

1.1 Senator moves to amend H.F. No. 2, in conference committee, as follows:

1.2 On R14, Senate language (UEH0002-1)

1.3 Page 10, delete lines 9 and 10

1.4 On R15, Senate language (UEH0002-1)

1.5 Page 10, delete lines 11 to 17 and insert:

1.6 "(c) Employee does not include seasonal employees as defined in subdivision 35."

1.7 On R18, Senate language (UEH0002-1)

1.8 Page 13, after line 16, insert:

1.9 "Subd. 35. **Seasonal employee.** (a) A seasonal employee is an individual who is employed
1.10 for no more than 150 days during any consecutive 52-week period in hospitality by an
1.11 employer whose average receipts during any six months of the preceding calendar year
1.12 were not more than 33 percent of its average receipts for the other six months of such year.

1.13 (b) For the purposes of this section, "hospitality" has the meaning given under the
1.14 collective definitions in section 157.15, subdivisions 4 to 9 and 11 to 14.

1.15 (c) For an individual to be classified as a seasonal employee, an employer must apply
1.16 to the department in a format and manner prescribed by the commissioner and certify that:

1.17 (1) the employee meets or will meet the 150-day maximum employment duration under
1.18 this subdivision;

1.19 (2) the employee's primary line of work is in hospitality;

1.20 (3) the employer meets the receipts threshold under this subdivision; and

1.21 (4) the employer has provided the required employee notice required under section
1.22 268B.26.

1.23 (d) An employer must notify the department, in a format and manner prescribed by the
1.24 commissioner, within five business days if a previously classified seasonal employee no
1.25 longer meets the criteria above and is no longer a seasonal employee."

1.26 On R25, Senate language (UEH0002-1)

1.27 Page 17, delete subdivision 6 and insert:

1.28 "Subd. 6. **Procurement.** For purposes of administering this chapter, until July 1, 2026,
1.29 the department is exempt from the requirements of section 16A.15, subdivision 3;16C.06;
1.30 16C.08 to 16C.09; and any other applicable state procurement laws and procedures."

2.1 On R33, House language (H0002-8)

2.2 Page 33, after line 11, insert:

2.3 "Subd. 9. **Seasonal employment denial.** (a) An applicant is not eligible to receive
2.4 benefits or take protected leave under the provisions of this chapter for any week the applicant
2.5 is a seasonal employee as defined in section 268B.01, subdivision 35.

2.6 (b) If benefits are denied to any applicant under paragraph (a) who remains employed
2.7 more than 150 days, the applicant is only entitled to benefits beginning the Sunday following
2.8 the completion of the 150-day period."

2.9 On R35, House language (H0002-8)

2.10 Page 35, delete section 16 and insert:

2.11 "Sec. 16. [268B.08] APPEAL PROCESS.

2.12 Subdivision 1. **Hearing.** (a) The commissioner shall designate a chief hearing officer.

2.13 (b) Upon a timely appeal to a determination having been filed or upon a referral for
2.14 direct hearing, the chief hearing officer must set a time and date for a de novo due-process
2.15 hearing and send notice to an applicant and an employer, by mail or electronic transmission,
2.16 not less than ten calendar days before the date of the hearing.

2.17 (c) The commissioner may adopt rules on procedures for hearings. The rules need not
2.18 conform to common law or statutory rules of evidence and other technical rules of procedure.

2.19 (d) The chief hearing officer has discretion regarding the method by which the hearing
2.20 is conducted.

2.21 (e) The chief hearing officer must assign a hearing officer to conduct a hearing and may
2.22 transfer to another hearing officer any proceedings pending before another hearing officer.

2.23 Subd. 2. **Decision.** (a) After the conclusion of the hearing, upon the evidence obtained,
2.24 the hearing officer must serve by mail or electronic transmission to all parties the decision,
2.25 reasons for the decision, and written findings of fact.

2.26 (b) Decisions of a hearing officer are not precedential.

2.27 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within
2.28 30 calendar days after service of the hearing officer's decision, file a request for
2.29 reconsideration asking the hearing officer to reconsider that decision.

2.30 Subd. 4. **Appeal to court of appeals.** Any final determination on a request for
2.31 reconsideration may be appealed by any party directly to the Minnesota Court of Appeals."

3.1 On R48, Senate language (UEH0002-1)

3.2 Page 41, after line 14, insert:

3.3 "Subd. 20. **Voluntary termination of an approved private plan by an employer.** (a)

3.4 An employer may terminate its approved private plan by notifying the commissioner in
3.5 writing at least 30 days before the voluntary termination's effective date.

3.6 (b) The employer must notify employees of the voluntary termination no later than 30
3.7 days before the termination's effective date.

3.8 (c) An employer must continue the approved private plan's coverage through the
3.9 termination's effective date. If an employer does not continue the approved private plan's
3.10 coverage through the termination's effective date, the commissioner shall assess against the
3.11 employer a fine per employee per day the employee was not covered through the termination's
3.12 effective date. The fine per employee per day will equal the employer's and employee's total
3.13 premium amount for a year, divided by 365.

3.14 Subd. 21. **Employer obligations after termination of private plan approval.** (a)

3.15 Within seven days of the effective date of a voluntary or involuntary termination of private
3.16 plan approval, the employer must notify all employees of the termination and notify all
3.17 employees that they are under the state plan as a result of the termination.

3.18 (b) If an employer's workforce becomes covered by the state plan because the employer's
3.19 private plan approval was voluntarily or involuntarily terminated, the employer must remain
3.20 covered by the state plan and pay premiums to the state for a period of at least three years."

3.21 On R50, Senate language (UEH0002-1)

3.22 Page 42, line 28, after "employment" insert "and for each seasonal employee"

3.23 On R54, Senate language (UEH0002-1)

3.24 Page 47, delete section 20 and insert:

3.25 "Sec. 20. **[268B.145] INCOME TAX WITHHOLDING AND STATE TAXATION.**

3.26 Subdivision 1. **Federal income tax.** If the Internal Revenue Service determines that
3.27 benefits received under this chapter are subject to federal income tax, the applicant may
3.28 elect to have federal income tax deducted and withheld from the applicant's benefits.

3.29 Subd. 2. **State income tax.** Benefits received under this chapter are subject to state
3.30 income tax. If the applicant elects to have federal income tax withheld, the applicant may,
3.31 in addition, elect to have Minnesota state income tax withheld.

4.1 Subd. 3. **Notification.** Upon filing an application for benefits, the applicant must be
4.2 informed that:

4.3 (1) benefits are subject to federal and state income tax;

4.4 (2) there are requirements for filing estimated tax payments;

4.5 (3) the applicant may elect to have federal income tax withheld from benefits;

4.6 (4) if the applicant elects to have federal income tax withheld, the applicant may, in
4.7 addition, elect to have Minnesota state income tax withheld; and

4.8 (5) at any time during the benefit year the applicant may change a prior election.

4.9 Subd. 4. **Withholding.** If an applicant elects to have federal income tax withheld, the
4.10 commissioner must deduct ten percent for federal income tax. If an applicant also elects to
4.11 have Minnesota state income tax withheld, the commissioner must make an additional five
4.12 percent deduction for state income tax. Any amount deducted under section 268B.06 has
4.13 priority over any amounts deducted under this section. Federal income tax withholding has
4.14 priority over state income tax withholding. An election to have income tax withheld may
4.15 not be retroactive and only applies to benefits paid after the election.

4.16 Subd. 5. **Transfer of funds.** The amount of any benefits deducted under this section
4.17 remains in the family and medical benefit insurance account until transferred to the Internal
4.18 Revenue Service, or the Department of Revenue, as an income tax payment on behalf of
4.19 the applicant.

4.20 Subd. 6. **Correction of errors.** Any error that resulted in underwithholding or
4.21 overwithholding under this section must not be corrected retroactively.

4.22 Subd. 7. **Effect of payments.** Any amount deducted under this section is considered as
4.23 benefits paid to the applicant."

4.24 On R58, Senate language (UEH0002-1)

4.25 Page 52, delete subdivision 2 and insert:

4.26 "Subd. 2. **Overpayment because of misrepresentation.** (a) An applicant has committed
4.27 misrepresentation if the applicant is overpaid benefits by making an intentional false
4.28 statement or representation in an effort to fraudulently collect benefits. Overpayment because
4.29 of misrepresentation does not occur where there is an unintentional mistake or a good faith
4.30 belief as to the eligibility or correctness of the statement or representation.

5.1 (b) After the discovery of facts indicating misrepresentation, the commissioner must
 5.2 issue a determination of overpayment penalty assessing a penalty equal to 15 percent of the
 5.3 amount overpaid.

5.4 (c) Unless the applicant files an appeal within 30 calendar days after the sending of a
 5.5 determination of overpayment penalty to the applicant by mail or electronic transmission,
 5.6 the determination is final. Proceedings on the appeal are conducted in accordance with
 5.7 section 268B.08.

5.8 (d) A determination of overpayment penalty must state the methods of collection the
 5.9 commissioner may use to recover the overpayment, penalty, and interest assessed. Money
 5.10 received in repayment of overpaid benefits, penalties, and interest is first applied to the
 5.11 benefits overpaid, second to the penalty amount due, and third to any interest due.

5.12 (e) The department is authorized to issue a determination of overpayment penalty under
 5.13 this subdivision within 24 months of the establishment of the benefit account upon which
 5.14 the benefits were obtained through misrepresentation.

5.15 Subd. 3. **Theft.** (a) An individual is guilty of theft and must be sentenced under section
 5.16 609.52 if the individual obtains, or attempts to obtain, or aids or abets any other individual
 5.17 to obtain, by an intentional false statement or representation, by intentional concealment of
 5.18 a material fact, or by impersonation or other fraudulent means, benefits to which the
 5.19 individual is not entitled under this chapter.

5.20 (b) Any employer, or any officer or agent of an employer, or any other individual has
 5.21 committed fraud and is guilty of a crime, if, in order to avoid or reduce any payment required
 5.22 from an employer under this chapter, to improperly secure a grant under section 268B.29,
 5.23 or to prevent or reduce the payment of benefits to an applicant, they:

5.24 (1) make a false statement or representation knowing it to be false;

5.25 (2) knowingly fail to disclose a material fact; or

5.26 (3) knowingly advise or assist an employer in violating clause (1) or (2).

5.27 The individual is guilty of a gross misdemeanor if the value of the fraudulent activity is
 5.28 \$500 or less. The individual is guilty of a felony if the value of the fraudulent activity exceeds
 5.29 \$500."

5.30 On R59, Senate language (UEH0002-1)

5.31 Page 52, line 23, delete "An employee" and insert "The commissioner"

5.32 Page 53, delete lines 13 to 15

6.1 Page 53, before line 16 insert:

6.2 "Subd. 8. **Court fees; collection fees.** (a) If the department is required to pay any court
 6.3 fees in an attempt to enforce collection of overpaid benefits, penalties, or interest, the amount
 6.4 of the court fees may be added to the total amount due.

6.5 (b) If an applicant who has been overpaid benefits because of misrepresentation seeks
 6.6 to have any portion of the debt discharged under the federal bankruptcy code, and the
 6.7 department files an objection in bankruptcy court to the discharge, the cost of any court fees
 6.8 may be added to the debt if the bankruptcy court does not discharge the debt.

6.9 (c) If the Internal Revenue Service assesses a fee from the department for offsetting
 6.10 from a federal tax refund the amount of any overpayment, including penalties and interest,
 6.11 the amount of the fee may be added to the total amount due. The offset amount must be put
 6.12 in the family and medical benefit insurance account and that amount credited to the total
 6.13 amount due from the applicant."

6.14 On R61, Senate language (UEH0002-1)

6.15 Page 55 line 13 delete "benefit judge" and insert "hearing officer"

6.16 Renumber the subdivisions in sequence

6.17 On R62, Senate language (UEH0002-1)

6.18 Page 56, line 5, delete everything after the comma

6.19 Page 56, delete line 6

6.20 Page 56, line 7, delete everything before "The"

6.21 Page 56, line 11, delete everything after "into" and insert "their respective database
 6.22 system."

6.23 Page 56, delete lines 12 to 15

6.24 On R67, Senate language (UEH0002-1)

6.25 Page 61, delete lines 19 and 20 and insert:

6.26 "(8) average duration for cases completed;

6.27 (9) the number of cases remaining open at the close of such year; and

6.28 (10) the employers who received approval by the department for seasonal employee
 6.29 classification and the number of seasonal employees approved for each year."

6.30 On R68, House language (H0002-8)

7.1 Page 71, after line 17, insert:

7.2 "(g) Each employer who employs or intends to employ seasonal employees as defined
 7.3 in section 268B.01, subdivision 16, must issue to each seasonal employee a notice that the
 7.4 employee is not eligible to receive paid family and medical leave benefits while the employee
 7.5 is so employed. The notice must be provided at the time an employment offer is made, or
 7.6 within 30 days of the effective date of this section for the employer's existing seasonal
 7.7 employees, and be in a form provided by the department. Delivery is made when an employee
 7.8 provides written or electronic acknowledgment of receipt of the information, or signs a
 7.9 statement indicating the employee's refusal to sign such acknowledgment."

7.10 On R69, Senate language (UEH0002-1)

7.11 Page 63, line 16, before "law" insert "or state"

7.12 On R70, Senate language (UEH0002-1)

7.13 Page 63, delete section 36 and insert:

7.14 "Sec. 36. **[268B.29] SMALL BUSINESS ASSISTANCE GRANTS.**

7.15 (a) Employers with 30 or fewer employees and less than \$3,000,000 in gross annual
 7.16 revenues may apply to the department for grants under this section.

7.17 (b) The commissioner may approve a grant of up to \$3,000 if the employer hires a
 7.18 temporary worker, or increases another existing worker's wages, to substitute for an employee
 7.19 on family or medical leave for a period of seven days or more.

7.20 (c) The maximum total grant per eligible employer in a calendar year is \$6,000.

7.21 (d) Grants must be used to hire temporary workers or to increase wages for current
 7.22 employees. To be eligible for consideration for a grant under this section, the employer
 7.23 must documentation attest, in a manner and format prescribed by the commissioner, that:

7.24 (1) the temporary worker hired or wage-related costs incurred are due to an employee's
 7.25 use of leave under this chapter;

7.26 (2) the amount of the grant requested is less than or equal to the additional costs incurred
 7.27 by the employer; and

7.28 (3) the employer meets the revenue requirements in paragraph (a).

7.29 (e) Applications shall be processed on a first-received, first-processed basis within each
 7.30 calendar year until funding is exhausted. Applications received after funding has been
 7.31 exhausted in a calendar year are not eligible for reimbursement.

8.1 (f) For the purposes of this section, the commissioner shall average the number of
 8.2 employees reported by an employer over the last four completed calendar quarters as
 8.3 submitted in the wage detail records required in section 268B.12 to determine the size of
 8.4 the employer.

8.5 (g) An employer who has an approved private plan is not eligible to receive a grant under
 8.6 this section.

8.7 (h) Unless additional funds are appropriated, the commissioner may award grants under
 8.8 this section up to a maximum of \$5,000,000 per calendar year from the family and medical
 8.9 benefit insurance account.

8.10 **EFFECTIVE DATE.** Except as provided in section 40, this section is effective January
 8.11 1, 2026."

8.12 On R71, Senate language (UEH0002-1)

8.13 Page 64, delete section 37

8.14 Page 64, delete section 38

8.15 On R73, Senate language (UEH0002-1)

8.16 Page 65, delete section 39 and insert:

8.17 "Sec. 39. **ACTUARIAL STUDY.**

8.18 (a) The commissioner of employment and economic development must contract with a
 8.19 qualified independent actuarial consultant to conduct an actuarial study of the family and
 8.20 medical leave premium rate, premium rate structure, weekly benefit formula, duration of
 8.21 benefits, fund reserve, and other components as necessary to determine an actuarially sound
 8.22 rate and future rate-setting mechanism of the family and medical benefit insurance program
 8.23 created in this act.

8.24 (b) A qualified independent actuarial consultant is one who is a Fellow of the Society
 8.25 of Actuaries (FSA) and a Member of the American Academy of Actuaries (MAAA) and
 8.26 who has experience directly relevant to the analysis required under this paragraph. The
 8.27 commissioner must issue a request for proposal to satisfy the requirements of this section
 8.28 no later than 30 days following enactment.

8.29 (c) If the actuarial study indicates that the premium rate in Minnesota Statutes, section
 8.30 268B.14, subdivision 7, is not actuarially sound, the commissioner, in consultation with the
 8.31 commissioner of management and budget, must adjust the premium rate to make the program

9.1 actuarially sound, subject to the limitations in Minnesota Statutes, section 268B.14,
 9.2 subdivision 7, paragraph (b).

9.3 (d) A copy of the actuarial study must be provided to the majority and minority leaders
 9.4 in the senate and the house of representatives no later than October 31, 2023. The actuarial
 9.5 study must also be filed with the Legislative Reference Library in compliance with Minnesota
 9.6 Statutes, section 3.195.

9.7 **EFFECTIVE DATE.** This section is effective the day following final enactment."

9.8 On R77, Senate language (UEH0002-1)

9.9 Page 64, delete section 12 and insert:

9.10 "Sec. 12. **DIRECT CARE PROVIDER PREMIUMS THROUGH HCBS**
 9.11 **WORKFORCE INCENTIVE FUND.**

9.12 (a) \$20,000,000 is appropriated to the commissioner of Human Services to provide
 9.13 reimbursement for premiums incurred for the paid family and medical leave program under
 9.14 this chapter. Funds shall be administered through the Home and Community-Based
 9.15 Workforce Incentive Fund under Minnesota Statutes, section 256.4764.

9.16 (b) The commissioner of employment and economic development shall share premium
 9.17 payment data collected under this chapter to assist the commissioner of human services in
 9.18 the verification process of premiums paid under this section.

9.19 (c) This amount is for the purposes of Minnesota Statutes, section 256.4764. This is a
 9.20 one-time appropriation and is available until June 30, 2027. "

9.21 Renumber the sections in sequence