

House File 2772

H-8427

1 Amend House File 2772 as follows:

2 1. Page 19, after line 15 by inserting:

3 <DIVISION ____

4 FAMILY LEAVE AND MEDICAL LEAVE INSURANCE PROGRAM

5 Sec. ____ . Section 7E.5, subsection 1, paragraph h, Code
6 2026, is amended to read as follows:

7 h. The department of workforce development, created
8 in [section 84A.1](#), which has primary responsibility for
9 administering the laws relating to unemployment compensation
10 insurance, job placement and training, the family leave and
11 medical insurance program, and related matters.

12 Sec. ____ . Section 84A.1, subsection 1, Code 2026, is amended
13 to read as follows:

14 1. The department of workforce development is created to
15 administer the laws of this state relating to unemployment
16 compensation insurance, and job placement and training, and the
17 family leave and medical leave insurance program.

18 Sec. ____ . NEW SECTION. 96A.1 Short title.

19 This chapter may be cited as the "*Iowa Family and Medical*
20 *Leave Act*".

21 Sec. ____ . NEW SECTION. 96A.2 Definitions.

22 As used in this chapter, unless the context otherwise
23 requires:

24 1. "*Child*" means a biological, adopted, or foster child,
25 a stepchild, a legal ward, or a child of a person standing in
26 loco parentis, regardless of the child's age or dependency
27 status.

28 2. "*Covered employer*" means a private sector employer who
29 has ten or more employees for each working day during each of
30 twenty or more calendar workweeks in the current or previous
31 calendar year, and a public employer without regard to the
32 number of employees employed.

33 3. "*Department*" means the department of workforce
34 development.

35 4. "*Director*" means the director of the department of

1 workforce development.

2 5. "*Domestic abuse*" includes domestic abuse as defined in
3 section 236.2 and domestic abuse assault as defined in section
4 708.2A.

5 6. "*Employee*" means a natural person who is employed in
6 this state for wages by an employer. "*Employee*" also includes
7 a commission salesperson who takes orders or performs services
8 on behalf of a principal and who is paid on the basis of
9 commissions but does not include persons who purchase for
10 their own account for resale. "*Employee*" shall not include an
11 independent contractor, a self-employed person, or a patient or
12 inmate employed by a state or local institution to which the
13 patient or inmate has been sentenced or committed, or any of
14 the following persons engaged in agriculture:

15 a. The spouse of the employer and a relative of either the
16 employer or the employer's spouse who resides on the premises
17 of the employer.

18 b. A person engaged in agriculture as an owner-operator
19 or tenant-operator, and the spouse or a relative of either
20 an owner-operator or a tenant-operator who resides on the
21 premises while exchanging labor with the owner-operator or the
22 tenant-operator for mutual benefit.

23 c. A neighboring person engaged in agriculture who is
24 exchanging labor or other services.

25 7. "*Employer*" means the same as defined in 91A.2.
26 "*Employer*" includes a temporary staffing agency or employment
27 agency.

28 8. "*Employment benefits*" means all benefits provided or
29 made available to an employee by an employer, including group
30 life insurance, health insurance, disability insurance, sick
31 leave, annual leave, educational benefits, and pensions except
32 benefits that are provided by a practice or written policy of
33 an employer or through an employee benefit plan as defined in
34 29 U.S.C. §1002(3).

35 9. "*Family leave*" means a leave taken from work by an

1 employee for any of the following reasons:

2 *a.* To participate in providing care, including physical or
3 psychological care, for a family member of the employee made
4 necessary by a serious health condition of the family member.

5 *b.* To bond with the employee's child after the child's
6 birth, or with a child under the age of eighteen placed with
7 the employee for adoption or foster care.

8 *c.* Because of a qualifying exigency for a family member as
9 permitted under the federal Family and Medical Leave Act of
10 1993, as amended, and federal regulations as provided in 29
11 C.F.R. §825.126.

12 *d.* Because the employee or a family member has been a
13 victim of crime, provided the leave is to do one or more of the
14 following:

15 (1) Seek medical attention for the employee or family member
16 to recover from physical or psychological injury or disability
17 caused by having been a victim of crime.

18 (2) Obtain services or counseling from a victim services
19 organization, licensed social worker, marital and family
20 therapist, mental health counselor, psychologist, or
21 psychiatrist.

22 (3) Seek relocation or change of residence due to having
23 been a victim of crime.

24 (4) Take legal action, including reporting the crime to law
25 enforcement and preparing for or participating in any civil or
26 criminal legal proceeding related to or resulting from having
27 been a victim of crime.

28 (5) Obtain other services to ensure the safety of the
29 employee or family member or the employee's home or vehicle.

30 10. "*Family member*" means a child, parent, or spouse of an
31 employee.

32 11. "*Gross earnings*" means the same as defined in section
33 85.61.

34 12. "*Health care provider*" means a physician or other
35 health care practitioner licensed, accredited, registered, or

1 certified to perform specified health care services consistent
2 with state law.

3 13. "*In loco parentis*" means an individual who has
4 day-to-day responsibilities to care for or financially support
5 a child.

6 14. "*Inpatient care*" means an overnight stay in a hospital,
7 hospice, or residential medical care facility, including any
8 period of incapacity, or any subsequent treatment in connection
9 with such inpatient care.

10 15. "*Medical leave*" means a leave from work taken by an
11 employee made necessary by the employee's own serious health
12 condition.

13 16. "*Other violent crime*" means a crime causing, meant to
14 cause, or threatening to cause personal injury to a person.

15 17. "*Parent*" means a biological, adoptive, step, or foster
16 father or mother, or any other individual who stands in
17 loco parentis to an employee or who stood in loco parentis
18 when the employee was a child. "*Parent*" does not include a
19 parent-in-law.

20 18. "*Period of incapacity*" means an inability to work,
21 attend school, or perform other regular daily activities due
22 to a serious health condition, treatment of a serious health
23 condition, or recovery from a serious health condition.

24 19. "*Premium*" or "*premiums*" means the payments required by
25 section 96A.12 and paid to the department for deposit in the
26 family and medical leave insurance account pursuant to section
27 96A.22.

28 20. "*Public employer*" means the state of Iowa, its
29 boards, commissions, agencies, departments, and its political
30 subdivisions including school districts and other special
31 purpose districts.

32 21. "*Serious health condition*" means an illness, injury,
33 impairment, physical condition, or mental condition that
34 involves inpatient care in a hospital, hospice, medical care
35 facility, or continued treatment or continuing supervision by

1 a health care provider.

2 22. "*Spendable weekly earnings*" means the amount remaining
3 after payroll taxes are deducted from an employee's gross
4 weekly earnings.

5 23. "*Spouse*" means the person with whom an individual has
6 entered into marriage as defined or recognized under state law
7 for purposes of marriage in the state in which the marriage
8 was entered into or, in the case of a marriage entered into
9 outside of any state, if the marriage is valid in the place
10 where the marriage was entered into and the marriage could have
11 been entered into in at least one state, including a common law
12 marriage.

13 24. "*Stalking*" means the same as described in section
14 708.11.

15 25. "*Victim of crime*" means a victim of domestic abuse,
16 sexual abuse, stalking, other violent crime, or the surviving
17 family member of a murder victim.

18 26. "*Wages*" means the same as defined in section 91A.2.

19 Sec. _____. NEW SECTION. **96A.3 Benefit eligibility.**

20 An employee is eligible for family leave and medical leave
21 as provided in this chapter after working for a covered
22 employer for both a minimum of twelve consecutive months
23 immediately preceding the employee's request for leave and a
24 minimum of one thousand two hundred fifty hours during that
25 twelve-consecutive-month period.

26 Sec. _____. NEW SECTION. **96A.4 Leave entitlement for a**
27 **defined twelve-month period.**

28 1. An employee is entitled to a maximum of twelve weeks
29 of family leave during a defined period of twelve consecutive
30 months.

31 2. An employee is entitled to a maximum of twelve weeks of
32 medical leave during a defined period of twelve consecutive
33 months unless the employee experiences a serious health
34 condition, which is pregnancy-related, that results in a longer
35 period of incapacity in which case any extended medical leave

1 beyond twelve weeks shall conform with section 216.6.

2 3. An employee is entitled to a maximum combined total of
3 paid family leave and medical leave of twelve weeks during a
4 defined period of twelve consecutive months.

5 4. An employee is not entitled to family leave or medical
6 leave of less than eight consecutive hours.

7 Sec. _____. NEW SECTION. **96A.5 Calculating the defined**
8 **twelve-month period.**

9 The defined period of twelve consecutive months for
10 calculation of an eligible employee's family leave or medical
11 leave entitlement begins on any of the following:

12 1. The date of birth of the employee's child, or the date
13 of placement of a child for adoption or foster care with the
14 employee.

15 2. The first day of family leave that the employee takes for
16 a family member's serious health condition or a family member's
17 qualifying exigency or for the employee or family member being
18 a victim of crime.

19 3. The first day of the employee's medical leave.

20 Sec. _____. NEW SECTION. **96A.6 Disqualification from leave**
21 **entitlement.**

22 An eligible employee is disqualified for family leave or
23 medical leave benefits under this chapter for any of the
24 following reasons:

25 1. An absence due to the employee's willful intention to
26 injure or cause a sickness to the employee or to the employee's
27 family member.

28 2. An injury or sickness caused by the employee engaging in
29 an illegal act.

30 3. The employee's absence due to an employer taking any
31 disciplinary action against the employee.

32 Sec. _____. NEW SECTION. **96A.7 Employee notice to employer**
33 **of intent to take leave.**

34 1. If leave for the birth of a child or placement of a child
35 for adoption or foster care with an employee is foreseeable,

1 the employee shall provide written notice to the employer not
2 less than thirty calendar days before the date the leave is to
3 begin.

4 2. If the birth of a child or placement of a child for
5 adoption or foster care with an employee requires leave to
6 begin in less than thirty calendar days, the employee shall
7 provide written notice to the employer as far in advance as is
8 practicable.

9 3. If leave for a family member's serious health condition
10 or an employee's serious health condition is foreseeable based
11 on planned medical treatment, the employee shall do all of the
12 following:

13 a. Make a reasonable effort to schedule such medical
14 treatment, subject to the recommendation of the employee's or
15 family member's health care provider as appropriate, to not
16 unduly disrupt the operations of the employer.

17 b. Provide the employer with not less than thirty calendar
18 days prior written notice of the employee's intention to take
19 leave for a family member's serious health condition or the
20 employee's serious health condition.

21 4. If leave for a family member's serious health condition
22 or an employee's serious health condition is not foreseeable,
23 the employee shall provide written notice to the employer as
24 far in advance as is practicable.

25 Sec. _____. NEW SECTION. 96A.8 Weekly claim, certification,
26 and verification.

27 Beginning January 1, 2031, family leave or medical leave
28 insurance benefits are payable to an employee during a period
29 in which the employee is unable to perform the employee's
30 regular or customary work because the employee is on family
31 leave or medical leave if the employee meets all of the
32 following requirements:

33 1. The employee files a weekly claim for benefits with the
34 department as required per rules adopted by the director.

35 2. The employee meets the eligibility requirements pursuant

1 to section 96A.3 or the elective coverage requirements pursuant
2 to section 96A.14.

3 3. The employee consents to the disclosure of information or
4 records that may be deemed private or confidential under state
5 or federal law. Disclosure of such information and records by
6 another state agency or an employer to the department shall
7 be solely for purposes related to the administration of this
8 chapter. Information and records disclosed by an employee
9 under this chapter shall not be public records as defined in
10 section 22.1.

11 4. The employee authorizes the health care provider of the
12 employee's family member or of the employee, as applicable, to
13 complete a certification of a serious health condition in a
14 form as required by the director.

15 5. The employee attests that written notice has been
16 provided to the employee's employer per section 96A.7.

17 6. The employee provides documentation of a family member's
18 qualifying exigency or the crime of which the employee or
19 family member was a victim if requested by the employee's
20 employer.

21 Sec. _____. NEW SECTION. **96A.9 Waiting period for leave**
22 **benefits.**

23 Family leave or medical leave insurance benefits shall be
24 payable to an eligible employee following a waiting period
25 consisting of the first seven calendar days of the employee's
26 leave. However, no such waiting period applies to a leave for
27 the birth or placement of a child with an eligible employee.

28 Sec. _____. NEW SECTION. **96A.10 Weekly leave benefit amount.**

29 1. The basis for the calculation of a leave benefit amount
30 shall be the weekly earnings of an eligible employee on the
31 day the leave is granted. "*Weekly earnings*" means the gross
32 earnings of an employee to which the employee would have been
33 entitled had the employee worked the employee's customary hours
34 for the full pay period in which the employee is on family
35 leave or medical leave. Weekly earnings shall be computed as

1 follows, rounded to the nearest dollar, for an employee who is
2 paid on the following basis:

3 a. On a weekly pay period basis, the weekly earnings are the
4 weekly gross earnings.

5 b. On a biweekly pay period basis, the weekly earnings are
6 one-half of the biweekly gross earnings.

7 c. On a semimonthly pay period basis, the weekly earnings
8 are the semimonthly gross earnings multiplied by twenty-four
9 and then divided by fifty-two.

10 d. On a monthly pay period basis, the weekly earnings
11 are the monthly gross earnings multiplied by twelve and then
12 divided by fifty-two.

13 e. On a yearly pay period basis, the weekly earnings shall
14 be the yearly earnings divided by fifty-two.

15 f. On a daily or hourly basis, or by the output of an
16 employee, the weekly earnings shall be computed by dividing by
17 thirteen the earnings, including shift differential pay but
18 not including overtime or premium pay, of the employee earned
19 in the last completed period of thirteen consecutive calendar
20 weeks immediately preceding the start day of the leave. If
21 the employee was absent from employment for personal reasons
22 during part of the thirteen calendar weeks preceding the
23 leave, the employee's weekly earnings shall be the amount the
24 employee would have earned had the employee worked when work
25 was available to other employees of the employer in a similar
26 occupation. A week that does not fairly reflect the employee's
27 customary earnings shall be replaced by the closest previous
28 week with earnings that fairly represent the employee's
29 customary earnings.

30 2. If on the date that an employee's leave begins the
31 employee's hourly earnings cannot be ascertained, the earnings
32 for the purpose of calculating the benefit amount shall be the
33 usual earnings for similar services where such services are
34 rendered by paid employees.

35 3. If an employee earns either no wages, or less than the

1 usual weekly earnings of a regular full-time adult laborer
2 in the line of work in which the employee is working in that
3 locality, the weekly earnings shall be one-fiftieth of the
4 total earnings that the employee has earned from all employment
5 during the twelve consecutive calendar months immediately
6 preceding the date that the employee's leave begins.

7 4. The weekly leave benefit amount payable to an employee
8 for any one week shall be eighty percent of the employee's
9 spendable weekly earnings, but shall not exceed an amount equal
10 to two hundred percent of the statewide average weekly wage
11 as calculated by the department pursuant to section 96.1A and
12 in effect on the date that the employee's leave commences.
13 However, the weekly leave benefit amount shall be a minimum
14 equal to the lesser of the weekly leave benefit amount of a
15 person whose gross weekly earnings are thirty-five percent of
16 the statewide average weekly wage, or to the spendable weekly
17 earnings of the employee.

18 Sec. ____ . NEW SECTION. 96A.11 **Payment of benefits to an**
19 **eligible employee.**

20 1. The department shall send the first benefit payment to
21 an employee within ten calendar days after the first properly
22 completed weekly claim from the employee is received by
23 the department. Subsequent payments shall be sent at least
24 biweekly to an eligible employee if a properly completed weekly
25 claim from the employee is received by the department.

26 2. If an employer contests an employee's initial claim
27 for family leave or medical leave benefits, the employer must
28 notify the employee and the department in the manner prescribed
29 by the director within ten calendar days of the employer's
30 receipt of notice from the department of the employee's filing
31 of a claim for benefits pursuant to section 96A.21, subsection
32 3. Failure to timely contest an initial application shall
33 constitute a waiver of objection to the family leave or medical
34 leave claim.

35 3. If the department or the employee's employer contests

1 an employee's eligibility for benefits after the employee
2 begins receiving benefits, the employee shall continue to
3 be paid benefits conditionally for any weeks for which the
4 employee files a claim for benefits. The employee's right to
5 retain such benefit payments shall be conditioned upon the
6 department's finding that the employee is eligible for such
7 benefit payments.

8 a. At an employee's request, the department shall hold
9 conditional benefit payments until the department resolves the
10 employee's eligibility status.

11 b. Payment shall be issued promptly for any withheld benefit
12 payments if the department determines that an employee is
13 eligible for benefits.

14 c. If the department determines that an employee is
15 ineligible for the conditionally paid benefits, the employee
16 shall repay the overpayment per rules adopted by the director.

17 Sec. _____. **NEW SECTION. 96A.12 Funding the family leave and**
18 **medical leave insurance program.**

19 1. Beginning on January 1, 2030, and ending December
20 31, 2031, the department shall assess for each employee
21 in employment with a covered employer a premium rate of
22 four-tenths of one percent of the employee's wages based on the
23 amount of the wages, subject to subsection 6.

24 a. The premium rate for family leave benefits shall be equal
25 to one-third of the total premium rate.

26 b. The premium rate for medical leave benefits shall be
27 equal to two-thirds of the total premium rate.

28 2. For calendar year 2032 and subsequent calendar years the
29 director shall determine the percentage of paid claims related
30 to family leave benefits and the percentage of paid claims
31 related to medical leave benefits and adjust the premium rates
32 set in subsection 1 by the proportional share of claims paid
33 for both types of leave.

34 3. For family leave premiums a covered employer may deduct
35 up to forty-five percent of the full amount of the required

1 premiums from the wages of each employee. The remaining
2 fifty-five percent of the required premiums shall be paid by
3 the covered employer.

4 4. For medical leave premiums a covered employer may deduct
5 up to forty-five percent of the full amount of the required
6 premiums from the wages of each employee. The remaining
7 fifty-five percent of the required premiums shall be paid by
8 the covered employer.

9 5. A covered employer may elect to pay all or any portion of
10 its employees' share of the premiums for family leave benefits
11 or medical leave benefits or both.

12 6. The director shall annually set a maximum limit on the
13 amount of an employee's wages that are subject to a premium
14 assessment under this section that is equal to the contribution
15 and benefit base for the calendar year as determined by the
16 United States social security administration for purposes of
17 26 U.S.C. §3121(a).

18 7. For calendar year 2032 and subsequent calendar years,
19 the total premium rate shall be based on the family leave and
20 medical leave insurance account balance ratio as of September
21 30 of the previous year. The director shall calculate the
22 account balance ratio by dividing the balance of the family
23 leave and medical leave insurance account by the total wages
24 paid by covered employers. The division shall be carried
25 to the fourth decimal place with the remaining fraction
26 disregarded unless it amounts to five hundred thousandths or
27 more in which case the fourth decimal place shall be rounded
28 to the next higher digit. If the family leave and medical
29 leave insurance account balance ratio is any of the following
30 percentages, the premium shall be the following percentage of
31 an employee's wages subject to a premium assessment:

32 a. If the ratio is zero to nine hundredths of one percent,
33 the premium shall be six-tenths of one percent.

34 b. If the ratio is one-tenth of one percent to nineteen
35 hundredths of one percent, the premium shall be five-tenths of

1 one percent.

2 *c.* If the ratio is two-tenths of one percent to twenty-nine
3 hundredths of one percent, the premium shall be four-tenths of
4 one percent.

5 *d.* If the ratio is three-tenths of one percent to
6 thirty-nine hundredths of one percent, the premium shall be
7 three-tenths of one percent.

8 *e.* If the ratio is four-tenths of one percent to forty-nine
9 hundredths of one percent, the premium shall be two-tenths of
10 one percent.

11 *f.* If the ratio is five-tenths of one percent or greater,
12 the premium shall be one-tenth of one percent.

13 8. Beginning January 1, 2032, if the account balance ratio
14 calculated in subsection 7 is below five hundredths of one
15 percent, the director shall assess a solvency surcharge at
16 the lowest rate necessary to provide revenue to pay for the
17 administrative and benefit costs of family leave and medical
18 leave insurance for the calendar year. The solvency surcharge
19 shall be at least one-tenth of one percent and no more than
20 six-tenths of one percent and shall be added to the total
21 premium rate assessed to each employee of a covered employer
22 for family leave and medical leave benefits.

23 9. A covered employer shall collect all required premiums
24 and surcharges from the employer's employees through payroll
25 deductions and shall remit the amount collected and the amount
26 to be paid by the employer to the department as required by
27 rules adopted by the director.

28 10. On September 30 of each year the department shall
29 average the number of employees reported by an employer over
30 the last four completed calendar quarters to determine the
31 number of employees employed by the employer for the purpose
32 of determining if an employer shall be considered a covered
33 employer for the next calendar year.

34 Sec. _____. NEW SECTION. 96A.13 Conditional waiver of premium
35 for out-of-state employee.

1 1. An employer may file an application with the department
2 for a conditional waiver of the payment of family leave and
3 medical leave premiums assessed under section 96A.12 for an
4 employee who meets all of the following requirements:

5 a. The employee is physically based outside of the state.

6 b. The employee physically works in the state on a limited
7 or temporary work schedule.

8 c. The employee is not expected to physically work in the
9 state for one thousand two hundred fifty hours or more during
10 any consecutive twelve-month period.

11 2. The department shall approve an application that is
12 signed by both the employee and the employee's employer
13 attesting to compliance with the requirements of subsection 1.

14 3. If the employee physically works in the state for one
15 thousand two hundred fifty hours or more in any consecutive
16 twelve-month period, the conditional waiver shall expire and
17 the employer and employee shall be responsible for all premiums
18 pursuant to section 96A.12 for the consecutive twelve-month
19 period in which the employee worked one thousand two hundred
20 fifty hours or more. Upon submission of the premiums by the
21 employer to the department, the employee shall be credited for
22 the hours worked during that consecutive twelve-month period
23 and shall be eligible for benefits under this chapter.

24 Sec. ____ . NEW SECTION. **96A.14 Self-employed persons**
25 **elective participation in the family leave and medical leave**
26 **insurance program.**

27 1. A self-employed person electing to participate in the
28 family leave and medical leave insurance program shall be
29 considered either an employer or employee under this chapter
30 as the context dictates.

31 2. For benefits payable beginning January 1, 2032, a
32 self-employed person may elect to participate in the family
33 leave and medical leave insurance program under this chapter
34 if the self-employed person meets all of the following
35 requirements:

1 *a.* The initial participation period for the self-employed
2 person must be a minimum of three years.

3 *b.* Any subsequent participation period by the self-employed
4 person must be for a minimum of one year.

5 *c.* The self-employed person must participate in both family
6 leave and medical leave.

7 *d.* One hundred percent of all premiums assessed by
8 the department under section 96A.12 shall be paid by the
9 self-employed person.

10 3. A self-employed person shall file a written notice of
11 election of elective coverage with the department in the manner
12 required by the director.

13 4. A self-employed person shall be eligible for
14 family leave and medical leave benefits after working one
15 thousand two hundred fifty hours in the state during the
16 twelve-consecutive-month period immediately following the date
17 of the written notice the self-employed person filed pursuant
18 to subsection 3.

19 5. A self-employed person who has elected coverage may
20 withdraw from coverage within thirty calendar days after the
21 end of each participation period pursuant to subsection 2,
22 paragraph "a" or "b", by filing a written notice of withdrawal
23 as required pursuant to the rules adopted by the director. The
24 withdrawal shall take effect no sooner than thirty calendar
25 days after the self-employed person files the notice of
26 withdrawal.

27 6. If a self-employed person fails to submit the required
28 premium payments, the department may cancel the person's
29 elective coverage. The cancellation shall be effective no
30 sooner than thirty days from the date of a written notice
31 from the department to the self-employed person advising the
32 self-employed person of the impending cancellation of the
33 self-employed person's elective coverage. The department shall
34 collect all due and unpaid premiums from the self-employed
35 person for the remainder of the applicable participation period

1 pursuant to subsection 2, paragraph "a" or "b".

2 Sec. _____. NEW SECTION. 96A.15 **Employment protection.**

3 1. An eligible employee who takes family leave or medical
4 leave under this chapter is entitled to either of the following
5 on the employee's return from leave:

6 a. To be restored to the same position held by the employee
7 when the employee's leave commenced.

8 b. To be restored to an equivalent position with equivalent
9 employment benefits, pay, and other terms and conditions of
10 employment.

11 2. As a condition of restoration under subsection 1 for an
12 employee who has taken medical leave, the employer may apply
13 a uniform policy to the employee that requires an employee to
14 provide certification from the employee's health care provider
15 that the employee is able to resume work.

16 3. Taking leave under this chapter shall not result in the
17 loss of any employment benefits accrued by an employee prior to
18 the date on which the employee's leave commenced.

19 4. This section shall not be construed to entitle a restored
20 employee to any of the following:

21 a. The accrual of any seniority or employment benefits
22 during any period of leave.

23 b. Any right, benefit, or position of employment other than
24 any right, benefit, or position of employment to which the
25 employee would have been entitled had the employee not taken
26 leave.

27 5. This section shall not be construed to prohibit an
28 employer from requiring an employee on leave to report
29 periodically to the employer on the status and intention of the
30 employee to return to work.

31 6. An employer may deny restoration under this section to
32 a salaried employee who is among the ten percent highest-paid
33 employees employed by the employer within seventy-five miles
34 of the facility at which the employee is employed if all of the
35 following apply:

1 a. Denial of restoration is necessary to prevent substantial
2 and grievous economic injury to the operations of the employer.

3 b. The employer notifies the employee of the intent of the
4 employer to deny restoration on such basis at the time the
5 employer determines such basis exists.

6 c. The employee is on leave and elects not to return
7 to employment after receiving the employer's notice of the
8 employer's intent not to restore the employee.

9 7. This section shall not be construed as providing an
10 employee greater restoration rights than those required under
11 the federal Family and Medical Leave Act of 1993, as amended.

12 Sec. ____ . NEW SECTION. **96A.16 Maintenance of existing**
13 **health benefits.**

14 If required by the federal Family and Medical Leave
15 Act of 1993, as amended, an employer shall maintain any
16 existing health benefits of an employee for the duration of
17 an employee's leave under this chapter. If the employer and
18 the employee normally share the cost of such existing health
19 benefits, the employee shall remain responsible for the
20 employee's share of the cost of such.

21 Sec. ____ . NEW SECTION. **96A.17 Employer submission of**
22 **reports and maintenance of records.**

23 1. Pursuant to rules adopted by the director, an employer
24 shall submit reports and furnish information related to
25 the family leave and medical leave insurance program to the
26 director.

27 2. An employer shall maintain at the employer's primary
28 place of business a record of employment for each employee from
29 which any information needed by the department for purposes of
30 this chapter may be obtained. Such record shall be maintained
31 for ten years from the date on which an eligible employee
32 applies for family leave or medical leave under this chapter.
33 The record shall be open for inspection by the director at all
34 times. All personnel records and employee medical records
35 shall be maintained by the employer in compliance with all

1 applicable federal and state laws.

2 Sec. _____. NEW SECTION. **96A.18 Coordination of family leave**
3 **and medical leave with other laws and with employer policies.**

4 1. Family leave or medical leave taken by an employee under
5 this chapter shall be in addition to any leave available to
6 an employee as required by applicable state or federal law
7 for sickness or temporary disability because of pregnancy or
8 childbirth.

9 2. Family leave or medical leave taken by an employee under
10 this chapter shall be taken concurrently with any leave taken
11 under the federal Family and Medical Leave Act of 1993, as
12 amended.

13 3. An employer may allow an employee who has accrued
14 vacation, sick, or other paid time off to choose to use either
15 such accrued time or to receive paid family leave or medical
16 leave insurance benefits under this chapter.

17 Sec. _____. NEW SECTION. **96A.19 Relationship to other state**
18 **and federal benefits.**

19 In any week an employee is eligible to receive benefits under
20 chapter 85, 85A, 85B, or 96, or any other applicable state or
21 federal unemployment compensation, workers' compensation, or
22 disability insurance laws, the employee is disqualified from
23 receiving family leave or medical leave insurance benefits
24 under this chapter.

25 Sec. _____. NEW SECTION. **96A.20 Discrimination prohibited.**

26 This chapter shall not be construed to modify or affect any
27 federal, state, or local law prohibiting discrimination on the
28 basis of age, race, creed, color, sex, sexual orientation,
29 gender identity, national origin, religion, disability, or
30 other protected category.

31 Sec. _____. NEW SECTION. **96A.21 Department to administer**
32 **family leave and medical leave insurance program and conduct**
33 **outreach.**

34 1. The director shall establish and administer the family
35 leave and medical leave insurance program and disburse family

1 leave and medical leave benefits to an eligible employee as
2 specified in this chapter.

3 2. The director shall establish procedures and forms for
4 an employee to file an application for benefits under this
5 chapter.

6 3. The department shall notify an employer within five
7 business days of an employee filing a claim for family leave or
8 medical leave insurance benefits.

9 4. Information and records pertaining to an employee under
10 this chapter that are maintained by the department shall
11 be confidential and shall only be available to department
12 personnel in the performance of official duties.

13 5. The director shall develop and implement an outreach
14 program to ensure that employers and employees are aware of
15 the family leave and medical leave insurance program and are
16 aware of the leave benefits available to eligible employees.
17 Outreach information shall explain in an easy-to-understand
18 format all of the following:

19 a. Eligibility requirements.

20 b. The application process.

21 c. How weekly benefits are calculated and the minimum and
22 maximum weekly benefit amount.

23 d. Restoration rights.

24 e. Nondiscrimination rights.

25 f. Confidentiality.

26 g. The relationship between employment protection, leave
27 from employment, wage replacement benefits under this chapter
28 and other laws, and employer policies.

29 6. The department shall be authorized to inspect and audit
30 an employer's files and records relating to the family leave
31 and medical leave insurance program under this chapter.

32 Sec. ____ . NEW SECTION. **96A.22 Family leave and medical**
33 **leave insurance account — report.**

34 1. The family leave and medical leave insurance account
35 is created as a separate account in the state treasury in the

1 custody of the treasurer of state.

2 2. The director shall deposit all receipts from premiums
3 imposed pursuant to sections 96A.12, 96A.13, and 96A.14 into
4 the account. Expenditures from the account shall be used
5 only for the purposes of the family leave and medical leave
6 insurance program and only as authorized by the director.

7 3. All premiums deposited in the account shall remain in
8 the account until expended pursuant to the requirements of this
9 chapter.

10 4. The director shall submit an annual report to the
11 general assembly by January 1 on the financial condition of
12 the account and whether the premium rates and benefit levels
13 are appropriate to fully fund and maintain the solvency of the
14 account.

15 Sec. _____. NEW SECTION. **96A.23 Rules.**

16 The director shall adopt rules pursuant to chapter 17A to
17 implement and administer this chapter.

18 Sec. _____. NEW SECTION. **96A.24 Enforcement.**

19 The director may take any action under the director's
20 authority to enforce compliance with this chapter.>

21 2. Title page, by striking lines 5 and 6 and inserting
22 <certain regents institutions; codifying the housing renewal
23 program; and creating a family leave and medical leave
24 insurance program.>

25 3. By renumbering as necessary.

CROKEN of Scott