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STATE GOVERNMENT

SENATE FILE 2197

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Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act providing for family and medical disability leave  
2 benefits, establishing a task force, creating penalties, and  
3 providing a repeal provision.

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

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S.F. 2197

1 Section 1. NEW SECTION. 96A.1 TITLE.

2 This chapter shall be known as the "Iowa Family Disability  
3 Leave Benefits Law".

4 Sec. 2. NEW SECTION. 96A.2 DEFINITIONS.

5 As used in this chapter, unless the context clearly  
6 requires otherwise:

7 1. "Appeal board" means the employment appeal board  
8 created under section 10A.601.

9 2. "Base period" means the period beginning with the first  
10 day of the five completed calendar quarters immediately  
11 preceding the first day of a covered individual's benefit year  
12 and ending with the last day of the next to the last completed  
13 calendar quarter immediately preceding the date on which the  
14 covered individual filed a valid claim.

15 3. "Benefit year" means a period of one year beginning  
16 with the day with respect to which a covered individual filed  
17 a valid claim for benefits.

18 4. "Benefits" means the money payments payable to a  
19 covered individual, as provided in this chapter, with respect  
20 to the individual's family disability leave.

21 5. "Calendar quarter" means the period of three  
22 consecutive calendar months ending on March 31, June 30,  
23 September 30, or December 31.

24 6. "Child" means a biological, adopted, or foster child,  
25 stepchild, or legal ward who is less than eighteen years of  
26 age or is eighteen years of age or older but incapable of  
27 self-care because of mental or physical impairment.

28 7. "Contributions" means the money payments to the family  
29 disability leave benefits fund required by this chapter.

30 8. "Covered employer" means an employer as defined in  
31 section 96.19, subsection 16.

32 9. "Covered individual" means an individual who is in  
33 employment with a covered employer and who has been employed  
34 for at least twelve months by the covered employer and for at  
35 least one thousand two hundred fifty hours of service with the

1 covered employer during the previous twelve-month period.

2 10. "Department" means the department of workforce  
3 development created in section 84A.1.

4 11. "Director" means the director of the department of  
5 workforce development created in section 84A.1.

6 12. "Employment" means as defined in section 96.19,  
7 subsection 18.

8 13. "Family disability leave" means unpaid leave taken by  
9 a covered individual from employment to provide care for a  
10 family member made necessary by the following:

- 11 a. The birth of a child of the individual.
- 12 b. The placement of a child with the individual in  
13 connection with the adoption of the child by the individual.
- 14 c. A serious health condition of a family member of the  
15 individual.
- 16 d. Attending a parent-teacher conference for a child.
- 17 e. Accompanying a family member for routine medical or  
18 dental care.

19 14. "Family member" means a child, parent, or spouse of a  
20 covered individual.

21 15. "Fund" means the family disability leave benefits fund  
22 established by this chapter, to which all contributions  
23 required and from which all benefits provided under this  
24 chapter shall be paid.

25 16. "Parent" means a biological parent, foster parent,  
26 adoptive parent, or stepparent of a covered individual or a  
27 person who was a legal guardian of the covered individual when  
28 the covered individual was a child.

29 17. "Serious health condition" means an illness, injury,  
30 or physical or mental condition which requires inpatient care  
31 in a hospital, hospice, or residential medical care facility;  
32 or continuing medical treatment or continuing supervision by a  
33 health care provider.

34 18. "Statewide average weekly wage" means the amount  
35 computed by the department as provided in chapter 96

1 concerning unemployment compensation.

2 19. "Wages" means as defined in section 96.19, subsection  
3 41.

4 20. "Week" means such period or periods of seven  
5 consecutive calendar days ending at midnight, or as the  
6 department may by rule prescribe.

7 21. "Weekly benefit amount" means the amount of benefits a  
8 covered individual would be entitled to receive for one week  
9 of family disability leave. An individual's weekly benefit  
10 amount, as determined for the first week of the individual's  
11 benefit year, shall constitute the individual's weekly benefit  
12 amount throughout such benefit year.

13 Sec. 3. NEW SECTION. 96A.3 DUTIES, POWERS, RULES --  
14 PRIVILEGE.

15 1. DUTIES AND POWERS OF DIRECTOR. The director shall  
16 administer this chapter and shall adopt rules pursuant to  
17 chapter 17A, employ such persons, make such expenditures,  
18 require such reports, make such investigations, and take such  
19 other action as the director deems necessary or suitable to  
20 that end. Not later than the fifteenth day of December of  
21 each year, the director shall submit to the governor a report  
22 covering the administration and operation of this chapter  
23 during the preceding fiscal year and shall make such  
24 recommendations for amendments to this chapter as the director  
25 deems proper. Such report shall include a balance sheet of  
26 the moneys in the fund.

27 2. GENERAL AND SPECIAL RULES. Each covered employer shall  
28 post and maintain printed statements of all rules of the  
29 department in places readily accessible to individuals in the  
30 employer's service, and shall make available to each such  
31 individual at the time the individual is absent from work due  
32 to a family disability leave potentially compensable under  
33 this chapter a printed statement of such rules relating to the  
34 filing of claims for benefits. Such printed statements shall  
35 be supplied by the department to each employer without cost to

1 the employer.

2 3. PUBLICATIONS. The director shall cause to be printed  
3 for distribution to the public the text of this chapter, the  
4 department's general rules, its annual reports to the  
5 governor, and any other material the director deems relevant  
6 and suitable and shall furnish the same to any person upon  
7 application therefor.

8 4. BONDS. The director may bond any employee handling  
9 moneys or signing checks.

10 5. RECORDS, REPORTS, AND CONFIDENTIALITY.

11 a. An employing unit shall keep true and accurate work  
12 records, containing information required by the department.  
13 The records shall be open to inspection and copying by an  
14 authorized representative of the department at any reasonable  
15 time and as often as necessary. An authorized representative  
16 of the department may require from an employing unit a sworn  
17 or unsworn report, with respect to individuals employed by the  
18 employing unit, which the department deems necessary for the  
19 effective administration of this chapter.

20 b. (1) The department shall hold confidential the  
21 information obtained from an employer or individual in the  
22 course of administering this chapter and the initial  
23 determination made by a representative of the department under  
24 section 96A.8, subsection 2, as to the benefit rights of an  
25 individual. The department shall not disclose or open this  
26 information for public inspection in a manner that reveals the  
27 identity of the employer or the individual, except as provided  
28 in subparagraph (3) or paragraph "c".

29 (2) A report or statement, whether written or verbal, made  
30 by a person to a representative of the department or to  
31 another person administering this chapter is a privileged  
32 communication. A person is not liable for slander or libel on  
33 account of the report or statement unless the report or  
34 statement is made with malice.

35 (3) Information obtained from an employer or individual in

1 the course of administering this chapter and an initial  
2 determination made by a representative of the department under  
3 section 96A.8, subsection 2, as to benefit rights of an  
4 individual shall not be used in any action or proceeding,  
5 except in a contested case proceeding or judicial review under  
6 chapter 17A. However, the department shall make information,  
7 which is obtained from an employer or individual in the course  
8 of administering this chapter and which relates to the  
9 employment and wage history of the individual, available to a  
10 county attorney for the county attorney's use in the  
11 performance of duties under section 331.756, subsection 5.  
12 The information may be used by the interested parties in a  
13 proceeding under this chapter to the extent necessary for the  
14 proper presentation or defense of a claim.

15 c. Subject to conditions as the department by rule  
16 prescribes, information obtained from an employer or  
17 individual in the course of administering this chapter and an  
18 initial determination made by a representative of the  
19 department under section 96A.8, subsection 2, as to benefit  
20 rights of an individual may be made available for purposes  
21 consistent with the purposes of this chapter to any of the  
22 following:

- 23 (1) The internal revenue service of the United States  
24 department of the treasury.
- 25 (2) The Iowa department of revenue and finance.
- 26 (3) Colleges, universities, and public agencies of this  
27 state for use in connection with research of a public nature,  
28 provided the department does not reveal the identity of an  
29 employer or individual.
- 30 (4) An employee of the department, a member of the general  
31 assembly, or a member of the Congress of the United States in  
32 connection with the employee's or member's official duties.

33 d. Upon request of an agency of this or another state or  
34 of the federal government which administers or operates a  
35 program of public assistance or child support enforcement

1 under either the law of this or another state or federal law,  
2 or which is charged with a duty or responsibility under the  
3 program, and if the agency is required by law to impose  
4 safeguards for the confidentiality of information at least as  
5 effective as required under this subsection, the department  
6 shall provide to the requesting agency, with respect to any  
7 named individual without regard to paragraph "g", any of the  
8 following information:

9 (1) Whether the individual is receiving or has received  
10 benefits, or has made an application for benefits under this  
11 chapter.

12 (2) The period, if any, for which benefits were payable  
13 and the weekly benefit amount.

14 (3) The individual's most recent address.

15 e. The department may require an agency which is provided  
16 information under this subsection to reimburse the department  
17 for the costs of furnishing the information.

18 f. An employee of the department, an administrative law  
19 judge, or a member of the appeal board who violates this  
20 subsection is guilty, upon conviction, of a serious  
21 misdemeanor.

22 g. Information subject to the confidentiality of this  
23 subsection shall not be directly released to any authorized  
24 agency unless an attempt is made to provide written  
25 notification to the individual involved. Information released  
26 in accordance with criminal investigations by a law  
27 enforcement agency of this state, another state, or the  
28 federal government is exempt from this requirement.

29 h. The department and its employees shall not be liable  
30 for any acts or omissions resulting from the release of  
31 information to any person pursuant to this subsection.

32 6. OATHS AND WITNESSES. In the discharge of the duties  
33 imposed by this chapter, the chairperson of the appeal board  
34 and any duly authorized representative of the department shall  
35 have power to administer oaths and affirmations, take

1 depositions, certify to official acts, and issue subpoenas to  
2 compel the attendance of witnesses and the production of  
3 books, papers, correspondence, memoranda, and other records  
4 deemed necessary as evidence in connection with a disputed  
5 claim or the administration of this chapter.

6 7. SUBPOENAS. In case of contumacy by, or refusal to obey  
7 a subpoena issued to any person, any court of this state  
8 within the jurisdiction of which the inquiry is carried on or  
9 within the jurisdiction of which the person guilty of  
10 contumacy or refusal to obey is found or resides or transacts  
11 business, upon application by the department, or any member or  
12 duly authorized representative thereof, shall have  
13 jurisdiction to issue to such person an order requiring such  
14 person to appear before the department or any member or duly  
15 authorized representative thereof to produce evidence if so  
16 ordered or to give testimony touching the matter under  
17 investigation or in question; any failure to obey such order  
18 of the court may be punished by the court as a contempt  
19 thereof.

20 8. PROTECTION AGAINST SELF-INCRIMINATION. A person shall  
21 not be excused from attending and testifying or from producing  
22 books, papers, correspondence, memoranda, and other records  
23 before the department, or the appeal board, or in obedience to  
24 a subpoena in any cause or proceeding provided for in this  
25 chapter, on the ground that the testimony or evidence,  
26 documentary or otherwise, required of the person may tend to  
27 incriminate the person or subject the person to a penalty for  
28 forfeiture; but a person shall not be prosecuted or subjected  
29 to any penalty of forfeiture for or on account of any  
30 transaction, matter, or thing concerning which the person is  
31 compelled, after having claimed privilege against self-  
32 incrimination, to testify or produce evidence, documentary or  
33 otherwise, except that such person so testifying shall not be  
34 exempt from prosecution and punishment for perjury committed  
35 in so testifying.



1 9. DESTRUCTION OF RECORDS. The department may destroy or  
2 dispose of such original reports or records as have been  
3 properly recorded or summarized in the permanent records of  
4 the department and are deemed by the director to be no longer  
5 necessary to the proper administration of this chapter. Wage  
6 records of the individual or transcripts therefrom may be  
7 destroyed or disposed of two years after the expiration of the  
8 period covered by such wage records or upon proof of the death  
9 of the individual. Such destruction or disposition shall be  
10 made only by order of the director.

11 10. PURGING UNCOLLECTIBLE OVERPAYMENTS. Notwithstanding  
12 any other provision of this chapter, the department shall  
13 review all outstanding overpayments of benefit payments  
14 annually. The department may determine as uncollectible and  
15 purge from its records any remaining unpaid balances of  
16 outstanding overpayments which are ten years or older from the  
17 date of the overpayment decision.

18 11. REIMBURSEMENT OF SETOFF COSTS. The department shall  
19 include in the amount set off in accordance with section  
20 421.17, subsection 29, for the collection of an overpayment  
21 created pursuant to this chapter, an additional amount for the  
22 reimbursement of setoff costs incurred by the department of  
23 revenue and finance.

24 Sec. 4. NEW SECTION. 96A.4 PRIVATE PLANS.

25 1. Any covered employer may establish a private plan for  
26 the purpose of providing family disability leave benefits in  
27 lieu of benefits as provided by this chapter. The private  
28 plan shall provide benefits to the same or greater extent than  
29 that which is provided under this chapter.

30 2. The department shall establish requirements for  
31 determining whether a private plan meets the requirements of  
32 this section and shall certify whether a covered employer has  
33 established an eligible private plan.

34 3. Covered individuals of a covered employer that has  
35 established an eligible private plan shall not be entitled to

1 benefits as provided by this chapter. In addition, covered  
2 individuals and the covered employer of an eligible private  
3 plan shall not be required to make contributions to the family  
4 disability leave benefits fund.

5 Sec. 5. NEW SECTION. 96A.5 NONDUPLICATION OF BENEFITS.

6 Benefits shall not be required to be paid or paid under  
7 this chapter for any period of family disability leave with  
8 respect to which benefits are paid or payable under any  
9 unemployment compensation or similar law, or under any  
10 disability or cash sickness benefit or similar law, of this  
11 state or of any other state or of the federal government.  
12 Benefits shall not be required to be paid or paid under this  
13 chapter for any period of family disability leave with respect  
14 to which benefits are paid or payable on account of a  
15 disability of the covered individual under any worker's  
16 compensation law, occupational disease law, or similar  
17 legislation, of this state or of any other state or the  
18 federal government.

19 Sec. 6. NEW SECTION. 96A.6 COVERAGE.

20 All covered individuals shall be entitled on and after  
21 January 1, 1999, to family disability leave benefits provided  
22 by this chapter pursuant to family disability leave.

23 Sec. 7. NEW SECTION. 96A.7 FAMILY DISABILITY LEAVE  
24 BENEFITS -- DETERMINATION -- DURATION.

25 1. DETERMINATION OF BENEFITS. A covered individual who is  
26 absent from work during an entire week pursuant to family  
27 disability leave shall be paid with respect to such week  
28 benefits in an amount which shall be equal to the individual's  
29 weekly benefit amount.

30 A covered individual who is absent from work pursuant to  
31 family disability leave for a portion of any week and who  
32 meets the conditions of eligibility for benefits shall be paid  
33 with respect to that week an amount equal to the individual's  
34 weekly benefit amount less that part of wages payable to the  
35 individual with respect to that week in excess of one-fourth

1 of the individual's weekly benefit amount. The benefits shall  
2 be rounded to the lower multiple of one dollar.

3 For purposes of this section, a covered individual's weekly  
4 benefit amount shall be an amount equal to the amount as  
5 determined pursuant to section 96.3, subsection 4.

6 2. ELIGIBILITY FOR BENEFITS. The department shall adopt  
7 rules governing the ability of a covered employer to establish  
8 reasonable guidelines governing a covered individual's request  
9 for, and continued eligibility for, family disability leave.  
10 The rules shall provide that any guidelines established by an  
11 employer shall not require a covered individual to use paid  
12 leave prior to becoming eligible for benefits under this  
13 chapter.

14 3. DURATION OF BENEFITS. The maximum total amount of  
15 family disability leave for which a covered individual is  
16 eligible for benefits pursuant to this chapter during a  
17 benefit year shall not exceed twenty-six weeks. Of the  
18 maximum family disability leave permitted pursuant to this  
19 section, no more than twenty-four hours shall be family  
20 disability leave as described in section 96A.2, subsection 13,  
21 paragraphs "d" and "e".

22 Sec. 8. NEW SECTION. 96A.8 FILING -- DETERMINATION --  
23 APPEAL.

24 1. FILING. Claims for benefits shall be made in  
25 accordance with such rules as the department may prescribe.

26 2. INITIAL DETERMINATION. A representative designated by  
27 the director shall promptly notify all interested parties to  
28 the claim of its filing, and the parties shall have ten days  
29 from the date of mailing the notice of the filing of the claim  
30 by ordinary mail to the last known address to protest payment  
31 of benefits to the claimant. The representative shall  
32 promptly examine the claim and any protest, take the  
33 initiative to ascertain relevant information concerning the  
34 claim, and, on the basis of the facts found by the  
35 representative, shall determine whether or not the claim is

1 valid, the week with respect to which benefits shall commence,  
2 the weekly benefit amount payable and its maximum duration,  
3 and whether any disqualification shall be imposed. The  
4 claimant has the burden of proving that the claimant meets the  
5 basic eligibility conditions of this chapter. Unless the  
6 claimant or other interested party, after notification or  
7 within ten calendar days after notification was mailed to the  
8 claimant's last known address, files an appeal from the  
9 decision, the decision is final and benefits shall be paid or  
10 denied in accordance with the decision. If an administrative  
11 law judge affirms a decision of the representative, or the  
12 appeal board affirms a decision of the administrative law  
13 judge allowing benefits, the benefits shall be paid regardless  
14 of any appeal which is thereafter taken.

15 3. APPEALS. Unless the appeal is withdrawn, an  
16 administrative law judge, after affording the parties  
17 reasonable opportunity for fair hearing, shall affirm or  
18 modify the findings of fact and decision of the  
19 representative. The hearing shall be conducted pursuant to  
20 the provisions of chapter 17A relating to hearings for  
21 contested cases. Before the hearing is scheduled, the parties  
22 shall be afforded the opportunity to choose either a telephone  
23 hearing or an in-person hearing. A request for an in-person  
24 hearing shall be approved unless the in-person hearing would  
25 be impractical because of the distance between the parties to  
26 the hearing. A telephone or in-person hearing shall not be  
27 scheduled before the seventh calendar day after the parties  
28 receive notice of the hearing. Reasonable requests for the  
29 postponement of a hearing shall be granted. The parties shall  
30 be duly notified of the administrative law judge's decision,  
31 together with the administrative law judge's reasons for the  
32 decision, which is the final decision of the department,  
33 unless within fifteen days after the date of notification or  
34 mailing of the decision, further appeal is initiated pursuant  
35 to this section.

1 Appeals from the initial determination shall be heard by an  
2 administrative law judge employed by the department. An  
3 administrative law judge's decision may be appealed by any  
4 party to the employment appeal board created in section  
5 10A.601. The decision of the appeal board is final agency  
6 action and an appeal of the decision shall be made directly to  
7 the district court.

8 4. EFFECT OF DETERMINATION. A finding of fact or law,  
9 judgment, conclusion, or final order made pursuant to this  
10 section by an employee or representative of the department,  
11 administrative law judge, or the employment appeal board, is  
12 binding only upon the parties to proceedings brought under  
13 this chapter, and is not binding upon any other proceedings or  
14 action involving the same facts brought by the same or related  
15 parties before the division of labor services, division of  
16 industrial services, other state agency, arbitrator, court, or  
17 judge of this state or the United States.

18 Sec. 9. NEW SECTION. 96A.9 RECOVERY OF OVERPAYMENT OF  
19 BENEFITS.

20 If a covered individual receives benefits for which the  
21 individual is subsequently determined to be ineligible, even  
22 though the individual acts in good faith and is not otherwise  
23 at fault, the benefits shall be recovered. The department in  
24 its discretion may recover the overpayment of benefits either  
25 by having a sum equal to the overpayment deducted from any  
26 future benefits payable to the individual or by having the  
27 individual pay to the department a sum equal to the  
28 overpayment.

29 Sec. 10. NEW SECTION. 96A.10 WAIVER -- FEES --  
30 ASSIGNMENTS -- PENALTIES.

31 1. WAIVER OF RIGHTS VOID. Any agreement by a covered  
32 individual to waive, release, or commute the individual's  
33 rights to benefits or any other rights under this chapter  
34 shall be void. Any agreement by any individual in the employ  
35 of any person or concern to pay all or any portion of a

1 covered employer's contributions, required under this chapter  
2 from such employer, shall be void. A covered employer shall  
3 not directly or indirectly make or require or accept any  
4 deduction from wages to finance the employer's contributions  
5 required from the employer, or require or accept any waiver of  
6 any right hereunder by any individual in the employer's  
7 employ. Any covered employer or officer or agent of an  
8 employer who violates any provision of this subsection shall,  
9 for each offense, be guilty of a serious misdemeanor.

10 2. PROHIBITION AGAINST FEES. A covered individual  
11 claiming benefits under this chapter shall not be charged fees  
12 of any kind in any proceeding under this chapter by the  
13 department or its representatives or by a court or an officer  
14 of the court. An individual claiming benefits in a proceeding  
15 before the department, an appeal tribunal, or a court may be  
16 represented by counsel or other duly authorized agent. A  
17 person who violates a provision of this subsection is guilty  
18 of a serious misdemeanor for each violation.

19 3. NO ASSIGNMENT OF BENEFITS -- EXEMPTIONS. Any  
20 assignment, pledge, or encumbrance of any right to benefits  
21 which are or may become due or payable under this chapter  
22 shall be void, and such rights to benefits shall be exempt  
23 from levy, execution, attachment, or any other remedy  
24 whatsoever provided for the collection of debt; and benefits  
25 received by any individual, so long as they are not mingled  
26 with other funds of the recipient, shall be exempt from any  
27 remedy whatsoever for the collection of all debts. Any waiver  
28 of any exemption provided for in this subsection shall be  
29 void.

30 However, benefits under this chapter are not exempt from  
31 income withholding, garnishment, attachment, or execution if  
32 withheld for or garnished by the child support recovery unit,  
33 established in section 252B.2, or if an income withholding  
34 order or notice of the income withholding order under section  
35 598.22 or 598.23 is being enforced by the child support

1 recovery unit to satisfy the child support obligation of a  
2 covered individual who is eligible for benefits under this  
3 chapter.

4 Sec. 11. NEW SECTION. 96A.11 FAMILY DISABILITY LEAVE  
5 BENEFITS FUND.

6 1. ESTABLISHMENT AND CONTROL. A family disability leave  
7 benefits fund is hereby established as a special fund,  
8 separate and apart from all public moneys or funds of this  
9 state. The department shall administer the fund exclusively  
10 for the purposes of this chapter. The fund shall consist of  
11 all of the following:

12 a. All contributions collected under this chapter,  
13 including any interest and penalties collected on delinquent  
14 contributions.

15 b. Interest earned upon any moneys in the fund.

16 c. Any property or securities acquired through the use of  
17 moneys belonging to the fund.

18 d. All earnings of such property or securities.

19 e. Any other moneys specifically directed or appropriated  
20 to the fund.

21 2. ACCOUNTS AND DEPOSITS. The treasurer of state shall be  
22 the custodian of the fund and shall administer the fund in  
23 accordance with the directions of the department.

24 3. EXCLUSIVE USE. Moneys in the fund shall be held in  
25 trust for the exclusive payment of family disability leave  
26 benefits pursuant to this chapter.

27 Sec. 12. NEW SECTION. 96A.12 CONTRIBUTIONS.

28 1. Covered employers who have not established an eligible  
29 private plan pursuant to section 96A.4 and all employees of a  
30 covered employer shall pay into the fund contributions as  
31 provided by this section.

32 2. For each calendar year, the department shall by  
33 November 1 of the previous calendar year, establish a total  
34 contribution rate for the upcoming calendar year based upon  
35 the anticipated wages of employees of covered employers for

1 the upcoming calendar year which shall be sufficient to pay  
2 anticipated benefits pursuant to this chapter for that  
3 calendar year.

4 Of the total contribution rate established by the  
5 department, covered employers shall pay contributions based on  
6 two-thirds of the total contribution rate established and  
7 employees of covered employers shall pay contributions based  
8 on one-third of the total contribution rate established by the  
9 department. Covered employers shall ensure that the employee  
10 contribution shall be deducted from the employee's wages.

11 Sec. 13. NEW SECTION. 96A.13 PRIORITY -- REFUNDS.

12 1. INTEREST. Any employer who shall fail to pay any  
13 contribution at the time required by this chapter and the  
14 rules of the department shall pay to the department in  
15 addition to such contribution, interest thereon at the rate of  
16 one percent per month and one-thirtieth of one percent for  
17 each day or fraction thereof computed from the date upon which  
18 the contribution should have been paid.

19 2. If the department finds that an employer has willfully  
20 failed to pay any contribution or part thereof when required  
21 by this chapter and the rules of the department, with intent  
22 to defraud the department, the employer shall in addition to  
23 such contribution or part thereof, pay a contribution equal to  
24 fifty percent of the amount of such contribution or part  
25 thereof, as the case may be.

26 The department may cancel any interest or penalties if it  
27 is shown to the satisfaction of the department that the  
28 failure to pay a required contribution or to file a required  
29 report was not the result of negligence, fraud, or intentional  
30 disregard of the law or the rules of the department.

31 3. LIEN OF CONTRIBUTIONS -- COLLECTION. Whenever any  
32 covered employer liable to pay contributions refuses or  
33 neglects to pay the contributions, the amount, including any  
34 interest, together with the costs that may accrue in addition  
35 thereto, shall be a lien in favor of the state upon all



1 property and rights to property, whether real or personal,  
2 belonging to the employer.

3 Sec. 14. NEW SECTION. 96A.14 OFFENSES.

4 1. PENALTIES. An individual who makes a false statement  
5 or representation knowing it to be false or knowingly fails to  
6 disclose a material fact, to obtain or increase any benefit or  
7 other payment under this chapter, either for the individual or  
8 for any other individual, is guilty of a fraudulent practice  
9 as defined in sections 714.8 through 714.14. The total amount  
10 of benefits or payments involved in the completion of or in  
11 the attempt to complete a fraudulent practice shall be used in  
12 determining the value involved under section 714.14.

13 2. FALSE STATEMENT. Any covered employer or any officer  
14 or agent of a covered employer or any other person who makes a  
15 false statement or representation knowing it to be false, or  
16 who knowingly fails to disclose a material fact, to prevent or  
17 reduce the payment of benefits to any individual entitled  
18 thereto, or to avoid becoming or remaining subject hereto, or  
19 to avoid or reduce any contribution or other payment required  
20 from a covered employer under this chapter, or who willfully  
21 fails or refuses to make any such contributions or other  
22 payment or to furnish any reports required hereunder or to  
23 produce or permit the inspection or copying of records as  
24 required hereunder, is guilty of a fraudulent practice as  
25 defined in sections 714.8 through 714.14. The total amount of  
26 benefits, contributions, or payments involved in the  
27 completion of or in the attempt to complete a fraudulent  
28 practice shall be used in determining the value involved under  
29 section 714.14.

30 3. UNLAWFUL ACTS. Any person who willfully violates any  
31 provision of this chapter or any rule adopted pursuant to this  
32 chapter, the violation of which is made unlawful or the  
33 observance of which is required under the terms of this  
34 chapter, and for which a penalty is neither prescribed herein  
35 nor provided by any other applicable statute, shall be guilty

1 of a simple misdemeanor, and each day such violation continues  
2 shall be deemed to be a separate offense.

3 4. MISREPRESENTATION. An individual who, by reason of the  
4 nondisclosure or misrepresentation by the individual or by  
5 another of a material fact, has received any sum as benefits  
6 under this chapter while any conditions for the receipt of  
7 benefits imposed by this chapter were not fulfilled in the  
8 individual's case, or while the individual was disqualified  
9 from receiving benefits, shall, in the discretion of the  
10 department, either be liable to have the sum deducted from any  
11 future benefits payable to the individual under this chapter  
12 or shall be liable to repay to the department for the fund, a  
13 sum equal to the amount so received by the individual. If the  
14 department seeks to recover the amount of the benefits by  
15 having the individual pay to the department a sum equal to  
16 that amount, the department may file a lien with the county  
17 recorder in favor of the state on the individual's property  
18 and rights to property, whether real or personal.

19 Sec. 15. NEW SECTION. 96A.15 FUTURE REPEAL.

20 This chapter is repealed December 31, 2003.

21 Sec. 16. TASK FORCE ON WORK AND THE FAMILY.

22 1. A task force on work and the family is established  
23 under the sponsorship of the department of workforce  
24 development. The task force shall consist of fifteen members  
25 as follows: the director of the department of workforce  
26 development and fourteen public members, appointed by the  
27 governor and confirmed by the senate, including four  
28 representatives of women's organizations; four representatives  
29 of labor organizations; four representatives of business  
30 organizations; and two individuals with expertise on the  
31 impact of work on family life. Not more than seven of the  
32 public members shall be of the same political party. Each  
33 member shall serve on the task force for a term lasting until  
34 the task force is dissolved. Any member may be removed from  
35 office by the governor, for cause, after a hearing and may be

1 suspended by the governor pending the completion of the  
2 hearing. All vacancies shall be filled in the same manner as  
3 the original appointment. Members shall serve without  
4 compensation. The task force shall organize itself within  
5 fifteen days after the appointment of its members. In  
6 organizing itself, the task force shall elect a chairperson  
7 and vice-chairperson from among its members. Each member  
8 shall be entitled to one vote on all matters which may come  
9 before the task force. No determination, decision, or action  
10 of the task force shall be made or taken unless a majority of  
11 the members votes in favor of the action.

12 2. The task force shall issue a report not later than June  
13 1, 2002, which evaluates and describes the impact of the  
14 provisions of chapter 96A, including the costs and benefits  
15 resulting from the provisions of the chapter for the  
16 following:

17 a. Employees and their families.

18 b. Employers, including benefits such as reduced training  
19 and other costs related to reduced turnover of personnel, and  
20 increased affordability of family disability leave benefits  
21 through the provisions of chapter 96A, with special attention  
22 given to small businesses.

23 c. The public, including savings caused by any reduction  
24 in the number of people receiving public assistance.

25 The task force shall evaluate the impact of the provisions  
26 of this chapter on welfare costs and on the stability of  
27 employment of participants. The report shall include  
28 recommendations regarding whether to continue or modify the  
29 provisions of chapter 96A after December 31, 2003, and any  
30 draft legislation needed to implement the recommendations.  
31 The task force shall dissolve immediately after issuing the  
32 report. The task force may hold public hearings and shall  
33 have access to all files and records of the department of  
34 revenue and finance, the department of workforce development,  
35 and other relevant state agencies and may call to its

1 assistance and avail itself of the services of the employees  
2 of those departments and agencies to provide whatever  
3 information the task force deems necessary in the performance  
4 of its functions.

5 3. The total amount of expenses which the task force  
6 determines is necessary to carry out its duties pursuant to  
7 this section, if any, shall be provided through an  
8 appropriation to the department of workforce development,  
9 except that the amount shall in no case exceed one hundred  
10 fifty thousand dollars during any fiscal year. The task force  
11 shall make that determination in consultation with the  
12 director of the department of workforce development and shall  
13 report that determination to the director not later than the  
14 sixtieth day following its organization.

15 EXPLANATION

16 This bill establishes a family disability leave benefits  
17 law which provides benefits to individuals who take unpaid  
18 time from work to provide care for a family member's  
19 disability or for certain other absences from work. The law  
20 is administered by the department of workforce development.  
21 The bill defines family disability leave as unpaid leave for  
22 the birth of a child of the individual, the placement of a  
23 child with the individual in connection with the adoption of  
24 the child by the individual, a serious health condition of a  
25 family member of the individual, attending a parent-teacher  
26 conference for a child, and accompanying a family member for  
27 routine medical and dental care. Benefits are calculated in  
28 the same manner as unemployment compensation benefits are  
29 calculated. The bill establishes a mechanism for employers to  
30 opt out of coverage under the law if the employer has  
31 established a private plan to provide family disability leave  
32 benefits.

33 The bill establishes a family disability leave benefits  
34 fund for the payment of benefits and establishes the mechanism  
35 for establishing the rate for both employers and employees to

1 make contributions into the fund. The department of workforce  
2 development administers the fund and also provides for the  
3 payment and determination of benefits payable from the fund.

4 The bill provides for the recovery of benefit overpayments  
5 and establishes penalties for violations of various provisions  
6 of the law. The bill provides that the rights granted by the  
7 bill cannot be waived.

8 The bill provides that family disability leave benefits  
9 shall be payable beginning January 1, 1999, and also provides  
10 that the chapter is repealed effective December 31, 2003.

11 The bill establishes a task force concerning work and  
12 family in the department of workforce development to examine  
13 the impact of this bill and requires the task force to issue a  
14 report by June 1, 2002, concerning its findings. The bill  
15 specifies the membership of the task force and provides that  
16 the costs associated with the task force be payable from an  
17 appropriation to the department of workforce development.

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