

Introduced by

Representatives Hanson, Boschee, Dobervich, Meier, O'Brien

Senators Heckaman, Oban

1 A BILL for an Act to create and enact chapter 65-05.3 of the North Dakota Century Code,
2 relating to a paid family medical leave program; to provide an appropriation; and to provide for a
3 transfer.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Chapter 65-05.3 of the North Dakota Century Code is created and enacted as
6 follows:

7 **65-05.3-01. Definitions.**

8 As used in this chapter:

- 9 1. "Eligible employee" means an employee who works for a single employer at least
10 twenty-five hours per week.
- 11 2. "Employee" means an individual, regardless of age, who performs part-time or
12 full-time services for an employer for remuneration. The term does not include
13 independent contractors as determined under the common-law test.
- 14 3. "Employer" means a person within the state which engages the services of employees
15 for remuneration. The term includes:
- 16 a. The state and its political subdivisions.
- 17 b. A public and quasi-public corporation in the state.
- 18 c. A partnership, limited liability company, association, and private corporation,
19 including a public service corporation.
- 20 4. "Family member" includes a child, stepchild, sibling, spouse, parent, grandparent,
21 legal guardian of an eligible employee, and grandchild.
- 22 5. "Fund" means the paid family medical leave fund.

1 **65-05.3-02. Paid family medical leave program - Administration.**

2 The director shall establish a division to administer a mandatory paid family medical leave
3 program under this chapter. The organization shall adopt rules to administer the program under
4 this chapter.

5 **65-05.3-03. Paid family medical leave fund.**

6 The paid family medical leave fund is created within the workforce safety and insurance
7 fund, to which the organization shall deposit all moneys received from employers and
8 employees for contributions into the paid family medical leave program. The moneys in the fund
9 may only be expended to pay for wages of an eligible employee under the program.

10 **65-05.3-04. Program requirements.**

11 The paid family medical leave program must:

- 12 1. Require an employer with more than forty-nine eligible employees and an eligible
13 employee of that employer each to contribute to the fund two cents for every ten
14 dollars of wages earned for the benefit of eligible employees on leave for personal
15 medical reasons or to care for a family member.
- 16 2. Allow an employer who employs fewer than fifty eligible employees, and who does not
17 qualify as an employer under subsection 1, to participate in the program.
- 18 3. Allow an eligible employee to take leave for personal medical reasons or to care for a
19 family member if the eligible employee has been employed for at least twelve
20 consecutive months with the same employer and the employee has accrued at least
21 one thousand hours of service in the twelve months before taking leave.
- 22 4. Provide for sixty-six percent of an eligible employee's wages, up to a maximum of four
23 thousand dollars per month.
- 24 5. Provide up to twelve calendar weeks of coverage per calendar year for an eligible
25 employee on leave under the program. An eligible employee may take leave on an
26 intermittent basis.
- 27 6. Allow an eligible employee to return to the position held with the employer prior to
28 taking leave, or an equivalent position with commensurate pay and benefits, upon the
29 conclusion of the leave period.
- 30 7. Allow an eligible employee to maintain the employee's existing benefits while taking
31 leave.

1 8. Allow an employer to require eligible employees to use up to two weeks of sick or
2 vacation leave before using leave.

3 9. Require an employer to notify eligible employees of the employee's rights under the
4 program.

5 **65-05.3-05. Additional family medical leave benefits.**

6 This chapter does not preclude an employer from providing family medical leave benefits
7 that exceed the requirements of this chapter.

8 **65-05.3-06. Retaliation - Prohibition.**

9 An employer may not take retaliatory action against an eligible employee for requesting or
10 taking leave under the program. Retaliatory action includes discharge from or termination of the
11 employment, threatening discharge or termination, suspension of employment, demotion, or
12 reduction of hours.

13 **SECTION 2. APPROPRIATION - TRANSFER TO PAID FAMILY MEDICAL LEAVE FUND -**

14 **INTENT.** There is appropriated out of any moneys in the general fund in the state treasury, not
15 otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary,
16 which the office of management and budget shall transfer to the North Dakota workforce safety
17 and insurance paid family medical leave fund for the purpose of administering a paid family
18 medical leave program, for the biennium beginning July 1, 2019, and ending June 30, 2021.
19 The funds are to be paid back to the general fund over a period of twenty years. It is the intent
20 of the sixty-sixth legislative assembly that the funds transferred be derived from earnings on
21 moneys in the legacy fund transferred to the general fund.