-12, Pierce City, Plato R-5, Princeton R-5, Raymore-Peculiar R-III, Raytown, Reeds Springs R-IV, Renick R-5, Richland R-1, Riverview Gardens, Salisbury R-4, Sarcoxie R-2, Scotland County R-I, Sedalia, Seymour R-2, Shelby County R-4, Shell Knob #78, Sikeston, Silex, Slater, Smithville R-2, Special School District of St. Louis County, Spickard R-II, Springfield, St Joseph, St Louis, St. Charles, St. Elizabeth R-4, Sullivan, Tipton R-6, Valley R-6, Verona R-7, Warren County R-3, Warrensburg R-6, Webster Groves, Westview C-6 and the Wright City R-2 School District did not respond to **Oversight's** request for fiscal impact.

FISCAL IMPACT - State Government	FY 2018	FY 2019 (10 Mo.)	FY 2020	Fully Implemented (FY 2021)
GENERAL REVENUE FUND				
Loss of Revenue - §143.121 - Missouri Individual Income Tax	$0	$0	$0 or ($18,555,008)	$0 or ($18,555,008)
Costs - DOR		$0 or ...	$0 or ...	$0 or ...
Group Health Insurance paid for employees on leave without pay	$0	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Personnel - 4 FTEs	$0	($54,194)	($110,926)	($112,035)
Fringe Benefits - 4 FTEs	$0	($36,969)	($74,266)	($74,596)
Equipment	$0	($29,296)	$0	$0
Integrated System Changes - 501 hours @ $130 per hour	$0	($65,146)	$0	$0
Expenses	$0	($2,335)	($4,786)	($4,930)
Total Costs	$0	$0 or (Unknown to Greater than $187,940)	$0 or (Unknown to Greater than $189,978)	$0 or (Unknown to Greater than $191,561)
FTE Change - DOR	0 FTE	0 or 4 FTE	0 or 4 FTE	0 or 4 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	**$0**	**$0 or (Unknown to Greater than $187,940)**	**$0 or (Unknown to Greater than $18,744,986)**	**$0 or (Unknown to Greater than $18,746,569)**
Net FTE Change - General Revenue Fund	0 FTE	0 or 4 FTE	0 or 4 FTE	0 or 4 FTE

FISCAL IMPACT - State Government (continued)	FY 2018	FY 2019 (10 Mo.)	FY 2020	Fully Implemented (FY 2021)
MISSOURI EARNED FAMILY AND MEDICAL LEAVE ACT FUND				
Revenue - §280.405 - Contribution to MEFMLP Fund	$0	$0 or $154,626,068	$0 or $309,250,137	$0 or $309,250,137
Direct Costs - DOLIR	$0	$0 or ...	$0 or ...	$0 or ...
Personnel - 190 FTEs	$0	($3,355,793)	($6,778,703)	($6,846,489)
Fringe Benefits - 190 FTEs	$0	($1,963,153)	($2,982,496)	($3,002,682)
Equipment for additional FTEs	$0	($1,429,940)	$0	$0
IT - Design / Implementation	$0	($7,820,550)	$0	$0
IT - Equipment	$0	($43,171)	$0	$0
General Office Expense	$0	($226,105)	($463,515)	($475,103)
Benefits (starting 1/1/2020)	$0	$0	($406,167,840)	($812,335,680)
Mailing Costs	$0	($83,720)	($212,440)	($424,879)
Outreach - print media	$0	($100,279)	($90,100)	($90,100)
Outreach - radio campaign	$0	$0	($67,445)	($134,890)
IT Program Maintenance	$0	$0	($11,874,013)	($11,577,943)
IT Equipment Maintenance	$0	($22,558)	($27,745)	($28,438)
Total Direct Costs - DOLIR	$0	$0 or ($15,045,269)	$0 or ($428,664,297)	$0 or ($834,916,204)
Total Indirect Costs - DOLIR	$0	($265,947)	($488,060)	($492,459)
Total Costs	$0	($15,311,216)	($429,152,357)	($835,408,663)
FTE Change - DOLIR	0 FTE	0 or 190 FTE	0 or 190 FTE	0 or 190 FTE
ESTIMATED NET EFFECT TO THE MISSOURI EARNED FAMILY AND MEDICAL LEAVE ACT FUND	**$0**	**$0 or $139,314,852**	**$0 or ($119,902,220)**	**$0 or ($526,158,526)**
Net FTE Change on General Revenue Fund	0 FTE	0 or 190 FTE	0 or 190 FTE	0 or 190 FTE

FISCAL IMPACT - State Government (continued)	FY 2018	FY 2019 (10 Mo.)	FY 2020	Fully Implemented (FY 2021)
FEDERAL FUNDS				
Costs - Group Health Insurance paid for employees on leave without pay	$0	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**$0**	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

FISCAL IMPACT - Local Government	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
LOCAL POLITICAL SUBDIVISIONS				
Costs - Implement MEFMLP	$0	(Unknown to $300,000)	(Unknown to $300,000)	(Unknown to $300,000)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**$0**	**(Unknown to $300,000)**	**(Unknown to $300,000)**	**(Unknown to $300,000)**
LOCAL SCHOOL DISTRICT FUNDS				
Costs - Payment to employees for leave taken under the MEFMLP	$0	($0 or Unknown to Greater than $800,000)	($0 or Unknown to Greater than $800,000)	($0 or Unknown to Greater than $800,000)
ESTIMATED NET EFFECT TO THE LOCAL SCHOOL DISTRICT FUNDS	**$0**	**($0 or Unknown to Greater than $800,000)**	**($0 or Unknown to Greater than $800,000)**	**($0 or Unknown to Greater than $800,000)**

FISCAL IMPACT - Small Business

A direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill establishes the "Missouri Earned Family and Medical Leave Act." The program established by this bill provides up to eight weeks of wage replacement benefits per year to an employee who takes time off for family or medical leave. The term "family or medical leave" is defined to include leave to bond with a minor child after birth or adoption, due to the employee's serious health condition, to care for a family member with a serious health condition, and to assume any familial responsibility because a spouse, child, or parent is on or called to active duty. The Department of Labor and Industrial Relations shall administer and implement the program.

An employee shall file a claim for benefits under the program within 41 days of the first compensable day of leave, unless extended for good cause. An employee is not eligible for benefits on any day he or she is eligible for unemployment compensation or workers' compensation benefits. Any leave taken under this program shall be concurrent with leave the employee is entitled to under the federal Family and Medical Leave Act.
The bill specifies information the employee must provide to establish eligibility for leave, including medical evidence of the serious health condition of the employee or family member. If the need for leave is foreseeable, an employee shall provide at least 30 days' notice of the need for leave to the employer. An employee may appeal the department's decision of eligibility for benefits. An administrative law judge shall conduct a hearing on the appeal in accordance with Chapter 536, RSMo. A determination of the amount of benefits shall not be the subject of an appeal, but shall be subject to a request for redetermination by the department. A redetermination of benefits, or the allowance or denial of benefits, may be made by the department under certain specific conditions.

It shall be unlawful to discharge or discriminate against an employee because the employee claimed or received benefits under the program. Any person who violates the provisions of this section shall be liable to the affected employee for actual damages and an additional amount as liquidated damages. The affected employee may also seek equitable relief including reinstatement. The court may also require reasonable attorney's fees to be paid by the defendant. The department may also bring an action seeking relief on behalf of an employee. Any action brought under this section shall be filed not later than three years from the date of the alleged violation.

The department shall develop an outreach program to inform employees of the benefits available under this program. Within three years, the state auditor shall submit to the General Assembly a report containing specified information about the program. The bill creates the "Missouri Earned Family and Medical Leave Fund" in the state treasury. The state treasurer shall be the custodian of the fund. The fund shall be a dedicated fund with its moneys used solely by the Department of Labor and Industrial Relations to distribute the Missouri Earned Family and Medical Leave Act program benefits. Beginning January 1, 2019, employees shall contribute to the fund one quarter of one percent of their average weekly pay. Program benefits may be reduced if there are insufficient resources in the fund. No employee shall receive benefits from

FISCAL DESCRIPTION (continued)

the fund until January 1, 2020. Amounts contributed to the fund may be deducted from the individual's adjusted gross income.

The bill contains a referendum clause and will not become effective unless approved by a majority of the qualified voters.

This legislation id not federally mandated, is similar to the Family Medical Leave Act, and might require additional rental space and capital improvements.

SOURCES OF INFORMATION

Department of Labor and Industrial Relations
Office of Administration - Administrative Hearing Commission
Office of Administration - Budget and Planning
Office of Administration - Personnel
Department of Revenue
Office of Secretary of State
State Treasurer's Office
Joint Committee on Administrative Rules
City of Clayton
City of Kansas City
Callaway County
St. Louis County
Metropolitan Community College
Northwest Missouri State University
State Technical College of Missouri
University of Missouri
School Districts of:
  West Plains R-VII
  Kirksville R-III
  Forsyth R-III

Mickey Wilson

Mickey Wilson, CPA
Director
April 24, 2017

Ross Strope
Assistant Director
April 24, 2017

CL:LR:OD