

Requested by Senator COURTNEY

**PROPOSED AMENDMENTS TO
HOUSE BILL 2005**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and insert “410.619, 657.100, 657.471, 659A.162 and”.

3 Delete lines 6 through 19 and delete pages 2 through 15 and insert:

4 **“SECTION 1. Legislative Findings. The Legislative Assembly finds
5 that:**

6 **“(1) Employees experience a variety of caregiving obligations that
7 interfere with work time.**

8 **“(2) It is in the public interest to create a family and medical leave
9 insurance program to provide to employees and certain other individ-
10 uals compensated time off from work to care for and bond with a child
11 during the first year after the child’s birth or arrival through adoption
12 or foster care, to provide care for a family member who has a serious
13 health condition or to recover from an employee’s or an individual’s
14 own serious health condition.**

15 **“SECTION 2. Definitions. As used in sections 1 to 51 of this 2019
16 Act:**

17 **“(1) ‘Alternate base year’ means the last four completed calendar
18 quarters preceding the benefit year.**

19 **“(2) ‘Average weekly wage’ means the amount calculated by the
20 Employment Department as the state average weekly covered wage
21 under ORS 657.150 (4)(d) as determined not more than once per year.**

1 **“(3) ‘Base year’ means the first four of the last five completed cal-**
2 **endar quarters preceding the benefit year.**

3 **“(4) ‘Benefits’ means family and medical leave insurance benefits.**

4 **“(5) ‘Benefit year’ means the 12-month period as determined by the**
5 **Director of the Employment Department by rule under section 33 of**
6 **this 2019 Act.**

7 **“(6) ‘Child’ means:**

8 **“(a) A biological child, adopted child, stepchild or foster child of a**
9 **covered individual or of the covered individual’s spouse or domestic**
10 **partner;**

11 **“(b) A person who is or was a legal ward of a covered individual or**
12 **of the covered individual’s spouse or domestic partner; or**

13 **“(c) A person who is or was in a relationship of in loco parentis with**
14 **a covered individual or with the covered individual’s spouse or do-**
15 **mestic partner.**

16 **“(7) ‘Contribution’ or ‘contributions’ means the money payments**
17 **made by any of the following under section 16 of this 2019 Act:**

18 **“(a) An employer;**

19 **“(b) An eligible employee;**

20 **“(c) A self-employed individual;**

21 **“(d) A tribal government; or**

22 **“(e) An employee of a tribal government.**

23 **“(8) ‘Covered individual’ means any one of the following who qual-**
24 **ifies to receive family and medical leave insurance benefits:**

25 **“(a) An eligible employee;**

26 **“(b) A self-employed individual; or**

27 **“(c) An employee of a tribal government.**

28 **“(9) ‘Domestic partner’ means an individual joined in a domestic**
29 **partnership.**

30 **“(10) ‘Domestic partnership’ has the meaning given that term in**

1 **ORS 106.310.**

2 **“(11) ‘Eligible employee’ means:**

3 **“(a)(A) An employee who has earned at least \$1,000 in wages during**
4 **the base year; or**

5 **“(B) If an employee has not earned at least \$1,000 in wages during**
6 **the base year, an employee who has earned at least \$1,000 in wages**
7 **during the alternate base year; and**

8 **“(b) Who may apply for paid family and medical leave insurance**
9 **benefits under section 3 of this 2019 Act.**

10 **“(12) ‘Eligible employee’s average weekly wage’ means an amount**
11 **calculated by the Director of the Employment Department by dividing**
12 **the total wages earned by an eligible employee during the base year**
13 **by the number of weeks in the base year.**

14 **“(13)(a) ‘Employee’ means:**

15 **“(A) An individual performing services for an employer for**
16 **remuneration or under any contract of hire, written or oral, express**
17 **or implied.**

18 **“(B) A home care worker as defined in ORS 410.600.**

19 **“(b) ‘Employee’ does not include:**

20 **“(A) An independent contractor as defined in ORS 670.600.**

21 **“(B) A participant in a work training program administered under**
22 **a state or federal assistance program.**

23 **“(C) A participant in a work-study program that provides students**
24 **in secondary or postsecondary educational institutions with employ-**
25 **ment opportunities for financial assistance or vocational training.**

26 **“(D) A railroad worker exempted under the federal Railroad Un-**
27 **employment Insurance Act.**

28 **“(E) A volunteer.**

29 **“(14)(a) ‘Employer’ means any person that employs one or more**
30 **employees working anywhere in this state or any agent or employee**

1 of such person to whom the duties of the person under sections 1 to
2 51 of this 2019 Act have been delegated.

3 “(b) ‘Employer’ includes:

4 “(A) A political subdivision of this state or any county, city, dis-
5 trict, authority or public corporation, or any instrumentality of a
6 county, city, district, authority or public corporation, organized and
7 existing under law or charter;

8 “(B) An individual;

9 “(C) Any type of organization, corporation, partnership, limited li-
10 ability company, association, trust, estate, joint stock company or in-
11 surance company;

12 “(D) Any successor in interest to an entity described in subpara-
13 graph (C) of this paragraph;

14 “(E) A trustee, trustee in bankruptcy or receiver; or

15 “(F) A trustee or legal representative of a deceased person.

16 “(c) ‘Employer’ does not include the federal government or a tribal
17 government.

18 “(15) ‘Employment agency’ has the meaning given that term in ORS
19 658.005.

20 “(16) ‘Family and medical leave insurance benefits’ means the wage
21 replacement benefits that are available to a covered individual under
22 section 7 of this 2019 Act or under the terms of an employer plan ap-
23 proved under section 43 of this 2019 Act, for family leave, medical leave
24 or safe leave.

25 “(17)(a) ‘Family leave’ means leave from work taken by a covered
26 individual:

27 “(A) To care for and bond with a child during the first year after
28 the child’s birth or during the first year after the placement of the
29 child through foster care or adoption; or

30 “(B) To care for a family member with a serious health condition.

1 **“(b) ‘Family leave’ does not mean:**
2 **“(A) Leave described in ORS 659A.159 (1)(d);**
3 **“(B) Leave described in ORS 659A.159 (1)(e); or**
4 **“(C) Leave authorized under ORS 659A.093.**
5 **“(18) ‘Family member’ means:**
6 **“(a) The spouse of a covered individual;**
7 **“(b) A child of a covered individual or the child’s spouse or domestic**
8 **partner;**
9 **“(c) A parent of a covered individual or the parent’s spouse or do-**
10 **mestic partner;**
11 **“(d) A sibling or stepsibling of a covered individual or the sibling’s**
12 **or stepsibling’s spouse or domestic partner;**
13 **“(e) A grandparent of a covered individual or the grandparent’s**
14 **spouse or domestic partner;**
15 **“(f) A grandchild of a covered individual or the grandchild’s spouse**
16 **or domestic partner;**
17 **“(g) The domestic partner of a covered individual; or**
18 **“(h) Any individual related by blood or affinity whose close associ-**
19 **ation with a covered individual is the equivalent of a family relation-**
20 **ship.**
21 **“(19) ‘Medical leave’ means leave from work taken by a covered**
22 **individual that is made necessary by the individual’s own serious**
23 **health condition.**
24 **“(20) ‘Parent’ means:**
25 **“(a) A biological parent, adoptive parent, stepparent or foster par-**
26 **ent of a covered individual;**
27 **“(b) A person who was a foster parent of a covered individual when**
28 **the covered individual was a minor;**
29 **“(c) A person designated as the legal guardian of a covered indi-**
30 **vidual at the time the covered individual was a minor or required a**

1 legal guardian;

2 “(d) A person with whom a covered individual was or is in a re-
3 lationship of in loco parentis; or

4 “(e) A parent of a covered individual’s spouse or domestic partner
5 who meets a description under paragraphs (a) to (d) of this subsection.

6 “(21) ‘Safe leave’ means leave taken for any purpose described in
7 659A.272.

8 “(22) ‘Self-employed individual’ means:

9 “(a) An individual who has self-employment income as defined in
10 section 1402(b) of the Internal Revenue Code as amended and in effect
11 on December 31, 2018; or

12 “(b) An independent contractor as defined in ORS 670.600.

13 “(23) ‘Serious health condition’ has the meaning given that term in
14 ORS 659A.150.

15 “(24) ‘Third party administrator’ means a third party that enters
16 into an agreement with the Director of the Employment Department
17 to implement and administer the paid family and medical leave pro-
18 gram established under sections 1 to 51 of this 2019 Act.

19 “(25) ‘Tribal government’ has the meaning given that term in ORS
20 181A.680.

21 “(26) ‘Wages’ has the meaning given that term in ORS 657.105.

22

23

“BENEFITS

24

25 **“SECTION 3. Benefit eligibility. Family and medical leave insurance**
26 **benefits are available to any of the following during a period of family**
27 **leave, medical leave or safe leave:**

28 “(1) An eligible employee who:

29 “(a) During the base year or alternate base year, as applicable,
30 contributes to the Paid Family and Medical Leave Insurance Fund es-

1 **tablished under section 39 of this 2019 Act in accordance with section**
2 **16 of this 2019 Act; and**

3 **“(b) Submits a claim for benefits in accordance with the require-**
4 **ments under section 12 of this 2019 Act;**

5 **“(2) A self-employed individual who:**

6 **“(a) Elects coverage under section 41 of this 2019 Act; and**

7 **“(b) During the base year or alternate base year, as applicable,**
8 **contributes to the Paid Family and Medical Leave Insurance Fund es-**
9 **tablished under section 39 of this 2019 Act an amount determined by**
10 **the Director of the Employment Department under section 16 of this**
11 **2019 Act; or**

12 **“(3) An employee of a tribal government, if:**

13 **“(a) The tribal government elects coverage for its employees under**
14 **section 41 of this 2019 Act; and**

15 **“(b) During the base year or alternate base year, as applicable, the**
16 **employee and tribal government contribute to the Paid Family and**
17 **Medical Leave Insurance Fund established under section 39 of this 2019**
18 **Act an amount determined by the director under section 16 of this 2019**
19 **Act.**

20 **“SECTION 4. Duration of benefits. (1) A covered individual may**
21 **qualify for up to 12 weeks of family and medical leave insurance ben-**
22 **efits per benefit year for leave taken for any of the following purposes,**
23 **in any combination:**

24 **“(a) Family leave;**

25 **“(b) Medical leave; or**

26 **“(c) Safe leave.**

27 **“(2) Notwithstanding section 5 of this 2019 Act and except as pro-**
28 **vided under subsection (3) of this section, a covered individual who has**
29 **taken any amount of paid leave available under subsection (1) of this**
30 **section may take a total of 16 weeks of leave in the benefit year in any**

1 combination of the paid leave available under subsection (1) of this
2 section, not to exceed 12 weeks, and unpaid leave under ORS 659A.159
3 for which the covered individual is eligible under ORS 659A.156. The
4 leave may be taken for any purpose for which leave is allowable under
5 the respective leave programs.

6 “(3) In addition to the leave available under subsections (1) and (2)
7 of this section, a covered individual may qualify for up to two addi-
8 tional weeks of benefits for limitations related to pregnancy, childbirth
9 or a related medical condition, including but not limited to lactation,
10 for a total amount of leave under this subsection and subsections (1)
11 and (2) of this section, not to exceed 18 weeks per benefit year.

12 “SECTION 5. Coordination of leave. Any family leave or medical
13 leave taken under sections 1 to 51 of this 2019 Act must be taken
14 concurrently with any leave taken by an eligible employee under ORS
15 659A.150 to 659A.186 or under the federal Family and Medical Leave
16 Act of 1993 (P.L. 103-3) for the same purposes.

17 “SECTION 6. Other benefits; use of paid leave. (1) Family and
18 medical leave insurance benefits are in addition to any paid sick time
19 under ORS 653.606, vacation leave or other paid leave earned by an
20 employee.

21 “(2) An employer may permit an employee to use paid sick time,
22 vacation leave or any other paid leave earned by the employee in ad-
23 dition to receiving paid family and medical leave insurance benefits
24 to replace an employee’s wages up to 100 percent of the eligible
25 employee’s average weekly wage during a period of leave taken for
26 family leave, medical leave or safe leave.

27 “(3) In any week in which an employee is eligible to receive
28 workers’ compensation or unemployment benefits under ORS chapter
29 656 or 657, the employee is disqualified from receiving family and
30 medical leave insurance benefits.

1 **SECTION 7. Amount of benefits.** (1) The Director of the Employ-
2 ment Department shall set the weekly benefit amount of family and
3 medical leave insurance benefits that a covered individual qualifies for
4 as follows:

5 “(a) If the eligible employee’s average weekly wage is equal to or
6 less than 65 percent of the average weekly wage, the employee’s
7 weekly benefit amount shall be 100 percent of the employee’s average
8 weekly wage.

9 “(b) If the eligible employee’s average weekly wage is greater than
10 65 percent of the average weekly wage, the employee’s weekly benefit
11 amount is the sum of:

12 “(A) 65 percent of the average weekly wage; and

13 “(B) 50 percent of the employee’s average weekly wage that is
14 greater than 65 percent of the average weekly wage.

15 “(2) Notwithstanding subsection (1) of this section, the director
16 shall establish:

17 “(a) A maximum weekly benefit amount of 120 percent of the aver-
18 age weekly wage.

19 “(b) A minimum weekly benefit amount of five percent of the av-
20 erage weekly wage.

21 “(3) The director shall determine, based on the contribution
22 amounts made by a self-employed individual, a tribal government or
23 the employees of a tribal government under section 16 of this 2019 Act,
24 the amount of benefits payable to a self-employed individual or to an
25 employee of a tribal government.

26 “(4) Benefits are payable only to the extent that moneys are avail-
27 able in the Paid Family and Medical Leave Insurance Fund for that
28 purpose. The state, any political subdivision of the state and any state
29 agency are not liable for any amount in excess of this limit.

30 **SECTION 8. Notice to employees.** (1) An employer shall provide

1 written notice to each employee of the duties and rights of an eligible
2 employee under sections 1 to 51 of this 2019 Act in accordance with
3 rules adopted by the Director of the Employment Department. At a
4 minimum, the notice must advise the employee of the following:

5 “(a) The right of an eligible employee to claim and receive family
6 and medical leave insurance benefits under sections 1 to 51 of this 2019
7 Act;

8 “(b) The procedure for filing a claim for benefits under section 12
9 of this 2019 Act;

10 “(c) That an eligible employee must provide notice to an employer
11 before the employee commences leave, as required under section 9 of
12 this 2019 Act, and a description of the penalties for failure to comply
13 with the notice requirements;

14 “(d) The right of an eligible employee to job protection and benefits
15 continuation under section 10 of this 2019 Act;

16 “(e) The right of an eligible employee to appeal a decision or de-
17 termination made by the director under section 31 of this 2019 Act;

18 “(f) That discrimination and retaliatory personnel actions against
19 an employee for inquiring about the family and medical leave insur-
20 ance program established under section 33 of this 2019 Act, giving no-
21 tification of leave under the program, taking leave under the program
22 or claiming family and medical leave insurance benefits are prohibited;

23 “(g) The right of an eligible employee to bring a civil action or to
24 file a complaint for violation of section 10 or 11 of this 2019 Act; and

25 “(h) That any health information related to family leave, medical
26 leave or safe leave provided to an employer by an employee is confi-
27 dential and may not be released without the permission of the em-
28 ployee unless state or federal law or a court order permits or requires
29 disclosure.

30 “(2) A notice provided to an employee under this section must be

1 in the language the employer typically uses to communicate with the
2 employee.

3 “(3) The director shall make available to employers a model notice
4 that meets the requirements of this section.

5 “SECTION 9. Notice to employers. (1) Except as provided in sub-
6 section (2) of this section, an employer may require an eligible em-
7 ployee to give the employer written notice at least 30 days before
8 commencing a period of family leave, medical leave or safe leave. The
9 employer may require the employee to include in the notice an expla-
10 nation of the need for the leave.

11 “(2) An eligible employee may commence leave without 30 days’
12 advance notice if the leave is not foreseeable, as in circumstances in-
13 cluding but not limited to:

14 “(a) An unexpected serious health condition of the employee or a
15 family member of the employee;

16 “(b) A premature birth, unexpected adoption or unexpected foster
17 placement by or with the employee; or

18 “(c) Safe leave.

19 “(3)(a) Except as provided in subsection (5) of this section, if an el-
20 igible employee commences leave without prior notice under sub-
21 section (2) of this section, the employee must give oral notice to the
22 employer within 24 hours of the commencement of the leave and must
23 provide the written notice required under subsection (1) of this section
24 within three days after the commencement of leave.

25 “(b) The oral notice required by this subsection may be given by any
26 other person on behalf of the eligible employee taking leave.

27 “(c) The person named as the eligible employee’s emergency contact
28 person, or any other person otherwise designated by the eligible em-
29 ployee, as reflected in the employer’s records, may provide the written
30 notice required under subsection (1) of this section.

1 “(4)(a) If an eligible employee fails to give notice as required under
2 subsections (2) and (3) of this section, the Director of the Employment
3 Department may reduce the first weekly benefit amount payable to the
4 employee under section 12 of this 2019 Act by up to 25 percent.

5 “(b) An employer shall notify the director of the employee’s failure
6 to provide the required notice, in the manner prescribed by the direc-
7 tor by rule.

8 “(5) An eligible employee who takes safe leave shall give the em-
9 ployer reasonable advance notice of the individual’s intention to take
10 safe leave, unless giving the advance notice is not feasible.

11 “SECTION 10. Employment protection; retaliation prohibited.

12 “(1)(a) Except as provided in paragraph (b) of this subsection, after
13 returning to work after a period of family leave, medical leave or safe
14 leave, an eligible employee is entitled to be restored to the position of
15 employment held by the employee when the leave commenced, if that
16 position still exists, without regard to whether the employer filled the
17 position with a replacement worker during the period of leave. If the
18 position held by the employee at the time leave commenced no longer
19 exists, the employee is entitled to be restored to any available equiv-
20 alent position with equivalent employment benefits, pay and other
21 terms and conditions of employment.

22 “(b) For employers that employ fewer than 25 employees, if the po-
23 sition held by an eligible employee when the employee’s leave com-
24 menced no longer exists, an employer may, at the employer’s
25 discretion based on business necessity, restore the eligible employee
26 to a different position with similar job duties and with the same em-
27 ployment benefits and pay.

28 “(2) During a period in which an eligible employee takes leave de-
29 scribed under subsection (1) of this section, the employer shall main-
30 tain any health care benefits the employee had prior to taking such

1 leave for the duration of the leave, as if the employee had continued
2 in employment continuously during the period of leave.

3 “(3) An eligible employee who has taken leave described under
4 subsection (1) of this section does not lose any employment benefits,
5 including seniority or pension rights, accrued before the date on which
6 the leave commenced.

7 “(4) It is an unlawful employment practice to discriminate against
8 an eligible employee who has invoked any provision of sections 1 to
9 51 of this 2019 Act.

10 “(5) Nothing in this section entitles an eligible employee to accrue
11 employment benefits during a period of leave or to a right, benefit or
12 position of employment other than a right, benefit or position to which
13 the employee would have been entitled had the employee not taken
14 leave.

15 “(6)(a) Nothing in this section requires an employer to retain a
16 temporary worker who was hired to replace an eligible employee tak-
17 ing family leave, medical leave or safe leave after the eligible employee
18 has returned to work.

19 “(b) A civil action may not be brought against an employer for
20 taking any of the following actions necessary to restore an eligible
21 employee to the position of employment held by the employee as re-
22 quired under subsection (1) of this section:

23 “(A) Terminating the employment of a worker who was hired solely
24 to temporarily replace an eligible employee during a period of leave;
25 or

26 “(B) Removing an employee from a position to which the employee
27 was transferred to temporarily replace an eligible employee while the
28 eligible employee was on leave, and returning the employee to the
29 position originally held by the employee prior to the transfer at the
30 salary or rate of pay and benefits associated with the position.

1 **“(2) If the director has made a decision to allow the claim, the di-**
2 **rector shall make a reasonable effort to issue the first payment of**
3 **benefits to a covered individual within two weeks after receiving the**
4 **claim.**

5 **“(3)(a) Benefits may be claimed for leave that is taken by a covered**
6 **individual in increments that are equivalent to one work day or one**
7 **work week as those terms are defined by the director by rule.**

8 **“(b) If a covered individual takes leave in increments that are**
9 **equivalent to one work day, benefits may be claimed for leave that**
10 **occurs in nonconsecutive periods of leave that, when combined, pro-**
11 **vide the minimum benefit amount provided in section 7 of this 2019**
12 **Act.**

13 **“(4) Benefit amounts, as determined under section 6 of this 2019**
14 **Act:**

15 **“(a) Must be prorated to increments that are equivalent to one**
16 **work day; and**

17 **“(b) Must be paid in increments that are equivalent to one work**
18 **week.**

19 **“SECTION 13. Allowing or denying claim; notice of denial; appeal.**

20 **(1) The Director of the Employment Department shall promptly ex-**
21 **amine each claim for family and medical leave insurance benefits and,**
22 **on the basis of the facts available, make a decision to allow or deny**
23 **the claim. Information furnished in the claim, as prescribed by the**
24 **director by rule, must be accompanied by a written or electronically**
25 **signed statement that such information is true and correct to the best**
26 **of the individual’s knowledge.**

27 **“(2)(a) The director shall promptly give notice of a decision to allow**
28 **or deny a claim.**

29 **“(b) If the claim is denied, the written notice must include a**
30 **statement of the reasons for denial.**

1 “(3) A decision made under this section is final and the benefits
2 must be paid or denied accordingly. A covered individual may request
3 review of the director’s decision as provided in section 31 of this 2019
4 Act.

5 “SECTION 14. Continuous jurisdiction of director; reconsideration
6 of previous decisions. (1) The Director of the Employment Department,
7 upon motion of the director or upon application of a covered individ-
8 ual, may at any time reconsider any final decision under sections 1 to
9 51 of this 2019 Act. Reconsideration may occur when there is evidence
10 of:

11 “(a) Errors of computation;

12 “(b) Clerical errors;

13 “(c) Misinformation provided to a party by the Employment De-
14 partment;

15 “(d) Facts not previously known to the director; or

16 “(e) Errors caused by misapplication of law by the department.

17 “(2) Reconsideration of a final decision shall be made in accordance
18 with such regulations as the director may prescribe, and may include
19 the making of a new decision which, if made, shall award, deny, ter-
20 minate, continue, increase or decrease benefits to the extent found
21 necessary and appropriate for the correction of a previous error re-
22 specting such benefits. Any new decision made under this subsection
23 shall be subject to review as provided in section 31 of this 2019 Act.

24 “SECTION 15. Noncompliance and erroneous payments. (1) An em-
25 ployer may not willfully make or cause to be made false statements
26 or willfully fail to report a material fact regarding the claim of an el-
27 igible employee or regarding an employee’s eligibility for family and
28 medical leave insurance benefits under sections 1 to 51 of this 2019 Act.

29 “(2) The Director of the Employment Department may assess a civil
30 penalty in an amount not to exceed \$1,000 against an employer for

1 each occurrence that violates subsection (1) of this section.

2 “(3) If the director determines that a covered individual willfully
3 made a false statement or willfully failed to report a material fact in
4 order to obtain benefits under sections 1 to 51 of this 2019 Act, the
5 covered individual is:

6 “(a) Disqualified from claiming benefits for one year; and

7 “(b) Liable for a penalty imposed at a rate prescribed by the director
8 of at least 15 percent, but not greater than 30 percent, of the amount
9 of benefits the individual received to which the individual was not
10 entitled.

11 “(4) If the director determines that a covered individual has re-
12 ceived benefits to which the individual was not entitled, the director
13 may:

14 “(a) Seek repayment of benefits from the covered individual in a
15 manner prescribed by the director by rule; and

16 “(b) Have the amount of the benefits deducted from any future
17 benefits otherwise payable to the individual under section 13 of this
18 2019 Act.

19 “(5) If benefits are paid because of an error that is not due to pro-
20 vision of a false statement, nondisclosure of a material fact or mis-
21 representation by a covered individual, the director may waive, in
22 whole or in part, the amount of any such payments for which recovery
23 under subsection (4) of this section would be against equity, good
24 conscience or administrative efficiency.

25 “(6) A decision of the director under this section does not authorize
26 the recovery of the amount of any benefits paid to a covered individual
27 until the decision is final and the decision specifies:

28 “(a) That the covered individual, by reason of false statement,
29 nondisclosure or misrepresentation, is liable to repay the amount to
30 the Paid Family and Medical Leave Insurance Fund established under

1 section 39 of this 2019 Act;

2 “(b) The nature of the false statement, nondisclosure or misrepre-
3 sentation;

4 “(c) The week or weeks for which the benefits were paid; and

5 “(d) That any amount subject to recovery and any penalty due un-
6 der this section may be collected by the director in a civil action
7 against the employer or covered individual brought in the name of the
8 director.

9 “(7) The director shall adopt rules establishing standards and pro-
10 cedures for the repayment of benefits and payment of penalties and
11 interest under this section.

12 “(8) An employer or covered individual may appeal a determination
13 made under this section as provided in section 31 of this 2019 Act.

14

15

“CONTRIBUTIONS

16

17 “SECTION 16. Contributions. (1)(a) Except as otherwise provided in
18 subsections (3) and (4) of this section, all employers and eligible em-
19 ployees shall contribute to the Paid Family and Medical Leave Insur-
20 ance Fund established under section 39 of this 2019 Act.

21 “(b) Contributions shall be paid by employers and employees as a
22 percentage of a total rate determined by the Director of the Employ-
23 ment Department.

24 “(c) The total rate may not exceed one percent of employee wages,
25 up to a maximum of \$132,900 in wages.

26 “(2)(a) Employer contributions shall be paid in an amount that is
27 equal to 40 percent of the total rate determined by the director.

28 “(b) An employer shall deduct employee contributions from the
29 wages of each employee in an amount that is equal to 60 percent of
30 the total rate determined by the director.

1 **“(3) When an employment agency is acting as an employer, the**
2 **employer contributions required under this section shall be the re-**
3 **sponsibility of the employment agency.**

4 **“(4)(a) Employers that employ fewer than 25 employees are not re-**
5 **quired to pay the employer contributions under subsection (1) of this**
6 **section.**

7 **“(b) If an employer that employs fewer than 25 employees elects to**
8 **pay the employer contributions under subsection (1) of this section,**
9 **the employer may apply to receive a grant under section 42 of this 2019**
10 **Act.**

11 **“(5) Notwithstanding subsection (1) of this section, an employer**
12 **may elect to pay the required employee contributions, in whole or in**
13 **part, as an employer-offered benefit.**

14 **“(6) Subject to section 41 (2) and (3) of this 2019 Act, a self-employed**
15 **individual who has elected coverage under section 41 (1) of this 2019**
16 **Act shall contribute to the fund, at a rate that may not exceed one**
17 **percent of the individual’s taxable income as determined by the di-**
18 **rector by rule, for a period of not less than three years from the date**
19 **that the election becomes effective.**

20 **“(7) A tribal government that elects coverage under section 41 of**
21 **this 2019 Act and employees of the tribal government shall contribute**
22 **to the fund in contribution amounts and at a rate that may not exceed**
23 **one percent of employee wages, up to a maximum of \$132,900 in wages,**
24 **as determined by the director by rule, for a period of not less than**
25 **three years from the date that the election becomes effective.**

26 **“(8) The director shall set rates for the collection of payroll contri-**
27 **butions consistent with subsection (1) of this section and in a manner**
28 **such that:**

29 **“(a) At the end of the period for which the rates are effective, the**
30 **balance of moneys in the fund is an amount not less than six months’**

1 worth of projected expenditures from the fund for performance of the
2 functions and duties of the director under sections 1 to 51 of this 2019
3 Act; and

4 “(b) The volatility of the contribution rates is minimized.

5 “(9) For purposes of subsections (1)(c) and (7) of this section, the
6 director shall annually adjust the maximum amount of employee
7 wages by the percentage increase, if any, in the Consumer Price Index
8 for All Urban Consumers, West Region (All Items), as published by the
9 Bureau of Labor Statistics of the United States Department of Labor,
10 since the date of the previous determination made under this sub-
11 section.

12 “(10) The director shall determine on an annual basis the amount
13 of payroll contributions, timing of payroll contributions and maximum
14 employee contributions sufficient to finance the costs related to the
15 provisions of sections 1 to 51 of this 2019 Act.

16 “(11) An employer shall hold any moneys collected under this sec-
17 tion in trust for the State of Oregon and for the payment thereof to
18 the Department of Revenue in the manner described in subsection (12)
19 of this section.

20 “(12)(a) An employer shall make and file a combined quarterly re-
21 port of wages earned and contributions paid under this section on a
22 form prescribed by the Department of Revenue.

23 “(b) The report shall be filed with the Department of Revenue on
24 or before the last day of the month following the quarter to which the
25 report relates and shall be deemed received on the date of mailing.

26 “(c) The report shall be accompanied by payment of any contribu-
27 tions due under this section in a manner determined by the Depart-
28 ment of Revenue by rule.

29 “(13) Moneys collected under this section shall be deposited in the
30 Paid Family and Medical Leave Insurance Fund established under

1 section 39 of this 2019 Act.

2 “(14)(a) If an employer ceases or discontinues operations or busi-
3 ness, or sells out, exchanges or otherwise disposes of the business or
4 stock of goods, any payroll contribution payable under this section is
5 immediately due and payable, and the employer shall, within 10 cal-
6 endar days, pay the payroll contribution due. Any person who be-
7 comes a successor in interest to the business is liable for the full
8 amount of the unpaid payroll contribution.

9 “(b) The director shall adopt rules for compliance with sections 1
10 to 51 of this 2019 Act with regard to contributions from an employer’s
11 successor in interest.

12 “(15) Benefits may not be denied to a covered individual solely be-
13 cause an employer failed to collect or remit the contributions required
14 under this section.

15

16

“COLLECTIONS

17

18 “SECTION 17. Delinquent contributions and benefit overpayments
19 as liens; foreclosure. (1) This section applies to:

20 “(a) An employer that fails to remit to the Department of Revenue
21 any amount of contributions due under section 16 of this 2019 Act;

22 “(b) An individual liable to repay any amount of benefits paid under
23 sections 1 to 51 of this 2019 Act to which the individual was not enti-
24 tled; and

25 “(c) A person liable under section 25 of this 2019 Act for amounts
26 due under sections 1 to 51 of this 2019 Act.

27 “(2) If a judgment or final administrative order is rendered in favor
28 of the director for amounts described in subsection (1) of this section,
29 the amounts shall be a lien in favor of the director upon all property,
30 whether real or personal, belonging to the employer, individual or

1 person.

2 “(3) The lien shall be perfected and attach:

3 “(a) To real and personal property located within the county, upon
4 the recording of a warrant, as provided in section 19 of this 2019 Act,
5 with the clerk of the county in which the property is located.

6 “(b) To personal property wherever located within the state, upon:

7 “(A) The recording of a warrant, as provided in section 19 of this
8 2019 Act, with the clerk of any county; and

9 “(B) The filing of a copy of the warrant with the Secretary of State
10 as provided in section 18 of this 2019 Act.

11 “(4) The lien created by this section may be foreclosed by a suit in
12 the circuit court in the manner provided by law for the foreclosure of
13 other liens on real or personal property.

14 “SECTION 18. Filing warrant attaching lien with Secretary of State.

15 (1) Any warrant attaching the lien under section 17 of this 2019 Act
16 may also be filed in the office of the Secretary of State. Filing in the
17 office of the Secretary of State has no effect until a copy of the
18 statement of lien or the warrant has been recorded with the county
19 clerk.

20 “(2) When a copy of the statement of lien or the warrant is filed
21 with the Secretary of State in compliance with subsection (1) of this
22 section, such filing shall have the same effect with respect to personal
23 property as if the copy of the statement of lien or the warrant had
24 been duly recorded with the county clerk in each county of this state.

25 “(3) A copy of the statement of lien or the warrant filed with the
26 Secretary of State shall be filed and indexed by the Secretary of State
27 in the same manner as provided under ORS 79.0501 for the filing and
28 indexing of financing statements.

29 “SECTION 19. Issuing warrant instead of bringing civil action;
30 sheriff to proceed on warrant. (1) In any case in which the Director

1 of the Employment Department may bring a civil action for the col-
2 lection of amounts liable to be repaid under section 17 of this 2019 Act,
3 interest on those amounts or penalties, the director may instead issue
4 a warrant for the amount liable to be repaid with the added interest,
5 penalties, collection charges and the sheriff's costs of executing the
6 warrant. The Employment Department shall mail or deliver a copy of
7 the warrant to the last known address of the employer, individual or
8 person.

9 “(2) At any time after issuing a warrant under this section, the
10 department may record the warrant in the County Clerk Lien Record
11 of any county of this state. Recording of the warrant has the effect
12 described in ORS 205.125.

13 “(3) After recording a warrant under this section, the director may
14 direct the sheriff of the county in which the warrant is recorded to
15 levy upon and sell any real and personal property, and levy upon any
16 currency, belonging to the employer, individual or person and found
17 within that county. The proceeds or currency shall be applied against
18 the amount reflected in the warrant and the sheriff's costs of execut-
19 ing the warrant.

20 “(4) The sheriff shall proceed on the warrant in the same manner
21 prescribed by law for executions issued against property pursuant to
22 a judgment and is entitled to the same fees as provided for executions
23 issued against property pursuant to a judgment. The fees of the sheriff
24 shall be added to and collected as a part of the warrant liability.

25 “(5)(a) The director may direct the warrant to any agent and au-
26 thorize the agent to collect the amount reflected in the warrant.

27 “(b) In the execution of the warrant the agent has all of the powers
28 conferred by law upon sheriffs but is entitled to no fee or compen-
29 sation in excess of actual expenses incurred in the execution.

30 “(6) Amounts collected pursuant to this section shall be deposited

1 in the Paid Family and Medical Leave Insurance Fund established
2 under section 39 of this 2019 Act.

3 **“SECTION 20. Release of lien.** (1)(a) The Director of the Employ-
4 ment Department may release, compromise or satisfy any lien pro-
5 vided for in sections 17 and 18 of this 2019 Act by filing a notice of
6 release or satisfaction with the county clerk of the county in which
7 the notice of lien claim was filed.

8 **“(b) Upon filing of the notice under this subsection, the property**
9 **against which the lien is claimed shall be released from the lien.**

10 **“(2) The director may include in the amount received for the release**
11 **of the lien any costs incurred by the director in collecting the amounts**
12 **due.**

13 **“(3) Amounts collected pursuant to this section shall be deposited**
14 **in the Paid Family and Medical Leave Insurance Fund established**
15 **under section 39 of this 2019 Act.**

16

17 **“LOCALIZATION**

18

19 **“SECTION 21. Where employee’s service performed.** An employee’s
20 wages shall be used to make determinations under sections 1 to 51 of
21 this 2019 Act if the wages are earned for service:

22 **“(1) Performed entirely within this state; or**

23 **“(2) Performed both within and outside this state, but the service**
24 **performed outside this state is incidental to the employee’s service**
25 **within the state.**

26

27 **“PENALTIES**

28

29 **“SECTION 22.** (1) On or before June 30 of each year, the Director
30 of the Employment Department shall send a written notice to each

1 employer that has failed to file all reports as required by the director
2 or to pay all contributions due under section 16 of this 2019 Act,
3 warning the employer about the penalty provided in subsection (2) of
4 this section.

5 “(2) If, prior to September 1 of each year, an employer has failed
6 to file all required reports and pay all contributions due in that year
7 under section 16 of this 2019 Act, the employer shall pay a penalty
8 equal to one percent of the wages of the employer’s employees in the
9 preceding calendar year.

10 “(3)(a) On or before October 20 of each year, the director shall as-
11 sess the penalty provided in subsection (2) of this section and send
12 written notification of the assessment to the employer’s last known
13 address.

14 “(b) Notwithstanding paragraph (a) of this subsection, the director
15 may waive the penalty for good cause if the employer has filed the
16 required reports and payments.

17 “(4) On or before November 10 following a penalty assessment under
18 subsection (2) of this section, the employer that is assessed the penalty
19 may submit a written request to the director that the penalty be
20 waived. The request must contain the specific reasons for the failure
21 to file the required reports or payments prior to September 1.

22 “(5)(a) If the request for waiver of the penalty is denied, the direc-
23 tor shall send written notification of the denial to the employer at the
24 employer’s last known address. The decision denying the request shall
25 become final unless within 20 days from the date on which the notifi-
26 cation of the decision is sent to the employer, the employer files a
27 written request for a hearing that states the reasons for the request.

28 “(b) Hearings, decisions and reconsiderations under this section
29 shall be conducted in accordance with rules adopted by the director.

30 “(c) Judicial review of an order assessing a penalty under this sec-

1 tion shall be as provided for review of orders in contested cases under
2 ORS chapter 183, except that the petition must be filed within 20 days
3 after the issuance of the order of the director.

4 “(6) The penalty provided in subsection (2) of this section shall be
5 collected in accordance with the provisions of sections 17 to 20 of this
6 2019 Act, and any amounts collected pursuant to this subsection shall
7 be paid to the Paid Family and Medical Leave Insurance Fund estab-
8 lished under section 39 of this 2019 Act.

9 **“SECTION 23. (1) If, upon satisfactory evidence, the Director of the**
10 **Employment Department finds it necessary for the protection of the**
11 **Paid Family and Medical Leave Insurance Fund established under**
12 **section 39 of this 2019 Act, the director may require any employer**
13 **subject to sections 1 to 51 of this 2019 Act, other than the state of**
14 **Oregon, and every state officer, board, commission, department, in-**
15 **stitution, branch, agency or political subdivision of this state, to de-**
16 **posit and keep on deposit with the director a sum equal to the**
17 **contributions due or estimated to be due from the employer for a pe-**
18 **riod of three calendar quarters.**

19 “(2)(a) In lieu of a deposit required under subsection (1) of this
20 section, the director may accept a bond or an irrevocable letter of
21 credit issued by an insured institution as defined in ORS 706.008 in a
22 form acceptable to the director to secure payment of contributions to
23 become due to the fund.

24 “(b) The deposit or posting of a bond or letter of credit under par-
25 agraph (a) of this subsection shall not relieve the employer of the ob-
26 ligation to make contributions to the fund as provided under section
27 16 of this 2019 Act.

28 “(c) The director may at any time apply any portion of the deposit,
29 payment on the bond or the proceeds of the letter of credit to the
30 payment of any amounts due from the employer under any provisions

1 of sections 1 to 51 of this 2019 Act.

2 “(3)(a) Except as provided in subsection (4) of this section, any de-
3 posit, bond or letter of credit shall be deemed for all purposes to be-
4 come the sole property of the director and shall be deposited in the
5 fund and held for the sole benefit of the fund.

6 “(b) The deposit, bond or letter of credit shall be prior to all other
7 liens, claims or encumbrances and shall be exempt from any process,
8 attachment, garnishment or execution whatsoever and shall be for the
9 sole benefit of the fund.

10 “(4)(a) If an employer ceases to be an employer subject to sections
11 1 to 51 of this 2019 Act, such sums as are on deposit in the fund shall
12 first be applied to any amounts due from the employer to the fund
13 under any provisions of sections 1 to 51 of this 2019 Act.

14 “(b) Only upon receipt of all payments due to the fund from an
15 employer described in paragraph (a) of this subsection, the director
16 shall refund to the employer all deposits remaining to the employer’s
17 credit in the fund and shall cancel any bond or letter of credit given
18 under this section.

19 “(c) An employer described in paragraph (a) of this subsection shall
20 have no interest in a deposit, bond or letter of credit prior to full
21 compliance with this section and all provisions of sections 1 to 51 of
22 this 2019 Act.

23 “SECTION 24. (1) If an employer defaults with respect to any
24 amount of contributions required to be made by the employer to the
25 Paid Family and Medical Leave Insurance Fund established under
26 section 39 of this 2019 Act, the unpaid amount, together with interest
27 and penalties, shall be collected by the Director of the Employment
28 Department in a civil action against the employer brought in the name
29 of the director.

30 “(2)(a) Judgment rendered on a civil action brought under sub-

1 section (1) of this section in favor of the director shall bear interest
2 at the rate provided in subsection (3) of this section.

3 “(b) An employer’s compliance with the requirements of section 16
4 of this 2019 Act shall date from the time that contributions were col-
5 lected from the employer.

6 “(c) The amount of contributions collected from an employer, to-
7 gether with interest and penalties, shall be paid into the fund.

8 “(3)(a) Interest upon any amounts due from an employer shall be
9 paid and collected at the rate of one and one-half percent per month
10 from the date prescribed for the payment to the fund. In computing
11 the interest, a fraction of a month shall be counted as a full month.

12 “(b) Interest shall be paid at the same time contributions are re-
13 quired to be paid by the employer to the fund.

14 “(4) If an employer fails to pay contributions required by section
15 16 of this 2019 Act at the time prescribed by the director, the employer
16 shall be in default.

17 “(5) If an employer that is in default with respect to payment of
18 contributions fails to make payment within 10 days after written de-
19 mand has been made by the director, the employer shall be subject to
20 a penalty of 10 percent of the amount of the contributions. A demand
21 for payment shall be deemed to have been made when deposited in the
22 mail addressed to the employer at the employer’s last known address
23 of record with the director.

24 “(6) If any part of a deficiency is due to fraud with intent to avoid
25 payment of contributions to the fund, then 50 percent of the total
26 amount of the deficiency, in addition to the deficiency, shall be as-
27 sessed, collected and paid, in the same manner as if it were a defi-
28 ciency, and deposited in the fund.

29 “(7) Civil actions brought in the name of the director under this
30 section to collect contributions, interest or penalties from an employer

1 shall be entitled to preference upon the calendar over all civil cases
2 that involve only private parties.

3 “(8)(a) Notwithstanding the provisions of this section, the director
4 may agree to accept from an employer or former employer with a de-
5 linquent account any amount the director finds reasonable under the
6 circumstances as consideration in settlement of the full amount of
7 contributions, interest or penalties due if the director finds that:

8 “(A) The total interest collectible on the delinquent account is in
9 excess of 25 percent of the principal;

10 “(B) The employer or former employer no longer conducts an active
11 business and has insufficient net assets to pay the full amount of all
12 contributions, interest or penalties due; and

13 “(C) The employer or former employer can pay some but not all of
14 the delinquent amounts.

15 “(b) Whenever a settlement agreement is made pursuant to para-
16 graph (a) of this subsection, a written record signed by the director
17 shall be maintained in the files of the director. Such records shall set
18 forth:

19 “(A) The name of the employer or former employer against whom
20 the liability was assessed;

21 “(B) The amount of the assessed liability;

22 “(C) The amount of the liability paid;

23 “(D) The amount of the liability canceled or waived; and

24 “(E) A sworn statement of the employer or former employer setting
25 forth the complete financial responsibility of the employer or former
26 employer and containing a full disclosure of all matters bearing upon
27 the ability of the employer or former employer to pay the full amount
28 of the liability assessed.

29 “(9) The director shall file a full and true copy of the record of each
30 settlement agreement with the Secretary of State as a public record.

1 “(10) Any amount agreed to in settlement of the director’s claims
2 on behalf of the fund pursuant to subsection (8)(a) of this section shall
3 be first credited to the contributions due from the employer or former
4 employer until the principal amount of contributions due has been
5 satisfied and shall be deposited in the fund.

6 “SECTION 25. (1) This section applies to an individual who is one
7 or more of the following:

8 “(a) An officer or employee of a corporation;

9 “(b) A member or employee of a limited liability company; or

10 “(c) A partner in or employee of a limited liability partnership.

11 “(2) In the case of default by an employer subject to section 24 of
12 this 2019 Act, an individual described in subsection (1) of this section
13 who is under a duty to perform the actions required of employers un-
14 der section 16 of this 2019 Act shall be personally liable for amounts
15 due under section 16 of this 2019 Act. More than one individual may
16 be jointly and severally liable under this section for amounts due.

17 “(3) If the Director of the Employment Department determines that
18 an amount is due under this section, the director shall issue a notice
19 of assessment to the individual liable under this section by mail to the
20 individual’s last known address of record with the director.

21 “(4) If the director has reason to believe that the individual liable
22 under this section is insolvent, the director may issue a jeopardy as-
23 sessment as provided under section 28 (4) of this 2019 Act.

24 “(5) Amounts assessed under this section may be reviewed in the
25 manner provided by section 28 (5) of this 2019 Act.

26 “SECTION 26. (1) An employer may not willfully refuse or fail to
27 pay a contribution to the Paid Family and Medical Leave Insurance
28 Fund established under section 39 of this 2019 Act or to furnish any
29 report, audit or information duly required by the Director of the Em-
30 ployment Department under sections 1 to 51 of this 2019 Act.

1 “(2) An employer may not make a deduction from the wages of an
2 employee to pay any portion of the employer contributions due from
3 the employer.

4 “SECTION 27. (1) If an employer fails to file a combined quarterly
5 report of wages earned and contributions paid under section 16 of this
6 2019 Act by the 10th day of the second month following the end of the
7 calendar quarter, the Director of the Employment Department, for the
8 first such failure, shall send to the employer at the employer’s last
9 known address a written notice warning the employer that a subse-
10 quent failure to file a report could result in the imposition of a late
11 filing penalty.

12 “(2) If an employer, without good cause, fails to file a timely report
13 within the three-year period immediately following a written warning
14 sent pursuant to subsection (1) of this section, the employer may be
15 assessed a late filing penalty in addition to other amounts due.

16 “(3) Except as provided in subsection (4) of this section, a penalty
17 assessed under subsection (2) of this section shall be 0.02 percent of the
18 wages of the employer’s employees rounded to the nearest \$100.

19 “(4) A penalty assessed under subsection (2) of this section for an
20 employer who has no employees during the calendar quarter to which
21 a quarterly report relates shall be as follows:

22 “(a) \$10 for the first report filed late within the three-year period
23 immediately following a written notice sent pursuant to subsection (1)
24 of this section.

25 “(b) \$25 for the first report filed late within the three-year period
26 immediately following the assessment of a penalty under subsection
27 (2) of this section.

28 “(c) \$50 for the second report filed late within the three-year period
29 immediately following the assessment of a penalty under subsection
30 (2) of this section.

1 “(d) \$100 for the third or subsequent report filed late within the
2 three-year period immediately following the assessment of a penalty
3 under subsection (2) of this section.

4 “(5)(a) A penalty assessed under this section is final unless, within
5 20 days after the date the assessment is mailed to the last known ad-
6 dress of the employer, the employer requests that the penalty be de-
7 leted. The request must be in writing and state the reason why the
8 report was filed late.

9 “(b) If the director determines that the employer had good cause
10 for filing the report late, the penalty shall be deleted. If it is deter-
11 mined there was not good cause for filing the report late, the request
12 for deletion shall be denied.

13 “(6)(a) A determination denying the request for deletion is final
14 unless, within 20 days after the date the determination is mailed to the
15 last known address of the employer, the employer files a request for
16 hearing. The request for hearing must be in writing and state the
17 reasons why the determination should not be affirmed.

18 “(b) Judicial review of the determination of denial shall be as pro-
19 vided for review of orders in contested cases in ORS chapter 183, ex-
20 cept that the request for hearing must be filed within 20 days after the
21 issuance of the determination of the director or a designated repre-
22 sentative.

23 “SECTION 28. (1)(a) If an employer files a report for the purpose
24 of determining the amount of contributions due under section 16 of
25 this 2019 Act but fails to pay contributions or interest, the Director
26 of the Employment Department may assess the amount of contribu-
27 tions or interest due on the basis of the information submitted and
28 shall give written notice of the assessment to the employer by mail
29 sent to the employer’s last known address of record with the director.

30 “(b) Notwithstanding subsection (5) of this section, if the report is

1 subsequently found to be incorrect, additional assessments may be
2 made.

3 “(2) If an employer fails to file a report when required by the di-
4 rector for the purpose of determining the amount of contributions due
5 under section 16 of this 2019 Act, the director may make an estimate
6 based upon any information of the amount of the wages of the
7 employer’s employees for the period or periods for which no report
8 was filed and upon the basis of the estimate shall compute and assess
9 the amount of contributions payable by the employer. Written notice
10 of the assessment to the employer shall be mailed to the employer’s
11 last known address of record with the director.

12 “(3) If the director is not satisfied with a report made by an em-
13 ployer for the purpose of determining the amount of contributions due
14 under section 16 of this 2019 Act, the director may compute the
15 amount required to be paid upon the basis of facts contained in the
16 report or of any information obtainable and may make an assessment
17 of the amount of the deficiency. Written notice of a deficiency as-
18 sessment to the employer shall be mailed to the employer’s last known
19 address of record with the director.

20 “(4)(a) If the director has reason to believe that an employer or an
21 individual liable under section 25 of this 2019 Act is insolvent, or that
22 the collection of any contributions will be jeopardized by delaying
23 collection, the director may make an immediate assessment of the
24 estimated amount of accrued contributions, noting upon the assess-
25 ment that it is a jeopardy assessment levied under this subsection, and
26 may proceed to enforce collection immediately.

27 “(b)(A) Interest shall not begin to accrue on contributions collected
28 under paragraph (a) of this subsection until the due date.

29 “(B) Court costs may not be charged against an employer or an
30 individual liable under section 25 of this 2019 Act on any action to en-

1 force collection commenced prior to the due date.

2 “(c) In levying an assessment under paragraph (a) of this sub-
3 section, the director may demand a bond or deposit of such security
4 as is necessary to ensure collection of the amount of the assessment.

5 “(d) Written notice of an assessment to an employer or an individ-
6 ual liable under section 25 of this 2019 Act shall be mailed to the
7 employer’s or individual’s last known address of record with the di-
8 rector.

9 “(5)(a) All assessments provided for in this section shall finally fix
10 the amount of contributions due and payable unless:

11 “(A) The employer or the individual liable under section 25 of this
12 2019 Act applies to the director for a hearing within 20 days after the
13 mailing of the notice of assessment; or

14 “(B) The director reviews the assessment prior to a decision of the
15 administrative law judge pursuant to a hearing.

16 “(b) An employer or person liable under sections 24 and 25 of this
17 2019 Act that fails to apply for a hearing upon an assessment within
18 the time provided or, having applied, fails to appear and be heard after
19 due notice of the hearing, is precluded from raising any defense to any
20 action, suit or proceeding brought by the director for the recovery of
21 contributions based upon the assessment that could have been raised
22 in the hearing.

23 “(c) The amount of contributions assessed under this section shall
24 be subject to the penalties and interest provided by sections 24 and 25
25 of this 2019 Act.

26 “SECTION 29. It is unlawful for an employer to willfully make or
27 cause to be made false statements or to willfully fail to report a ma-
28 terial fact regarding the claim of an employee of the employer or re-
29 garding an employee’s eligibility for benefits under sections 1 to 51 of
30 this 2019 Act.

1 or repayment of benefits as determined under section 15 of this 2019
2 Act.

3 “(2) Notwithstanding ORS 183.315, the process established by the
4 director under this section shall comply with provisions for a con-
5 tested case under ORS chapter 183 and is subject to judicial review as
6 provided in ORS 183.482.

7 “SECTION 32. Appeals of decisions under equivalent employer plan.
8 The Director of the Employment Department shall establish by rule a
9 method to resolve disputes between employers and employees con-
10 cerning coverage and benefits provided under a plan approved under
11 section 43 of this 2019 Act.

12
13 **“ADMINISTRATION**

14
15 “SECTION 33. Family and medical leave insurance program; ad-
16 ministration of program. (1) The Director of the Employment Depart-
17 ment shall establish a family and medical leave insurance program to
18 provide family and medical leave insurance benefits to a covered indi-
19 vidual as specified in sections 1 to 51 of this 2019 Act.

20 “(2) Not later than September 1, 2021, the director shall adopt rules
21 that are necessary to establish the program under subsection (1) of
22 this section, including but not limited to rules that:

23 “(a) Establish an outreach plan for the program to receive input
24 from, and disseminate information to, employers and eligible employ-
25 ees.

26 “(b) Establish a process by which employers may apply for approval
27 of an employer-offered benefit plan under section 43 of this 2019 Act.

28 “(c) Establish alternatives by which an employer may determine a
29 benefit year period, including on a calendar year and noncalendar year
30 basis.

1 “(3) The director may enter into interagency agreements to perform
2 the duties and functions necessary to implement and administer
3 sections 1 to 51 of this 2019 Act.

4 “(4) Whenever possible, the director shall use existing employer and
5 public infrastructure to maintain records, conduct outreach and fa-
6 cilitate contributions made to the program.

7 “(5) All agencies of state government, as defined in ORS 174.111,
8 shall, upon request of the director, assist in the performance of the
9 director’s duties under sections 1 to 51 of this 2019 Act, including but
10 not limited to outreach, technical assistance and training.

11 “SECTION 34. Agreements with third party. (1) The Director of the
12 Employment Department may enter into an agreement with a third
13 party to implement sections 1 to 51 of this 2019 Act and to serve as the
14 administrator of the program established under section 33 of this 2019
15 Act. The director may enter into such an agreement only on a com-
16 petitive bid basis.

17 “(2) Every service provided by a third party administrator pursuant
18 to an agreement entered into under this section is subject to the same
19 requirements provided under sections 1 to 51 of this 2019 Act as if the
20 services had been provided by the director.

21 “(3) A third party administrator that enters into an agreement with
22 the director under this section is subject to oversight by the director.

23 “(4) Costs incurred by the director pursuant to an agreement with
24 a third party administrator entered into under this section may not
25 be recovered by an increase in the contribution rate determined by the
26 director under section 16 of this 2019 Act.

27 “SECTION 35. Counting employees. (1) Subject to subsection (2) of
28 this section, for purposes of sections 10 and 16 of this 2019 Act, the
29 Director of the Employment Department shall establish by rule a
30 method to determine on an annual basis the number of employees

1 employed by an employer. The method shall require that the determi-
2 nation be based on the average number of employees employed by the
3 employer in the 12-month period immediately preceding the date on
4 which the determination is made.

5 “(2) A replacement worker who is hired to temporarily replace an
6 eligible employee during a period of family leave, medical leave or safe
7 leave shall not be counted as an employee for purposes of determining
8 the number of employees employed by an employer.

9 **“SECTION 36. Advisory committee.** (1) The Director of the Em-
10 ployment Department shall establish an advisory committee to review
11 issues related to the implementation and administration of the family
12 and medical leave insurance program established under section 33 of
13 this 2019 Act and rulemaking related to the program.

14 “(2)(a) The advisory committee shall consist of nine members ap-
15 pointed by the director as follows:

16 “(A) A representative of the Employment Department.

17 “(B) Four members who represent employees.

18 “(C) Four members who represent employers, at least one of whom
19 represents employers that employ fewer than 25 employees.

20 “(b) Members shall serve for a term of two years and may be reap-
21 pointed. If there is a vacancy for any cause, the director shall make
22 an appointment to become immediately effective for the unexpired
23 term.

24 “(c) The representative of the department shall serve as chairperson
25 of the advisory committee.

26 “(3) The advisory committee shall advise and make recommen-
27 dations to the director regarding issues related to the program, in-
28 cluding but not limited to:

29 “(a) Implementation;

30 “(b) Administration; and

1 “(c) Rulemaking.

2 “(4) Members of the advisory committee are not entitled to com-
3 pensation but may be reimbursed for actual and necessary travel or
4 other expenses incurred in the performance of their official duties. The
5 director shall pay the expenses out of funds appropriated to the de-
6 partment under section 59 of this 2019 Act.

7 “(5) All agencies of state government, as defined in ORS 174.111, are
8 directed to assist the advisory committee in the performance of the
9 duties of the advisory committee and, to the extent permitted by laws
10 relating to confidentiality, to furnish information and advice that the
11 members of the advisory committee consider necessary to perform
12 their duties.

13 “SECTION 37. Records of employers; inspections. (1) All employers
14 shall maintain payroll records, including account records that docu-
15 ment employee contributions and expenses, and employment records
16 that reflect the total hours worked by all employees and the amount
17 of leave taken by employees under sections 1 to 51 of this 2019 Act for
18 the current calendar year and the three prior calendar years.

19 “(2) The Director of the Employment Department may inspect the
20 payroll and employment records of employers for the purpose of ad-
21 ministering sections 1 to 51 of this 2019 Act. Employers must provide
22 the director with all pertinent payroll and employment records upon
23 request.

24 “(3) When an employment agency is acting as an employer, the re-
25 quirements under subsections (1) and (2) of this section shall be the
26 responsibility of the employment agency.

27 “SECTION 38. Confidentiality. (1) All information in the records of
28 the Employment Department or a third party administrator pertaining
29 to the administration of sections 1 to 51 of this 2019 Act:

30 “(a) Is confidential and for the exclusive use and information of the

1 **director in administering sections 1 to 51 of this 2019 Act;**

2 **“(b) May not be used in any court action or in any proceeding**
3 **pending in the court unless the director or the State of Oregon is a**
4 **party to the action or proceeding or unless the action or proceeding**
5 **concerns the establishment, enforcement or modification of a support**
6 **obligation and support services are being provided by the Division of**
7 **Child Support of the Department of Justice or the district attorney**
8 **pursuant to ORS 25.080; and**

9 **“(c) Is exempt from disclosure under ORS 192.311 to 192.478.**

10 **“(2) At the discretion of the Director of the Employment Depart-**
11 **ment and subject to an interagency agreement, the director may dis-**
12 **close information to a public official in the performance of the public**
13 **official’s official duties administering or enforcing laws within the**
14 **public official’s authority and to an agent or contractor of a public**
15 **official. The public official shall agree to assume responsibility for**
16 **misuse of the information by the public official’s agent or contractor.**

17 **“(3) At the discretion of the director, the director may disclose in-**
18 **formation to a contractor pursuant to a contract for actuarial ser-**
19 **vices. The contractor shall agree to assume responsibility for misuse**
20 **of the information by the contractor’s agent.**

21 **“(4) At the discretion of the director, the director may disclose in-**
22 **formation to an employee or officer within any division of the de-**
23 **partment as necessary to conduct research, compile aggregate data**
24 **from the information received and any other purpose deemed neces-**
25 **sary by the director to assist the director in carrying out the duties**
26 **under sections 1 to 51 of this 2019 Act or other duties under ORS**
27 **chapter 657.**

28 **“SECTION 39. Paid Family and Medical Leave Insurance Fund. (1)**
29 **The Paid Family and Medical Leave Insurance Fund is established in**
30 **the State Treasury, separate and distinct from the General Fund. The**

1 **Paid Family and Medical Leave Insurance Fund is declared to be a**
2 **trust fund.**

3 **“(2) The fund consists of moneys deposited in the fund from con-**
4 **tributions made under section 16 of this 2019 Act and from penalties,**
5 **fees, revenues and all other amounts deposited in or credited to the**
6 **fund. Interest earned by the fund shall be credited to the fund.**

7 **“(3) Moneys in the fund are continuously appropriated to the Di-**
8 **rector of the Employment Department and may be used solely to carry**
9 **out the purposes set forth in sections 1 to 51 of this 2019 Act, including**
10 **the payment of administrative costs and expenses that the director**
11 **incurs in carrying out the provisions of sections 1 to 51 of this 2019**
12 **Act.**

13 **“SECTION 40. State agencies to assist with outreach, technical as-**
14 **sistance and compliance services. The Director of the Employment**
15 **Department may enter into intergovernmental agreements under ORS**
16 **chapter 190 with the Department of Revenue, the Department of Con-**
17 **sumer and Business Services, the Bureau of Labor and Industries and**
18 **any other agency to provide outreach, technical assistance or compli-**
19 **ance services related to sections 1 to 51 of this 2019 Act on behalf of**
20 **the director.**

21

22 **“ELECTIVE COVERAGE**

23

24 **“SECTION 41. (1) Except as provided in subsections (2) and (3) of**
25 **this section, a self-employed individual may elect to be covered under**
26 **sections 1 to 51 of this 2019 Act for a period of not less than three**
27 **years. The self-employed individual must file a notice of election in**
28 **writing with the Director of the Employment Department and con-**
29 **tribute to the Paid Family and Medical Leave Insurance Fund estab-**
30 **lished under section 39 of this 2019 Act in the manner prescribed by**

1 the director by rule. The election becomes effective on the date the
2 notice is filed. The self-employed individual must agree to supply any
3 information concerning taxable income that the director deems nec-
4 essary.

5 “(2) Subject to section 16 of this 2019 Act, a self-employed individual
6 who has elected coverage may terminate coverage by filing written
7 notice with the director at such times as the director prescribes by
8 rule, including at the time of a change in the self-employed
9 individual’s employment status. The termination may not take effect
10 sooner than 30 days after the notice is filed.

11 “(3) A self-employed individual who has elected coverage may ter-
12 minate coverage on the date of filing of a voluntary or involuntary
13 bankruptcy petition. The self-employed individual’s elective coverage
14 terminates on the date on which the self-employed individual provides
15 to the director documentation to support the self-employed
16 individual’s filing of the bankruptcy petition and files written notice
17 with the director. At any time thereafter, the self-employed individual
18 may re-elect coverage under this section.

19 “(4) A tribal government may elect to be covered under sections 1
20 to 51 of this 2019 Act, or to terminate coverage, in the same manner
21 as provided in subsections (1) to (3) of this section.

22 “(5) The director shall prescribe by rule the method for collecting
23 contributions and erroneous payments of benefits from self-employed
24 individuals, tribal governments and tribal government employees.

25

26

“EMPLOYER ASSISTANCE

27

28 “SECTION 42. Employer assistance. (1) Except as provided in sub-
29 section (2) of this section, employers that employ fewer than 25 em-
30 ployees and that make the required contributions under section 16 of

1 **this 2019 Act may apply to the Employment Department to receive one**
2 **of the following grants:**

3 **“(a) If the employer hires a temporary worker to replace an eligible**
4 **employee who takes family leave, medical leave or safe leave for a**
5 **period of seven or more days, a grant of up to \$3,000 to apply toward**
6 **the costs of hiring the worker.**

7 **“(b) A grant of up to \$1,000 as reimbursement for significant addi-**
8 **tional wage-related costs incurred during a period in which an eligible**
9 **employee takes leave described under paragraph (a) of this subsection.**

10 **“(2) In addition to a grant received under subsection (1)(b) of this**
11 **section, an employer may receive a grant in the amount of the differ-**
12 **ence between the grant awarded and \$3,000 if:**

13 **“(a) After the commencement of a period of family leave, medical**
14 **leave or safe leave taken by an eligible employee, the employee extends**
15 **the period of leave beyond the employee’s initial expected period of**
16 **leave; and**

17 **“(b) The employer hired a temporary worker to replace the eligible**
18 **employee during the employee’s period of leave.**

19 **“(3) An employer may apply for a grant under subsection (1) of this**
20 **section not more than 10 times per calendar year and not more than**
21 **once for each eligible employee who takes leave under section 4 of this**
22 **2019 Act.**

23 **“(4) To be eligible for a grant under this section, an employer shall**
24 **provide to the director written documentation showing that the em-**
25 **ployer hired a temporary worker or that the wage-related costs in-**
26 **curring are due to an eligible employee’s use of family leave, medical**
27 **leave or safe leave.**

28 **“(5) The grants awarded under this section shall be funded with**
29 **moneys in the Paid Family and Medical Leave Insurance Fund estab-**
30 **lished under section 39 of this 2019 Act.**

1 **“(6) The Director of the Employment Department shall adopt any**
2 **rules necessary to implement this section.**

3
4 **“EQUIVALENT PLANS**

5
6 **“SECTION 43. Equivalent plans, generally. (1)(a) An employer may**
7 **apply to the Director of the Employment Department for approval of**
8 **an employer-offered benefit plan that provides family and medical**
9 **leave insurance benefits to the employer’s employees.**

10 **“(b) An employer that seeks approval of a plan shall submit an ap-**
11 **plication to the director in the form and manner prescribed by the**
12 **director by rule, accompanied by an application fee not to exceed \$250.**

13 **“(2) The director shall review and approve an application for a plan**
14 **if the director finds that:**

15 **“(a) The plan is made available to all employees who have been**
16 **continuously employed with an employer for 30 days.**

17 **“(b) The benefits afforded to employees covered under the plan are**
18 **equal to or greater than the weekly benefits and the duration of leave**
19 **that an eligible employee would qualify for under sections 1 to 51 of**
20 **this 2019 Act.**

21 **“(3) An employer may make a plan available to employees who have**
22 **been employed by the employer for less than 30 days but in no event**
23 **may an employer require an employee to have been employed by the**
24 **employer for more than 30 days to be eligible for coverage under the**
25 **plan.**

26 **“(4) Neither an employer that provides benefits under an approved**
27 **plan nor an employee covered under such a plan is required to make**
28 **the contributions under section 16 of this 2019 Act.**

29 **“(5)(a) An employer may assume all or a part of the costs related**
30 **to a plan approved under this section.**

1 **“(b) If an employer assumes only part of the costs, the employer**
2 **may deduct employee contributions from the wages of employees to**
3 **finance the costs related to the plan, except that any contribution**
4 **amounts deducted may not exceed the amount that an eligible em-**
5 **ployee would otherwise be required to contribute under section 16 of**
6 **this 2019 Act.**

7 **“(c) Employee contributions received or retained by an employer**
8 **under this subsection must be used for plan expenses and are not**
9 **considered to be a part of an employer’s assets for any purpose.**

10 **“(6) Any paid sick leave earned under ORS 653.606 is in addition to**
11 **the benefits made available under a plan that has been approved under**
12 **this section.**

13 **“(7) An employee who takes leave pursuant to a plan approved un-**
14 **der this section, shall provide notice to an employer of such leave in**
15 **the same manner as provided in section 9 of this 2019 Act.**

16 **“(8) A plan approved under this section shall remain in effect for a**
17 **period of not less than one year.**

18 **“(9) Nothing in this section prohibits an employee who is otherwise**
19 **eligible from applying for coverage under the program established un-**
20 **der section 33 of this 2019 Act or under a separate employer-offered**
21 **plan that has been approved under this section.**

22 **“(10) The director shall adopt rules:**

23 **“(a) To prevent the payment of benefits in excess of 100 percent of**
24 **an eligible employee’s average weekly wage to an employee who is si-**
25 **multaneously covered under more than one employer-offered plan or**
26 **who has additional coverage under the program established under**
27 **section 33 of this 2019 Act; and**

28 **“(b) That require that the benefits made available to an eligible**
29 **employee who is covered under more than one plan shall be prorated**
30 **under each respective plan.**

1 **“(11) An employer that offers a plan approved under this section**
2 **shall:**

3 **“(a) Be subject to the same requirements provided in sections 10**
4 **and 11 of this 2019 Act;**

5 **“(b) Maintain all reports, information and records relating to the**
6 **plan, including payroll and account records that document employee**
7 **contributions and expenses, in the manner established by the director**
8 **by rule; and**

9 **“(c) Provide written notice to employees that includes:**

10 **“(A) Information about benefits available under the approved plan,**
11 **including the duration of leave;**

12 **“(B) The process for filing a claim to receive benefits under the**
13 **plan;**

14 **“(C) The process for employee deductions used to finance the costs**
15 **of the plan, if any;**

16 **“(D) An employee’s right to dispute a benefit determination in the**
17 **manner determined by the director under section 32 of this 2019 Act;**

18 **“(E) The right to job protection and benefits continuation, if appli-**
19 **cable; and**

20 **“(F) A statement that discrimination and retaliatory personnel**
21 **actions against an employee for inquiring about the family and med-**
22 **ical leave insurance program established under section 33 of this 2019**
23 **Act, giving notification of leave under the program, taking leave under**
24 **the program or claiming family and medical leave insurance benefits**
25 **are prohibited.**

26 **“(12) Benefits received under this section are considered wages for**
27 **purposes of a wage claim under ORS chapter 652.**

28 **“(13) An employer whose application for plan approval was denied**
29 **by the director under this section or terminated by the director under**
30 **section 44 of this 2019 Act may request review of the decision as pro-**

1 vided in section 31 of this 2019 Act.

2 **“SECTION 44. Equivalent plans - termination.** (1)(a) At such times
3 as may be established by the Director of the Employment Department
4 by rule, the director shall review the family and medical leave insur-
5 ance benefits provided under a plan that has been approved under
6 section 43 of this 2019 Act.

7 **“(b) Based on the review, the director shall determine whether the**
8 **approved plan provides benefits that are equal to or greater than the**
9 **benefits that would be available to eligible employees under the family**
10 **and medical leave insurance program established under section 33 of**
11 **this 2019 Act.**

12 **“(2) If the director determines that the approved plan does not**
13 **provide benefits in compliance with requirements under section 43 (2)**
14 **of this 2019 Act, the director shall terminate the plan and the employer**
15 **shall be required to make employer contributions and deduct employee**
16 **contributions in accordance with section 16 of this 2019 Act.**

17 **“SECTION 45. Equivalent plans - reapproval.** (1) Except as provided
18 in section 46 of this 2019 Act, an employer shall resubmit an applica-
19 tion to the Director of the Employment Department for reapproval of
20 a plan that was approved under section 43 of this 2019 Act. An em-
21 ployer shall apply for reapproval once a year for a three-year period
22 following the date on which the director first approved the plan.

23 **“(2) Unless an employer has made changes to a plan that were not**
24 **considered by the director in a previously approved or reapproved ap-**
25 **plication, an employer need not submit an application for reapproval**
26 **of the plan after expiration of the three-year period described in sub-**
27 **section (1) of this section.**

28 **“SECTION 46. Equivalent plans - Withdrawal.** (1) An employer may
29 elect to withdraw from a plan that was approved under section 43 of
30 this 2019 Act in the manner specified by the director by rule provided

1 that the plan has been in effect for at least one year.

2 “(2) If an employer elects to withdraw from an approved plan, any
3 deductions made from the wages of an employee that remain in pos-
4 session of the employer upon the employer’s withdrawal of the plan
5 shall be disposed of as determined by the director.

6 **“SECTION 47. Equivalent plans - Gap coverage.** (1) An employee
7 who is a covered individual under the program established under sec-
8 tion 33 of this 2019 Act retains such status until the employee qualifies
9 for coverage under a plan approved under section 43 of this 2019 Act.

10 “(2)(a) An employee who has ceased to be covered by a plan ap-
11 proved under section 43 of this 2019 Act, is, if otherwise eligible, au-
12 tomatically qualified to receive family and medical leave insurance
13 benefits under the program established under section 33 of this 2019
14 Act.

15 “(b) Notwithstanding section 43 (3) of this 2019 Act, an employee
16 who was eligible for benefits under a plan approved under section 43
17 of this 2019 Act is automatically eligible for benefits under a plan that
18 is offered by a new employer and that has been approved under section
19 43 of this 2019 Act.

20 “(c) For purposes of this subsection, an employee has ceased to be
21 covered by an approved plan if:

22 “(A) The employee takes family leave, medical leave or safe leave
23 after the employee has separated from employment with an employer
24 that offered a plan approved under section 43 of this 2019 Act;

25 “(B) The employer has withdrawn from the plan as provided under
26 section 46 of this 2019 Act;

27 “(C) The Director of the Employment Department has terminated
28 the plan under section 44 of this 2019 Act; or

29 “(D) The director finds that the employer is insolvent or has dis-
30 continued doing business in this state.

1 **“SECTION 48. Equivalent plans - Successors in interest to employ-**
2 **ers.** (1) Except as provided in subsection (2) of this section, a plan that
3 has been approved under section 43 of this 2019 Act and that is in effect
4 at the time a successor in interest acquires the organization, trade or
5 business, or substantially all assets of the organization, trade or busi-
6 ness or a distinct and severable portion of the organization, trade or
7 business, and continues its operation without substantial reduction of
8 personnel resulting from the acquisition, must continue to be offered
9 to eligible employees and the successor in interest may not withdraw
10 the plan without a specific request for withdrawal in a manner pre-
11 scribed by the Director of the Employment Department by rule.

12 “(2) Within 90 days following the date of an acquisition described
13 in subsection (1) of this section, a successor in interest to an employer
14 may terminate a plan that was approved under section 43 of this 2019
15 Act and that was in effect on the date of acquisition without a request
16 to withdraw the plan, provided the successor in interest provides no-
17 tice to the director and all employees of the employer in a manner
18 prescribed by the director by rule.

19
20 **“COLLECTIVE BARGAINING AGREEMENTS**

21
22 **“SECTION 49. Collective Bargaining Agreements.** Nothing in
23 sections 1 to 51 of this 2019 Act requires the reopening or renegotiation
24 of a collective bargaining agreement entered into before the effective
25 date of this 2019 Act prior to the date on which the agreement expires.

26 **“SECTION 49a. Minimum requirements.** Sections 1 to 51 of this 2019
27 Act establish minimum requirements pertaining to family leave, med-
28 ical leave and safe leave and may not be construed to preempt, limit
29 or otherwise diminish the applicability of any employer policy, stand-
30 ard or collective bargaining agreement that provides for greater use

1 of family leave, medical leave or safe leave under state or federal law.

2
3 **“REPORTS AND REVIEWS**

4
5 **“SECTION 50. Department review of equivalent plans. Beginning**
6 **January 1, 2023, and not more than once each year for three consec-**
7 **utive calendar years thereafter, the Director of the Employment De-**
8 **partment shall conduct a review of the expenses incurred by the**
9 **department in reviewing plans for approval under section 43 of this**
10 **2019 Act, including an analysis of adequacy of the application fee de-**
11 **termined by the department and administrative expenses related to**
12 **request for review of determinations regarding approval or denial of**
13 **applications as provided under section 31 of this 2019 Act.**

14 **“SECTION 51. Reports. (1)(a) The Director of the Employment De-**
15 **partment shall submit to the interim committees of the Legislative**
16 **Assembly related to workforce or business and labor, in the manner**
17 **provided in ORS 192.245, reports summarizing the Employment**
18 **Department’s progress toward implementing the family and medical**
19 **leave insurance program described in sections 1 to 51 of this 2019 Act.**

20 **“(b) The director shall submit the first report not later than Feb-**
21 **ruary 15, 2020, and a second report not later than September 1, 2021.**

22 **“(2) Beginning on July 1, 2023, and once during each of the following**
23 **three consecutive biennia, the director shall, to the extent that the**
24 **director has acquired the information, submit to the interim commit-**
25 **tees of the Legislative Assembly related to workforce or business and**
26 **labor, in the manner provided in ORS 192.245, a report that includes:**

27 **“(a) The total number of claims submitted under section 12 of this**
28 **2019 Act.**

29 **“(b) The number of claims allowed under section 13 of this 2019 Act**
30 **and the number of claims denied under section 13 of this 2019 Act.**

1 “(c) The total amount of benefits paid out of the Paid Family and
2 Medical Leave Insurance Fund established under section 39 of this 2019
3 Act.

4 “(d) Data regarding the use of moneys in the fund, the solvency of
5 the fund and the balance of the fund.

6 “(e) The amount of contributions collected under section 16 of this
7 2019 Act.

8 “(f) The number of applications for plan approval submitted under
9 section 43 of this 2019 Act, including the number of plans approved and
10 the costs the department incurred in reviewing such applications.

11 “(g) The number of applications received by the department for
12 employer assistance and the total amounts awarded in grants under
13 section 42 of this 2019 Act.

14 “(h) The director shall include in the reports described in this sub-
15 section any recommendations made by the advisory committee under
16 section 36 of this 2019 Act.

17 “**SECTION 52.** ORS 410.619 is amended to read:

18 “410.619. (1) A home care worker who is not otherwise employed by the
19 Home Care Commission, the Department of Human Services, the Oregon
20 Health Authority, an area agency or a support services brokerage shall not
21 be deemed to be an employee of the state, whether or not the state selects
22 the home care worker for employment or exercises any direction or control
23 over the home care worker, for the purpose of the state’s liability for the
24 home care worker’s actions.

25 “(2) The state shall be deemed an employer of home care workers for the
26 purposes of:

27 “(a) ORS 410.605, 410.606, 410.612 and 410.614 **and sections 1 to 51 of this**
28 **2019 Act;** and

29 “(b) ORS chapter 657, except as provided in ORS 657.730 (4).

30 “**SECTION 53.** ORS 410.619, as amended by section 17, chapter 75, Oregon

1 Laws 2018, is amended to read:

2 “410.619. (1) A home care worker or personal support worker who is not
3 otherwise employed by the Home Care Commission, the Department of Hu-
4 man Services, the Oregon Health Authority, an area agency or a support
5 services brokerage shall not be deemed to be an employee of the state,
6 whether or not the state selects the home care worker or personal support
7 worker for employment or exercises any direction or control over the home
8 care worker or personal support worker, for the purpose of the state’s li-
9 ability for the actions of the home care worker or personal support worker.

10 “(2) The state shall be deemed an employer of home care workers or per-
11 sonal support workers for the purposes of:

12 “(a) ORS 410.605, 410.606, 410.612 and 410.614 **and sections 1 to 51 of this**
13 **2019 Act**; and

14 “(b) ORS chapter 657, except as provided in ORS 657.730 (4).

15 **“SECTION 54.** ORS 657.100 is amended to read:

16 “657.100. (1) An individual is deemed ‘unemployed’ in any week during
17 which the individual performs no services and with respect to which no
18 remuneration for services performed is paid or payable to the individual, or
19 in any week of less than full-time work if the remuneration paid or payable
20 to the individual for services performed during the week is less than the
21 individual’s weekly benefit amount.

22 “(2) For the purposes of ORS 657.155 (1), an individual who performs
23 full-time services in any week for an employing unit is not unemployed even
24 though remuneration is neither paid nor payable to the individual for the
25 services performed; however, nothing in this subsection shall prevent an in-
26 dividual from meeting the definition of ‘unemployed’ as used in this section
27 solely by reason of the individual’s performance of volunteer services with-
28 out remuneration for a charitable institution or a governmental entity.

29 **“(3) An individual may not be deemed ‘unemployed’ under this sec-**
30 **tion for any week in which the individual is receiving family and**

1 **medical leave insurance benefits under sections 1 to 51 of this 2019 Act.**

2 “[3] (4) The Director of the Employment Department shall prescribe
3 rules as the director deems necessary with respect to the various types of
4 unemployment.

5 **“SECTION 55.** ORS 657.471 is amended to read:

6 “657.471. (1) Except as otherwise provided in this section, benefits paid
7 to an eligible individual shall be charged to each of the individual’s em-
8 ployers during the base year in the same proportion that the wages paid by
9 each employer to the individual during the base year bear to the wages paid
10 by all employers to that individual during that year.

11 “(2) The account of an employer, other than a political subdivision elect-
12 ing to pay taxes under ORS 657.509, may not be charged with benefits paid
13 an unemployed individual in excess of one-third of the base year wages paid
14 that individual while in the employ of the employer.

15 “(3) Benefits paid to an individual for unemployment immediately after
16 the expiration of a period of disqualification for having left the employment
17 of an employer voluntarily without good cause may not be charged to the
18 employer.

19 “(4) Benefits paid to an individual for unemployment immediately after
20 the expiration of a period of disqualification for having been discharged by
21 an employer for misconduct may not be charged to the employer.

22 “(5) Benefits paid without any disqualification to an individual may not
23 be charged to an employer of the individual for the immediate period of un-
24 employment if:

25 “(a) The individual left the employment of the employer voluntarily for
26 good cause not attributable to the employer; or

27 “(b) The employer discharged the individual because the individual was
28 unable to satisfy a job prerequisite required by law or administrative rule.

29 “(6) If it is determined under the provisions of subsection (3), (4) or (5)
30 of this section that benefits paid to an individual may not be charged to an

1 employer, the employer's account may not be charged for any benefits paid
2 for any subsequent period or periods of unemployment during the individual's
3 affected benefit year or during any benefit year beginning within 52 weeks
4 subsequent to the affected benefit year.

5 “(7)(a) A base-year employer that is not otherwise eligible for relief of
6 charges for benefits under this section and that receives notification of an
7 initial valid determination of a claim may request relief of charges if the
8 claim is made by an individual who:

9 “(A) Left the employment of the employer voluntarily and not for reasons
10 attributable to the employer;

11 “(B) Was disqualified for the individual's most recent separation from the
12 employer by a determination of the Director of the Employment Department
13 that the individual has been discharged for misconduct connected with the
14 employment for the employer; or

15 “(C) Was discharged for reasons that would be disqualifying under ORS
16 657.176 (2)(a), (b), (f), (g) or (h).

17 “(b)(A) A request under paragraph (a)(A) of this subsection:

18 “(i) Must advise the director in writing of the date on which the indi-
19 vidual left employment, state that the individual left voluntarily and not for
20 reasons attributable to the employer and give the reason for which the in-
21 dividual left employment.

22 “(ii) May not be granted if the individual was reemployed by the employer
23 prior to the filing of the initial valid claim.

24 “(B) A request under paragraph (a)(C) of this subsection must specify the
25 date of the discharge and the reasons why the employer believes the dis-
26 charge was for reasons that would be disqualifying under ORS 657.176 (2)(a),
27 (b), (f), (g) or (h).

28 “(c) A request for relief under this subsection must be sent to the de-
29 partment within 30 days after the date on which the notice provided for un-
30 der ORS 657.266 is mailed or delivered to the employer.

1 “(d) Upon receipt of the request from the employer, the director shall re-
2 view the information provided by the employer and determine whether the
3 employer is entitled to relief of charges for benefits paid to the individual
4 during the benefit year. If the director determines that the employer is en-
5 titled to relief of charges, the director shall grant the relief.

6 “(e)(A) The determination of the director under paragraph (a)(A) and (C)
7 of this subsection is final in all cases unless an application for hearing is
8 filed within 20 days after delivery of the determination, or, if mailed, within
9 20 days after the determination was mailed to the employer’s last-known
10 address.

11 “(B) When a request for hearing has been timely filed, an administrative
12 law judge shall be assigned to conduct a hearing.

13 “(C) After the administrative law judge has afforded all parties an op-
14 portunity for a fair hearing, the administrative law judge shall affirm or
15 reverse the determination and promptly notify all parties entitled to notice
16 of the decision and the reasons for the decision.

17 “(D) Decisions of the administrative law judge under this subsection are
18 final and may be judicially reviewed as provided in ORS 657.684 to the extent
19 applicable.

20 “(8)(a) If the director finds that an employer or the employer’s agent, in
21 submitting facts under subsection (7) of this section, willfully makes a false
22 statement or representation or willfully fails to report a material fact con-
23 cerning the termination of an individual’s employment, the director shall
24 make a determination charging the employer’s reserve account not less than
25 two nor more than 10 times the weekly benefit amount of the claimant or
26 claimants.

27 “(b) The director shall give notice to the employer of the determination
28 under this subsection and the determination of the director is final unless
29 an application for hearing is filed in the manner provided for in subsection
30 (7)(e) of this section.

1 “(9) Benefits paid to an individual may not be charged to a base-year
2 employer if:

3 “(a) The employer furnished part-time work to the individual during the
4 base year;

5 “(b) The individual has become eligible for benefits because of loss of
6 employment with one or more other employers;

7 “(c) The employer has continued to furnish part-time work to the indi-
8 vidual in substantially the same amount as during the individual’s base year;
9 and

10 “(d) The employer requests relief of charges within 30 days of the date the
11 notice provided for in ORS 657.266 is mailed or delivered to the employer.

12 “(10) **Benefits paid to an individual for unemployment due to the**
13 **return of a covered individual, as defined in section 2 of this 2019 Act,**
14 **who was temporarily replaced by the individual for a period of family**
15 **leave, medical leave or safe leave under sections 1 to 51 of this 2019**
16 **Act may not be charged to the employer of the covered individual.**

17 “[~~(10)~~] (11) Notwithstanding any other provision of this section, benefits
18 paid to an individual shall be charged to an employer’s account if:

19 “(a) The employer or the employer’s agent fails to respond timely or ade-
20 quately to a request from the Employment Department for information re-
21 lating to the claim for benefits;

22 “(b) The failure to respond causes an overpayment of benefits to the
23 claimant; and

24 “(c) The employer or the employer’s agent has a pattern of failing to re-
25 spond timely or adequately to requests from the department for information
26 relating to claims for benefits.

27 “**SECTION 56.** ORS 659A.162 is amended to read:

28 “659A.162. (1) Except as specifically provided by ORS 659A.150 to 659A.186
29 **and section 4 of this 2019 Act**, an eligible employee is entitled to up to a
30 total of 12 weeks of family leave within any one-year period.

1 “(2)(a) Except as provided by paragraph (b) of this subsection, an eligible
2 employee is entitled to a total of two weeks of family leave for the purposes
3 described in ORS 659A.159 (1)(e).

4 “(b) An eligible employee is entitled to the period of leave described in
5 paragraph (a) of this subsection upon the death of each family member of the
6 employee within any one-year period, except that leave taken as provided by
7 this subsection may not exceed the total period of family leave authorized
8 by subsection (1) of this section.

9 “(c) A covered employer may not require an eligible employee to take
10 multiple periods of leave described in ORS 659A.159 (1)(e) concurrently if
11 more than one family member of the employee dies during the one-year pe-
12 riod.

13 “(d) All leave taken for the purposes described in ORS 659A.159 (1)(e)
14 shall be counted toward the total period of family leave authorized by sub-
15 section (1) of this section.

16 “(3)(a) In addition to the 12 weeks of family leave authorized by sub-
17 section (1) of this section, a female eligible employee may take a total of 12
18 weeks of leave within any one-year period for an illness, injury or condition
19 related to pregnancy or childbirth that disables the eligible employee from
20 performing any available job duties offered by the covered employer.

21 “(b) An eligible employee who takes 12 weeks of family leave within a
22 one-year period for the purpose specified in ORS 659A.159 (1)(a) may take
23 up to an additional 12 weeks of leave within the one-year period for the
24 purpose specified in ORS 659A.159 (1)(d).

25 “(4) When two or more family members work for the same covered em-
26 ployer, the eligible employees may not take concurrent family leave unless:

27 “(a) One employee needs to care for another employee who is a family
28 member and who is suffering from a serious health condition;

29 “(b) One employee needs to care for a child who has a serious health
30 condition while another employee who is a family member is also suffering

1 from a serious health condition; or

2 “(c) The employees are taking leave described in ORS 659A.159 (1)(e).

3 “(5) An eligible employee may take family leave for the purpose specified
4 in ORS 659A.159 (1)(a) in two or more nonconsecutive periods of leave only
5 with the approval of the employer.

6 “(6) Leave need not be provided to an eligible employee by a covered
7 employer for the purpose specified in ORS 659A.159 (1)(d) if another family
8 member is available to care for the child.

9 “(7) A covered employer may not reduce the amount of family leave
10 available to an eligible employee under this section by any period the em-
11 ployee is unable to work because of a disabling compensable injury.

12 “(8)(a) The Commissioner of the Bureau of Labor and Industries shall
13 adopt rules governing when family leave for a serious health condition of
14 an eligible employee or a family member of the eligible employee may be
15 taken intermittently or by working a reduced workweek. Rules adopted by
16 the commissioner under this paragraph shall allow taking of family leave on
17 an intermittent basis or by use of a reduced workweek to the extent per-
18 mitted by federal law and to the extent that taking family leave on an in-
19 termittent basis or by use of a reduced workweek does not result in the loss
20 of an eligible employee’s exempt status under the federal Fair Labor Stan-
21 dards Act.

22 “(b) The commissioner shall adopt rules governing when family leave for
23 the purposes described in ORS 659A.159 (1)(e) may be taken to the extent
24 permitted by federal law and to the extent that taking family leave on an
25 intermittent basis does not result in the loss of an eligible employee’s exempt
26 status under the federal Fair Labor Standards Act.

27 **“SECTION 57.** ORS 659A.885, as amended by section 9, chapter 197,
28 Oregon Laws 2017, and section 13, chapter 691, Oregon Laws 2017, is
29 amended to read:

30 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-

1 tice specified in subsection (2) of this section may file a civil action in cir-
2 cuit court. In any action under this subsection, the court may order
3 injunctive relief and any other equitable relief that may be appropriate, in-
4 cluding but not limited to reinstatement or the hiring of employees with or
5 without back pay. A court may order back pay in an action under this sub-
6 section only for the two-year period immediately preceding the filing of a
7 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
8 bor and Industries, or if a complaint was not filed before the action was
9 commenced, the two-year period immediately preceding the filing of the
10 action. In any action under this subsection, the court may allow the pre-
11 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
12 cept as provided in subsection (3) of this section:

13 “(a) The judge shall determine the facts in an action under this sub-
14 section; and

15 “(b) Upon any appeal of a judgment in an action under this subsection,
16 the appellate court shall review the judgment pursuant to the standard es-
17 tablished by ORS 19.415 (3).

18 “(2) An action may be brought under subsection (1) of this section alleg-
19 ing a violation of:

20 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2),
21 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
22 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,
23 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to
24 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230,
25 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,
26 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.355 or 659A.421 **or**
27 **sections 10 and 11 of this 2019 Act; or**

28 “(b) ORS 653.470, except an action may not be brought for a claim relating
29 to ORS 653.450.

30 “(3) In any action under subsection (1) of this section alleging a violation

1 of ORS 25.337, 25.424, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030,
2 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145,
3 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290,
4 659A.318, 659A.355 or 659A.421 **or sections 10 and 11 of this 2019 Act:**

5 “(a) The court may award, in addition to the relief authorized under
6 subsection (1) of this section, compensatory damages or \$200, whichever is
7 greater, and punitive damages;

8 “(b) At the request of any party, the action shall be tried to a jury;

9 “(c) Upon appeal of any judgment finding a violation, the appellate court
10 shall review the judgment pursuant to the standard established by ORS
11 19.415 (1); and

12 “(d) Any attorney fee agreement shall be subject to approval by the court.

13 “(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this
14 section alleging a violation of ORS 652.220, the court may award punitive
15 damages if:

16 “(a) It is proved by clear and convincing evidence that an employer has
17 engaged in fraud, acted with malice or acted with willful and wanton mis-
18 conduct; or

19 “(b) An employer was previously adjudicated in a proceeding under this
20 section or under ORS 659A.850 for a violation of ORS 652.220.

21 “(5) In any action under subsection (1) of this section alleging a violation
22 of ORS 653.060, the court may award, in addition to the relief authorized
23 under subsection (1) of this section, compensatory damages or \$200, which-
24 ever is greater.

25 “(6) In any action under subsection (1) of this section alleging a violation
26 of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the
27 relief authorized under subsection (1) of this section, compensatory damages
28 or \$250, whichever is greater.

29 “(7) In any action under subsection (1) of this section alleging a violation
30 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-

1 thorized under subsection (1) of this section, a civil penalty in the amount
2 of \$720.

3 “(8) Any individual against whom any distinction, discrimination or re-
4 striction on account of race, color, religion, sex, sexual orientation, national
5 origin, marital status or age, if the individual is 18 years of age or older,
6 has been made by any place of public accommodation, as defined in ORS
7 659A.400, by any employee or person acting on behalf of the place or by any
8 person aiding or abetting the place or person in violation of ORS 659A.406
9 may bring an action against the operator or manager of the place, the em-
10 ployee or person acting on behalf of the place or the aider or abettor of the
11 place or person. Notwithstanding subsection (1) of this section, in an action
12 under this subsection:

13 “(a) The court may award, in addition to the relief authorized under
14 subsection (1) of this section, compensatory and punitive damages;

15 “(b) The operator or manager of the place of public accommodation, the
16 employee or person acting on behalf of the place, and any aider or abettor
17 shall be jointly and severally liable for all damages awarded in the action;

18 “(c) At the request of any party, the action shall be tried to a jury;

19 “(d) The court shall award reasonable attorney fees to a prevailing
20 plaintiff;

21 “(e) The court may award reasonable attorney fees and expert witness fees
22 incurred by a defendant who prevails only if the court determines that the
23 plaintiff had no objectively reasonable basis for asserting a claim or no
24 reasonable basis for appealing an adverse decision of a trial court; and

25 “(f) Upon any appeal of a judgment under this subsection, the appellate
26 court shall review the judgment pursuant to the standard established by ORS
27 19.415 (1).

28 “(9) When the commissioner or the Attorney General has reasonable cause
29 to believe that a person or group of persons is engaged in a pattern or
30 practice of resistance to the rights protected by ORS 659A.145 or 659A.421

1 or federal housing law, or that a group of persons has been denied any of the
2 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
3 commissioner or the Attorney General may file a civil action on behalf of
4 the aggrieved persons in the same manner as a person or group of persons
5 may file a civil action under this section. In a civil action filed under this
6 subsection, the court may assess against the respondent, in addition to the
7 relief authorized under subsections (1) and (3) of this section, a civil penalty:

8 “(a) In an amount not exceeding \$50,000 for a first violation; and

9 “(b) In an amount not exceeding \$100,000 for any subsequent violation.

10 “(10) In any action under subsection (1) of this section alleging a vio-
11 lation of ORS 659A.145 or 659A.421 or alleging discrimination under federal
12 housing law, when the commissioner is pursuing the action on behalf of an
13 aggrieved complainant, the court shall award reasonable attorney fees to the
14 commissioner if the commissioner prevails in the action. The court may
15 award reasonable attorney fees and expert witness fees incurred by a de-
16 fendant that prevails in the action if the court determines that the commis-
17 sioner had no objectively reasonable basis for asserting the claim or for
18 appealing an adverse decision of the trial court.

19 “(11) In an action under subsection (1) or (9) of this section alleging a
20 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-
21 ing law:

22 “(a) ‘Aggrieved person’ includes a person who believes that the person:

23 “(A) Has been injured by an unlawful practice or discriminatory housing
24 practice; or

25 “(B) Will be injured by an unlawful practice or discriminatory housing
26 practice that is about to occur.

27 “(b) An aggrieved person in regard to issues to be determined in an action
28 may intervene as of right in the action. The Attorney General may intervene
29 in the action if the Attorney General certifies that the case is of general
30 public importance. The court may allow an intervenor prevailing party costs

1 and reasonable attorney fees at trial and on appeal.

2 **“SECTION 58.** ORS 659A.885, as amended by sections 9 and 10, chapter
3 197, Oregon Laws 2017, and section 13, chapter 691, Oregon Laws 2017, is
4 amended to read:

5 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-
6 tice specified in subsection (2) of this section may file a civil action in cir-
7 cuit court. In any action under this subsection, the court may order
8 injunctive relief and any other equitable relief that may be appropriate, in-
9 cluding but not limited to reinstatement or the hiring of employees with or
10 without back pay. A court may order back pay in an action under this sub-
11 section only for the two-year period immediately preceding the filing of a
12 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
13 bor and Industries, or if a complaint was not filed before the action was
14 commenced, the two-year period immediately preceding the filing of the
15 action. In any action under this subsection, the court may allow the pre-
16 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
17 cept as provided in subsection (3) of this section:

18 “(a) The judge shall determine the facts in an action under this sub-
19 section; and

20 “(b) Upon any appeal of a judgment in an action under this subsection,
21 the appellate court shall review the judgment pursuant to the standard es-
22 tablished by ORS 19.415 (3).

23 “(2) An action may be brought under subsection (1) of this section alleg-
24 ing a violation of:

25 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2),
26 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
27 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,
28 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to
29 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230,
30 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,

1 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.355, 659A.357 or
2 659A.421 or sections 10 and 11 of this 2019 Act; or

3 “(b) ORS 653.470, except an action may not be brought for a claim relating
4 to ORS 653.450.

5 “(3) In any action under subsection (1) of this section alleging a violation
6 of ORS 25.337, 25.424, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030,
7 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145,
8 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290,
9 659A.318, 659A.355, 659A.357 or 659A.421 or sections 10 and 11 of this 2019
10 **Act:**

11 “(a) The court may award, in addition to the relief authorized under
12 subsection (1) of this section, compensatory damages or \$200, whichever is
13 greater, and punitive damages;

14 “(b) At the request of any party, the action shall be tried to a jury;

15 “(c) Upon appeal of any judgment finding a violation, the appellate court
16 shall review the judgment pursuant to the standard established by ORS
17 19.415 (1); and

18 “(d) Any attorney fee agreement shall be subject to approval by the court.

19 “(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this
20 section alleging a violation of ORS 652.220, the court may award punitive
21 damages if:

22 “(a) It is proved by clear and convincing evidence that an employer has
23 engaged in fraud, acted with malice or acted with willful and wanton mis-
24 conduct; or

25 “(b) An employer was previously adjudicated in a proceeding under this
26 section or under ORS 659A.850 for a violation of ORS 652.220.

27 “(5) In any action under subsection (1) of this section alleging a violation
28 of ORS 653.060, the court may award, in addition to the relief authorized
29 under subsection (1) of this section, compensatory damages or \$200, which-
30 ever is greater.

1 “(6) In any action under subsection (1) of this section alleging a violation
2 of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the
3 relief authorized under subsection (1) of this section, compensatory damages
4 or \$250, whichever is greater.

5 “(7) In any action under subsection (1) of this section alleging a violation
6 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-
7 thorized under subsection (1) of this section, a civil penalty in the amount
8 of \$720.

9 “(8) Any individual against whom any distinction, discrimination or re-
10 striction on account of race, color, religion, sex, sexual orientation, national
11 origin, marital status or age, if the individual is 18 years of age or older,
12 has been made by any place of public accommodation, as defined in ORS
13 659A.400, by any employee or person acting on behalf of the place or by any
14 person aiding or abetting the place or person in violation of ORS 659A.406
15 may bring an action against the operator or manager of the place, the em-
16 ployee or person acting on behalf of the place or the aider or abettor of the
17 place or person. Notwithstanding subsection (1) of this section, in an action
18 under this subsection:

19 “(a) The court may award, in addition to the relief authorized under
20 subsection (1) of this section, compensatory and punitive damages;

21 “(b) The operator or manager of the place of public accommodation, the
22 employee or person acting on behalf of the place, and any aider or abettor
23 shall be jointly and severally liable for all damages awarded in the action;

24 “(c) At the request of any party, the action shall be tried to a jury;

25 “(d) The court shall award reasonable attorney fees to a prevailing
26 plaintiff;

27 “(e) The court may award reasonable attorney fees and expert witness fees
28 incurred by a defendant who prevails only if the court determines that the
29 plaintiff had no objectively reasonable basis for asserting a claim or no
30 reasonable basis for appealing an adverse decision of a trial court; and

1 “(f) Upon any appeal of a judgment under this subsection, the appellate
2 court shall review the judgment pursuant to the standard established by ORS
3 19.415 (1).

4 “(9) When the commissioner or the Attorney General has reasonable cause
5 to believe that a person or group of persons is engaged in a pattern or
6 practice of resistance to the rights protected by ORS 659A.145 or 659A.421
7 or federal housing law, or that a group of persons has been denied any of the
8 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
9 commissioner or the Attorney General may file a civil action on behalf of
10 the aggrieved persons in the same manner as a person or group of persons
11 may file a civil action under this section. In a civil action filed under this
12 subsection, the court may assess against the respondent, in addition to the
13 relief authorized under subsections (1) and (3) of this section, a civil penalty:

14 “(a) In an amount not exceeding \$50,000 for a first violation; and

15 “(b) In an amount not exceeding \$100,000 for any subsequent violation.

16 “(10) In any action under subsection (1) of this section alleging a vio-
17 lation of ORS 659A.145 or 659A.421 or alleging discrimination under federal
18 housing law, when the commissioner is pursuing the action on behalf of an
19 aggrieved complainant, the court shall award reasonable attorney fees to the
20 commissioner if the commissioner prevails in the action. The court may
21 award reasonable attorney fees and expert witness fees incurred by a de-
22 fendant that prevails in the action if the court determines that the commis-
23 sioner had no objectively reasonable basis for asserting the claim or for
24 appealing an adverse decision of the trial court.

25 “(11) In an action under subsection (1) or (9) of this section alleging a
26 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-
27 ing law:

28 “(a) ‘Aggrieved person’ includes a person who believes that the person:

29 “(A) Has been injured by an unlawful practice or discriminatory housing
30 practice; or

1 “(B) Will be injured by an unlawful practice or discriminatory housing
2 practice that is about to occur.

3 “(b) An aggrieved person in regard to issues to be determined in an action
4 may intervene as of right in the action. The Attorney General may intervene
5 in the action if the Attorney General certifies that the case is of general
6 public importance. The court may allow an intervenor prevailing party costs
7 and reasonable attorney fees at trial and on appeal.

8

9 **“APPROPRIATION LOAN**

10

11 **“SECTION 59. There is appropriated to the Employment Depart-**
12 **ment, for the biennium beginning July 1, 2019, out of the General**
13 **Fund, the amount of \$_____, to enable the department to carry out**
14 **the purposes of section 60 of this 2019 Act.**

15 **“SECTION 60. (1) The moneys appropriated under section 59 of this**
16 **2019 Act are continuously appropriated to the Employment Depart-**
17 **ment to cover start-up costs related to the establishment of the family**
18 **and medical leave insurance program under section 33 of this 2019 Act.**

19 **“(2) When the department determines that moneys in sufficient**
20 **amount are available in the Paid Family and Medical Leave Insurance**
21 **Fund established under section 39 of this 2019 Act, but in no event**
22 **later than January 1, 2023, the department shall reimburse the General**
23 **Fund, without interest, in an amount equal to the amount from the**
24 **General Fund appropriated as provided in section 59 of this 2019 Act.**

25 **“SECTION 61. Preemption. Except as provided in section 43 of this**
26 **2019 Act, sections 1 to 51 of this 2019 Act supersede and preempt any**
27 **rule, regulation, code or ordinance of any unit of a local government,**
28 **as defined in ORS 174.116, relating to paid family and medical leave.**

29

30 **“TRANSITIONAL PROVISIONS**

1 **“SECTION 62.** The Director of the Employment Department shall
2 establish the family and medical leave insurance program under sec-
3 tion 33 of this 2019 Act such that eligible employees as defined in sec-
4 tion 2 of this 2019 Act and employers may begin making contributions
5 to the program no later than January 1, 2022.

6 **“SECTION 62a.** Notwithstanding the operative date specified in
7 section 63 (1)(a) of this 2019 Act, an employer may apply to the Direc-
8 tor of the Employment Department, in accordance with the applica-
9 tion process established by the director under section 33 of this 2019
10 Act, for approval of an employer-offered benefit plan described under
11 section 43 of this 2019 Act on or after the effective date of this 2019
12 Act.

13 **“SECTION 63. Operative dates.** (1)(a) Sections 8, 11, 14, 16 to 31, 37,
14 41, 43 to 48, 49a and 61 of this 2019 Act become operative on January
15 1, 2022.

16 **“(b)** Sections 3 to 7, 9, 10, 12, 13, 15, 42 and 50 of this 2019 Act become
17 operative on January 1, 2023.

18 **“(c)** The amendments to ORS 410.619 by sections 52 and 53 of this
19 2019 Act become operative on January 1, 2022.

20 **“(d)** The amendments to ORS 657.100, 657.471 and 659A.162 by
21 sections 54, 55 and 56 of this 2019 Act become operative on January 1,
22 2023.

23 **“(e)** The amendments to ORS 659A.885 by sections 57 and 58 of this
24 2019 Act become operative January 1, 2025.

25 **“(2)** The Employment Department and the Department of Revenue
26 may take any action before the operative dates specified in subsection
27 (1) of this section that is necessary to enable the departments to ex-
28 ercise, on or after the operative dates specified in subsection (1) of this
29 section, the duties, functions and powers conferred on the departments
30 by sections 1 to 51 of this 2019 Act.

1 "CAPTIONS

2
3 "SECTION 64. The unit and section captions used in this 2019 Act
4 are provided only for the convenience of the reader and do not become
5 part of the statutory law of this state or express any legislative intent
6 in the enactment of this 2019 Act.

7
8 "EFFECTIVE DATE

9
10 "SECTION 65. This 2019 Act takes effect on the 91st day after the
11 date on which the 2019 regular session of the Eightieth Legislative
12 Assembly adjourns sine die."
13 _____