

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1139**

Introduced by Cavanaugh, M., 6.

Read first time January 11, 2024

Committee: Business and Labor

1 A BILL FOR AN ACT relating to employment; to amend sections 48-652 and  
2 71-7611, Revised Statutes Supplement, 2023; to adopt the Paid Family  
3 and Medical Leave Insurance Act; to create a fund; to transfer  
4 funds; to change provisions relating to experience accounts under  
5 the Employment Security Law; to harmonize provisions; to provide  
6 severability; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 21 of this act shall be known and may be  
2 cited as the Paid Family and Medical Leave Insurance Act.

3           Sec. 2. For purposes of the Paid Family and Medical Leave Insurance  
4 Act:

5           (1) Base period means the first four of the last five completed  
6 calendar quarters immediately preceding the first day of a covered  
7 individual's benefit year;

8           (2) Benefit year means the one-year period beginning with the first  
9 day of the first week with respect to which the covered individual first  
10 files a valid claim for family and medical leave benefits, and thereafter  
11 the one-year period beginning with the first day of the first week with  
12 respect to which the covered individual next files a valid claim for  
13 family and medical leave benefits after the termination of his or her  
14 last preceding benefit year. For purposes of this subdivision, a week  
15 with respect to which a covered individual files a valid claim shall be  
16 deemed to be in, within, or during that benefit year which includes the  
17 greater part of such week;

18           (3) Commissioner means the Commissioner of Labor;

19           (4) Covered active duty or call to covered active duty status has  
20 the same meaning as in 29 C.F.R. 825.126(a)(1) and (2), as such  
21 regulation existed on January 1, 2024;

22           (5) Covered employer means an employer that elects to participate in  
23 the Paid Family and Medical Leave Insurance Act as provided in section 6  
24 of this act;

25           (6) Covered individual means:

26           (a) An individual who: (i) Is employed by a covered employer and  
27 (ii) elects to participate in the Paid Family and Medical Leave Insurance  
28 Act as provided in section 7 of this act; or

29           (b) A self-employed individual who has elected to participate in the  
30 Paid Family and Medical Leave Insurance Act as provided in section 7 of  
31 this act;

1       (7) Covered servicemember has the same meaning as in 29 U.S.C. 2611  
2 and the regulations issued thereunder, as such section and regulations  
3 existed on January 1, 2024;

4       (8) Family and medical leave benefits means the benefits provided  
5 under section 4 of this act for periods of paid family and medical leave;

6       (9) Family member means and includes:

7       (a) A biological, adopted, or foster child, a stepchild, or a legal  
8 ward of a covered individual or the covered individual's spouse or a  
9 person to whom the covered individual or the covered individual's spouse  
10 stood in loco parentis when such person was a minor child, regardless of  
11 the age or dependency status of such child, stepchild, legal ward, or  
12 person;

13       (b) A biological, adoptive, or foster parent, a stepparent, or a  
14 legal guardian of a covered individual or the covered individual's spouse  
15 or a person who stood in loco parentis to the covered individual or the  
16 covered individual's spouse when the covered individual or the covered  
17 individual's spouse was a minor child;

18       (c) A covered individual's spouse; and

19       (d) A grandparent, grandchild, or sibling, whether of a biological,  
20 foster, adoptive, or step relationship, of the covered individual or the  
21 covered individual's spouse;

22       (10) Health care provider means any person licensed under federal or  
23 state law to provide medical or emergency services, including, but not  
24 limited to, doctors, nurses, emergency room personnel, and certified  
25 nurse midwives;

26       (11) Individual average weekly wage means:

27       (a) For a covered individual who has earned wages during each  
28 calendar quarter of the base period, the amount of wages paid to the  
29 covered individual in the highest calendar quarter of the base period  
30 divided by thirteen; or

31       (b) For a covered individual who has not earned wages during each

1 calendar quarter of the base period, the covered individual's average  
2 weekly wage during the most recently completed calendar quarter;

3 (12) Military member means a covered individual's family member who  
4 is in the armed forces of the United States;

5 (13) Next of kin has the same meaning as in 29 U.S.C. 2611 and the  
6 regulations issued thereunder, as such section and regulations existed on  
7 January 1, 2024;

8 (14) Paid family and medical leave means leave taken by a covered  
9 individual for a qualifying reason described in section 3 of this act for  
10 which the covered individual is eligible for family and medical leave  
11 benefits;

12 (15) Qualifying exigency leave means leave taken by a covered  
13 individual for the following purposes if the covered individual's family  
14 member is on covered active duty or call to covered active duty status:

15 (a) Any of the purposes specified in 29 C.F.R. 825.126(b)(3)(i)  
16 through (iv), as such regulation existed on January 1, 2024;

17 (b) Any of the purposes specified in 29 C.F.R. 825.126(b)(8)(i)  
18 through (iv), as such regulation existed on January 1, 2024;

19 (c) To address any issue that arises from the fact that the military  
20 member is notified of an impending call or order to covered active duty  
21 seven or fewer calendar days prior to the date of deployment. Leave taken  
22 for this purpose can be used for a period of seven calendar days  
23 beginning on the date the military member is notified of an impending  
24 call or order to covered active duty;

25 (d) To attend any official ceremony, program, or event sponsored by  
26 the military that is related to the covered active duty or call to  
27 covered active duty status of the military member;

28 (e) To attend family support or assistance programs and  
29 informational briefings sponsored or promoted by the military, military  
30 service organizations, or the American Red Cross that are related to the  
31 covered active duty or call to covered active duty status of the military

1 member;

2 (f) To make or update financial or legal arrangements to address the  
3 military member's absence while on covered active duty or call to covered  
4 active duty status, such as preparing and executing financial and health  
5 care powers of attorney, transferring bank account signature authority,  
6 obtaining military identification cards, or preparing or updating a will  
7 or living trust;

8 (g) To act as the military member's representative before a federal,  
9 state, or local agency for the purposes of obtaining, arranging, or  
10 appealing military service benefits while the military member is on  
11 covered active duty or call to covered active duty status, and for a  
12 period of ninety days following the termination of the military member's  
13 covered active duty status;

14 (h) To attend counseling provided by someone other than a health  
15 care provider for the covered individual, for the military member, for  
16 the biological, adopted, or foster child, the stepchild, or the legal  
17 ward of the military member, for a child of the military member's spouse,  
18 or for a child to whom the military member stands in loco parentis, if  
19 the need for counseling arises from the covered active duty or call to  
20 covered active duty status of the military member;

21 (i) To spend time with the military member who is on short-term,  
22 temporary, rest and recuperation leave during the period of deployment.  
23 Leave taken for this purpose can be used for a period of fifteen calendar  
24 days beginning on the date the military member commences each instance of  
25 rest and recuperation leave;

26 (j) To attend arrival ceremonies, reintegration briefings and  
27 events, and any other official ceremony or program sponsored by the  
28 military during a period of ninety days following the termination of the  
29 military member's covered active duty status;

30 (k) To address issues that arise from the death of the military  
31 member while on covered active duty status, such as meeting and

1 recovering the body of the military member, making funeral arrangements,  
2 and attending funeral services; and

3 (1) To address other events which arise out of the military member's  
4 covered active duty or call to covered active duty status if the covered  
5 employer and covered individual agree that such leave qualifies as an  
6 exigency and agree to both the timing and duration of such leave;

7 (16) Retaliatory personnel action means denial of any right  
8 guaranteed under the Paid Family and Medical Leave Insurance Act,  
9 including, but not limited to:

10 (a) Any of the following adverse actions taken against a covered  
11 individual for the exercise of any right guaranteed in the act:  
12 Discharge, suspension, demotion, reduction of hours, any other adverse  
13 action, or any threat of any such adverse action; and

14 (b) Interference with or punishment for participating in or  
15 assisting with an investigation, proceeding, or hearing under the act;

16 (17) Serious health condition has the same meaning as in 29 U.S.C.  
17 2611 and the regulations issued thereunder, as such section and  
18 regulations existed on January 1, 2024;

19 (18) State average weekly wage means the state average weekly wage  
20 as annually determined under section 48-121.02; and

21 (19) Week means a period of seven consecutive days ending Saturday  
22 at midnight.

23 Sec. 3. (1) Beginning January 1, 2027, a covered individual may  
24 take paid family and medical leave for the following qualifying reasons:

25 (a) To care for a new child of the covered individual during the  
26 first year after the birth, adoption, or placement through foster care of  
27 that child;

28 (b) To care for a family member of the covered individual who has a  
29 serious health condition;

30 (c) To care for a covered servicemember if the covered individual is  
31 a family member or the next of kin of the covered servicemember;

1           (d) For qualifying exigency leave; or

2           (e) Because the covered individual has a serious health condition,  
3 including pregnancy, that makes the covered individual unable to perform  
4 the functions of the position held by such covered individual.

5           (2) The maximum amount of paid family and medical leave that a  
6 covered individual may take shall be ten weeks or, for leave taken on an  
7 intermittent basis, sixty work days during any benefit year.

8           Sec. 4. (1) Subject to subsection (2) of this section, the family  
9 and medical leave benefits to be paid to the covered individual for any  
10 week of paid family and medical leave shall be:

11           (a) Ninety percent of the portion of the individual average weekly  
12 wage that is at or below fifty percent of the state average weekly wage;  
13 and

14           (b) Fifty percent of the portion of the individual average weekly  
15 wage that is above fifty percent of the state average weekly wage.

16           (2) The amount of family and medical leave benefits to be paid to a  
17 covered individual in any week shall not exceed sixty-six percent of the  
18 state average weekly wage.

19           (3) Family and medical leave benefits are not payable for the first  
20 week in any benefit year that a covered individual takes paid family and  
21 medical leave. Such week shall be known as the waiting period. If the  
22 covered individual takes ten or more days of paid family and medical  
23 leave in such benefit year, the covered individual shall be paid for the  
24 waiting period. The waiting period shall occur only once in any benefit  
25 year. This subsection shall not apply to paid family and medical leave  
26 taken for the reasons stated in subdivisions (15)(c) and (15)(i) of  
27 section 2 of this act or for the reason stated in subdivision (1)(a) of  
28 section 3 of this act.

29           (4) Family and medical leave benefits are not payable for less than  
30 one workday of paid family and medical leave taken in any one workweek.

31           (5) The first payment of family and medical leave benefits must be

1 made to the covered individual within three weeks after the initial claim  
2 is filed under section 5 of this act, and subsequent payments of such  
3 benefits must be made every week thereafter for as long as the covered  
4 individual is eligible. Family and medical leave benefits shall be paid  
5 in the manner prescribed by the commissioner, which may include  
6 electronic payments.

7 (6) For purposes of the calculations required under this section,  
8 only wages earned in employment as defined in section 48-604 shall be  
9 considered.

10 (7) A covered individual shall not receive family and medical leave  
11 benefits at the same time that he or she is receiving workers'  
12 compensation benefits for total disability or benefits under the  
13 Employment Security Law.

14 Sec. 5. (1) To receive family and medical leave benefits, a covered  
15 individual shall file an initial claim for such benefits with the  
16 commissioner on a form prescribed by the commissioner. The claim shall  
17 include:

18 (a) The name and address of the covered individual;

19 (b) The reason for taking the paid family and medical leave;

20 (c) A schedule showing the dates during which the covered individual  
21 intends to take paid family and medical leave, to the extent such dates  
22 are known;

23 (d) Such wage information as the commissioner may require to  
24 determine the amount of family and medical leave benefits;

25 (e) Such documentation as the commissioner may require from a health  
26 care provider for proof of a serious health condition;

27 (f) The name and address of each covered employer that employs the  
28 covered individual; and

29 (g) Such other information as required by the commissioner to  
30 calculate and determine eligibility for family and medical leave  
31 benefits.

1       (2) After an initial claim is filed, the commissioner shall send  
2 notice of the filing of such claim to each covered employer that employs  
3 the covered individual and shall include with such notice the schedule of  
4 leave submitted under subdivision (1)(c) of this section. The  
5 commissioner shall then determine the covered individual's eligibility  
6 for family and medical leave benefits. If the commissioner determines  
7 that the covered individual is eligible, the commissioner shall begin to  
8 pay family and medical leave benefits to the covered individual pursuant  
9 to section 4 of this act. If the commissioner determines that the covered  
10 individual is ineligible, the commissioner shall notify the covered  
11 individual of the commissioner's determination. Such determination of  
12 ineligibility may be appealed, and the appeal shall be in accordance with  
13 the Administrative Procedure Act.

14       (3) Information relating to the covered individual's use of paid  
15 family and medical leave may be shared with any covered employer that  
16 employs the covered individual upon the covered employer's request in a  
17 manner prescribed by the commissioner.

18       (4) The commissioner shall notify a covered individual when such  
19 covered individual's paid family and medical leave is set to terminate.  
20 Such notification shall be sent in a manner prescribed by the  
21 commissioner. The notification must be received by the covered individual  
22 one week in advance of the day when such paid family and medical leave is  
23 set to expire.

24       Sec. 6. (1) An employer may elect to participate in the Paid Family  
25 and Medical Leave Insurance Act by applying to the commissioner in a form  
26 and manner prescribed by the commissioner.

27       (2) An employer who elects to participate in the act may terminate  
28 such participation by applying to the commission in a form and manner  
29 prescribed by the commissioner. Any termination shall not be effective  
30 until at least three months following acceptance of such application.

31       Sec. 7. (1) A covered individual may elect to participate in the

1 Paid Family and Medical Leave Insurance Act by applying to the  
2 commissioner in a form and manner prescribed by the commissioner.

3 (2) A covered individual who elects to participate in the act may  
4 terminate such participation by applying to the commission in a form and  
5 manner prescribed by the commissioner.

6 Sec. 8. (1) The Paid Family and Medical Leave Insurance Fund is  
7 created. The fund shall be administered by the commissioner and shall  
8 consist of private donations, money transferred to the fund by the  
9 Legislature, contributions from covered individuals, and donations from  
10 covered employers. Any money in the fund available for investment shall  
11 be invested by the state investment officer pursuant to the Nebraska  
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

13 (2) Beginning on an implementation date selected by the commissioner  
14 that is on or before January 1, 2026, covered individuals shall begin  
15 making contributions to pay for participation in the Paid Family and  
16 Medical Leave Insurance Act. Contributions shall become due and be paid  
17 in such manner and at such times as the commissioner shall prescribe by  
18 rule and regulation. The commissioner shall remit the contributions to  
19 the State Treasurer for credit to the Paid Family and Medical Leave  
20 Insurance Fund. Such contributions shall be used to pay family and  
21 medical leave benefits payable under the Paid Family and Medical Leave  
22 Insurance Act and the administrative costs incurred in administering the  
23 act.

24 (3) The commissioner shall be responsible for evaluating and  
25 determining on an annual basis the contribution amounts necessary to  
26 finance the total amount of family and medical leave benefits payable  
27 under the act. If at any time during the year the commissioner determines  
28 that the contribution amounts are not sufficient to pay the family and  
29 medical leave benefits payable under the act, the commissioner shall  
30 increase the contribution amounts by the lowest amount necessary to pay  
31 all such benefits.

1       (4) Beginning on the effective date of this act, the commissioner  
2 shall accept donations from any private individual or entity, including  
3 any employer, and shall remit all donations received to the State  
4 Treasurer for credit to the Paid Family and Medical Leave Insurance Fund.  
5 Such private donations shall be used to pay the upfront administrative  
6 costs and ongoing administrative costs related to the Paid Family and  
7 Medical Leave Insurance Act. On October 1, 2025, the State Treasurer  
8 shall transfer five million five hundred fifty-eight thousand dollars  
9 from the Nebraska Health Care Cash Fund to the Paid Family and Medical  
10 Leave Insurance Fund. Such transferred amount shall also be used to pay  
11 the upfront administrative costs related to the act. The transferred  
12 amount shall be repaid to the Nebraska Health Care Cash Fund when the  
13 commissioner determines that the Paid Family and Medical Leave Insurance  
14 Fund will have sufficient funds to pay all required family and medical  
15 leave benefits after such repayment is made, but in no case shall such  
16 repayment be made later than October 1, 2029. The commissioner shall  
17 notify the State Treasurer when to make such repayment, and the State  
18 Treasurer shall then transfer five million five hundred fifty-eight  
19 thousand dollars from the Paid Family and Medical Leave Insurance Fund to  
20 the Nebraska Health Care Cash Fund.

21       Sec. 9. (1) A covered individual may take paid family and medical  
22 leave on an intermittent basis if:

23       (a) The intermittent leave is for the covered individual's own  
24 serious health condition;

25       (b) The intermittent leave is to care for a family member with a  
26 serious health condition; or

27       (c) The intermittent leave is to care for a newborn or a newly  
28 placed adopted or foster care child of the covered individual and the  
29 covered individual has received the covered employer's written approval  
30 for such intermittent leave.

31       (2) A covered individual in need of intermittent leave to care for a

1 family member with a foreseeable serious health condition shall work with  
2 his or her covered employer to schedule the leave so as not to unduly  
3 disrupt the operations of the covered employer. In such cases, the  
4 covered employer may transfer the covered individual temporarily to an  
5 alternative job with equivalent pay and benefits that accommodates  
6 recurring periods of leave better than the covered individual's regular  
7 job. When the need for intermittent leave is unforeseeable, the covered  
8 individual shall provide notice as soon as possible and practicable under  
9 the circumstances.

10 (3) The minimum amount of intermittent leave that may be taken at  
11 any one time is one workday.

12 (4) Family and medical leave benefits for intermittent leave shall  
13 be prorated.

14 (5) Taking intermittent leave under this section shall not result in  
15 a reduction of the total amount of leave to which a covered individual is  
16 entitled beyond the amount of leave actually taken.

17 (6) Nothing in this section shall be construed to entitle a covered  
18 individual to more paid family and medical leave than he or she is  
19 otherwise entitled to under the Paid Family and Medical Leave Insurance  
20 Act.

21 Sec. 10. (1) Any covered individual who takes paid family and  
22 medical leave under the Paid Family and Medical Leave Insurance Act is  
23 entitled, on return from the leave:

24 (a) To be restored by the covered employer to the position of  
25 employment held by the covered individual when the leave commenced; or

26 (b) To be restored by the covered employer to an equivalent position  
27 with equivalent employment benefits, pay, and other terms and conditions  
28 of employment.

29 (2) During any paid family and medical leave taken, the covered  
30 employer shall maintain any health benefits the covered individual had  
31 prior to taking such leave for the duration of the leave as if the

1 covered individual had continued in employment continuously from the date  
2 he or she commenced the leave until the date the family and medical leave  
3 benefits terminate if the covered individual continues to pay the covered  
4 individual's share of the cost of such health benefits as required prior  
5 to the commencement of the leave.

6 (3) The taking of paid family and medical leave under the act shall  
7 not result in the loss of any employment benefits accrued before the date  
8 on which the leave commenced.

9 (4) A covered employer shall not require a covered individual to  
10 exhaust his or her accrued vacation or sick time prior to taking paid  
11 family and medical leave.

12 (5) Nothing in this section shall be construed to entitle any  
13 covered individual to any right, benefit, or position of employment other  
14 than any right, benefit, or position to which the covered individual  
15 would have been entitled had he or she not taken the paid family and  
16 medical leave.

17 (6) Nothing in this section shall be construed to prohibit a covered  
18 employer from requiring a covered individual on paid family and medical  
19 leave to report periodically to the covered employer on the status of the  
20 covered individual and his or her intention to return to work.

21 (7) A covered individual who fraudulently obtains family and medical  
22 leave benefits shall not be entitled to any of the protections provided  
23 in this section.

24 Sec. 11. (1) It shall be unlawful for a covered employer to  
25 interfere with, restrain, or deny the exercise of, or the attempt to  
26 exercise, any right protected under the Paid Family and Medical Leave  
27 Insurance Act or to take a retaliatory personnel action against a covered  
28 individual because he or she exercised rights protected under the act.  
29 Such rights include, but are not limited to:

30 (a) The right to request or use paid family and medical leave;

31 (b) The right to communicate to the covered employer an intent to

1 file a claim for family and medical leave benefits;

2 (c) The right to appeal eligibility determinations;

3 (d) The right to testify or participate in any investigation,  
4 hearing, or proceeding under the act; and

5 (e) The right to inform the commissioner of any alleged violation of  
6 the act.

7 (2) It shall be unlawful for a covered employer's absence control  
8 policy to count paid family and medical leave taken under the act as an  
9 absence that may lead to or result in discipline, discharge, demotion,  
10 suspension, or any other adverse action.

11 Sec. 12. (1) A covered individual who is entitled to leave under  
12 the federal Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.,  
13 shall take any paid family and medical leave allowed under the Paid  
14 Family and Medical Leave Insurance Act concurrently with leave taken  
15 pursuant to the federal Family and Medical Leave Act of 1993.

16 (2) A covered individual who is entitled to any kind of disability  
17 or family care leave under a collective-bargaining agreement or employer  
18 policy shall take any paid family and medical leave allowed under the  
19 Paid Family and Medical Leave Insurance Act concurrently with such  
20 disability or family care leave if the different types of leave are being  
21 granted for the same reason.

22 (3) Nothing in the Paid Family and Medical Leave Insurance Act shall  
23 prohibit covered employers from providing leave benefits that are in  
24 addition to the family and medical leave benefits required under the act.  
25 Such additional leave benefits shall not be considered when calculating  
26 family and medical leave benefits under section 4 of this act.

27 (4) The Paid Family and Medical Leave Insurance Act does not  
28 diminish a covered employer's obligation to comply with any of the  
29 following that provide more generous leave:

30 (a) A collective-bargaining agreement;

31 (b) An employer policy; or

1           (c) Any state or federal law.

2           (5) A covered individual's right to paid family and medical leave  
3 under the Paid Family and Medical Leave Insurance Act shall not be  
4 diminished by a collective-bargaining agreement entered into or renewed,  
5 or an employer policy adopted or retained, after the effective date of  
6 this act.

7           Sec. 13. (1) Each covered employer shall provide written notice  
8 regarding the Paid Family and Medical Leave Insurance Act to each covered  
9 individual upon hiring and annually thereafter. A covered employer shall  
10 also provide written notice to a covered individual when he or she  
11 requests paid family and medical leave under the act or when the covered  
12 employer acquires knowledge that a covered individual's leave may qualify  
13 for family and medical leave benefits. Such notice shall include:

14           (a) An explanation of the covered individual's right to paid family  
15 and medical leave and the terms under which it may be used;

16           (b) The amount of family and medical leave benefits;

17           (c) The procedure for filing a claim for family and medical leave  
18 benefits;

19           (d) An explanation of the employee protections provided under  
20 section 10 of this act;

21           (e) A statement explaining that retaliatory personnel actions  
22 against a covered individual for requesting or using paid family and  
23 medical leave are prohibited; and

24           (f) A statement explaining that the covered individual has a right  
25 to file a complaint for violations of the Paid Family and Medical Leave  
26 Insurance Act.

27           (2) A covered employer shall also display and maintain a poster in a  
28 conspicuous place accessible to covered individuals at the covered  
29 employer's place of business that contains the information required under  
30 subsection (1) of this section.

31           Sec. 14. (1) Claims filed and appeals taken pursuant to the Paid

1 Family and Medical Leave Insurance Act and all related information shall  
2 be confidential and shall not be a public record, except that:

3 (a) Information relating to a covered individual's use of paid  
4 family and medical leave may be disclosed as described in subsection (3)  
5 of section 5 of this act;

6 (b) Information may be disclosed to a public official for use in the  
7 performance of his or her official duties. For purposes of this  
8 subdivision, performance of official duties means the administration or  
9 enforcement of law or the execution of the official responsibilities of a  
10 federal, state, or local elected official. Administration of law includes  
11 research related to the law administered by the public official.  
12 Execution of official responsibilities does not include solicitation of  
13 contributions or expenditures to or on behalf of a candidate for public  
14 office or to a political party;

15 (c) Information may be disclosed in response to a court order or  
16 subpoena; and

17 (d) Information about a particular covered individual or covered  
18 employer may be disclosed to:

19 (i) Such covered individual or covered employer upon the  
20 individual's or employer's written request;

21 (ii) One who acts as an agent for the covered individual or covered  
22 employer if the agent presents a written release from the covered  
23 individual or covered employer, where practicable, or other evidence of  
24 authority to act on behalf of the covered individual or covered employer;

25 (iii) An elected official who is performing constituent services if  
26 the official presents reasonable evidence that the covered individual or  
27 covered employer has authorized such disclosure; or

28 (iv) An attorney who presents written evidence that he or she is  
29 representing the covered individual or covered employer in a matter  
30 arising under the Paid Family and Medical Leave Insurance Act.

31 (2) Any person who receives information under this section and

1 rediscloses such information for any purpose other than the purpose for  
2 which it was originally obtained shall be guilty of a Class III  
3 misdemeanor.

4       Sec. 15. (1) A covered individual is disqualified from receiving  
5 family and medical leave benefits for one year if he or she is determined  
6 by the commissioner to have willfully made a false statement or  
7 misrepresentation regarding a material fact, or willfully failed to  
8 report a material fact, to obtain family and medical leave benefits. The  
9 one-year period of disqualification shall begin on the date of the  
10 commissioner's determination.

11       (2) If family and medical leave benefits are paid erroneously or as  
12 a result of willful misrepresentation, or if a claim for family and  
13 medical leave benefits is rejected after benefits are paid, the  
14 commissioner may seek repayment of such benefits from the recipient by:

15       (a) Bringing a civil action in the name of the commissioner;

16       (b) Offsetting such payment against any future family and medical  
17 leave benefits payable to the covered individual with respect to the  
18 benefit year current at the time of such receipt or any benefit year  
19 which may commence within three years after the end of such current  
20 benefit year; or

21       (c) Issuing a levy on salary, wages, or other regular payments due  
22 to or received by the covered individual as provided in subsection (3) of  
23 this section.

24       (3)(a) Notice of a levy issued under subdivision (2)(c) of this  
25 section shall be mailed to the covered individual at his or her last-  
26 known address not later than the date that the levy is served.

27       (b) Such levy shall be continuous from the date the levy is served  
28 until the amount of the levy is satisfied.

29       (c) Exemptions or limitations on the amount of salary, wages, or  
30 other regular payment that can be garnished or levied upon by a judgment  
31 creditor shall apply to such levy.

1        (d) Any person upon whom a levy is served who fails or refuses to  
2 honor the levy without cause may be held liable for the amount of the  
3 levy up to the value of the assets of the covered individual liable to  
4 repay the overpayment that are under the control of the person upon whom  
5 the levy is served at the time of service and thereafter.

6        Sec. 16. It is the intent of the Legislature that the commissioner  
7 utilize state data and technology that is used for other state programs,  
8 including, but not limited to, unemployment insurance, to the maximum  
9 extent possible for purposes of carrying out his or her responsibilities  
10 under the Paid Family and Medical Leave Insurance Act.

11        Sec. 17. (1) If the Internal Revenue Service determines that family  
12 and medical leave benefits are subject to federal income tax, the  
13 commissioner shall advise any covered individual filing a claim for  
14 family and medical leave benefits, at the time of filing such claim,  
15 that:

16        (a) The Internal Revenue Service has determined that family and  
17 medical leave benefits are subject to federal income tax;

18        (b) Requirements exist pertaining to estimated tax payments;

19        (c) The covered individual may elect to have federal income tax  
20 deducted and withheld from the covered individual's family and medical  
21 leave benefits; and

22        (d) The covered individual is permitted to change a previously  
23 elected income withholding status.

24        (2) If the covered individual elects to have federal tax payments  
25 withheld, the commissioner shall deduct and withhold the amount specified  
26 in the Internal Revenue Code in a manner consistent with state and  
27 federal law. Amounts deducted and withheld must remain in the Paid Family  
28 and Medical Leave Insurance Fund until transferred to the federal taxing  
29 authority as a payment of income tax.

30        Sec. 18. (1) The commissioner may conduct investigations in order  
31 to determine whether there has been compliance with the Paid Family and

1 Medical Leave Insurance Act. Investigations shall take place at such  
2 times and places as the commissioner directs. Investigations shall be  
3 conducted so as not to unduly disrupt the operations of covered  
4 employers.

5 (2) For purposes of any investigation under this section, the  
6 commissioner may administer oaths and affirmations, subpoena witnesses,  
7 compel their attendance, take evidence, and require the production of any  
8 books, papers, correspondence, memoranda, agreements, or other documents  
9 or records which the commissioner deems relevant or material to the  
10 inquiry.

11 (3) In case of contumacy by or refusal to obey a subpoena issued to  
12 any person, any court of competent jurisdiction, upon application by the  
13 commissioner, may issue to such person an order requiring him or her to  
14 appear before the commissioner and produce documentary evidence if so  
15 ordered or give evidence touching the matter under investigation or in  
16 question. Any failure to obey the order of the court may be punished by  
17 the court as a contempt.

18 (4) The commissioner shall issue a citation to a covered employer  
19 when an investigation reveals that the covered employer has violated the  
20 act. When a citation is issued, the commissioner shall notify the covered  
21 employer of the proposed administrative penalty, if any, by certified  
22 mail or any other manner of delivery by which the United States Postal  
23 Service can verify delivery. The administrative penalty shall be not more  
24 than five hundred dollars in the case of a first violation and not more  
25 than five thousand dollars in the case of a second or subsequent  
26 violation. The covered employer shall have fifteen working days from the  
27 date of the citation to contest it. Notice of contest shall be sent to  
28 the commissioner who shall provide a hearing pursuant to the  
29 Administrative Procedure Act.

30 Sec. 19. On or before December 31, 2027, and on or before December  
31 31 of each year thereafter, the commissioner shall electronically submit

1 a report to the Legislature. The report shall include:

2 (1) The amount and percentage of family and medical leave benefits  
3 paid for each type of paid family and medical leave described in  
4 subsection (1) of section 3 of this act;

5 (2) The percentage of family and medical leave benefits paid to each  
6 gender for each type of paid family and medical leave described in  
7 subsection (1) of section 3 of this act;

8 (3) The amount of contributions remitted by covered individuals  
9 pursuant to section 8 of this act;

10 (4) The median payment level for family and medical leave benefits;

11 (5) The occupation and industry of covered individuals receiving  
12 family and medical leave benefits;

13 (6) The balance of the Paid Family and Medical Leave Insurance Fund;

14 (7) A summary of the outreach efforts made by the commissioner and  
15 by covered employers to increase awareness of the availability of paid  
16 family and medical leave; and

17 (8) The types of family members for whom paid family and medical  
18 leave as described in subdivision (1)(b) of section 3 of this act was  
19 taken.

20 Sec. 20. Family and medical leave benefits shall not be considered  
21 compensation under the County Employees Retirement Act, the Judges  
22 Retirement Act, the Nebraska State Patrol Retirement Act, the School  
23 Employees Retirement Act, the State Employees Retirement Act, or any  
24 other retirement plan administered by the Public Employees Retirement  
25 Board and shall not be eligible for deferral under any deferred  
26 compensation plan administered by the Public Employees Retirement Board.

27 Sec. 21. The commissioner shall adopt and promulgate rules and  
28 regulations as necessary to carry out the Paid Family and Medical Leave  
29 Insurance Act.

30 Sec. 22. Section 48-652, Revised Statutes Supplement, 2023, is  
31 amended to read:

1           48-652 (1)(a) A separate experience account shall be established for  
2 each employer who is liable for payment of combined tax. Whenever and  
3 wherever in the Employment Security Law the terms reserve account or  
4 experience account are used, unless the context clearly indicates  
5 otherwise, such terms shall be deemed interchangeable and synonymous and  
6 reference to either of such accounts shall refer to and also include the  
7 other.

8           (b) A separate reimbursement account shall be established for each  
9 employer who is liable for payments in lieu of contributions. All  
10 benefits paid with respect to service in employment for such employer  
11 shall be charged to his or her reimbursement account, and such employer  
12 shall be billed for and shall be liable for the payment of the amount  
13 charged when billed by the commissioner. Payments in lieu of  
14 contributions received by the commissioner on behalf of each such  
15 employer shall be credited to such employer's reimbursement account, and  
16 two or more employers who are liable for payments in lieu of  
17 contributions may jointly apply to the commissioner for establishment of  
18 a group account for the purpose of sharing the cost of benefits paid that  
19 are attributable to service in the employ of such employers. The  
20 commissioner shall adopt and promulgate such rules and regulations as he  
21 or she deems necessary with respect to applications for establishment,  
22 maintenance, and termination of group accounts authorized by this  
23 subdivision.

24           (2) All contributions paid by an employer shall be credited to the  
25 experience account of such employer. State unemployment insurance tax  
26 payments shall not be credited to the experience account of each  
27 employer. Partial payments of combined tax shall be credited so that at  
28 least eighty percent of the combined tax payment excluding interest and  
29 penalty is credited first to contributions due. Contributions with  
30 respect to prior years which are received on or before January 31 of any  
31 year shall be considered as having been paid at the beginning of the

1 calendar year. All voluntary contributions which are received on or  
2 before February 28 of any year shall be considered as having been paid at  
3 the beginning of the calendar year.

4 (3)(a) Each experience account shall be charged only for benefits  
5 based upon wages paid by such employer. No benefits shall be charged to  
6 the experience account of any employer if:

7 (i) Such benefits were paid on the basis of a period of employment  
8 from which the claimant (A) left work voluntarily without good cause, (B)  
9 left work voluntarily due to a nonwork-connected illness or injury, (C)  
10 left work voluntarily with good cause to escape abuse as defined in  
11 section 42-903 between household members as provided in subdivision (1)  
12 of section 48-628.13, (D) left work from which he or she was discharged  
13 for misconduct connected with his or her work, (E) left work voluntarily  
14 and is entitled to unemployment benefits without disqualification in  
15 accordance with subdivision (3), (5), or (11) of section 48-628.13, or  
16 (F) was involuntarily separated from employment and such benefits were  
17 paid pursuant to section 48-628.17; and

18 (ii) The employer has filed timely notice of the facts on which such  
19 exemption is claimed in accordance with rules and regulations adopted and  
20 promulgated by the commissioner.

21 (b) No benefits shall be charged to the experience account of any  
22 employer if such benefits were paid during a week when the individual was  
23 participating in training approved under section 236(a)(1) of the federal  
24 Trade Act of 1974, 19 U.S.C. 2296(a)(1).

25 (c) No benefits shall be charged to the experience account of any  
26 employer if such benefits were paid to an individual who:

27 (i) Worked for an employer for twenty weeks or less to temporarily  
28 replace a permanent employee receiving family and medical leave benefits  
29 under the Paid Family and Medical Leave Insurance Act and who was laid  
30 off due to the return of such permanent employee;

31 (ii) Was discharged due to his or her failure to return to work

1 after the expiration of paid family and medical leave taken pursuant to  
2 the Paid Family and Medical Leave Insurance Act; or

3 (iii) Left work voluntarily while on paid family and medical leave  
4 taken pursuant to the Paid Family and Medical Leave Insurance Act.

5 (d) ~~(e)~~ Each reimbursement account shall be charged only for  
6 benefits paid that were based upon wages paid by such employer in the  
7 base period that were wages for insured work solely by reason of section  
8 48-627.01.

9 (e) ~~(d)~~ Benefits paid to an eligible individual shall be charged  
10 against the account of his or her most recent employers within his or her  
11 base period against whose accounts the maximum charges hereunder have not  
12 previously been made in the inverse chronological order in which the  
13 employment of such individual occurred. The maximum amount so charged  
14 against the account of any employer, other than an employer for which  
15 services in employment as provided in subdivision (4)(a) of section  
16 48-604 are performed, shall not exceed the total benefit amount to which  
17 such individual was entitled as set out in section 48-626 with respect to  
18 base period wages of such individual paid by such employer plus one-half  
19 the amount of extended benefits paid to such eligible individual with  
20 respect to base period wages of such individual paid by such employer.  
21 The commissioner shall adopt and promulgate rules and regulations  
22 determining the manner in which benefits shall be charged against the  
23 account of several employers for whom an individual performed employment  
24 during the same quarter or during the same base period.

25 (4)(a) An employer's experience account shall be terminated one  
26 calendar year after such employer has ceased to be subject to the  
27 Employment Security Law, except that if the commissioner finds that an  
28 employer's business is closed solely because one or more of the owners,  
29 officers, partners, or limited liability company members or the majority  
30 stockholder entered the armed forces of the United States, or of any of  
31 its allies, such employer's account shall not be terminated and, if the

1 business is resumed within two years after the discharge or release from  
2 active duty in the armed forces of such person or persons, the employer's  
3 experience account shall be deemed to have been continuous throughout  
4 such period.

5 (b) An experience account terminated pursuant to this subsection  
6 shall be reinstated if:

7 (i) The employer becomes subject again to the Employment Security  
8 Law within one calendar year after termination of such experience  
9 account;

10 (ii) The employer makes a written application for reinstatement of  
11 such experience account to the commissioner within two calendar years  
12 after termination of such experience account; and

13 (iii) The commissioner finds that the employer is operating  
14 substantially the same business as prior to the termination of such  
15 experience account.

16 (5) All money in the Unemployment Compensation Fund shall be kept  
17 mingled and undivided. In no case shall the payment of benefits to an  
18 individual be denied or withheld because the experience account of any  
19 employer does not have a total of contributions paid in excess of  
20 benefits charged to such experience account.

21 (6)(a) For benefit years beginning before September 3, 2017, if an  
22 individual's base period wage credits represent part-time employment for  
23 a contributory employer and the contributory employer continues to employ  
24 the individual to the same extent as during the base period, then the  
25 contributory employer's experience account shall not be charged if the  
26 contributory employer has filed timely notice of the facts on which such  
27 exemption is claimed in accordance with rules and regulations adopted and  
28 promulgated by the commissioner.

29 (b) For benefit years beginning on or after September 3, 2017, if an  
30 individual's base period wage credits represent part-time employment for  
31 an employer and the employer continues to employ the individual to the

1 same extent as during the base period, then the employer's experience  
2 account, in the case of a contributory employer, or the employer's  
3 reimbursement account, in the case of a reimbursable employer, shall not  
4 be charged if the employer has filed timely notice of the facts on which  
5 such exemption is claimed in accordance with rules and regulations  
6 prescribed by the commissioner.

7 (7) If a contributory employer responds to the department's request  
8 for information within the time period set forth in subsection (1) of  
9 section 48-632 and provides accurate information as known to the employer  
10 at the time of the response, the employer's experience account shall not  
11 be charged if the individual's separation from employment is voluntary  
12 and without good cause as determined under section 48-628.12.

13 Sec. 23. Section 71-7611, Revised Statutes Supplement, 2023, is  
14 amended to read:

15 71-7611 (1) The Nebraska Health Care Cash Fund is created. The State  
16 Treasurer shall transfer (a) sixty million three hundred thousand dollars  
17 on or before July 15, 2014, (b) sixty million three hundred fifty  
18 thousand dollars on or before July 15, 2015, (c) sixty million three  
19 hundred fifty thousand dollars on or before July 15, 2016, (d) sixty  
20 million seven hundred thousand dollars on or before July 15, 2017, (e)  
21 five hundred thousand dollars on or before May 15, 2018, (f) sixty-one  
22 million six hundred thousand dollars on or before July 15, 2018, (g)  
23 sixty-two million dollars on or before July 15, 2019, (h) sixty-one  
24 million four hundred fifty thousand dollars on or before July 15, 2020,  
25 (i) sixty-six million two hundred thousand dollars on or before July 15,  
26 2022, (j) fifty-six million seven hundred thousand dollars on or before  
27 July 15, 2023, (k) fifty-six million five hundred thousand dollars on or  
28 before July 15, 2024, and (l) fifty-five million four hundred thousand  
29 dollars on or before every July 15 thereafter from the Nebraska Medicaid  
30 Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust  
31 Fund to the Nebraska Health Care Cash Fund, except that such amount shall

1 be reduced by the amount of the unobligated balance in the Nebraska  
2 Health Care Cash Fund at the time the transfer is made. The state  
3 investment officer shall advise the State Treasurer on the amounts to be  
4 transferred first from the Nebraska Medicaid Intergovernmental Trust Fund  
5 until the fund balance is depleted and from the Nebraska Tobacco  
6 Settlement Trust Fund thereafter in order to sustain such transfers in  
7 perpetuity. The state investment officer shall report electronically to  
8 the Legislature on or before October 1 of every even-numbered year on the  
9 sustainability of such transfers. The Nebraska Health Care Cash Fund  
10 shall also include money received pursuant to section 77-2602. Except as  
11 otherwise provided by law, no more than the amounts specified in this  
12 subsection may be appropriated or transferred from the Nebraska Health  
13 Care Cash Fund in any fiscal year.

14 The State Treasurer shall transfer ten million dollars from the  
15 Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on  
16 June 28, 2018, and June 28, 2019.

17 Except for the transfer authorized in section 8 of this act and as  
18 otherwise provided in subsections (5) and (6) of this section, it is the  
19 intent of the Legislature that no additional programs are funded through  
20 the Nebraska Health Care Cash Fund until funding for all programs with an  
21 appropriation from the fund during FY2012-13 are restored to their  
22 FY2012-13 levels.

23 (2) Any money in the Nebraska Health Care Cash Fund available for  
24 investment shall be invested by the state investment officer pursuant to  
25 the Nebraska Capital Expansion Act and the Nebraska State Funds  
26 Investment Act.

27 (3) The University of Nebraska and postsecondary educational  
28 institutions having colleges of medicine in Nebraska and their affiliated  
29 research hospitals in Nebraska, as a condition of receiving any funds  
30 appropriated or transferred from the Nebraska Health Care Cash Fund,  
31 shall not discriminate against any person on the basis of sexual

1 orientation.

2 (4) It is the intent of the Legislature that the cost of the staff  
3 and operating costs necessary to carry out the changes made by Laws 2018,  
4 LB439, and not covered by fees or federal funds shall be funded from the  
5 Nebraska Health Care Cash Fund for fiscal years 2018-19 and 2019-20.

6 (5) It is the intent of the Legislature to fund the grants to be  
7 awarded pursuant to section 75-1101 with the Nebraska Health Care Cash  
8 Fund for FY2019-20 and FY2020-21.

9 (6) The State Treasurer shall transfer fifteen million dollars from  
10 the Nebraska Health Care Cash Fund on or after July 1, 2022, but before  
11 June 30, 2023, to the Board of Regents of the University of Nebraska for  
12 the University of Nebraska Medical Center for pancreatic cancer research  
13 at the University of Nebraska Medical Center. Transfers from the Nebraska  
14 Health Care Cash Fund in this subsection shall be contingent upon receipt  
15 of any matching funds from private or other sources, up to fifteen  
16 million dollars, certified by the budget administrator of the budget  
17 division of the Department of Administrative Services. Upon receipt of  
18 any matching funds certified by the budget administrator, the State  
19 Treasurer shall transfer an equal amount of funds to the Board of Regents  
20 of the University of Nebraska.

21 Sec. 24. If any section in this act or any part of any section is  
22 declared invalid or unconstitutional, the declaration shall not affect  
23 the validity or constitutionality of the remaining portions.

24 Sec. 25. Original sections 48-652 and 71-7611, Revised Statutes  
25 Supplement, 2023, are repealed.