

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5659

Chapter 357, Laws of 2007

60th Legislature
2007 Regular Session

FAMILY LEAVE INSURANCE

EFFECTIVE DATE: 07/22/07 - Except sections 3 through 18 and 26, which become effective 07/01/08; and sections 2 and 19 through 25, which become effective 05/08/07.

Passed by the Senate April 22, 2007
YEAS 26 NAYS 21

BRAD OWEN

President of the Senate

Passed by the House April 20, 2007
YEAS 57 NAYS 41

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5659** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved May 8, 2007, 3:12 p.m.

FILED

May 10, 2007

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5659

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Kohl-Welles, Fairley, Franklin, Brown and Kline)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to family and medical leave insurance; amending RCW
2 51.44.033; reenacting and amending RCW 43.79A.040; adding a new chapter
3 to Title 49 RCW; creating new sections; making an appropriation;
4 providing an effective date; providing expiration dates; and declaring
5 an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** FINDINGS AND DECLARATIONS. The legislature
8 finds that, although family leave laws have assisted individuals to
9 balance the demands of the workplace with their family
10 responsibilities, more needs to be done to achieve the goals of parent
11 and child bonding, workforce stability, and economic security. In
12 particular, the legislature finds that many individuals do not have
13 access to family leave laws, and those who do may not be in a financial
14 position to take family leave that is unpaid, and that employer-paid
15 benefits meet only a relatively small part of this need. The
16 legislature declares it to be in the public interest to establish a
17 program that: (1) Allows parents to bond with a newborn or newly
18 placed child; (2) provides limited and additional income support for a
19 reasonable period while an individual is away from work on family

1 leave; (3) reduces the impact on state income support programs by
2 increasing an individual's ability to provide caregiving services for
3 a child while maintaining an employment relationship; and (4)
4 establishes a wage replacement benefit to be coordinated with current
5 existing state and federal family leave laws.

6 NEW SECTION. **Sec. 2.** JOINT LEGISLATIVE TASK FORCE. (1)(a) The
7 joint legislative task force on family leave insurance is established,
8 with thirteen members as provided in this subsection.

9 (i) The chair and the ranking member of the senate labor, commerce,
10 research and development committee.

11 (ii) The chair and the ranking member of the house commerce and
12 labor committee.

13 (iii) The majority leader of the senate shall appoint one member
14 from each of the two largest caucuses of the senate.

15 (iv) The speaker of the house of representatives shall appoint one
16 member from each of the two largest caucuses of the house of
17 representatives.

18 (v) The majority leader of the senate and the speaker of the house
19 of representatives jointly shall appoint four nonlegislative members of
20 the task force, which shall include one member representing large
21 business, one member representing small business, one member
22 representing labor, and one member representing advocates for family
23 leave.

24 (vi) The governor shall appoint one member of the task force.

25 (b) The department of labor and industries and the employment
26 security department shall cooperate with the task force and shall each
27 maintain a liaison representative, who shall be a nonvoting member.

28 (c) The majority leader of the senate and the speaker of the house
29 of representatives jointly shall appoint the cochairs of the task force
30 from among the legislative members of the task force. The cochairs
31 shall convene the initial meeting of the task force. A steering
32 committee consisting of the legislative members of the task force shall
33 advise the cochairs on the meetings and other activities of the task
34 force.

35 (2) The task force shall study the establishment of a family leave
36 insurance program including, but not limited to, the following:

1 (a) The manner in which the benefits and the administrative costs
2 should be financed;

3 (b) The manner in which the program should be implemented and
4 administered;

5 (c) Any government efficiencies that should be adopted to improve
6 program administration and reduce program costs; and

7 (d) The impacts, if any, of the family leave insurance program on
8 the unemployment compensation system, and options for mitigating such
9 impacts.

10 (3) Staff support for the task force must be provided by the senate
11 committee services and the house of representatives office of program
12 research. The task force may hire additional staff with specific
13 technical expertise if such expertise is necessary to carry out the
14 mandates of this study, and only if an appropriation is specifically
15 provided for this purpose.

16 (4) Legislative members of the task force must be reimbursed for
17 travel expenses in accordance with RCW 44.04.120. Nonlegislative
18 members, except those representing an employer or organization, are
19 entitled to be reimbursed for travel expenses in accordance with RCW
20 43.03.050 and 43.03.060.

21 (5) The expenses of the task force must be paid jointly by the
22 senate and the house of representatives. Task force expenditures are
23 subject to approval by the senate facilities and operations committee
24 and the house of representatives executive rules committee, or their
25 successor committees.

26 (6) The task force shall report its findings and recommendations,
27 which shall include recommendations as to the specific manner in which
28 the benefits and the administrative costs should be financed as well as
29 proposed legislation, to the legislature by January 1, 2008.

30 (7) This section expires July 1, 2009.

31 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
32 section apply throughout this chapter unless the context clearly
33 requires otherwise.

34 (1) "Application year" means the twelve-month period beginning on
35 the first day of the calendar week in which an individual files an
36 application for family leave insurance benefits and, thereafter, the
37 twelve-month period beginning with the first day of the calendar week

1 in which the individual next files an application for family leave
2 insurance benefits after the expiration of the individual's last
3 preceding application year.

4 (2) "Calendar quarter" means the same as in RCW 50.04.050.

5 (3) "Child" means a biological or an adopted child.

6 (4) "Department" means the state agency to be directed to
7 administer the family leave insurance program.

8 (5) "Director" means the director of the department.

9 (6) "Employer" means: (a) The same as in RCW 50.04.080; and (b)
10 the state and its political subdivisions.

11 (7) "Employment" has the meaning provided in RCW 50.04.100.

12 (8) "Family leave" means leave: (a) Because of the birth of a
13 child of the employee and in order to care for the child; or (b)
14 because of the placement of a child with the employee for adoption.

15 (9) "Family leave insurance benefits" means the benefits payable
16 under sections 7 and 8 of this act.

17 (10) "Federal family and medical leave act" means the federal
18 family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107
19 Stat. 6).

20 (11) "Qualifying year" means the first four of the last five
21 completed calendar quarters or the last four completed calendar
22 quarters immediately preceding the first day of the individual's
23 application year.

24 (12) "Regularly working" means the average number of hours per
25 workweek that an individual worked in the two quarters of the
26 individual's qualifying year in which total wages were highest.

27 NEW SECTION. **Sec. 4.** FAMILY LEAVE INSURANCE PROGRAM. (1) The
28 department shall establish and administer a family leave insurance
29 program and pay family leave insurance benefits as specified in this
30 chapter.

31 (2) The department shall establish procedures and forms for filing
32 claims for benefits under this chapter. The department shall notify
33 the employer within five business days of a claim being filed under
34 section 5 of this act.

35 (3) The department shall use information sharing and integration
36 technology to facilitate the disclosure of relevant information or

1 records by the employment security department, so long as an individual
2 consents to the disclosure as required under section 5(4) of this act.

3 (4) Information contained in the files and records pertaining to an
4 individual under this chapter are confidential and not open to public
5 inspection, other than to public employees in the performance of their
6 official duties. However, the individual or an authorized
7 representative of an individual may review the records or receive
8 specific information from the records on the presentation of the signed
9 authorization of the individual. An employer or the employer's duly
10 authorized representative may review the records of an individual
11 employed by the employer in connection with a pending claim. At the
12 department's discretion, other persons may review records when such
13 persons are rendering assistance to the department at any stage of the
14 proceedings on any matter pertaining to the administration of this
15 chapter.

16 (5) The department shall develop and implement an outreach program
17 to ensure that individuals who may be eligible to receive family leave
18 insurance benefits under this chapter are made aware of these benefits.
19 Outreach information shall explain, in an easy to understand format,
20 eligibility requirements, the claims process, weekly benefit amounts,
21 maximum benefits payable, notice requirements, reinstatement and
22 nondiscrimination rights, confidentiality, and coordination of leave
23 under this chapter and other laws, collective bargaining agreements,
24 and employer policies. Outreach information shall be available in
25 English and other primary languages as defined in RCW 74.04.025.

26 NEW SECTION. **Sec. 5. ELIGIBILITY FOR BENEFITS.** Beginning October
27 1, 2009, family leave insurance benefits are payable to an individual
28 during a period in which the individual is unable to perform his or her
29 regular or customary work because he or she is on family leave if the
30 individual:

31 (1) Files a claim for benefits in each week in which the individual
32 is on family leave, and as required by rules adopted by the director;

33 (2) Has been employed for at least six hundred eighty hours in
34 employment during the individual's qualifying year;

35 (3) Establishes an application year. An application year may not
36 be established if the qualifying year includes hours worked before
37 establishment of a previous application year;

1 (4) Consents to the disclosure of information or records deemed
2 private and confidential under chapter 50.13 RCW. Initial disclosure
3 of this information and these records by the employment security
4 department to the department is solely for purposes related to the
5 administration of this chapter. Further disclosure of this information
6 or these records is subject to section 4(3) of this act;

7 (5) Discloses whether or not he or she owes child support
8 obligations as defined in RCW 50.40.050; and

9 (6) Documents that he or she has provided the employer from whom
10 family leave is to be taken with written notice of the individual's
11 intention to take family leave in the same manner as an employee is
12 required to provide notice in RCW 49.78.250.

13 NEW SECTION. **Sec. 6.** DISQUALIFICATION FROM BENEFITS. An
14 individual is disqualified from family leave insurance benefits
15 beginning with the first day of the calendar week, and continuing for
16 the next fifty-two consecutive weeks, in which the individual willfully
17 made a false statement or misrepresentation regarding a material fact,
18 or willfully failed to report a material fact, to obtain benefits under
19 this chapter.

20 NEW SECTION. **Sec. 7.** DURATION OF BENEFITS. (1) The maximum
21 number of weeks during which family leave insurance benefits are
22 payable in an application year is five weeks. However, benefits are
23 not payable during a waiting period consisting of the first seven
24 calendar days of family leave taken in an application year, whether the
25 first seven calendar days of family leave are employer paid or unpaid.

26 (2)(a) The first payment of benefits must be made to an individual
27 within two weeks after the claim is filed or the family leave began,
28 whichever is later, and subsequent payments must be made semimonthly
29 thereafter.

30 (b) The payment of benefits under this chapter shall not be
31 considered a binding determination of the obligations of the department
32 under this chapter. The acceptance of compensation by the individual
33 shall likewise not be considered a binding determination of his or her
34 rights under this chapter. Whenever any payment of benefits under this
35 chapter has been made and timely appeal therefrom has been made where
36 the final decision is that the payment was improper, the individual

1 shall repay it and recoupment may be made from any future payment due
2 to the individual on any claim under this chapter. The director may
3 exercise his or her discretion to waive, in whole or in part, the
4 amount of any such payments where the recovery would be against equity
5 and good conscience.

6 (c) If an individual dies before he or she receives a payment of
7 benefits, the payment shall be made by the department and distributed
8 consistent with the terms of the decedent's will or, if the decedent
9 dies intestate, consistent with the terms of RCW 11.04.015.

10 NEW SECTION. **Sec. 8.** AMOUNT OF BENEFITS. The amount of family
11 leave insurance benefits shall be determined as follows:

12 (1) The weekly benefit shall be two hundred fifty dollars per week
13 for an individual who at the time of beginning family leave was
14 regularly working thirty-five hours or more per week.

15 (2) If an individual who at the time of beginning family leave was
16 regularly working thirty-five hours or more per week is on family leave
17 for less than thirty-five hours but at least eight hours in a week, the
18 individual's weekly benefit shall be .025 times the maximum weekly
19 benefit times the number of hours of family leave taken in the week.
20 Benefits are not payable for less than eight hours of family leave
21 taken in a week.

22 (3) For an individual who at the time of beginning family leave was
23 regularly working less than thirty-five hours per week, the department
24 shall calculate a prorated schedule for a weekly benefit amount and a
25 minimum number of hours of family leave that must be taken in a week
26 for benefits to be payable, with the prorated schedule based on the
27 amounts and the calculations specified under subsections (1) and (2) of
28 this section.

29 (4) If an individual discloses that he or she owes child support
30 obligations under section 5 of this act and the department determines
31 that the individual is eligible for benefits, the department shall
32 notify the applicable state or local child support enforcement agency
33 and deduct and withhold an amount from benefits in a manner consistent
34 with RCW 50.40.050.

35 (5) If the internal revenue service determines that family leave
36 insurance benefits under this chapter are subject to federal income tax
37 and an individual elects to have federal income tax deducted and

1 withheld from benefits, the department shall deduct and withhold the
2 amount specified in the federal internal revenue code in a manner
3 consistent with section 9 of this act.

4 NEW SECTION. **Sec. 9.** FEDERAL INCOME TAX. (1) If the internal
5 revenue service determines that family leave insurance benefits under
6 this chapter are subject to federal income tax, the department must
7 advise an individual filing a new claim for family leave insurance
8 benefits, at the time of filing such claim, that:

9 (a) The internal revenue service has determined that benefits are
10 subject to federal income tax;

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

12 (c) The individual may elect to have federal income tax deducted
13 and withheld from the individual's payment of benefits at the amount
14 specified in the federal internal revenue code; and

15 (d) The individual is permitted to change a previously elected
16 withholding status.

17 (2) Amounts deducted and withheld from benefits must remain in the
18 family leave insurance account until transferred to the federal taxing
19 authority as a payment of income tax.

20 (3) The director shall follow all procedures specified by the
21 federal internal revenue service pertaining to the deducting and
22 withholding of income tax.

23 NEW SECTION. **Sec. 10.** ADJUSTMENT TO BENEFITS. If family leave
24 insurance benefits are paid erroneously or as a result of willful
25 misrepresentation, or if a claim for family leave benefits is rejected
26 after benefits are paid, RCW 51.32.240 shall apply, except that appeals
27 are governed by section 14 of this act, penalties are paid into the
28 family leave insurance account, and the department shall seek repayment
29 of benefits from the recipient.

30 NEW SECTION. **Sec. 11.** LEAVE AND EMPLOYMENT PROTECTION. (1)
31 During a period in which an individual receives family leave insurance
32 benefits or earns waiting period credits under this chapter, the
33 individual is entitled to family leave and, at the established ending
34 date of leave, to be restored to a position of employment with the
35 employer from whom leave was taken.

1 (2) The individual entitled to leave under this section shall be
2 restored to a position of employment in the same manner as an employee
3 entitled to leave under chapter 49.78 RCW is restored to a position of
4 employment, as specified in RCW 49.78.280.

5 (3) This section applies only to an individual if:

6 (a) The employer from whom the individual takes family leave
7 employs more than twenty-five employees; and

8 (b) The individual has been employed for at least twelve months by
9 that employer, and for at least one thousand two hundred fifty hours of
10 service with that employer during the previous twelve-month period.

11 (4) This section shall be enforced as provided in chapter 49.78
12 RCW.

13 NEW SECTION. **Sec. 12.** EMPLOYMENT BY SAME EMPLOYER. If spouses or
14 people involved in a legal relationship established under chapter 26.--
15 RCW (sections 1, 2, and 4 through 8, chapter . . . (Substitute Senate
16 Bill No. 5336), Laws of 2007) who are entitled to leave under this
17 chapter are employed by the same employer, the employer may require
18 that spouses or people involved in such a relationship governed by
19 Title 26 RCW not take such leave concurrently.

20 NEW SECTION. **Sec. 13.** ELECTIVE COVERAGE. (1) An employer of
21 individuals not covered by this chapter or a self-employed person,
22 including a sole proprietor, partner, or joint venturer, may elect
23 coverage under this chapter for all individuals in its employ for an
24 initial period of not less than three years or a subsequent period of
25 not less than one year immediately following another period of
26 coverage. The employer or self-employed person must file a notice of
27 election in writing with the director, as required by the department.
28 The election becomes effective on the date of filing the notice.

29 (2) An employer or self-employed person who has elected coverage
30 may withdraw from coverage within thirty days after the end of the
31 three-year period of coverage, or at such other times as the director
32 may prescribe by rule, by filing written notice with the director, such
33 withdrawal to take effect not sooner than thirty days after filing the
34 notice. Within five days of filing written notice of the withdrawal
35 with the director, an employer must provide written notice of the
36 withdrawal to all individuals in the employer's employ.

1 NEW SECTION. **Sec. 14.** APPEALS. (1) A person aggrieved by a
2 decision of the department under this chapter must file a notice of
3 appeal with the director, by mail or personally, within thirty days
4 after the date on which a copy of the department's decision was
5 communicated to the person. Upon receipt of the notice of appeal, the
6 director shall request the assignment of an administrative law judge in
7 accordance with chapter 34.05 RCW to conduct a hearing and issue a
8 proposed decision and order. The hearing shall be conducted in
9 accordance with chapter 34.05 RCW.

10 (2) The administrative law judge's proposed decision and order
11 shall be final and not subject to further appeal unless, within thirty
12 days after the decision is communicated to the interested parties, a
13 party petitions for review by the director. If the director's review
14 is timely requested, the director may order additional evidence by the
15 administrative law judge. On the basis of the evidence before the
16 administrative law judge and such additional evidence as the director
17 may order to be taken, the director shall render a decision affirming,
18 modifying, or setting aside the administrative law judge's decision.
19 The director's decision becomes final and not subject to further appeal
20 unless, within thirty days after the decision is communicated to the
21 interested parties, a party files a petition for judicial review as
22 provided in chapter 34.05 RCW. The director is a party to any judicial
23 action involving the director's decision and shall be represented in
24 the action by the attorney general.

25 (3) If, upon administrative or judicial review, the final decision
26 of the department is reversed or modified, the administrative law judge
27 or the court in its discretion may award reasonable attorneys' fees and
28 costs to the prevailing party. Attorneys' fees and costs owed by the
29 department, if any, are payable from the family leave insurance
30 account.

31 NEW SECTION. **Sec. 15.** PROHIBITED ACTS. An employer, temporary
32 help company, employment agency, employee organization, or other person
33 may not discharge, expel, or otherwise discriminate against a person
34 because he or she has filed or communicated to the employer an intent
35 to file a claim, a complaint, or an appeal, or has testified or is
36 about to testify or has assisted in any proceeding, under this chapter,
37 at any time, including during the waiting period described in section

1 7 of this act and the period in which the person receives family leave
2 insurance benefits under this chapter. This section shall be enforced
3 as provided in RCW 51.48.025.

4 NEW SECTION. **Sec. 16.** COORDINATION OF LEAVE. (1)(a) Leave taken
5 under this act must be taken concurrently with any leave taken under
6 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,
7 P.L. 103-3, 107 Stat. 6) or under chapter 49.78 RCW.

8 (b) An employer may require that leave taken under this act be
9 taken concurrently or otherwise coordinated with leave allowed under
10 the terms of a collective bargaining agreement or employer policy, as
11 applicable, for the birth or placement of a child. The employer must
12 give individuals in its employ written notice of this requirement.

13 (2)(a) This act does not diminish an employer's obligation to
14 comply with a collective bargaining agreement or employer policy, as
15 applicable, that provides greater leave for the birth or placement of
16 a child.

17 (b) An individual's right to leave under this act may not be
18 diminished by a collective bargaining agreement entered into or renewed
19 or an employer policy adopted or retained after the effective date of
20 this section. Any agreement by an individual to waive his or her
21 rights under this act is void as against public policy.

22 NEW SECTION. **Sec. 17.** NO CONTINUING ENTITLEMENT OR CONTRACTUAL
23 RIGHT. This chapter does not create a continuing entitlement or
24 contractual right. The legislature reserves the right to amend or
25 repeal all or part of this chapter at any time, and a benefit or other
26 right granted under this chapter exists subject to the legislature's
27 power to amend or repeal this chapter. There is no vested private
28 right of any kind against such amendment or repeal.

29 NEW SECTION. **Sec. 18.** RULES. The director may adopt rules as
30 necessary to implement this chapter. In adopting rules, the director
31 shall maintain consistency with the rules adopted to implement the
32 federal family and medical leave act, and chapter 49.78 RCW, to the
33 extent such rules are not in conflict with this chapter.

1 NEW SECTION. **Sec. 19.** ACCOUNT. The family leave insurance
2 account is created in the custody of the state treasurer. Expenditures
3 from the account may be used only for the purposes of the family leave
4 insurance program. Only the director of the department of labor and
5 industries or the director's designee may authorize expenditures from
6 the account. The account is subject to the allotment procedures under
7 chapter 43.88 RCW. An appropriation is required for administrative
8 expenses, but not for benefit payments.

9 NEW SECTION. **Sec. 20.** INVESTMENT OF FAMILY LEAVE INSURANCE
10 ACCOUNT. Whenever, in the judgment of the state investment board,
11 there shall be in the family leave insurance account funds in excess of
12 that amount deemed by the state investment board to be sufficient to
13 meet the current expenditures properly payable therefrom, the state
14 investment board shall have full power to invest, reinvest, manage,
15 contract, or sell or exchange investments acquired with such excess
16 funds in the manner prescribed by RCW 43.84.150, and not otherwise.

17 **Sec. 21.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are
18 each reenacted and amended to read as follows:

19 (1) Money in the treasurer's trust fund may be deposited, invested,
20 and reinvested by the state treasurer in accordance with RCW 43.84.080
21 in the same manner and to the same extent as if the money were in the
22 state treasury.

23 (2) All income received from investment of the treasurer's trust
24 fund shall be set aside in an account in the treasury trust fund to be
25 known as the investment income account.

26 (3) The investment income account may be utilized for the payment
27 of purchased banking services on behalf of treasurer's trust funds
28 including, but not limited to, depository, safekeeping, and
29 disbursement functions for the state treasurer or affected state
30 agencies. The investment income account is subject in all respects to
31 chapter 43.88 RCW, but no appropriation is required for payments to
32 financial institutions. Payments shall occur prior to distribution of
33 earnings set forth in subsection (4) of this section.

34 (4)(a) Monthly, the state treasurer shall distribute the earnings
35 credited to the investment income account to the state general fund
36 except under (b) and (c) of this subsection.

1 (b) The following accounts and funds shall receive their
2 proportionate share of earnings based upon each account's or fund's
3 average daily balance for the period: The Washington promise
4 scholarship account, the college savings program account, the
5 Washington advanced college tuition payment program account, the
6 agricultural local fund, the American Indian scholarship endowment
7 fund, the foster care scholarship endowment fund, the foster care
8 endowed scholarship trust fund, the students with dependents grant
9 account, the basic health plan self-insurance reserve account, the
10 contract harvesting revolving account, the Washington state combined
11 fund drive account, the commemorative works account, the Washington
12 international exchange scholarship endowment fund, the developmental
13 disabilities endowment trust fund, the energy account, the fair fund,
14 the family leave insurance account, the fruit and vegetable inspection
15 account, the future teachers conditional scholarship account, the game
16 farm alternative account, the grain inspection revolving fund, the
17 juvenile accountability incentive account, the law enforcement
18 officers' and firefighters' plan 2 expense fund, the local tourism
19 promotion account, the produce railcar pool account, the regional
20 transportation investment district account, the rural rehabilitation
21 account, the stadium and exhibition center account, the youth athletic
22 facility account, the self-insurance revolving fund, the sulfur dioxide
23 abatement account, the children's trust fund, the Washington horse
24 racing commission Washington bred owners' bonus fund account, the
25 Washington horse racing commission class C purse fund account, the
26 individual development account program account, the Washington horse
27 racing commission operating account (earnings from the Washington horse
28 racing commission operating account must be credited to the Washington
29 horse racing commission class C purse fund account), the life sciences
30 discovery fund, and the reading achievement account. However, the
31 earnings to be distributed shall first be reduced by the allocation to
32 the state treasurer's service fund pursuant to RCW 43.08.190.

33 (c) The following accounts and funds shall receive eighty percent
34 of their proportionate share of earnings based upon each account's or
35 fund's average daily balance for the period: The advanced right of way
36 revolving fund, the advanced environmental mitigation revolving
37 account, the city and county advance right-of-way revolving fund, the

1 federal narcotics asset forfeitures account, the high occupancy vehicle
2 account, the local rail service assistance account, and the
3 miscellaneous transportation programs account.

4 (5) In conformance with Article II, section 37 of the state
5 Constitution, no trust accounts or funds shall be allocated earnings
6 without the specific affirmative directive of this section.

7 NEW SECTION. **Sec. 22.** LOANS. If necessary to ensure that money
8 is available in the family leave insurance account for the initial
9 administration of the family leave insurance program, the director of
10 labor and industries may, from time to time before July 1, 2009, lend
11 funds from the supplemental pension fund to the family leave insurance
12 account. These loaned funds may be expended solely for the initial
13 administration of the program under this chapter. The director of
14 labor and industries shall repay the supplemental pension fund, plus
15 its proportionate share of earnings from investment of moneys in the
16 supplemental pension fund during the loan period, from the family leave
17 insurance account within two years of the date of the loan. This
18 section expires October 1, 2011.

19 **Sec. 23.** RCW 51.44.033 and 1975 1st ex.s. c 224 s 16 are each
20 amended to read as follows:

21 There shall be, in the office of the state treasurer, a fund to be
22 known and designated as the "supplemental pension fund". The director
23 shall be the administrator thereof. (~~Said~~) The fund shall be used
24 for the sole purposes of making the additional payments therefrom
25 prescribed in this title and the loans therefrom authorized in section
26 22 of this act.

27 NEW SECTION. **Sec. 24.** AUTHORITY TO CONTRACT. (1) The department
28 of labor and industries may contract or enter into interagency
29 agreements with other state agencies for the initial administration of
30 the family leave insurance program.

31 (2) This section expires October 1, 2011.

32 NEW SECTION. **Sec. 25.** APPROPRIATION. The sum of eighteen million
33 dollars, or as much thereof as may be necessary, is appropriated for

1 the biennium ending June 30, 2009, from the family leave insurance
2 account to the department of labor and industries for the initial
3 administration of the family leave insurance program.

4 NEW SECTION. **Sec. 26.** REPORTS TO THE LEGISLATURE. Beginning
5 September 1, 2010, the department shall report to the legislature by
6 September 1st of each year on projected and actual program
7 participation, premium rates, fund balances, and outreach efforts.

8 NEW SECTION. **Sec. 27.** SEVERABILITY. If any provision of this act
9 or its application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 28.** CAPTIONS. Captions used in this act are
13 not any part of the law.

14 NEW SECTION. **Sec. 29.** CODIFICATION. Sections 1, 3 through 20,
15 and 26 through 28 of this act constitute a new chapter in Title 49 RCW.

16 NEW SECTION. **Sec. 30.** EFFECTIVE DATES. (1) Sections 3 through 18
17 and 26 of this act take effect July 1, 2008.

18 (2) Sections 2 and 19 through 25 of this act are necessary for the
19 immediate preservation of the public peace, health, or safety, or
20 support of the state government and its existing public institutions,
21 and take effect immediately.

Passed by the Senate April 22, 2007.

Passed by the House April 20, 2007.

Approved by the Governor May 8, 2007.

Filed in Office of Secretary of State May 10, 2007.