A BILL FOR AN ACT relating to employment; to amend section 48-652, Reissue Revised Statutes of Nebraska, and section 71-7611, Revised Statutes Cumulative Supplement, 2022; to adopt the Paid Family and Medical Leave Insurance Act; to create a fund; to transfer funds; to change provisions relating to experience accounts under the Employment Security Law; to harmonize provisions; to provide severability; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 20 of this act shall be known and may be cited as the Paid Family and Medical Leave Insurance Act.

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

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

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

(3) Commissioner means the Commissioner of Labor;

(4) Covered active duty or call to covered active duty status has the same meaning as in 29 C.F.R. 825.126(a)(1) and (2), as such regulation existed on January 1, 2023;

(5) Covered employer means an employer that is subject to the Employment Security Law;

(6) Covered individual means:

(a) An individual who is employed by a covered employer; or

(b) A self-employed individual who has elected coverage under the act. Such election shall be made in a form and manner prescribed by the commissioner;

(7) Covered servicemember has the same meaning as in 29 U.S.C. 2611 and the regulations issued thereunder, as such section and regulations existed on January 1, 2023;
(8) Family and medical leave benefits means the benefits provided under section 4 of this act for periods of paid family and medical leave;

(9) Family member means and includes:

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

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

(c) A covered individual's spouse;

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

(e) One person designated by the covered individual as a family member. Such designation shall be made in a form and manner prescribed by the commissioner;

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

(11) Individual average weekly wage means:

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

(b) For a covered individual who has not earned wages during each
calendar quarter of the base period, the covered individual's average weekly wage during the most recently completed calendar quarter;

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

(13) Next of kin has the same meaning as in 29 U.S.C. 2611 and the regulations issued thereunder, as such section and regulations existed on January 1, 2023;

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

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

(a) Any of the purposes specified in 29 C.F.R. 825.126(b)(3)(i) through (iv), as such regulation existed on January 1, 2023;

(b) Any of the purposes specified in 29 C.F.R. 825.126(b)(8)(i) through (iv), as such regulation existed on January 1, 2023;

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

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

(e) To attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the covered active duty or call to covered active duty status of the military member;
(f) To make or update financial or legal arrangements to address the military member's absence while on covered active duty or call to covered active duty status, such as preparing and executing financial and health care powers of attorney, transferring bank account signature authority, obtaining military identification cards, or preparing or updating a will or living trust;

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

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

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

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

(k) To address issues that arise from the death of the military member while on covered active duty status, such as meeting and
recovering the body of the military member, making funeral arrangements, and attending funeral services; and

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

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

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

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

(17) Serious health condition has the same meaning as in 29 U.S.C. 2611 and the regulations issued thereunder, as such section and regulations existed on January 1, 2023;

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

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

Sec. 3. (1) Beginning January 1, 2025, a covered individual may take paid family and medical leave for the following qualifying reasons:

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

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

(c) To care for a covered servicemember if the covered individual is a family member or the next of kin of the covered servicemember;
(d) For qualifying exigency leave; or

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

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

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

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

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

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

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

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

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

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

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

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

(a) The name and address of the covered individual;
(b) The reason for taking the paid family and medical leave;
(c) A schedule showing the dates during which the covered individual
intends to take paid family and medical leave, to the extent such dates
are known;
(d) Such wage information as the commissioner may require to
determine the amount of family and medical leave benefits;
(e) Such documentation as the commissioner may require from a health
care provider for proof of a serious health condition;
(f) The name and address of each covered employer that employs the
covered individual; and
(g) Such other information as required by the commissioner to
calculate and determine eligibility for family and medical leave
benefits.
(2) After an initial claim is filed, the commissioner shall send notice of the filing of such claim to each covered employer that employs the covered individual and shall include with such notice the schedule of leave submitted under subdivision (1)(c) of this section. The commissioner shall then determine the covered individual's eligibility for family and medical leave benefits. If the commissioner determines that the covered individual is eligible, the commissioner shall begin to pay family and medical leave benefits to the covered individual pursuant to section 4 of this act. If the commissioner determines that the covered individual is ineligible, the commissioner shall notify the covered individual of the commissioner's determination. Such determination of ineligibility may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

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

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

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

(2) Beginning January 1, 2024, covered employers shall be required
to remit contributions as provided in this section. The contributions
shall become due and be paid by each covered employer to the commissioner
in such manner and at such times as the commissioner shall by rule and
regulation prescribe. The commissioner may require any covered employer
that had an annual payroll of one hundred thousand dollars or more in
either of the two preceding calendar years to pay the contributions by an
electronic method approved by the commissioner, except when the covered
employer establishes to the satisfaction of the commissioner that payment
of the contributions by an electronic method would work a hardship on the
covered employer. The commissioner shall remit the contributions to the
State Treasurer for credit to the Paid Family and Medical Leave Insurance
Fund. Such contributions shall be used to pay family and medical leave
benefits payable under the Paid Family and Medical Leave Insurance Act
and the administrative costs incurred in administering the act. The
commissioner shall be responsible for evaluating and determining on an
annual basis the contribution amounts necessary to finance the total
amount of family and medical leave benefits payable under the act. If at
any time during the year the commissioner determines that the
contribution amounts are not sufficient to pay the family and medical
leave benefits payable under the act, the commissioner shall increase the
contribution amounts by the lowest amount necessary to pay all such
benefits. In no case shall the contributions required from a covered
employer under this section exceed one percent of the gross wages paid to
covered individuals by such covered employer.

(3) Beginning on the effective date of this act, the commissioner
shall accept donations from any private individual or entity and shall
remit all donations received to the State Treasurer for credit to the
Paid Family and Medical Leave Insurance Fund. Such private donations
shall be used to pay the upfront administrative costs and ongoing
administrative costs related to the Paid Family and Medical Leave
Insurance Act. On October 1, 2023, the State Treasurer shall transfer
five million five hundred fifty-eight thousand dollars from the Nebraska Health Care Cash Fund to the Paid Family and Medical Leave Insurance Fund. Such transferred amount shall also be used to pay the upfront administrative costs related to the act. The transferred amount shall be repaid to the Nebraska Health Care Cash Fund when the commissioner determines that the Paid Family and Medical Leave Insurance Fund will have sufficient funds to pay all required family and medical leave benefits after such repayment is made, but in no case shall such repayment be made later than October 1, 2027. The commissioner shall notify the State Treasurer when to make such repayment, and the State Treasurer shall then transfer five million five hundred fifty-eight thousand dollars from the Paid Family and Medical Leave Insurance Fund to the Nebraska Health Care Cash Fund.

Sec. 7. (1) A covered individual may take paid family and medical leave on an intermittent basis if:

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

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

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

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

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

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

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

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

Sec. 8. (1) Any covered individual who takes paid family and
medical leave under the Paid Family and Medical Leave Insurance Act is
entitled, on return from the leave:

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

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

(2) During any paid family and medical leave taken, the covered
employer shall maintain any health benefits the covered individual had
prior to taking such leave for the duration of the leave as if the
covered individual had continued in employment continuously from the date
he or she commenced the leave until the date the family and medical leave
benefits terminate if the covered individual continues to pay the covered
individual's share of the cost of such health benefits as required prior
to the commencement of the leave.

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

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

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

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

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

Sec. 9. (1) It shall be unlawful for a covered employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under the Paid Family and Medical Leave Insurance Act or to take a retaliatory personnel action against a covered individual because he or she exercised rights protected under the act. Such rights include, but are not limited to:

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

(b) The right to communicate to the covered employer an intent to file a claim for family and medical leave benefits;

(c) The right to appeal eligibility determinations;

(d) The right to testify or participate in any investigation,

hearing, or proceeding under the act; and

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

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

Sec. 10. (1) A covered individual who is entitled to leave under
the federal Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.,
shall take any paid family and medical leave allowed under the Paid
Family and Medical Leave Insurance Act concurrently with leave taken
pursuant to the federal Family and Medical Leave Act of 1993.

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

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

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

(a) A collective-bargaining agreement;

(b) An employer policy; or

(c) Any state or federal law.

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

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

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

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

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

(d) An explanation of the employee protections provided under section 8 of this act;

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

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

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

Sec. 12. (1) Claims filed and appeals taken pursuant to the Paid Family and Medical Leave Insurance Act and all related information shall be confidential and shall not be a public record, except that:

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

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

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

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

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

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

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

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

(2) Any person who receives information under this section and
rediscloses such information for any purpose other than the purpose for
which it was originally obtained shall be guilty of a Class III
misdemeanor.

Sec. 13. (1) A covered individual is disqualified from receiving
family and medical leave benefits for one year if he or she is determined
by the commissioner to have willfully made a false statement or
misrepresentation regarding a material fact, or willfully failed to
(2) If family and medical leave benefits are paid erroneously or as a result of willful misrepresentation, or if a claim for family and medical leave benefits is rejected after benefits are paid, the commissioner may seek repayment of such benefits from the recipient by:

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

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

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

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

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

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

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

Sec. 14. It is the intent of the Legislature that the commissioner utilize state data and technology that is used for other state programs.
including, but not limited to, unemployment insurance, to the maximum extent possible for purposes of carrying out his or her responsibilities under the Paid Family and Medical Leave Insurance Act.

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

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

(b) Requirements exist pertaining to estimated tax payments;

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

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

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

Sec. 16. (1) The commissioner may conduct investigations in order to determine whether there has been compliance with the Paid Family and Medical Leave Insurance Act. Investigations shall take place at such times and places as the commissioner directs. Investigations shall be conducted so as not to unduly disrupt the operations of covered employers.

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

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

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

Sec. 17. (1) A covered employer may satisfy the requirements of the
Paid Family and Medical Leave Insurance Act through a private employer
plan consisting of employer-provided benefits, insurance, or a
combination of both if the plan meets or exceeds the rights, protections,
and benefits provided under the act. A covered employer must file its
plan with the commissioner. The commissioner shall approve the plan if it
meets or exceeds such rights, protections, and benefits.

(2) If a plan is approved under this section, the covered employer
shall be exempt from the requirement to remit contributions under section
(3) Covered individuals who are subject to a plan approved under this section shall retain all applicable rights under the act.

(4) A plan approved under this section shall not impose any additional conditions or restrictions on the use of paid family and medical leave beyond those explicitly authorized in the act or in rules and regulations adopted and promulgated under the act.

(5) If a covered individual is denied family and medical leave benefits under a plan approved under this section, such covered individual may appeal the denial to the commissioner. The appeal shall be in accordance with the Administrative Procedure Act.

(6) Covered individuals who are subject to a plan approved under this section may report any alleged violation of the act to the commissioner, and the commissioner may investigate the complaint in accordance with section 16 of this act.

(7) On or before November 30, 2025, and on or before November 30 of each year thereafter, each covered employer with an approved plan under this section shall electronically submit a report to the commissioner. The report shall include:

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

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

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

(d) The occupation and industry of covered individuals receiving family and medical leave benefits;

(e) A summary of the outreach efforts made by the covered employer to increase awareness of the availability of paid family and medical leave; and
(f) The types of family members for whom paid family and medical leave as described in subdivision (1)(b) of section 3 of this act was taken.

(8) The commissioner shall include the information reported under subsection (7) of this section in the report required under section 18 of this act.

(9) A plan's approval under this section may be revoked by the commissioner if terms or conditions of the plan have been violated. Causes for revocation include, but are not limited to, the following:

(a) Failure to pay family and medical leave benefits;
(b) Failure to pay such benefits in a timely manner and in a manner consistent with benefits paid by the commissioner under section 4 of this act;
(c) Misuse of plan funds;
(d) Failure to submit reports as required in this section; and
(e) Failure to comply with any other requirements of the act.

Sec. 18. On or before December 31, 2025, and on or before December 31 of each year thereafter, the commissioner shall electronically submit a report to the Legislature. The report shall include:

(1) The amount and percentage of family and medical leave benefits paid for each type of paid family and medical leave described in subsection (1) of section 3 of this act;
(2) The percentage of family and medical leave benefits paid to each gender for each type of paid family and medical leave described in subsection (1) of section 3 of this act;
(3) The amount of contributions remitted by covered employers pursuant to section 6 of this act;
(4) The median payment level for family and medical leave benefits;
(5) The occupation and industry of covered individuals receiving family and medical leave benefits;
(6) The balance of the Paid Family and Medical Leave Insurance Fund;
(7) A summary of the outreach efforts made by the commissioner and
by covered employers to increase awareness of the availability of paid
family and medical leave; and

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

Sec. 19. Family and medical leave benefits shall not be considered
compensation under the County Employees Retirement Act, the Judges
Retirement Act, the Nebraska State Patrol Retirement Act, the School
Employees Retirement Act, the State Employees Retirement Act, or any
other retirement plan administered by the Public Employees Retirement
Board and shall not be eligible for deferral under any deferred
compensation plan administered by the Public Employees Retirement Board.

Sec. 20. The commissioner shall adopt and promulgate rules and
regulations as necessary to carry out the Paid Family and Medical Leave
Insurance Act.

Sec. 21. Section 48-652, Reissue Revised Statutes of Nebraska, is
amended to read:

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

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

(2) All contributions paid by an employer shall be credited to the experience account of such employer. State unemployment insurance tax payments shall not be credited to the experience account of each employer. Partial payments of combined tax shall be credited so that at least eighty percent of the combined tax payment excluding interest and penalty is credited first to contributions due. Contributions with respect to prior years which are received on or before January 31 of any year shall be considered as having been paid at the beginning of the calendar year. All voluntary contributions which are received on or before January 10 of any year shall be considered as having been paid at the beginning of the calendar year.

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

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

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

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

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

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

(ii) Was discharged due to his or her failure to return to work after the expiration of paid family and medical leave taken pursuant to the Paid Family and Medical Leave Insurance Act; or

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

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

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

(4)(a) An employer's experience account shall be terminated one
calendar year after such employer has ceased to be subject to the
Employment Security Law, except that if the commissioner finds that an
employer's business is closed solely because one or more of the owners,
officers, partners, or limited liability company members or the majority
stockholder entered the armed forces of the United States, or of any of
its allies, such employer's account shall not be terminated and, if the
business is resumed within two years after the discharge or release from
active duty in the armed forces of such person or persons, the employer's
experience account shall be deemed to have been continuous throughout
such period.

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

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

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

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

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

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

(b) For benefit years beginning on or after September 3, 2017, if an individual's base period wage credits represent part-time employment for an employer and the employer continues to employ the individual to the same extent as during the base period, then the employer's experience account, in the case of a contributory employer, or the employer's reimbursement account, in the case of a reimbursable employer, shall not be charged if the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations prescribed by the commissioner.

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

Sec. 22. Section 71-7611, Revised Statutes Cumulative Supplement,
2022, is amended to read:

71-7611 (1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) sixty million three hundred thousand dollars on or before July 15, 2014, (b) sixty million three hundred fifty thousand dollars on or before July 15, 2015, (c) sixty million three hundred fifty thousand dollars on or before July 15, 2016, (d) sixty million seven hundred thousand dollars on or before July 15, 2017, (e) five hundred thousand dollars on or before May 15, 2018, (f) sixty-one million six hundred thousand dollars on or before July 15, 2018, (g) sixty-two million dollars on or before July 15, 2019, (h) sixty-one million four hundred fifty thousand dollars on or before July 15, 2020, (i) sixty-six million two hundred thousand dollars on or before July 15, 2022, and (j) fifty-one million dollars on or before every July 15 thereafter from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer shall advise the State Treasurer on the amounts to be transferred first from the Nebraska Medicaid Intergovernmental Trust Fund until the fund balance is depleted and from the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain such transfers in perpetuity. The state investment officer shall report electronically to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. The Nebraska Health Care Cash Fund shall also include money received pursuant to section 77-2602. Except as otherwise provided by law, no more than the amounts specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

The State Treasurer shall transfer ten million dollars from the Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on June 28, 2018, and June 28, 2019.
Except for the transfer authorized in section 6 of this act and as otherwise provided in subsections (6) and (7) of this section, it is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

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

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

(4) The State Treasurer shall transfer fifty thousand dollars on or before July 15, 2016, from the Nebraska Health Care Cash Fund to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center. It is the intent of the Legislature that these funds be used by the College of Public Health for workforce training.

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

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

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

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

Sec. 24. Original section 48-652, Reissue Revised Statutes of
Nebraska, and section 71-7611, Revised Statutes Cumulative Supplement,
2022, are repealed.