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HOUSE BILL 1520

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Dickerson, Keiser, Conway, Kessler, Santos, Cody, Kagi, Edwards, Romero, Wood and McIntire

Read first time 01/29/2001. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to family leave insurance; amending RCW 49.78.005;  
2 adding a new chapter to Title 49 RCW; creating a new section; and  
3 making an appropriation.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that, although family  
6 leave laws have assisted individuals to balance the demands of the  
7 workplace with their family responsibilities, more needs to be done to  
8 achieve the goals of work force stability and economic security. In  
9 particular, the legislature finds that many individuals do not have  
10 access to family leave laws, and those who do may not be in a financial  
11 position to take family leave that is unpaid, and that employer-paid  
12 benefits, including family leave and disability benefits, meet only a  
13 relatively small part of this need. The legislature declares it to be  
14 in the public interest to establish a program that: (1) Provides  
15 additional options for individuals to use in balancing work and family  
16 responsibilities; (2) is in addition to those programs offered by  
17 employers; (3) provides limited income support for a reasonable period  
18 while an individual is away from work on family leave; and (4) reduces  
19 the impact on state income-support programs by increasing an

1 individual's ability to provide care-giving services for family members  
2 while maintaining an employment relationship.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply  
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Application year" means the twelve-month period beginning on  
6 the first day of the calendar week in which an individual files an  
7 application for family leave insurance benefits and, thereafter, the  
8 twelve-month period beginning with the first day of the calendar week  
9 in which the individual next files an application for family leave  
10 insurance benefits after the expiration of the individual's last  
11 preceding application year.

12 (2) "Calendar quarter" means the same as the definition in RCW  
13 50.04.050.

14 (3) "Child" means a person who is:

15 (a) A biological, adopted, or foster child, a stepchild, a legal  
16 ward, or a child of a person standing in loco parentis; and

17 (b)(i) Under eighteen years of age; or

18 (ii) Eighteen years of age or older and incapable of self-care  
19 because of a mental or physical disability.

20 (4) "Department" means the department of labor and industries.

21 (5) "Director" means the director of the department of labor and  
22 industries.

23 (6) "Employer" means: (a) The same as the definition in RCW  
24 50.04.080; and (b) the state and its political subdivisions.

25 (7) "Employment" means the same as the definition in RCW 50.04.100.

26 (8) "Family leave" means leave from employment:

27 (a) To care for a newborn child or adopted or foster child of the  
28 individual when leave is completed within twelve months after the birth  
29 or the placement for adoption or foster care, as applicable;

30 (b) To care for the individual's family member who has a serious  
31 health condition; or

32 (c) Because of the individual's serious health condition that makes  
33 the individual unable to perform the functions of the individual's  
34 position.

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

37 (10) "Family member" means a child, spouse, or the parent of the  
38 individual or individual's spouse.

1 (11) "Health care provider" means a person licensed as a physician  
2 under chapter 18.71 RCW or an osteopathic physician and surgeon under  
3 chapter 18.57 RCW.

4 (12) "Parent" means a biological or adoptive parent, a stepparent,  
5 or an individual who stood in loco parentis to an individual or an  
6 individual's spouse when the individual or individual's spouse was a  
7 child.

8 (13) "Premium" and/or "premiums" means taxes, which are the money  
9 payments required by this chapter to be made to the department for the  
10 family leave insurance account under section 23 of this act.

11 (14) "Qualifying year" means the first four of the last five  
12 completed calendar quarters or the last four completed calendar  
13 quarters immediately preceding the first day of the individual's  
14 application year.

15 (15) "Regularly working" means the average number of hours per work  
16 week that an individual worked in the last completed calendar quarter.

17 (16) "Serious health condition" means an illness, injury,  
18 impairment, or physical or mental condition that involves inpatient  
19 care in a hospital, hospice, or residential medical care facility, or  
20 continuing treatment by a health care provider.

21 NEW SECTION. **Sec. 3.** (1) The department shall establish and  
22 administer a family leave insurance program and pay family leave  
23 insurance benefits as specified in this chapter.

24 (2) The department shall establish procedures and forms for filing  
25 claims for benefits under this chapter. The department shall notify  
26 the employer within two business days of a claim being filed under  
27 section 4 of this act.

28 (3) The department may require that a claim for benefits under this  
29 chapter be supported by a certification issued by the health care  
30 provider providing health care to the individual or individual's family  
31 member, as applicable.

32 (4) Information contained in the files and records pertaining to an  
33 individual under this chapter are confidential and not open to public  
34 inspection, other than to public employees in the performance of their  
35 official duties. However, the individual or an authorized  
36 representative of an individual may review the records or receive  
37 specific information from the records on the presentation of the signed  
38 authorization of the individual. An employer or the employer's duly

1 authorized representative may review the records of an individual  
2 employed by the employer in connection with a pending claim. At the  
3 department's discretion, other persons may review records when such  
4 persons are rendering assistance to the department at any stage of the  
5 proceedings on any matter pertaining to the administration of this  
6 chapter.

7 NEW SECTION. **Sec. 4.** Family leave insurance benefits are payable  
8 to an individual during a period in which the individual is on unpaid  
9 family leave if the individual:

10 (1) Files a claim for benefits as required by rules adopted by the  
11 director;

12 (2) Has been employed for at least five hundred twenty hours in  
13 employment during the individual's qualifying year;

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

17 (4) Consents to the disclosure of information or records deemed  
18 private and confidential under chapter 50.13 RCW. Initial disclosure  
19 of this information and these records by the employment security  
20 department to the department is solely for purposes related to the  
21 administration of this chapter. Further disclosure of this information  
22 or these records is subject to sections 3(4) and 14(2)(b) of this act;

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

25 (6) Documents that he or she has provided the employer from whom  
26 family leave is to be taken with written notice of the individual's  
27 intention to take family leave as follows:

28 (a) If the necessity for family leave defined in section 2(8)(a) of  
29 this act was foreseeable based on an expected birth or placement,  
30 notice was given at least thirty days before the family leave was to  
31 begin, stating the anticipated starting date and ending date of the  
32 family leave. However, if the date of birth or placement required  
33 family leave to begin in less than thirty days, as much notice as  
34 practicable was given; and

35 (b) If the necessity for family leave defined in section 2(8) (b)  
36 or (c) of this act was foreseeable based on planned medical treatment:

37 (i) Notice was given at least thirty days before the family leave  
38 was to begin, stating the anticipated starting date and ending date of

1 the family leave. However, if the date of the treatment required  
2 family leave to begin in less than thirty days, as much notice as  
3 practicable was given; and

4 (ii) The individual made reasonable efforts to schedule the  
5 treatment so as not to disrupt unduly the operations of the employer,  
6 subject to the approval of the health care provider of the individual  
7 or family member, as applicable.

8 NEW SECTION. **Sec. 5.** An individual is not disqualified for family  
9 leave insurance benefits for any week with respect to which the  
10 department finds that there is a strike or lockout at the factory,  
11 establishment, or other premises at which the individual is or was last  
12 employed.

13 NEW SECTION. **Sec. 6.** An individual is disqualified from family  
14 leave insurance benefits beginning with the first day of the calendar  
15 week, and continuing for the next fifty-two consecutive weeks, in which  
16 the individual:

17 (1) Willfully made a false statement or misrepresentation regarding  
18 a material fact, or willfully failed to report a material fact, to  
19 obtain benefits under this chapter; or

20 (2) With respect to family leave defined in section 2(8)(c) of this  
21 act is suffering from:

22 (a) A willful and intentional self-inflicted serious health  
23 condition; or

24 (b) A serious health condition resulting from the individual's  
25 perpetration of a gross misdemeanor or felony.

26 NEW SECTION. **Sec. 7.** (1) The maximum number of weeks during which  
27 family leave insurance benefits are payable in an application year is  
28 five weeks. However, benefits are not payable for the first five work  
29 days of family leave taken in an application year with respect to a  
30 particular type of family leave, whether the family leave is employer  
31 paid or unpaid.

32 (2)(a) The first payment of benefits must be made to an individual  
33 within two weeks after the claim is filed or the family leave began,  
34 whichever is later, and subsequent payments must be made bimonthly  
35 thereafter.

1 (b) If an individual dies before he or she receives a payment of  
2 benefits, the payment shall be made to the surviving spouse or the  
3 child or children if there is no surviving spouse. If there is no  
4 surviving spouse and no child or children, the payment shall be made by  
5 the department and distributed consistent with the terms of the  
6 decedent's will or, if the decedent dies intestate, consistent with the  
7 terms of RCW 11.04.015.

8 (3) Benefits are not payable and waiting period credits are not  
9 earned under this chapter for any weeks in which compensation is paid  
10 or payable to the individual under Title 50 RCW or similar law of  
11 another state or the United States, or under RCW 51.32.060 or 51.32.090  
12 or another state or federal workers' compensation law.

13 NEW SECTION. **Sec. 8.** Family leave insurance benefits shall be  
14 paid as follows:

15 (1) For family leave beginning before January 1, 2003, benefits  
16 shall be two hundred fifty dollars per week for an individual who at  
17 the time of beginning family leave was regularly working forty hours or  
18 more per week or a prorated amount based on the weekly hours regularly  
19 worked for an individual regularly working less than forty hours per  
20 week. By December 31, 2003, and by each subsequent December 31st, the  
21 department shall calculate to the nearest dollar an adjusted maximum  
22 benefit to account for inflation using the consumer price index for  
23 urban wage earners and clerical workers, CPI-W, or a successor index,  
24 for the twelve completed calendar months before each December 31st as  
25 calculated by the United States department of labor. The adjusted  
26 maximum benefit takes effect for family leave beginning after the  
27 relevant December 31st.

28 (2) If an individual who at the time of beginning family leave was  
29 regularly working forty hours or more per week is on family leave for  
30 less than forty hours but at least eight hours in a week, the  
31 individual's weekly payment shall be .025 times the maximum benefit  
32 times the number of hours of family leave taken in the week. Benefits  
33 are not payable for less than eight hours of family leave taken in a  
34 week.

35 (3) If an individual discloses that he or she owes child support  
36 obligations under section 4 of this act and the department determines  
37 that the individual is eligible for benefits, the department shall  
38 notify the applicable state or local child support enforcement agency

1 and deduct and withhold an amount from benefits in a manner consistent  
2 with RCW 50.40.050.

3 (4) If an individual elects to have federal income tax deducted and  
4 withheld from benefits, the department shall deduct and withhold the  
5 amount specified in the federal internal revenue code in a manner  
6 consistent with section 10 of this act.

7 NEW SECTION. **Sec. 9.** (1) Nothing in this chapter is to be  
8 construed to limit an individual's right to leave from employment under  
9 other laws or employer policy, as applicable, except as provided in  
10 this chapter.

11 (2) If an employer provides paid family leave or an individual has  
12 purchased disability insurance, the individual may elect whether first  
13 to use the paid family leave or to receive family leave insurance  
14 benefits under this chapter. An individual may not be required to use  
15 the individual's paid family leave to which the individual is otherwise  
16 entitled before receiving benefits under this chapter.

17 (3)(a) An employer may require that family leave for which an  
18 individual is receiving or received benefits under this chapter be  
19 taken concurrently with leave under the federal family and medical  
20 leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6), chapter  
21 49.78 RCW, or other applicable federal, state, or local law, except  
22 that:

23 (i) Family leave taken for sickness or temporary disability because  
24 of pregnancy or childbirth is in addition to leave under the federal  
25 family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107  
26 Stat. 6), chapter 49.78 RCW, or other applicable federal, state, or  
27 local law.

28 (ii) Family leave during which the individual is receiving or  
29 received benefits under this chapter is in addition to leave from  
30 employment during which benefits are paid or are payable under Title 51  
31 RCW or a similar federal or state workers' compensation law and that is  
32 designated as leave under the federal family and medical leave act of  
33 1993.

34 (b) If an employer requires that family leave for which an  
35 individual is receiving or received benefits under this chapter be  
36 taken concurrently with leave under the federal family and medical  
37 leave act, chapter 49.78 RCW, or other applicable federal, state, or

1 local law, the employer must give all individuals in its employ written  
2 notice of the requirement.

3 NEW SECTION. **Sec. 10.** (1) The department must advise an  
4 individual filing a new claim for family leave insurance benefits, at  
5 the time of filing such claim, that:

6 (a) Benefits are subject to federal income tax;

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

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

11 (d) The individual is permitted to change a previously elected  
12 withholding status.

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

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

19 NEW SECTION. **Sec. 11.** If family leave insurance benefits are paid  
20 erroneously or as a result of fraud, or if a claim for family leave  
21 benefits is rejected after benefits are paid, RCW 51.32.240 shall  
22 apply, except that appeals are governed by section 15 of this act, and  
23 the department shall seek repayment of benefits from the recipient.

24 NEW SECTION. **Sec. 12.** (1) The right of an individual who receives  
25 family leave insurance benefits under this chapter to be returned to  
26 his or her position at the established ending date of family leave is  
27 governed by RCW 49.78.070. However, this entitlement is supplementary  
28 to a federal, state, or local law establishing a similar entitlement,  
29 and if a federal, state, or local law applying to the individual  
30 establishes a more favorable right to return to his or her position  
31 than is established under this section, the application of that  
32 federal, state, or local law is not affected by this section.

33 (2) An individual who has received benefits under this chapter  
34 shall not lose any employment benefit, including seniority or pension  
35 rights, accrued before the date that family leave commenced. However,  
36 this chapter does not entitle an individual to accrue employment

1 benefits during a period of family leave or to a right, benefit, or  
2 position of employment other than a right, benefit, or position to  
3 which the individual would have been entitled had the individual not  
4 taken family leave.

5 (3) This section shall be enforced as provided in RCW  
6 49.78.005(2)(b).

7 NEW SECTION. **Sec. 13.** (1) An employer of individuals not covered  
8 by this chapter or a self-employed person, including a sole proprietor,  
9 partner, or joint venturer, may elect coverage under the family leave  
10 insurance program for all individuals in its employ for an initial  
11 period of not less than three years or a subsequent period of not less  
12 than one year immediately following another period of coverage. The  
13 employer or self-employed person must file a notice of election in  
14 writing with the director, as required by the department. The election  
15 becomes effective on the date of filing the notice.

16 (2) An employer or self-employed person who has elected coverage  
17 may withdraw from coverage within thirty days after the end of the  
18 three-year period of coverage, or at such other times as the director  
19 may prescribe by rule, by filing written notice with the director, such  
20 withdrawal to take effect not sooner than thirty days after the filing  
21 of the notice.

22 (3) The department may cancel elective coverage if the employer or  
23 self-employed person fails to make required payments or reports. The  
24 department may collect due and unpaid premiums and may levy an  
25 additional premium for the remainder of the period of coverage. The  
26 cancellation shall be effective no later than thirty days from the date  
27 of the notice in writing advising the employer or self-employed person  
28 of the cancellation.

29 NEW SECTION. **Sec. 14.** (1) In the form and at the times specified  
30 by the director, an employer shall make reports, furnish information,  
31 and remit premiums as required by section 21 of this act to the  
32 department. If the employer is a temporary help company that provides  
33 employees on a temporary basis to its customers, the temporary help  
34 company is considered the employer for purposes of this section.  
35 However, if the temporary help company fails to remit the required  
36 premiums, the customer to whom the employees were provided is liable  
37 for paying the premiums.

1 (2)(a) An employer must keep at his or her place of business a  
2 record of employment from which the information needed by the  
3 department for purposes of this chapter may be obtained. This record  
4 shall at all times be open to the inspection of the director or  
5 department employees designated by the director.

6 (b) Information obtained from employer records under this chapter  
7 is confidential and not open to public inspection, other than to public  
8 employees in the performance of their official duties. However, an  
9 interested party shall be supplied with information from employer  
10 records to the extent necessary for the proper presentation of the case  
11 in question. An employer may authorize inspection of its records by  
12 written consent.

13 (3) An employer is subject to the provisions of Title 51 RCW  
14 relating to the assessment and collection of industrial insurance  
15 premiums, including but not limited to penalties, interest, and  
16 department lien rights and collection remedies if the employer:

17 (a) Fails to make the required reports, or fails to remit the full  
18 amount of the premiums when due; or

19 (b) Willfully makes a false statement or misrepresentation  
20 regarding a material fact, or willfully fails to report a material  
21 fact, to avoid making the required reports or remitting the full amount  
22 of the premiums when due.

23 (4) Notwithstanding subsection (3) of this section, appeals are  
24 governed by section 15 of this act.

25 NEW SECTION. **Sec. 15.** (1) A person aggrieved by a decision of the  
26 department under this chapter must file a notice of appeal with the  
27 director, by mail or personally, within thirty days after the date on  
28 which a copy of the department's decision was communicated to the  
29 person. Upon receipt of the notice of appeal, the director shall  
30 request the assignment of an administrative law judge in accordance  
31 with chapter 34.05 RCW to conduct a hearing and issue a proposed  
32 decision and order. The hearing shall be conducted in accordance with  
33 chapter 34.05 RCW.

34 (2) The administrative law judge's proposed decision and order  
35 shall be final and not subject to further appeal unless, within thirty  
36 days of notice of the decision being communicated to the interested  
37 parties, a party petitions for review by the director. If the  
38 director's review is timely requested, the director may order

1 additional evidence by the administrative law judge. On the basis of  
2 the evidence before the administrative law judge and such additional  
3 evidence as the director may order to be taken, the director shall  
4 render a decision affirming, modifying, or setting aside the  
5 administrative law judge's decision. The director's decision becomes  
6 final and not subject to further appeal unless, within thirty days  
7 after the decision is communicated to the interested parties, a party  
8 files a petition for judicial review as provided in chapter 34.05 RCW.  
9 The director is a party to any judicial action involving the director's  
10 decision and shall be represented in the action by the attorney  
11 general.

12 (3) If an appeal involves the right of an individual to family  
13 leave insurance benefits under this chapter, the parties shall be  
14 afforded an opportunity for hearing within seven days of the appeal  
15 being filed with the director.

16 NEW SECTION. **Sec. 16.** If, upon administrative or judicial review,  
17 the decision of the department is reversed or modified, the  
18 administrative law judge or the court in its discretion may award  
19 reasonable attorneys' fees and costs to the prevailing party.  
20 Attorneys' fees and costs owed by the department, if any, are payable  
21 out of the family leave insurance account.

22 NEW SECTION. **Sec. 17.** An employer, temporary help company,  
23 employment agency, employee organization, or other person may not  
24 discharge, expel, or otherwise discriminate against a person because he  
25 or she has filed or communicated to the employer an intent to file a  
26 claim, a complaint, or an appeal, or has testified or is about to  
27 testify or has assisted in any proceeding under this chapter. This  
28 section shall be enforced as provided in RCW 51.48.025.

29 NEW SECTION. **Sec. 18.** (1) This chapter is not intended to  
30 discourage employers from adopting or retaining policies that provide  
31 additional benefits to individuals to address family leave needs.

32 (2) This chapter is not to be construed to diminish an employer's  
33 obligation to comply with a collective bargaining agreement or an  
34 employment benefit program or plan that provides greater benefits to  
35 individuals than the family leave insurance benefits provided under  
36 this chapter.

1 (3) An agreement by an individual to waive his or her rights under  
2 this chapter is void as against public policy.

3 (4) The benefits provided to individuals under this chapter may not  
4 be diminished by a collective bargaining agreement or an employment  
5 benefit program or plan entered into or renewed after the effective  
6 date of this section.

7 NEW SECTION. **Sec. 19.** (1) Family leave insurance benefits are  
8 payable under this chapter only to the extent provided in sections 7  
9 and 8 of this act and only to the extent that moneys are available in  
10 the family leave insurance account for this purpose. Neither the state  
11 nor the department is liable for any amount in excess of these limits.

12 (2) This chapter does not create a continuing entitlement or  
13 contractual right. The legislature reserves the right to amend or  
14 repeal all or part of this chapter at any time, and a benefit or other  
15 right granted under this chapter exists subject to the legislature's  
16 power to amend or repeal this chapter. There is no vested private  
17 right of any kind against such amendment or repeal.

18 NEW SECTION. **Sec. 20.** The director may adopt rules as necessary  
19 to implement this chapter. In adopting rules, the director shall  
20 maintain consistency with the rules adopted to implement the federal  
21 family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107  
22 Stat. 6), to the extent such rules are not in conflict with this  
23 chapter.

24 NEW SECTION. **Sec. 21.** (1)(a) Except as provided in this section,  
25 each employer shall retain from the earnings of each individual a  
26 premium of one cent per hour worked, up to a maximum of forty hours per  
27 week. The employer shall match the amount retained by an equal amount,  
28 and the money retained shall be paid to the department in the manner  
29 and at such intervals as the department directs for deposit in the  
30 family leave insurance account. In the payment of premiums, a  
31 fractional part of a cent shall be disregarded unless it amounts to  
32 one-half cent or more, in which case it shall be increased to one cent.

33 (b) The director shall adjust the amount of the premium from time  
34 to time to ensure that the amount is the lowest rate necessary to pay  
35 family leave insurance benefits and administrative costs, and maintain

1 actuarial solvency in accordance with recognized insurance principles,  
2 of the family leave insurance program.

3 (2) The state apprenticeship council shall pay the entire amount  
4 required to be remitted for the family leave insurance account to the  
5 department for registered apprentices or trainees during their  
6 participation in supplemental and related instruction classes.

7 (3) None of the amount assessed for the family leave insurance  
8 account may be retained from the earnings of individuals covered under  
9 RCW 51.16.210.

10 (4) The department may adopt rules to permit an individual with  
11 multiple employers and their employers to petition for refunds or  
12 credits of amounts paid to the department for hours in excess of forty  
13 hours per week worked by the individual.

14 NEW SECTION. **Sec. 22.** (1) When an employer quits business, or  
15 sells out, exchanges, or otherwise disposes of the employer's business  
16 or stock of goods, any premium payable under this chapter is  
17 immediately due and payable, and the employer must, within ten days  
18 thereafter, make a return and pay the premium due. Any person who  
19 becomes a successor to the business is liable for the full amount of  
20 the premium and must withhold from the purchase price a sum sufficient  
21 to pay any premium due from the employer until the employer produces a  
22 receipt from the department showing payment in full of any premium due  
23 or a certificate that no premium is due and, if the premium is not paid  
24 by the employer within ten days from the date of the sale, exchange, or  
25 disposal, the successor is liable for the payment of the full amount of  
26 premium. The successor's payment thereof is, to the extent thereof, a  
27 payment upon the purchase price, and if the payment is greater in  
28 amount than the purchase price, the amount of the difference is a debt  
29 due the successor from the employer.

30 (2) A successor is not liable for any premium due from the person  
31 from whom the successor has acquired a business or stock of goods if  
32 the successor gives written notice to the department of the acquisition  
33 and no assessment is issued by the department within one hundred eighty  
34 days of receipt of the notice against the former operator of the  
35 business and a copy thereof mailed to the successor.

36 NEW SECTION. **Sec. 23.** The family leave insurance account is  
37 created in the custody of the state treasurer. All receipts from the

1 premium imposed under section 21 of this act or the penalties imposed  
2 under section 14 of this act must be deposited in the account.  
3 Expenditures from the account may be used only for the purposes of the  
4 family leave insurance program. Only the director or the director's  
5 designee may authorize expenditures from the account. The account is  
6 subject to the allotment procedures under chapter 43.88 RCW, but an  
7 appropriation is not required for benefit payments.

8 **Sec. 24.** RCW 49.78.005 and 1997 c 16 s 1 are each amended to read  
9 as follows:

10 (1) Except as provided in subsection (2) of this section, the  
11 department shall cease to administer and enforce this chapter beginning  
12 on July 27, 1997, and until the earlier of the following dates:

13 (a) The effective date of the repeal of the federal family and  
14 medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6);  
15 or

16 (b) July 1st of the year following the year in which amendments to  
17 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,  
18 P.L. 103-3, 107 Stat. 6) take effect that provide less family leave  
19 than is provided under RCW 49.78.030. In determining whether the  
20 federal law provides the same or more leave, the department shall only  
21 consider whether (i) the total period of leave allowed under the  
22 amended federal law is twelve or more workweeks in a twenty-four month  
23 period, and (ii) the types of leave authorized under the amended  
24 federal law are similar to the types authorized (~~in this chapter~~)  
25 under RCW 49.78.030.

26 (2)(a) The following provisions of this chapter are in effect:

27 (i) An employee's right under RCW 49.78.070(1)(b) to be returned to  
28 a workplace within twenty miles of the employee's workplace when leave  
29 commenced (~~shall remain in effect.~~);

30 (ii) An individual's right under section 12 of this act as  
31 described in RCW 49.78.070; and

32 (iii) An employee's entitlement to leave for sickness or temporary  
33 disability because of pregnancy or childbirth in addition to the family  
34 leave required by 29 U.S.C. (~~29.2612~~) Sec. 2612(a)(1)(A) and (B) of  
35 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,  
36 P.L. 103-3, 107 Stat. 6) (~~shall be in addition to any leave for~~  
37 sickness or temporary disability because of pregnancy or childbirth).

1       **(b)** The department shall enforce this subsection under RCW  
2 49.78.140 through 49.78.190, except that an initial notice of  
3 infraction shall state that the employer has thirty days in which to  
4 take corrective action. No infraction or penalty may be assessed if  
5 the employer complies with the requirements of the initial notice of  
6 infraction.

7       **NEW SECTION.**   **Sec. 25.** The sum of . . . . dollars, or as much  
8 thereof as may be necessary, is appropriated for the biennium ending  
9 June 30, 2003, from the medical aid fund and the accident fund, in  
10 equal amounts, to the department of labor and industries for the  
11 purposes of administering the family leave insurance program under this  
12 act. This sum shall be repaid to the medical aid and accident funds  
13 from the family leave insurance account by June 30, 2013.

14       **NEW SECTION.**   **Sec. 26.** Sections 1 through 23 of this act  
15 constitute a new chapter in Title 49 RCW.

16       **NEW SECTION.**   **Sec. 27.** If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

20       **NEW SECTION.**   **Sec. 28.** This act applies beginning with weeks of  
21 eligibility that begin on or after January 1, 2002.

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