MINNESOTA CHAMBER OF COMMERCE
GROWING MINNESOTA

May 11, 2023

Dear Members of the Conference Committee for HF 2:

On behalf of the Minnesota Chamber of Commerce, we appreciate the opportunity to share our continued opposition to both versions of HF 2 (Sen. Mann; Rep. Richardson) as drafted, legislation seeking to impose a new unfunded paid leave mandate and payroll tax on Minnesota's employers and employees. Instead, we encourage policymakers to embrace the bipartisan effort, the comprehensive Family and Medical Leave Insurance (MN FaMLI), plan to increase access and options for paid family and medical leave insurance products in Minnesota that are voluntary or elective, cost-effective, and available to all private and public employers and employees.

The Minnesota Chamber is a statewide organization representing more than 6,300 businesses and more than half a million employees throughout Minnesota, and a majority of our members are small to mid-sized businesses. Over 80% of our members offer paid leave in some form already.

This is an important topic that warrants significant and sincere discussion by all stakeholders. It is also important that the state gets this right. These mandates are not the equivalent of a "cup of coffee" - in fact, the few states that have mandated paid leave broadly have experienced complexity and high costs.

While we appreciate and acknowledge the ongoing work to improve the approach taken by HF 2 throughout the committee process that seek to modify some of the most expansive elements of the proposal, this bill still includes a number of concerning elements that do not work for employers and their employees. As the fiscal note reveals, it is still too expansive and expensive and subject to significant vulnerabilities in its design that bring into question its solvency.

Expansive

The bills as drafted still create a mechanism for an employee to be away from their job for 18 – 24 weeks or more each year. **This a considerable new leave standard.** While it's possible not every employee will take off the entire time allowed, experience shows that when provided, employees will access this benefit and the bill as drafted almost guarantees more time will be taken – when combined with the still overly broad definition of family member, the expanded list of qualifying events, the enhanced wage replacement rate, and the stackability of the leaves. When further combined with SF 34/HF 19 (legislation already passed by the House mandating up-to-80 hours of paid sick and safe time), these proposals will place considerable strain on our workforce, employers, and our economy overall

The Chamber recommends modifying the definition of a family member to be aligned with the existing definition found under the federal Family Medical Leave Act (FMLA) and to generally cap the maximum number of weeks to align with the existing 12 week limit under FMLA, while allowing for limited additional leave related to pregnancy complications.

Minnesota has a well-documented workforce shortage already, and it is expected to worsen in the coming decade. Alarmingly, the states that have enacted paid leave programs are among those with the largest net domestic migration losses last year. In certain workplaces, such as hospitals or manufacturing facilities that run 24/7, or in daycares, schools or care facilities, where staffing ratios are carefully calibrated and monitored, we already do not have enough workers ready to fill positions.

Having such a specific and extended leave mandate will unintentionally exacerbate problems related to our workforce challenge and disrupt existing benefits packages. **In order to mitigate the impacts of this mandate on the thousands of working Minnesotans who already have an existing paid leave benefit offered through their employer, the Chamber recommends enabling a more workable private plan substitution option for any employer provided their benefits are at least equal to a reasonable percentage of the monetary value of benefits required to be paid under this new mandate.**

Expensive

Minnesota already imposes a higher cost of doing business than many other states. As it stands now, Minnesota ranks 45th – nearly last – in business tax climate. We have less ability to raise taxes than many other states- even compared to those states that have enacted paid leave programs already.

We are highly critical of imposing a new payroll tax on every employer that will collectively cost Minnesota's business community nearly $1.5 billion annually, based on a payroll tax rate. Moreover, that new payroll tax is subject to increase significantly, in order to create and finance a broad new state-run insurance program that takes over an existing insurance market and thwarts an emerging one.

In addition to the direct cost on employers, the proposal will take years of development and over 400 state FTEs to start, implement, and administrate. Once the program is up and running, the proposal assumes that roughly seven percent of the taxes collected annually will be needed to pay to run and staff the state bureaucracy program.

We are extremely concerned that an outside actuarial analysis has not been conducted yet. Based on preliminary review of the fiscal note, without modifications to its initial scope and design, we expect the program to exceed projections and run into solvency issues. This will result in higher payroll taxes on small employers and employees. Not to mention the property tax increase needed to cover public sector employers and employees. **The Chamber recommends waiting until the results of the actuarial study are received before the family and medical leave program is effective or implemented.**

Businesses, particularly small businesses, already struggle with lost productivity due to workforce shortages. The cost to find temporary workers to back up employees on leave is a double tax on these employers. **The Chamber recommends providing some relief to Minnesota's smallest businesses by making participation in the state program voluntary while at the same time enabling their employees to participate in the state plan on an individual basis if employee so chooses – even if their employer does not.**

Alternative

The Chamber recommends a voluntary and elective approach based on individual economic circumstances. It is true that for some employers, offering a paid leave benefit has not been an affordable or accessible option to date. A state-dictated benefit mandate takes away flexibility and comes with a significant price tag and additional paperwork and reporting compliance mechanisms that add-on more costs, legal exposure, and challenges to employers' operations.

By allowing insurers to offer paid family leave insurance benefit policies for employers to purchase in Minnesota, the legislature could give employers, trade associations, or individuals access to another way to flexibly provide paid leave to their employees, members, or themselves in an affordable manner - with a policy that has been developed in the market, without imposing an unworkable "one size fits all" mandates on all employers in the state or requiring an entirely new state agency.

The comprehensive Family and Medical Leave Insurance plan (MN FaMLI) could made available to all private and public employers and employees in the same manner as currently afforded Minnesota state employees. By anchoring this product to the state plan and its workforce, this product would have the benefit of scale and an established risk pool. Small business tax credits or other supports can be included to address affordability issues.

This is a big, complex proposal and we have significant concerns with the way it is drafted and structured in terms of workability. Balancing employer and employee needs, program scope, and costs are important in achieving these shared goals. There are different approaches, and we encourage policymakers to keep working with all stakeholders to find a more targeted and sustainable solution.

In its current form, HF 2 would impede Minnesota's competitiveness and economic growth. We respectfully request the conference committee to support the recommendations described in detail above or pursue alternatives that increase access to affordable options for Minnesota's employers and citizens to choose what works best.

Sincerely,

Lauryn Schothorst
Director, Workplace Management and Workforce Development Policy