

# Preliminary

Consolidated Fiscal Note

2021-2022 Legislative Session

## HF41 - 2A - Essential Workers Emergency Leave Act

Chief Author: **Cedrick Frazier**  
 Committee: **Labor, Industry, Veterans and Military Affairs  
 Finance and Policy**  
 Date Completed:  
 Lead Agency: **Minn Management and Budget**  
 Other Agencies:  
     Corrections Dept                      Employment and Economic Dvlpmt  
     Health Dept                              Human Services Dept  
     Labor and Industry Dept              Public Safety Dept  
     Veterans Affairs Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
<b>Labor and Industry Dept</b>						
General Fund	(1)	-	-	-	-	-
<b>Minn Management and Budget</b>						
General Fund	13	-	-	-	-	-
<b>Public Safety Dept</b>						
General Fund	-	522	-	-	-	-
Trunk Highway	-	2,329	-	-	-	-
Highway Users Tax Distribution	-	23	-	-	-	-
<b>State Total</b>						
General Fund	12	522	-	-	-	-
Trunk Highway	-	2,329	-	-	-	-
Highway Users Tax Distribution	-	23	-	-	-	-
	<b>Total</b>	<b>12</b>	<b>2,874</b>	<b>-</b>	<b>-</b>	<b>-</b>
			<b>Biennial Total</b>	<b>2,874</b>		

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
<b>Labor and Industry Dept</b>					
General Fund	1.79	.18	-	-	-
<b>Minn Management and Budget</b>					
General Fund	.08	-	-	-	-
<b>Public Safety Dept</b>					
General Fund	-	-	-	-	-
Trunk Highway	-	-	-	-	-
Highway Users Tax Distribution	-	-	-	-	-
	<b>Total</b>	<b>1.87</b>	<b>.18</b>	<b>-</b>	<b>-</b>

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**Lead LBO Analyst's Comment**

**LBO Signature:**      **Date:**  
**Phone:**                **Email:**

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## State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
<b>Labor and Industry Dept</b>					
General Fund	(1)	-	-	-	-
<b>Minn Management and Budget</b>					
General Fund	13	-	-	-	-
<b>Public Safety Dept</b>					
General Fund	-	522	-	-	-
Trunk Highway	-	2,329	-	-	-
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	<b>Total</b>	<b>12</b>	<b>2,874</b>	<b>-</b>	<b>-</b>
		<b>Biennial Total</b>	<b>2,874</b>		
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>					
<b>Labor and Industry Dept</b>					
General Fund					
Expenditures	209	22	-	-	-
Absorbed Costs	(209)	(22)	-	-	-
<b>Minn Management and Budget</b>					
General Fund	13	-	-	-	-
<b>Public Safety Dept</b>					
General Fund	-	522	-	-	-
Trunk Highway	-	2,329	-	-	-
Highway Users Tax Distribution	-	23	-	-	-
	<b>Total</b>	<b>13</b>	<b>2,874</b>	<b>-</b>	<b>-</b>
		<b>Biennial Total</b>	<b>2,874</b>		
<b>2 - Revenues, Transfers In*</b>					
<b>Labor and Industry Dept</b>					
General Fund	1	-	-	-	-
<b>Minn Management and Budget</b>					
General Fund	-	-	-	-	-
<b>Public Safety Dept</b>					
General Fund	-	-	-	-	-
Trunk Highway	-	-	-	-	-
Highway Users Tax Distribution	-	-	-	-	-
	<b>Total</b>	<b>1</b>	<b>-</b>	<b>-</b>	<b>-</b>
		<b>Biennial Total</b>	<b>-</b>		

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Fiscal Note

2021-2022 Legislative Session

**HF41 - 2A - Essential Workers Emergency Leave Act**

Chief Author: **Cedrick Frazier**  
 Committee: **Labor, Industry, Veterans and Military Affairs Finance and Policy**  
 Date Completed:  
 Agency: **Minn Management and Budget**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	13	-	-	-	-	-
<b>Total</b>	<b>13</b>	-	-	-	-	-
<b>Biennial Total</b>				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	.08	-	-	-	-
<b>Total</b>	<b>.08</b>	-	-	-	-

**LBO Analyst's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Joe Harney      **Date:** 3/9/2021 11:05:51 AM  
**Phone:** 651-284-6438      **Email:** joe.harney@lbo.leg.mn

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## State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund	13	-	-	-	-	-
<b>Total</b>	<b>13</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Biennial Total</b>			<b>-</b>			<b>-</b>
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
General Fund	13	-	-	-	-	-
<b>Total</b>	<b>13</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Biennial Total</b>			<b>-</b>			<b>-</b>
<b>2 - Revenues, Transfers In*</b>						
General Fund	-	-	-	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Biennial Total</b>			<b>-</b>			<b>-</b>

## Bill Description

This bill provides up to 80 hours of paid leave, compensated at 100% pay, to full-time essential workers (pro-rated for part-time employees) for use for their own COVID-19 related health needs, to care for other individuals isolating or quarantining due to COVID-19, or to care for a child whose school or place of care is closed due to COVID-19. The bill would apply retroactively to March 13, 2020, and expires 30 days after the end of the peacetime emergency.

Essential workers include employees who are emergency responders and healthcare providers as defined in 29 CFR 826.30(c), and public-school employees, as well as employees and contractors of nursing homes, housing with services establishments, and boarding care homes.

Employers who have previously provided paid COVID-19 leave with the same or better benefits can count any such leave against the leave entitlement under the bill. (“[I]f an employer has already provided an essential worker with additional paid leave for any reason provided in subdivision 2, and the leave is in addition to the regular amount of paid leave provided by the employer and would compensate the essential worker in an amount equal to or greater than the amount of compensation provided under this section, the employer may count the hours of other additional paid leave toward the total number of hours of emergency paid sick leave required under this section.”)

## Assumptions

The State has had a Paid COVID-19 Leave policy in effect since March 18, 2020, and the policy can generally be used for the same COVID-19 reasons as in the bill; however there are some significant differences between the State’s policy and the bill.

The State’s Paid COVID-19 Leave Policy applies to executive branch agencies, Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association.

The bill guarantees a total of 80 hours of paid leave (pro-rated for part time) to “essential workers” as defined in the bill. It is assumed that this would include employees covered under Minnesota Nurses Association (nurses), Minnesota Law Enforcement Association (law enforcement), and AFSCME Unit 8 (correctional officers), all positions that are licensed peace officers, all employees of the Department of Corrections correctional facilities, all employees of the Perpich school and Minnesota State Academies, public health personnel at Minnesota Department of Health, agency emergency management personnel, agency public works personnel, as well as employee and contractor staff of Department of Human Services-Direct Care and Treatment and the Minnesota Veterans Homes (Department of Veterans Affairs). Most of

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these positions are considered Priority 1 or 2 Critical Services providers under the State's Paid COVID-19 Leave policy, and under the policy, agencies could deny them leave, if necessary, for the State of Minnesota's response to COVID-19.

The bill is retroactive to March 13, 2020. It is assumed that essential workers who used vacation or sick leave accruals or unpaid leave for reasons covered under the bill will have their prior leaves adjusted to be covered by the bill's leave entitlement, and any vacation or sick leave accruals restored.

To some degree, the State's Paid COVID-19 Leave policy provides the same benefits as the bill and will offset the benefit available under the bill. Until July 22, 2020, all forms of leave under the policy were provided at 100% pay, and with no cap on hours or on compensation amounts. Because, until July 22, 2020, the State's policy provided at least the same benefits as the bill, any amount of leave essential workers took under the State's Paid COVID-19 Leave policy between March 18, 2020 and July 21, 2020, will offset any entitlement under the bill.

Since July 22, 2020, the State's Paid COVID-19 Leave policy provides paid leave for employees' own COVID-19 related health needs at 100% pay, with a \$511 per day daily cap ("Health Leave"). Since July 22, 2020, the State's Paid COVID-19 Leave policy provides leave at 2/3 pay with a \$200 per day cap for the two other leave uses ("Care Leave" and "School Leave"). Essential workers who took Health Leave under the State's policy, whose normal compensation is less than the daily cap, will have those hours offset any entitlement under the bill, since the benefit under the Paid COVID-19 Leave policy has the same value for those individuals as the benefit under the bill. It is assumed that essential workers who were not paid full compensation for Health Leave due to the daily cap, and essential workers who took Care Leave or School Leave, will have any vacation, sick or unpaid leave used for those purposes converted into paid leave under the bill, and then those hours will offset the entitlement under the bill.

Since the State's Paid COVID-19 Leave policy expires with the peacetime emergency, and the leave entitlement under the bill expires 30 days after the expiration of the peacetime emergency, it is assumed that essential workers will take leave over a longer period of time under the bill than under the State's policy. For purposes of the fiscal note, the bill's expiration is assumed to be July 30, 2021.

Under the State's Paid COVID-19 Leave policy, essential workers can be denied leave. Since under the bill, essential workers cannot be denied leave, it is assumed that essential workers will take more leave under the bill than under the State's policy. It is assumed agencies that employ essential workers will experience increased staffing costs attributable to backfilling essential workers taking leave to maintain minimum staffing levels, and to continue fulfilling the State's critical responsibilities in responding to COVID-19. To the extent replacement workers are unavailable, the work will need to be covered through overtime by existing staff. Overtime is generally paid at 1.5 times, which will further expand staffing costs. It is assumed that the following agencies/divisions may require replacement workers or may incur overtime costs due to essential workers taking leave under the bill (although this may not be an exhaustive list): Department of Human Services-Direct Care and Treatment, Department of Veterans Affairs, Department of Corrections, Department of Public Safety-State Patrol, Department of Health, and the Department of Employment and Economic Development.

Finally, under lines 2.9-2.17 of the bill, personnel "under contract" with a hospital, boarding care home, housing with services establishment or nursing home are entitled to the paid leave. It is assumed that Department of Human Services-Direct Care and Treatment and the Minnesota Veterans Homes (Department of Veterans Affairs) satisfy these definitions and accordingly would be required to provide paid leave under the bill to contract staff. Currently, these agencies provide no paid leave to contract staff.

## **Expenditure and/or Revenue Formula**

### *Costs to MMB's Statewide Payroll Services Unit*

Because this bill provides a new type of leave available to certain state agency employees, and because it will require some amount of retroactive adjustment to leaves already taken, there will be administrative costs to MMB's Statewide Payroll Services Unit and MNIT@MMB. Costs are attributable to creating multiple new earnings codes for the leave in SEMA4, the State's HR and payroll system. Due to the new earnings codes, programming costs will be incurred for updates to edits in the system, as well as reports, which are used by agency staff. MMB's Statewide Payroll Services Unit will also need to provide communications and guidance to agency payroll staff about the use of the leave and steps for recording the leave retroactively. The number of hours estimated below are informed by the work required to extend Paid COVID-19 Leave-types in the SEMA4 system into calendar year 2021.

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MMB Statewide Payroll Services Unit and MNIT@MMB hourly wage costs are assumed to be at the top of the salary range for a given classification, as that is generally the wage rate paid to staff who currently work in these positions in these units. Fringe costs are assumed to be 33.40% of salary, which is the average percentage for all MMB employees as projected in the SEMA4 system in FY 2021. Employee overhead costs are assumed to be 17.68% of total salary and fringe costs. Overhead includes costs such as space, IT, phone, supplies, printing, training, and travel. In FY 2020, 17.68% of MMB's total general fund operating budget was spent on non-payroll employee overhead costs.

-90 hours: Information Technology Specialist 5 - technical staff time for programming

$$\$57.78 \times 90 \text{ hours} \times 1.3340 = \$6,937$$

-60 hours: Finance Specialist 3 - functional staff time for requirements definition and testing

$$\$45.36 \times 60 \text{ hours} \times 1.3340 = \$3,631$$

-6 hours: Finance Accounting Supervisor and Finance Specialist 2 - functional staff time for communication / implementation

$$\$52.01 \times 3 \text{ hours} \times 1.3340 = \$208$$

$$\$42.24 \times 3 \text{ hours} \times 1.3340 = \$169$$

Subtotal (salary and fringe): \$10,945

Subtotal (overhead): \$1,935

Total costs (FY 2021): \$12,880

FTE (FY 2021): 156 hours / 2,080 hours = 0.08 FTE

## *Costs to state agencies for retroactive pay*

To determine the cost attributable to the additional "1/3" of pay for those on COVID-19 Care Leave or COVID-19 School Leave retroactive to July 22, 2020, through the pay period end date of February 16, 2020, for agencies subject to the State's Paid COVID-19 Leave Policy, MMB reviewed payroll time entry for each employee who used one of the COVID-19 Leave specific payroll earnings codes during each two-week payroll period from July 22, 2020, through February 16, 2020. For each employee who used one of the COVID-19 Leave types that was paid at the 2/3 rate, MMB evaluated whether the employee 'backfilled' the additional 1/3 pay with other accrued paid leave types such as accrued sick, vacation, or compensatory leave. In cases where an employee did not backfill in order to bring their earnings up to the full 100% rate, MMB multiplied their hourly rate by 1/3, and multiplied the 1/3 amount by the total number of COVID-19 Care or COVID-19 School Leave hours taken during the pay period. The total additional 1/3 of pay that would be owed retroactively totaled an average of \$15,000 across the enterprise per pay period. Over that period of 15 pay periods, the amount totals \$225,000. If annualized, over approximately 26 pay periods in a year, the amount totals \$390,000. The \$15,000 per pay period amount is inclusive of all employees--about 90 employees per pay period saw an average payroll reduction of \$170. However, because this bill is limited to only essential workers, the total number of essential workers affected and the total amount owed by state agencies would be less. Because there is not an "essential worker" designation in the SEMA4 system, MMB is unable to determine for this fiscal note which employees are essential and thus eligible to receive the retroactive pay owed for the additional 1/3 of pay for COVID-19 Leave hours taken after July 22, 2020. This will require an agency-by-agency review and determination. Total amounts owed to these employees, by each state agency that employees them, is anticipated to be relatively low; the administrative work required to determine who is or is not eligible for repayment and then execute payroll transactions necessary to effectuate this repayment is anticipated to be a somewhat involved process for affected state agencies.

## **Long-Term Fiscal Considerations**

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## Local Fiscal Impact

Units of local government may incur similar costs identified in MMB's and other agencies' fiscal notes. The extent of these costs may vary depending on the current paid COVID-19 leave policies of these local governments.

## References/Sources

### **Agency Contact:**

**Agency Fiscal Note Coordinator Signature:** Paul Moore

**Phone:** 651-201-8004

**Date:** 3/9/2021 9:23:51 AM

**Email:** paul.b.moore@state.mn.us



# Preliminary

Fiscal Note

2021-2022 Legislative Session

## HF41 - 2A - Essential Workers Emergency Leave Act

Chief Author: **Cedrick Frazier**  
 Committee: **Labor, Industry, Veterans and Military Affairs Finance and Policy**  
 Date Completed:  
 Agency: **Labor and Industry Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	(1)	-	-	-	-	-
<b>Total</b>	<b>(1)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Biennial Total</b>			<b>-</b>			<b>-</b>

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	1.79	.18	-	-	-
<b>Total</b>	<b>1.79</b>	<b>.18</b>	<b>-</b>	<b>-</b>	<b>-</b>

### LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Christian Larson    **Date:** 3/1/2021 10:34:18 AM  
**Phone:** 651-284-6436    **Email:** christian.larson@lbo.leg.mn

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## State Cost (Savings) Calculation Details

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\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund	(1)	-	-	-	-	-
<b>Total</b>	<b>(1)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
			<b>-</b>			<b>-</b>
			<b>Biennial Total</b>			<b>-</b>
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
General Fund						
Expenditures	209	22	-	-	-	-
Absorbed Costs	(209)	(22)	-	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
			<b>Biennial Total</b>			<b>-</b>
<b>2 - Revenues, Transfers In*</b>						
General Fund						
	1	-	-	-	-	-
<b>Total</b>	<b>1</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
			<b>Biennial Total</b>			<b>-</b>

## Bill Description

This bill provides certain “essential” workers the right to emergency paid sick leave if they are not receiving workers’ compensation or unemployment benefits, or any other benefits under state or federal law that wholly compensates the employee for the time the employee is unable to work due to reasons outlined in the bill. The right to the emergency paid sick leave benefit must be granted by the employer if the eligible employee is unable to work or telework due to federal, state or local quarantine related to COVID-19; their health care provider has instructed them to self-quarantine due to COVID-19; they are experiencing COVID-19 symptoms and seeking medical diagnosis; or caring for a child whose school or place of care has been closed or unavailable due to COVID-19.

Eligible employees who work full time or considered to work full time pursuant to their collective bargaining agreement are entitled to emergency paid sick leave of up to 80 hours. Emergency paid sick leave hours entitled to part-time workers is less. Hours for part-time workers is calculated at 1.25 times the number of hours an employee works on average (or scheduled to work) over a two-week period. Further, paid sick leave hours for employees who work variable hours is calculated at 17.5 times the average number of hours an employee worked per day for the previous six months with the employer or the entire period worked whichever is shorter.

Employees eligible for this emergency paid leave are entitled to the greater of their regular rate or pay (including collectively bargained rate); state minimum wage in effect for the period at the time of leave; or the local minimum wage to which they are entitled capped at \$6,388 in aggregate. A right to this emergency paid leave for eligible workers occurs the day following enactment of the bill and may be utilized by the employee intermittently. The employee must still be employed following enactment of the bill or May 17, 2021, whichever is earlier. In addition, rights to this leave apply retroactively back to March 13, 2020 following enactment for all employees covered. However, the right to this leave expires 30 days following the termination or rescission of the Governor’s peacetime emergency order related to COVID-19. However, DLI’s authority to investigate and enforce the law for the time period it was applicable will extend for two years beyond the end of the peacetime emergency.

The bill instructs that employers cannot require employees to utilize and exhaust other leave benefits first nor retaliate against an employee for requesting or obtaining this emergency paid sick leave benefit or making a complaint to enforce their right to that leave. Nor does the bill usurp any rights or benefits entitled to workers in a collectively bargained agreement.

The bill grants the Minnesota Department of Labor and Industry the authority to investigate complaints of violations of this section referring to the commissioner’s authority provided under MN Statutes, Section 177.27, subd. 4 including the authority to issue orders to comply with this section. Further, it provides authority of the Department to fine an employer up to \$1,000 for each willful violation for each employee.

## Assumptions

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The emergency paid sick leave for certain essential workers is a new state requirement impacting some Minnesota employers and workers. According to the Department of Employment and Economic Development (DEED), there are 2.9 million jobs and 174,000 employers in Minnesota. Based upon the criteria in the bill and QCEW data (Quarterly Census on Employment and Wages) combined with OES data (Occupational Employment statistics), and a grid of percentages from the national occupation-by-industry matrix, we assume an estimated 1,490,000 workers are affected by this bill.

The Department assumes it will experience an increase in public inquiries and complaints related to this new state law due to its enforcement authority granted in the bill. This bill grants emergency paid leave but right to that leave is dependent upon the current peacetime emergency remaining in effect. The Department does not know and cannot predict when the peacetime emergency will be rescinded or terminated. However, for purposes of completing this fiscal note, the Department will assume the peacetime emergency would end June 30, 2021 and the expiration date of the bill will be July 30, 2021.

## Inquiries:

To determine the level of inquiries, the Department takes into consideration the following. The US Department of Labor (USDOL) was responsible for enforcing the federal Families First Coronavirus Response Act (FFCRA) related to employer paid leave requirements following its enactment in March 2020. The USDOL's Wage and Hour Division's Minneapolis District Office received an estimated 7,500 phone calls originating from Minnesota from March 21, 2020 to January 21, 2021 on a wide variety of labor law issues. Of those, it estimated that roughly half of the inquiries were related to FFCRA during that period. In comparison to this bill, FFCRA was more exclusive in who was eligible for the paid leave, but we assume that rapid roll out of this new law and immediate enactment will produce a similar level of inquiries for this agency as was experienced by the local federal district office. To that end, the Department anticipates that it will receive on average 237 calls per month fielding questions about employer requirements and employee eligibility related to this bill. Based upon this monthly average, we anticipate an estimated 1,185 inquiries through July 30, 2021.

## Enforcement:

This bill also expands the Department's enforcement authority to investigate complaints of violations related to this act. To estimate the level of complaints it may receive, the Department looks to the FFCRA complaint statistics from the USDOL's District Office in Minneapolis to glean from its recent experience. FFCRA provided emergency paid leave to certain eligible workers for COVID-19 related events. Between March 2020 and January 2021, that district office reported that it received 113 complaints related to FFCRA. It is important to note that this bill is inclusive of more workers than FFCRA by approximately 13%. To account for this, we increase the number of complaints by 13 percent resulting in 128 in a 10-month period (or 13 complaints per month). Applying that number to five full months until 30 days past when the bill expires, the Department estimates that it will receive an estimated 64 complaints for March 1, 2021 through July 30, 2021. It is noted that inquiries may still be received by DLI after July 30, 2021, and DLI's enforcement authority will extend to allow individuals to make complaints for up to 2 years after the law sunsets. Therefore, some additional formal complaints related to this bill may be investigated beyond July 30, 2021. DLI estimates that number to hold steady through the end of the first month, but likely drop significantly after that. Most people who complain of a violation to DLI's Labor Standards Unit do so in real time (as the violation is occurring), though a small amount may wait and make complaints throughout that additional 2 years of DLI's enforcement authority. For the time period beyond July 30, 2021 and the small amount of complaints DLI may receive, DLI estimates those to be immaterial with no financial impact for those two years. Any complaints received would be absorbed.

Based upon DLI's compliance experience, most employers will quickly come into compliance with this new law. Further, resolution of complaints will occur more quickly as the qualifying events listed in the bill that trigger the emergency paid leave are clear. The Department estimates that 80 percent of cases will be resolved with approximately 24 hours of staff time. These cases are the least complex due to quantity of and accessibility to information for review, as well as worker and employer responsiveness and cooperation in resolving compliance issues. The remaining 20 percent of cases will require approximately 45 hours of case work to account for additional complexity of a case in gathering the necessary information to decide, advanced legal strategy, multiple workers impacted, employee interviews, lack of cooperation or responsiveness from an employer, potential other wage and hour violations found during an investigation.

The bill is effective retroactively. DLI assumes it is less likely to receive a complaint about leave that should have already occurred. Many people would have been covered by the FFCRA, and while this bill provides a greater benefit, there is a higher likelihood those employers will already be familiar with the leave and will not be subject of a complaint. With that said, DLI estimates it would still expect to receive 7 retroactive complaints for each month from March 13, 2020 through February 28, 2021, which totals an additional 81 retroactive complaints in FY21 (7 complaints X 11.6 months = 81 retroactive complaints).

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FY21

80% (106 cases) X 24 hours = 2,544 hours

20% (26 cases) X 45 hours = 1,170 hours

3,714 total hours / 2,080 = 1.79 FTE

FY22

80% (10 cases) X 24 hours = 240 hours

20% (3 cases) X 45 hours = 135 hours

375 total hours / 2,080 = 0.18 FTE

Case Management IT related assumption:

The Department is currently developing a new case management system to roll out in early SFY2022 replacing its current technology platform that will no longer be supported. Due to the timing of the system implementation and the assumption that this bill sunsets July 30, 2021, DLI assumes no material IT costs related to this bill. Changes to the system would not be necessary for the minimal complaints that may be made in the following two-year period.

Penalties:

On average, the Department assessed and collected a penalty in 1.9% of all investigations. DLI estimates collecting one penalty for \$1,000.

Office of Administrative Hearings (OAH):

DLI acknowledges the authority of sending cases to OAH and the possibility that it could occur. However, since the requirements of this bill are temporary and we assume our internal compliance/enforcement efforts should resolve disputes, DLI assumes no OAH costs.

Due to the effects of the bill being temporary and its immediate impact upon enactment, the Department will leverage existing funds available due to the hiring freeze and reduced travel caused by COVID-19 to fund outreach efforts, and redirect existing FTE to respond to public inquiries and complaints related to this legislation. Logistically, the immediate impact following enactment does not provide enough time required to hire, onboard, train and position new staff to address the immediate and assumed temporary need through July 30, 2021. This will result in DLI reducing staff time spent on other labor law outreach and compliance activities in this short-term. The costs related to this bill are shown as absorbed.

## Expenditure and/or Revenue Formula

Labor Investigator Sr - MAPE 12L	2021	2022	2023	2024	2025
FTE	1.79	0.18	0	0	0
Salary per FTE (midpoint)	66,190	66,190	-	-	-
Fringe Benefits (35% of Salary)	23,167	23,167	-	-	-
Indirect (22.5% of Salary/Fringe)	20,105	20,105	-	-	-
<b>Salary / Fringe / Indirect</b>	195,936	19,703	-	-	-
<b>Non-Personnel Services</b>	13,522	1,990	-	-	-
<b>Cumulative Cost</b>	209,458	21,693	-	-	-

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Revenues	2021	2022	2023	2024	2025
Penalties	1,000	-	-	-	-

## Long-Term Fiscal Considerations

If the peacetime emergency were to extend further into FY22, the Department would seek additional resources to complete its work required in the bill.

## Local Fiscal Impact

## References/Sources

### **US DOL Wage and Hour Minneapolis District Office:**

113 FFRCA complaints (period: March 21, 2020 through January 21, 2021)

7,500 phone inquiries (period: March 21, 2020 through January 21, 2021) estimates half related to FFCRA

### **Department of Labor and Industry**

Research & Statistics Unit (2018 Data):

Number of Businesses in MN with fewer than 50 employees: 127,833

Number of Jobs/Workers associate with employers with fewer than 50 employees: 1,004,694

Number of Businesses in MN with more than 500 employees: 502

Number of Jobs/Workers associated with employers with more than 500 employees: 616,540

Minnesota Department of Labor & Industry's Research & Statistics estimates 1,490,000 workers in MN, rounded to the nearest 10,000 are covered by this bill

This is an estimate, not a count. The legislative language has ambiguities, some of the categories are industrial, some occupational. Some of the occupation categories overlap with some industry categories.

Research & Statistics used QCEW data (Quarterly Census on Employment and Wage) combined with OES data (Occupational Employment Statistics), and a grid of percentages from a national occupation-by-industry matrix to weed out the major overlaps.

**Agency Contact:** Nicole Blissenbach (651-284-5334)

**Agency Fiscal Note Coordinator Signature:** Jacob Gaub

**Phone:** 651-284-5812

**Date:** 3/1/2021 9:55:08 AM

**Email:** jacob.gaub@state.mn.us

# Preliminary

Fiscal Note

2021-2022 Legislative Session

## HF41 - 2A - Essential Workers Emergency Leave Act

Chief Author: **Cedrick Frazier**  
 Committee: **Labor, Industry, Veterans and Military Affairs Finance and Policy**  
 Date Completed:  
 Agency: **Public Safety Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	522	-	-	-	-
Trunk Highway	-	2,329	-	-	-	-
Highway Users Tax Distribution	-	23	-	-	-	-
<b>Total</b>	-	<b>2,874</b>	-	-	-	-
<b>Biennial Total</b>			<b>2,874</b>			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	-	-
Trunk Highway	-	-	-	-	-
Highway Users Tax Distribution	-	-	-	-	-
<b>Total</b>	-	-	-	-	-

### LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Laura Cecko    **Date:** 3/7/2021 8:57:48 PM  
**Phone:** 651-284-6543    **Email:** laura.cecko@lbo.leg.mn

# Preliminary

## State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>	
<b>Dollars in Thousands</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	
General Fund	-	522	-	-	-	-
Trunk Highway	-	2,329	-	-	-	-
Highway Users Tax Distribution	-	23	-	-	-	-
<b>Total</b>	-	<b>2,874</b>	-	-	-	-
		<b>Biennial Total</b>	<b>2,874</b>			-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
General Fund	-	522	-	-	-	-
Trunk Highway	-	2,329	-	-	-	-
Highway Users Tax Distribution	-	23	-	-	-	-
<b>Total</b>	-	<b>2,874</b>	-	-	-	-
		<b>Biennial Total</b>	<b>2,874</b>			-
<b>2 - Revenues, Transfers In*</b>						
General Fund	-	-	-	-	-	-
Trunk Highway	-	-	-	-	-	-
Highway Users Tax Distribution	-	-	-	-	-	-
<b>Total</b>	-	-	-	-	-	-
		<b>Biennial Total</b>	-			-

## Bill Description

This bill provides up to 80 hours of paid leave, compensated at 100% pay, to full-time essential workers (pro-rated for part-time employees) for use for their own COVID-19 related health needs, to care for other individuals isolating or quarantining due to COVID-19, or to care for a child whose school or place of care is closed due to COVID-19.

The bill would apply retroactively to March 13, 2020 and expires 30 days after the end of the peacetime emergency.

Essential workers include employees who are emergency responders and healthcare providers as defined in 29 CFR 826.30(c), and public school employees, as well as employees and contractors of nursing homes, housing with services establishment, and boarding care homes. Essential workers also include peace officers, regardless of bargaining unit.

Employers who have previously provided paid COVID-19 leave with the same or better benefits can count any such leave against the leave entitlement under the bill. (“[I]f an employer has already provided an essential worker with additional paid leave for any reason provided in subdivision 2, and the leave is in addition to the regular amount of paid leave provided by the employer and would compensate the essential worker in an amount equal to or greater than the amount of compensation provided under this section, the employer may count the hours of other additional paid leave This bill provides up to 80 hours of paid leave, compensated at 100% pay, to full-time essential workers (pro-rated for part-time employees) for use for their own COVID-19 related health needs, to care for other individuals isolating or quarantining due to COVID-19, or to care for a child whose school or place of care is closed due to COVID-19.

The bill would apply retroactively to March 13, 2020 and expires 30 days after the end of the peacetime emergency.

## Assumptions

### Bureau of Criminal Apprehension (MMB Standard Assumptions Included):

The State has had a Paid COVID-19 Leave policy in effect since March 18, 2020, and the policy can generally be used for

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the same COVID-19 reasons as in the bill; however there are some significant differences between the State's policy and the bill.

The bill guarantees a total of 80 hours of paid leave (pro-rated for part time) to "essential workers" as defined in the bill. The BCA does not currently employ part-time peace officers due to the requisite hours and skills necessary to complete the duties assigned.

It is assumed that the provisions of the bill cover individuals in the Minnesota Law Enforcement Association (82 Agents at the BCA fall under the MLEA), Middle Management Association, and any other plans which have peace officers within them. Most of these positions are considered Priority 1 or 2 Critical Services providers under the State's Paid COVID-19 Leave policy, and under the policy, agencies could deny them leave if necessary for the State of Minnesota's response to COVID-19.

The bill is retroactive to March 13, 2020. It is assumed that essential workers who used vacation or sick leave accruals or unpaid leave for reasons covered under the bill will have their prior leaves adjusted to be covered by the bill's leave entitlement, and any vacation or sick leave accruals restored. However, use of the state's current COVID leave has been limited and the BCA does not have data on purposes for sick or vacation time used, so is currently unable to account for costs associated with restoration of different leaves used.

To some degree, the State's Paid COVID-19 Leave policy provides the same benefits as the bill and will offset the benefit available under the bill.

Until July 22, 2020, all forms of leave under the policy were provided at 100% pay, and with no cap on hours or on compensation amount.

Because, until July 22, 2020, the State's policy provided at least the same benefits as the bill, any amount of leave essential workers took under the State's Paid COVID-19 Leave policy between March 18, 2020 and July 21, 2020 will offset any entitlement under the bill.

Since July 22, 2020, the State's Paid COVID-19 Leave policy provides paid leave for employees' own COVID-19 related health needs at 100% pay, with a \$511 per day daily cap ("Health Leave"). Since July 22, 2020, the State's Paid COVID-19 Leave policy provides leave at 2/3 pay with a \$200 per day cap for the other leave uses ("Care Leave" and "School Leave").

Essential workers who took Health Leave under the State's policy, whose normal compensation is less than the daily cap, will have those hours offset any entitlement under the bill, since the benefit under the Paid COVID-19 Leave policy has the same value for those individuals as the benefit under the bill.

It is assumed that essential workers who were not paid full compensation for Health Leave due to the daily cap, and essential workers who took Care Leave or School Leave, will have any vacation, sick or unpaid leave used for those purposes converted into paid leave under the bill, and then those hours will offset the entitlement under the bill.

However, use of the state's current COVID leave has been limited and the BCA does not have data on purposes for sick or vacation time used, so is currently unable to account for costs associated with restoration of different leaves used.

Since the State's Paid COVID-19 Leave policy expires with the peacetime emergency, and the leave entitlement under the bill expires 30 days after the expiration of the peacetime emergency, it is assumed that essential workers will take leave over a longer period of time under the bill than under the State's policy.

Under the State's Paid COVID-19 Leave policy, essential workers can be denied leave. Since under the bill, essential workers cannot be denied leave, it is assumed that essential workers will take more leave under the bill than under the State's policy. It is assumed agencies that employ essential workers will experience increased staffing costs attributable to backfilling essential workers taking leave in order to maintain minimum staffing levels, and to continue fulfilling the State's critical responsibilities in responding to COVID-19. To the extent replacement workers are unavailable, the work will need to be covered through overtime by existing staff. Overtime is generally paid at 1.5 times, which will further expand staffing costs. It is assumed that the following agencies/divisions are likely to require replacement workers or to incur overtime costs due to essential workers taking leave under the bill: Department of Human Services Direct Care and Treatment, Department of Veterans Affairs, Department of Corrections, Department of Natural Resources, State Patrol, Department of Health,

It is assumed that the BCA cannot hire temporary employees for peace officer positions or backfill for those roles left



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temporarily open due to leave due to the highly specialized work done. Therefore, no costs will be assumed for this purpose.

It is assumed that 50% of peace officers employed by the BCA will take this leave as it cannot be denied and will not take time from vacation or other accrued leave, while providing for the highest pay during said leave.

In order to account for the highest costs associated with this leave, the highest rate of pay for individuals under each bargaining unit has been used to calculate expenses, with one exception as there is a position being temporarily backfilled by another agent. The second highest rate of pay has been used to account for that individual.

The BCA has included the costs of fringe benefits during this leave as state employment requires that those items continue to be covered and funded, while the bill does not limit this fringe benefit coverage.

As we do not know when leaves will be taken, it is assumed that costs will be incurred during the current fiscal year.

## **State Patrol:**

The following assumptions were used:

The peacetime emergency declared by the Governor will end on June 30, 2021 and not extend into the next fiscal year.

The majority of schools remain in a hybrid or distance learning model, leaving children at least partially at home during the work day.

COVID infection rates continue at the present pace and affect family members in percentages similar to historical percentages.

50% of State Patrol essential employees will qualify and utilize all 80 hours in the new leave bank.

The State Patrol will be able to find personnel to fill all overtime shifts resulting from the new law.

## **Alcohol and Gambling Enforcement Division (AGED):**

AGED does not need to backfill positions essential employee positions with staffing paid on overtime. AGED estimates 50% of peace officer will take this leave.

## **Driver and Vehicle Services (DVS):**

Assumes DVS has no employees that meet the definition of essential workers in HF41-2A.

## **Expenditure and/or Revenue Formula**

### **Bureau of Criminal Apprehension:**

MLEA:

41 Agents x \$72.39 x 80 hours of leave = \$237,439.20

MMA:

3 Special Agents in Charge x 84.66 x 80 hours of leave = \$20,318.713

4 Assistant Special Agents in Charge x \$78.11 x 80 hours of leave = \$24,994.96

Unrepresented: 1 individual x \$102.51 x 80 hours of leave = \$8,201.18

Total Costs: \$237,439.20 + \$20,318.73 + \$24,994.96 + \$8,201.18 = \$290,954.07

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## Alcohol and Gambling Enforcement Division:

MLEA: 4 Agents x \$72.39 x 80 hours of leave = \$23,164.80

MMA: 1 Assistant Special Agent in Charge x \$78.11 x 80 hours of leave = \$6,248.80

Unrepresented: 1 individual x \$86.73 x 80 hours = \$6,938.40

Total: \$23,164.80 + \$6,248.80 + 6,938.40 = \$36,352.00

## State Patrol:

The State Patrol anticipates 50% of essential employees (troopers, dispatchers, and Capitol Security Officers) will qualify for and utilize the new leave bank. This equates to 300 sworn troopers, 30 dispatchers, and approximately 29 Capitol Security Officers. When essential personnel take leave, it will require the State Patrol to fill those hours with overtime. The median overtime rate with fringe for sworn personnel, the median overtime rate for dispatchers, and the median overtime rate for Capitol Security officers were utilized to determine the fiscal impact.

COVID Utilization %	50%
MLEA and Commissioner's Plan	300
Employees Affected	
COVID Fiscal Note Hours	80
50th Percentile OT Rate w/Fringe	96.02
Fiscal Impact	\$2,304,480
CS Officers - General Fund	
COVID Utilization %	50%
CS Officers	29
COVID Fiscal Note Hours	80
50th Percentile OT Rate w/Fringe	\$47.51
Fiscal Impact	\$110,223
Radio Communications Operator - Trunk Highway	
COVID Utilization %	50%
RCOs - Trunk Highway	29
COVID Fiscal Note Hours	80
50th Percentile OT Rate w/Fringe	57.13
Fiscal Impact	\$132,542

## Funding Breakdown:

### AGED is all General Fund

Total: \$23,164.80 + \$6,248.80 + 6,938.40 = **\$36,352.00**

### BCA is all General Fund

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Total Costs: \$237,439.20 + \$20,318.73 + \$24,994.96 + \$8,201.18 = **\$290,954.07**

## **MSP**

195 is General Fund

2,329 is Trunk Highway

23 is Highway User Trunk Highway

**MSP Total = \$2,547**

## **Long-Term Fiscal Considerations**

### **State Patrol:**

- The Capitol Complex is already being supplemented with additional troopers to ensure safety and security on the complex. The State Patrol will not be able to find personnel to work the overtime shifts to fulfill the Capitol Security Mission.

### Civil Unrest:

- Civil unrest planning and response for the spring and summer court trials require every State Trooper to be working. Significant planning efforts are currently underway and the plans being coordinated now are reliant upon a known number of troopers (and other law enforcement personnel resources) that will, with certainty, be available. The majority of those Troopers will be deployed to the Metro area to maintain the peace and to prevent injury, looting, and property destruction. The State Patrol will not be able to fulfill this mission if essential workers are on leave.

### Traffic Safety:

- The State Patrol will not have enough personnel to fill the available overtime shifts. The State Patrol has 60 trooper vacancies, and patrol stations are already understaffed. There will be more overtime shifts than available troopers to work the shifts. An inability to provide sufficient staffing could significantly impact the State Patrol's ability to provide services that are essential to the State of Minnesota and enhance traffic and public safety.

### Capitol Security:

## **Local Fiscal Impact**

The bill also applies to "county, town, city" law enforcement agencies. Although it is not possible to calculate the fiscal impact to every law enforcement agency in the State of Minnesota, it is reasonable to expect similar significant adverse impacts to those local agencies with respect to overtime costs to cover shifts and in their ability to find personnel to cover those overtime shifts. This may have a significant impact on public safety.

## **References/Sources**

**Agency Contact:** Rita Wurm 651-201-7016

**Agency Fiscal Note Coordinator Signature:** Rita Wurm

**Phone:** 651-201-7016

**Date:** 3/7/2021 11:11:39 AM

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# Preliminary

Fiscal Note

2021-2022 Legislative Session

## HF41 - 2A - Essential Workers Emergency Leave Act

Chief Author: **Cedrick Frazier**  
 Committee: **Labor, Industry, Veterans and Military Affairs Finance and Policy**  
 Date Completed:  
 Agency: **Veterans Affairs Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
<b>Total</b>	-	-	-	-	-	-

### LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Adam Blom      **Date:** 3/4/2021 10:06:15 AM  
**Phone:** 651-284-6542      **Email:** adam.blom@lbo.leg.mn

# Preliminary

## State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-
<b>2 - Revenues, Transfers In*</b>						
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-

## Bill Description

This bill provides up to 80 hours of paid leave, compensated at 100% pay, to full-time essential workers (pro-rated for part-time employees) for use for their own COVID-19 related health needs, to care for other individuals isolating or quarantining due to COVID-19, or to care for a child whose school or place of care is closed due to COVID-19. The bill would apply retroactively to March 13, 2020 and expires 30 days after the end of the peacetime emergency.

Essential workers include employees who are emergency responders and healthcare providers as defined in 29 CFR 826.30(c), and public school employees, as well as employees and contractors of nursing homes, housing with services establishment, and boarding care homes.

Employers who have previously provided paid COVID-19 leave with the same or better benefits can count any such leave against the leave entitlement under the bill. (“[I]f an employer has already provided an essential worker with additional paid leave for any reason provided in subdivision 2, and the leave is in addition to the regular amount of paid leave provided by the employer and would compensate the essential worker in an amount equal to or greater than the amount of compensation provided under this section, the employer may count the hours of other additional paid leave toward the total number of hours of emergency paid sick leave required under this section.”)

## Assumptions

The State has had a Paid COVID-19 Leave policy in effect since March 18, 2020, and the policy can generally be used for the same COVID-19 reasons as in the bill; however there are some significant differences between the State’s policy and the bill.

The bill guarantees a total of 80 hours of paid leave (pro-rated for part time) to “essential workers” as defined in the bill. It is assumed that this would include employees covered under MNA (nurses), MLEA (law enforcement), and AFSCME Unit 8 (correctional officers), all positions that are licensed peace officers, all employees of the DOC correctional facilities, all employees of Perpich and Minnesota State Academies, public health personnel at MDH, agency emergency management personnel, agency public works personnel, as well as employee and contractor staff of DHS-Direct Care and Treatment and the Minnesota Veterans Homes. Most of these positions are considered Priority 1 or 2 Critical Services providers under the State’s Paid COVID-19 Leave policy, and under the policy, agencies could deny them leave if necessary for the State of Minnesota’s response to COVID-19.

The bill is retroactive to March 13, 2020. It is assumed that essential workers who used vacation or sick leave accruals or unpaid leave for reasons covered under the bill will have their prior leaves adjusted to be covered by the bill’s leave entitlement, and any vacation or sick leave accruals restored.

To some degree, the State’s Paid COVID-19 Leave policy provides the same benefits as the bill and will offset the benefit available under the bill. Until July 22, 2020, all forms of leave under the policy were provided at 100% pay, and with no

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cap on hours or on compensation amount. Because, until July 22, 2020, the State's policy provided at least the same benefits as the bill, any amount of leave essential workers took under the State's Paid COVID-19 Leave policy between March 18, 2020 and July 21, 2020 will offset any entitlement under the bill.

Since July 22, 2020, the State's Paid COVID-19 Leave policy provides paid leave for employees' own COVID-19 related health needs at 100% pay, with a \$511 per day daily cap ("Health Leave"). Since July 22, 2020, the State's Paid COVID-19 Leave policy provides leave at 2/3 pay with a \$200 per day cap for the other leave uses ("Care Leave" and "School Leave"). Essential workers who took Health Leave under the State's policy, whose normal compensation is less than the daily cap, will have those hours offset any entitlement under the bill, since the benefit under the Paid COVID-19 Leave policy has the same value for those individuals as the benefit under the bill. It is assumed that essential workers who were not paid full compensation for Health Leave due to the daily cap, and essential workers who took Care Leave or School Leave, will have any vacation, sick or unpaid leave used for those purposes converted into paid leave under the bill, and then those hours will offset the entitlement under the bill.

Since the State's Paid COVID-19 Leave policy expires with the peacetime emergency, and the leave entitlement under the bill expires 30 days after the expiration of the peacetime emergency, it is assumed that essential workers will take leave over a longer period of time under the bill than under the State's policy.

Under the State's Paid COVID-19 Leave policy, essential workers can be denied leave. Since under the bill, essential workers cannot be denied leave, it is assumed that essential workers will take more leave under the bill than under the State's policy. It is assumed agencies that employ essential workers will experience increased staffing costs attributable to backfilling essential workers taking leave in order to maintain minimum staffing levels, and to continue fulfilling the State's critical responsibilities in responding to COVID-19. To the extent replacement workers are unavailable, the work will need to be covered through overtime by existing staff. Overtime is generally paid at 1.5 times, which will further expand staffing costs. It is assumed that the following agencies/divisions are likely to require replacement workers or to incur overtime costs due to essential workers taking leave under the bill: Department of Human Services Direct Care and Treatment, Department of Veterans Affairs, Department of Corrections, Department of Natural Resources, State Patrol, Department of Health, and other state agencies that may be impacted.

Finally, under lines 2.9-2.17 of the bill, personnel "under contract" with a hospital, boarding care home, housing with services establishment or nursing home are entitled to the paid leave. It is assumed that DHS Direct Care and Treatment and the Minnesota Veterans Homes satisfy these definitions and accordingly would be required to provide paid leave under the bill to contract staff. Currently, contract staff are not entitled to any paid leave.

## **Expenditure and/or Revenue Formula**

The department doesn't expect to see any significant increases in COVID leave between now and July 31, 2021. Staff and Residents in State Veterans Homes have now been 90+% vaccinated for COVID-19 and the department has seen a significant decrease to almost zero positives for the past two weeks. Unless there is an increase in community outbreak due to the new COVID strains and there is a need to close schools, there should be little to no cost for COVID leave.

## **Long-Term Fiscal Considerations**

## **Local Fiscal Impact**

## **References/Sources**

**Agency Contact:** Ben Johnson (651-201-8226)

**Agency Fiscal Note Coordinator Signature:** Jennifer Brau

**Phone:** 651-757-1573

**Date:** 3/4/2021 10:01:06 AM

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