

MAR 1 1984

HOUSE FILE 2416

BY COMMITTEE ON SMALL  
BUSINESS AND COMMERCE

Place On Calendar

(Formerly House File 2053)

Passed House, Date 3-2-84 (A 818) Passed Senate, Date 3-28-84 (R 1121)

Vote: Ayes 100 Nays 0 Vote: Ayes 46 Nays 0

Approved April 20, 1984

## A BILL FOR

1 An Act relating to employee continuation rights under an  
2 employer-provided health benefit plan and to employer  
3 liability for breaking an agreement to provide a health  
4 benefit plan for employees.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2416

1 Section 1. NEW SECTION. 91B.1 EMPLOYEE HEALTH BENEFIT  
2 PLANS.

3 1. As used in this section:

4 a. "Employee" means an employee as defined in section  
5 91A.2.

6 b. "Employer" means an employer as defined in section  
7 91A.2.

8 c. "Health benefit plan" means a plan or agreement provided  
9 by an employer for employees for the provision of or payment  
10 for care and treatment of sickness or injury.

547 11 2. If an employer in this state provides any health benefit  
12 plan, the employer shall provide employees, who have been  
13 enrolled in the plan for at least six months and whose coverage  
14 would otherwise terminate because of temporary layoff or leave  
15 of absence, with the right to continue their coverage in the  
16 health benefit plan, unless the plan itself is terminated  
17 as provided in subsection 3, for the period of the temporary  
18 layoff or leave of absence or for a period of six months,  
19 whichever period is shorter. Employers shall notify all  
20 covered employees of their continuation rights, and employees  
21 choosing to continue coverage shall be required to remit the  
22 required coverage payment to the employer on or before the  
23 date the employer is required to make payments to a third  
24 party related to the health benefit plan. An employer also  
25 satisfies the requirements of this subsection by providing  
26 a health benefit plan containing continuation rights no less  
27 favorable to employees than required by this subsection.

548 28 3. If an employer fails to implement or terminates or  
29 substantially modifies an agreement to provide a health benefit  
30 plan for employees, or if a health benefit plan for employees  
31 is terminated for failure to pay premium or for another reason,  
32 the employer shall notify the covered employees whether active,  
33 temporarily laid off, or on leave of absence of the failure  
34 to implement, termination, or substantial modification of  
35 their coverage. The notice shall be in writing and delivered

1 in person to the employees or mailed to the employees' last  
 2 known addresses. An employer which fails to notify a covered  
 3 employee is solely liable for the expenses incurred by the  
 4 employee and for the period of time for which the employee  
 5 would have been covered had the employer not failed to  
 6 implement, not terminated, or not substantially modified the  
 7 agreement, or had the plan not been terminated.

8 4. The employer is also solely liable for the expenses  
 9 incurred by an employee which would have been covered under  
 10 a health benefit plan during a period of time for which the  
 11 employer has collected contributions through payroll,  
 12 withholding, or otherwise, but has failed to enroll the  
 13 employee, unless the employer has given the employee actual  
 14 notice that the employee's enrollment in the plan will not  
 15 become effective until a later date or until the employee's  
 16 application for enrollment has been approved.

17 EXPLANATION

18 This bill relates to employee rights and employer liability  
 19 under employer-provided health benefit plans.

20 An employee who has been enrolled under an employer-provided  
 21 health benefits plan may continue coverage under the plan  
 22 at the employee's own expense if the employee's coverage would  
 23 otherwise terminate because of a temporary layoff or leave  
 24 of absence. Employers are required to notify all covered  
 25 employees of their continuation rights.

26 If an employer fails to implement or terminates or  
 27 substantially modifies an agreement to provide a health benefit  
 28 plan for employees, or if a health benefit plan is otherwise  
 29 terminated, the employer is required to notify employees.

30 An employer who fails to provide notification is solely li-  
 31 able for expenses incurred by the employee that would have  
 32 been covered. The employer is also solely liable for ex-  
 33 penses incurred by an employee during a period of time for  
 34 which the employer has collected contributions but has failed  
 35 to enroll the employee unless the employer has given notice

1 to the employee.

2 This bill becomes effective July 1 following enactment.

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## HOUSE FILE 2416

H-5472

- 1 Amend House File 2416 as follows:
- 2 1. Page 1, line 14, by inserting after the word  
3 "or" the word "approved".
- 4 2. Page 1, line 15, by inserting after the word  
5 "to" the word "voluntarily".
- 6 3. Page 1, line 16, by inserting after the word  
7 "plan" the words "at their own expense".
- 8 4. Page 1, by striking line 18 and inserting in  
9 lieu thereof the words "layoff or approved leave of  
10 absence for a period not to exceed six months".
- 11 5. Page 1, line 19, by striking the words  
12 "whichever period is shorter".
- 13 6. Page 1, line 28, by striking the words "fails  
14 to implement or".
- 15 7. Page 1, line 33, by inserting after the word  
16 "on" the word "approved".
- 17 8. Page 1, lines 33 and 34, by striking the words  
18 "failure to implement, termination," and inserting  
19 in lieu thereof the word "termination".
- 20 9. Page 2, by striking lines 2 through 7 and  
21 inserting in lieu thereof the words "known addresses  
22 at least fourteen days prior to the termination or  
23 substantial modification of the health benefit plan.  
24 The employer is solely liable for benefits, including  
25 extended benefits, which would have been payable to  
26 a covered employee had the health benefit plan remained  
27 in force and not been terminated or substantially  
28 modified during the period of time following the  
29 termination or substantial modification of the health  
30 benefit plan until the employee is given notice by  
31 the employer as required by this subsection."
- 32 10. Page 2, by inserting after line 7 the follow-  
33 ing:
- 34 "4. The employer is also solely liable for  
35 benefits, including extended benefits, which would  
36 have been payable had the health benefit plan been  
37 in force and the employee covered during the period  
38 of time the employer failed to implement a health  
39 benefit plan which the employer had agreed with its  
40 employees to provide, until the employer gives its  
41 employees notice of its failure or inability to provide  
42 the agreed health benefit plan. The notice shall  
43 be in writing and delivered in person to the employees  
44 or mailed to the employees' last known addresses."
- 45 11. Page 2, by striking lines 8 and 9 and inserting  
46 in lieu thereof the following:
- 47 "5. The employer is also solely liable for  
48 benefits, including extended benefits, which would  
49 have been payable had the health benefit plan been  
50 in force and the employee covered under".

1 12. Page 2, line 10, by striking the words "a  
2 health" and inserting in lieu thereof the words "the  
3 health".

4 13. Page 2, by inserting after line 16 the  
5 following:

6 "5. Expenses incurred by an employee for which  
7 an employer is liable under this section may be  
8 assigned to and are recoverable as wages by the labor  
9 commissioner under chapter 91A."

10 14. Page 2, by inserting before line 17 the  
11 following:

12 "Sec. 2. Section 91A.2, subsection 4, Code 1983,  
13 is amended by adding the following new lettered  
14 paragraph:

15 "NEW LETTERED PARAGRAPH. d. Expenses incurred  
16 and recoverable under a health benefit plan as defined  
17 in and as provided in chapter 91B."

BY SKOW of Guthrie  
CHIODO of Polk

H-5472 FILED MARCH 7, 1984

*Adopted 3/8 (p. 813)*

HOUSE FILE 2416

5361

1 Amend House File 2416 as follows:

2 1. Page 2, by inserting after line 16 the  
3 following:

4 "5. Expenses incurred by an employee for which  
5 an employer is liable under this section are  
6 recoverable as wages by the labor commissioner under  
7 chapter 91A."

H-5361 FILED MARCH 1, 1984 BY SHERZAN of Polk

*Placed out of order 3/8 (p. 813)*

HOUSE FILE 2416

H-5367

1 Amend House File 2416 as follows:

2 1. Page 2, line 4, by striking the word "and".

H-5367 FILED MARCH 2, 1984 BY SKOW of Guthrie

*Placed out of order 3/8 (p. 813)*

Sen. Labor 3/12 To Pass 3/23 (p. 1000)

HOUSE FILE 2416

Labor & Industrial Relations  
Hutchins, Chair  
Wick  
Vandier Hoef

HOUSE FILE 2416

BY COMMITTEE ON SMALL  
BUSINESS AND COMMERCE

(As Amended and Passed by the House)

*Substituted for S.F. 2273 3/6*

Passed House, Date 3-8-84 (p. 213) Passed Senate, Date 3-28-84 (p. 1121)

Vote: Ayes 100 Nays 0 Vote: Ayes 46 Nays 0

Approved April 20, 1984 (p. 2005)  
*2 motions to reconsider w/d (p. 1122)*

## A BILL FOR

1 An Act relating to employee continuation rights under an  
2 employer-provided health benefit plan and to employer  
3 liability for breaking an agreement to provide a health  
4 benefit plan for employees.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments \_\_\_\_\_

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Deleted Language \*

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1 Section 1. NEW SECTION. 91B.1 EMPLOYEE HEALTH BENEFIT  
2 PLANS.

3 1. As used in this section:

4 a. "Employee" means an employee as defined in section  
5 91A.2.

6 b. "Employer" means an employer as defined in section  
7 91A.2.

8 c. "Health benefit plan" means a plan or agreement provided  
9 by an employer for employees for the provision of or payment  
10 for care and treatment of sickness or injury.

11 2. If an employer in this state provides any health benefit  
12 plan, the employer shall provide employees, who have been  
13 enrolled in the plan for at least six months and whose coverage  
14 would otherwise terminate because of temporary layoff or  
15 approved leave of absence, with the right to voluntarily  
16 continue their coverage in the health benefit plan at their  
17 own expense, unless the plan itself is terminated as provided  
18 in subsection 3, for the period of the temporary layoff or  
19 approved leave of absence for a period not to exceed six  
20 months. Employers shall notify all covered employees of their  
21 continuation rights, and employees choosing to continue  
22 coverage shall be required to remit the required coverage  
23 payment to the employer on or before the date the employer  
24 is required to make payments to a third party related to the  
25 health benefit plan. An employer also satisfies the  
26 requirements of this subsection by providing a health benefit  
27 plan containing continuation rights no less favorable to  
28 employees than required by this subsection.

\* 29 3. If an employer terminates or substantially modifies  
30 an agreement to provide a health benefit plan for employees,  
31 or if a health benefit plan for employees is terminated for  
32 failure to pay premium or for another reason, the employer  
33 shall notify the covered employees whether active, temporarily  
34 laid off, or on approved leave of absence of the termination  
35 or substantial modification of their coverage. The notice

1 shall be in writing and delivered in person to the employees  
2 or mailed to the employees' last known addresses at least  
3 fourteen days prior to the termination or substantial  
4 modification of the health benefit plan. The employer is  
5 solely liable for benefits, including extended benefits, which  
6 would have been payable to a covered employee had the health  
7 benefit plan remained in force and not been terminated or  
8 substantially modified during the period of time following  
9 the termination or substantial modification of the health  
10 benefit plan until the employee is given notice by the employer  
11 as required by this subsection.

12 4. The employer is also solely liable for benefits,  
13 including extended benefits, which would have been payable  
14 had the health benefit plan been in force and the employee  
15 covered during the period of time the employer failed to  
16 implement a health benefit plan which the employer had agreed  
17 with its employees to provide, until the employer gives its  
18 employees notice of its failure or inability to provide the  
19 agreed health benefit plan. The notice shall be in writing  
20 and delivered in person to the employees or mailed to the  
21 employees' last known addresses.

22 5. The employer is also solely liable for benefits,  
23 including extended benefits, which would have been payable  
24 had the health benefit plan been in force and the employee  
25 covered under the health benefit plan during a period of time  
26 for which the employer has collected contributions through  
27 payroll, withholding, or otherwise, but has failed to enroll  
28 the employee, unless the employer has given the employee  
29 actual notice that the employee's enrollment in the plan will  
30 not become effective until a later date or until the employee's  
31 application for enrollment has been approved.

32 6. Expenses incurred by an employee for which an employer  
33 is liable under this section may be assigned to and are  
34 recoverable as wages by the labor commissioner under chapter  
35 91A.

1 Sec. 2. Section 91A.2, subsection 4, Code 1983, is amended  
2 by adding the following new lettered paragraph:

3 NEW LETTERED PARAGRAPH. d. Expenses incurred and  
4 recoverable under a health benefit plan as defined in and  
5 as provided in chapter 91B.

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HOUSE FILE 2416

AN ACT

RELATING TO EMPLOYEE CONTINUATION RIGHTS UNDER AN EMPLOYER-  
PROVIDED HEALTH BENEFIT PLAN AND TO EMPLOYER LIABILITY  
FOR BREAKING AN AGREEMENT TO PROVIDE A HEALTH BENEFIT  
PLAN FOR EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 91B.1 EMPLOYEE HEALTH BENEFIT  
PLANS.

1. As used in this section:

- a. "Employee" means an employee as defined in section 91A.2.
- b. "Employer" means an employer as defined in section 91A.2.

c. "Health benefit plan" means a plan or agreement provided by an employer for employees for the provision of or payment for care and treatment of sickness or injury.

2. If an employer in this state provides any health benefit plan, the employer shall provide employees, who have been enrolled in the plan for at least six months and whose coverage would otherwise terminate because of temporary layoff or approved leave of absence, with the right to voluntarily continue their coverage in the health benefit plan at their own expense, unless the plan itself is terminated as provided in subsection 3, for the period of the temporary layoff or approved leave of absence for a period not to exceed six months. Employers shall notify all covered employees of their continuation rights, and employees choosing to continue coverage shall be required to remit the required coverage payment to the employer on or before the date the employer is required to make payments to a third party related to the health benefit plan. An employer also satisfies the requirements of this subsection by providing a health benefit plan containing continuation rights no less favorable to employees than required by this subsection.

3. If an employer terminates or substantially modifies an agreement to provide a health benefit plan for employees, or if a health benefit plan for employees is terminated for failure to pay premium or for another reason, the employer shall notify the covered employees whether active, temporarily laid off, or on approved leave of absence of the termination or substantial modification of their coverage. The notice shall be in writing and delivered in person to the employees or mailed to the employees' last known addresses at least fourteen days prior to the termination or substantial modification of the health benefit plan. The employer is solely liable for benefits, including extended benefits, which would have been payable to a covered employee had the health benefit plan remained in force and not been terminated or substantially modified during the period of time following the termination or substantial modification of the health benefit plan until the employee is given notice by the employer as required by this subsection.

4. The employer is also solely liable for benefits, including extended benefits, which would have been payable had the health benefit plan been in force and the employee covered during the period of time the employer failed to implement a health benefit plan which the employer had agreed with its employees to provide, until the employer gives its employees notice of its failure or inability to provide the agreed health benefit plan. The notice shall be in writing and delivered in person to the employees or mailed to the employees' last known addresses.

5. The employer is also solely liable for benefits, including extended benefits, which would have been payable had the health benefit plan been in force and the employee covered under the health benefit plan during a period of time for which the employer has collected contributions through payroll, withholding, or otherwise, but has failed to enroll the employee, unless the employer has given the employee actual notice that the employee's enrollment in the plan will not become effective until a later date or until the employee's application for enrollment has been approved.

6. Expenses incurred by an employee for which an employer is liable under this section may be assigned to and are recoverable as wages by the labor commissioner under chapter 91A.

Sec. 2. Section 91A.2, subsection 4, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. Expenses incurred and recoverable under a health benefit plan as defined in and as provided in chapter 91B.

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DONALD D. AVENSON  
Speaker of the House

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ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2416, Seventieth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved April 20, 1984

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TERRY E. BRANSTAD  
Governor