

**House File 40 - Introduced**

HOUSE FILE 40

BY HUNTER

**A BILL FOR**

1 An Act relating to payment of employees for time off and  
2 vacation leave, making penalties applicable, and including  
3 effective date and applicability provisions.

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

1 Section 1. Section 91A.2, Code 2021, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 6A. *"Paid time off"* means a benefit  
4 provided by an employer that allows an employee to take time  
5 off from work with pay without regard to the reason the  
6 employee chooses to take the time off.

7 Sec. 2. Section 91A.2, subsection 7, paragraph b, Code 2021,  
8 is amended to read as follows:

9 *b.* Vacation, holiday, paid time off, sick leave, and  
10 severance payments which are due an employee under an agreement  
11 with the employer or under a policy or practice of the  
12 employer.

13 Sec. 3. Section 91A.4, Code 2021, is amended by striking the  
14 section and inserting in lieu thereof the following:

15 **91A.4 Employment suspension or termination — calculation and**  
16 **payment of wages.**

17 1. If the employment of an employee is suspended or  
18 terminated, an employee's employer shall pay all wages  
19 earned by the employee up to the time of the suspension or  
20 termination, less any lawful deductions specified in section  
21 91A.5, no later than the next regular payday after suspension  
22 or termination, except as follows:

23 *a.* Earned wages that are the difference between a credit  
24 paid against wages determined on a commission basis and the  
25 wages actually earned on a commission basis shall be paid  
26 by the employer not more than thirty days after the date of  
27 suspension or termination.

28 *b.* If while employed, an employee earned paid time off  
29 but did not earn vacation, an employer may reduce pay for  
30 accumulated paid time off by up to one-third.

31 *c.* If while employed, an employee earned both vacation pay  
32 and paid time off, payment for accrued paid time off is not  
33 required.

34 2. An employer shall not adopt a policy or practice of  
35 denying payment for vacation or for paid time off upon the

1 suspension or termination of an employee's employment unless  
2 the employee's employment was terminated by the employer  
3 for misconduct as defined in the rules of the department of  
4 workforce development pursuant to section 96.5, subsection 2.

5 3. Except as provided in subsection 1, upon suspension or  
6 termination of an employee's employment, the amount of pay owed  
7 for accrued paid time off or accrued vacation shall be the  
8 amount of pay the employee would have received if the employee  
9 had not been suspended or terminated and had begun taking the  
10 total amount of accrued paid time off or accrued vacation on  
11 the date the suspension or termination occurred.

12 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
13 immediate importance, takes effect upon enactment.

14 Sec. 5. APPLICABILITY. This Act applies only to the  
15 suspension or termination of an employee's employment that  
16 takes place on or after the effective date of this Act.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with  
19 the explanation's substance by the members of the general assembly.

20 This bill relates to payments for accrued vacation time and  
21 for accrued paid time off for all employees who are terminated  
22 or suspended.

23 Current law requires an employer to pay accrued vacation pay  
24 to a terminated or suspended employee only if the employer has  
25 a policy, procedure, or contract that requires the employer to  
26 do so.

27 The bill provides that if an employee is suspended or  
28 terminated, upon request the employer must pay all earned  
29 wages, now including paid time off, by the next regular payday.  
30 The bill provides for an employee who earned paid time off  
31 while employed but did not earn vacation, that the employer may  
32 reduce the pay for the accrued paid time off by one-third. For  
33 an employee who earned both vacation and paid time off while  
34 employed, the employer is not required to make payment for the  
35 paid time off.

1 The bill prohibits an employer from adopting a policy or  
2 practice to deny payment for accrued vacation or accrued paid  
3 time off upon the suspension or termination of an employee  
4 unless the employee's employment ended due to misconduct.  
5 Misconduct is defined in the department of workforce  
6 development's administrative rules.

7 The bill provides for the calculation and payment of an  
8 employee's accrued paid time off or vacation if the employee  
9 is suspended or terminated. The amount of such pay owed to an  
10 employee is the amount of pay equal to the accrued vacation or  
11 paid time off as if the employee began taking the vacation or  
12 paid time off the day the suspension or termination took place,  
13 unless otherwise provided in the bill.

14 The bill defines "paid time off" as a benefit allowing an  
15 employee to take time off from work with pay without regard to  
16 the reason the employee chooses to take the time off. "Paid  
17 time off" is also added to the definition of "wages".

18 Unpaid wages or expenses, along with liquidated damages,  
19 court costs, and attorney's fees, may be recovered by the  
20 employee or the commissioner by civil action under Code chapter  
21 91A. An employer who violates Code chapter 91A is also subject  
22 to a civil penalty of not more than \$500 per pay period for each  
23 violation.

24 The bill takes effect upon enactment. The bill applies only  
25 to the suspension or termination of an employee's employment  
26 that occurs on or after that date.