

Subject Workforce and Labor Omnibus Bill

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Article 1: Appropriations

Provides appropriation. See spreadsheet for details.

Article 2: Prior Year Appropriations

Makes appropriations in fiscal year 2021 and adjusts appropriations in prior years.

| Section | Description – Article 2: Prior Year Appropriations |
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| 1 | Business and community development. |
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Transforms a fiscal year 2018 \$700,000 appropriation for a loan for an effluent pipe into a grant to the Metropolitan Council for wastewater infrastructure in Rosemount, leaving funds available until the end of fiscal year 2025.

(Please note, only the underlined text is changing.)

Effective date: This section is effective retroactively from July 1, 2017.

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| 2 | Business and community development. |
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Modifies a fiscal year 2020 appropriation for a paper mill in Duluth to support the conversion of the mill to the manufacturing of new paper grades. Increases the amount of the appropriation from \$2,000,000 to \$3,000,000, increases the amount the company is required to invest from \$20,000,000 to \$25,000,000, decreases the number of jobs that must be retained from 150 to 80, and modifies dates according to the new schedule.

Keeps appropriations to the Hmong Chamber of Commerce from fiscal years 2020 and 2021 available until the end of fiscal year 2023.

(Please note, only the underlined text is changing.)

Effective date: This section is effective retroactively from July 1, 2019.

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3 Grant to the Northeast Entrepreneur Fund; appropriation.

Appropriates \$1,148,000 in fiscal year 2021 from the general fund for a grant to the Northeast Entrepreneur Fund (NEF). This grant is conditioned on NEF repaying an outstanding loan with an identical balance to the Department of Employment and Economic Development. The grant must be used to access additional federal resources for making loans to small businesses impacted by COVID-19 and the grant money returns to the general fund if the federal funds are not secured before January 1, 2022. This is a onetime appropriation.

Effective date: This section is effective the day following final enactment.

4 Appropriation; small business COVID-19 grant program.

Appropriates \$50,000,000 in fiscal year 2021 for grants to small businesses affected by COVID-19. Splits the money evenly between greater Minnesota and the metropolitan area. Sets aside money for very small businesses, minority business enterprises, and cultural malls. Funnels funds through the Minnesota Initiative Foundations, community development financial institutions, and similar nonprofits selected by the commissioner. Sets requirements for the grants to individual businesses, limits grants to between \$5,000 and \$100,000, and stipulates funds can be used for normal business expenses. Allows grants to cultural malls to be for up to \$250,000, but requires that all but \$20,000 be used to maintain existing tenants through the issuance of credits or forgiveness of rent. Sets application procedures, provides temporary exemptions from normal grant rules, and requires a report to the legislature by February 15, 2022.

Effective date: This section is effective the day following final enactment.

5 Cancellations; fiscal year 2021.

Cancels the following fiscal year 2021 general fund appropriations:

- \$1,022,000 of the appropriation for the Department of Employment and Economic Development's general support services operating budget.
- \$25,000,000 that was appropriated in the 2020 seventh special session to the unemployment insurance trust fund.

Effective date: This section is effective the day following final enactment.

Article 3: Department of Employment and Economic Development

Department of Employment and Economic Development (DEED) policy.

Section Description – Article 3: Department of Employment and Economic Development

1 Receipt of gifts, money; appropriation.

Allows the commissioner of DEED to accept donations and use them as additional funding for the State Services for the Blind.

2 Eligible projects.

Allows up to 15 percent of a project funded by the greater Minnesota business development public infrastructure program to be for an ancillary purpose not otherwise eligible for inclusion in the program, if approved by the commissioner.

Effective date: This section is effective the day following final enactment and applies to projects that have been funded previously under Minnesota Statutes, section 116J.431.

3 Development restrictions expiration.

Removes restrictions on what types of projects can be supported by infrastructure funded by the greater Minnesota business development public infrastructure program after ten years.

Effective date: This section is effective the day following final enactment and applies to projects that have been funded previously under Minnesota Statutes, section 116J.431.

4 Microenterprise development program. [§ 116J.8736]

Establishes the microenterprise development program to develop start-up, home-based, or self-employed businesses with no more than five employees. Offers competitive grants to nonprofits to provide low-income or disadvantaged entrepreneurs with access to loans and business development assistance. Requires that the program provide services throughout the state and that the commissioner make regular reports to the legislature on the use of grant funds.

5 Minnesota job creation fund business designation; requirements.

Extends the job creation fund's one-year period to meet minimum capital investment or job creation requirements by up to 12 months for projects that need to meet those requirements within one year of an active peacetime emergency as declared by the governor.

Effective date: This section is effective retroactively to March 15, 2020.

6 Failure to meet goals.

Extends by up to two years the two-year compliance period for meeting subsidy agreement goals under the job creation fund if a peacetime emergency as declared by the governor is active during the initial compliance period.

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Effective date: This section is effective retroactively to March 15, 2020.

7 Job Skills Partnership program. [§ 116L.02]

Eliminates the low income worker training grants.

8 Members.

Increases the number of directors on the Minnesota Job Skills Partnership Board (JSPB) from 12 to 13.

9 Appointment.

Increases the number of directors on the JSPB who come from community-based training organization backgrounds from one to two.

10 Qualifications.

Clarifying technical change.

11 Use of workforce development funds.

Allows funds appropriated to the dislocated worker program to be used for the removing barriers to employment and innovative employment solutions grant programs (sections 14 and 15 below) after March 1 each year, if conditions are met that indicate there is an excess of unspent funds.

12 Definitions.

Allows individuals to participate in the dislocated worker program even if only temporarily separated from work. Removes the requirement that an individual be unlikely to return to their previous occupation or long-term unemployed.

13 Use of funds.

Allows dislocated worker funds to be used for transportation assistance, rather than only the narrower “commuting.”

14 Disbursement of special assessment funds.

Realigns how money in the workforce development fund is spent. Appropriates all money in the workforce development fund that is not committed by July 1 each year:

- At least 30 percent to the Job Skills Partnership Board (JSPB) for the dislocated worker program. If the conditions under section 9 (above) are met, transfers between 50 and 70 percent of the unspent funds to the removing barriers to employment and innovative employment solutions grant programs as of March 1 each year.
- Up to five percent to the JSPB for the job skills partnership and pathways programs.

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- Up to 65 percent for workforce development grants under section 13 (below).

15 Workforce development grants.

Establishes how 65 percent of the available money in the workforce development fund will be spent each year. Prioritizes delivery of services to individuals who are Black, Indigenous, or People of Color, while requiring statewide service. Allows six percent of funds to be used for administration and monitoring and requires grants to the following programs:

- Youthbuild (section 116L.362)
- Minnesota Youth program (section 116L.561)
- Youth-at-work (section 116L.562)
- Displaced Homemaker (section 116L.96)
- Pathways to Prosperity (section 116L.981)
- Women and high-wage, high-demand, nontraditional jobs (section 116L.99)

Divides all remaining funds equally between removing barriers to employment grants and innovative employment solutions grants (sections 14 and 15 below). Requires outcome benchmarking and stipulates the measures to consider for adult and youth programs.

16 Removing barriers to employment grant program. [§ 116L.21]

Creates the removing barriers to employment grant program, a competitive grant program to provide training, education, supportive services, and employment placement to individuals with barriers to employment. Prioritizes services to socially and economically disadvantaged minority populations. Requires consultation with the Grant Review Advisory Council (section 16 below) on grant awards and outreach and technical assistance to prospective training organizations. Bases awards at least in part on the applicant's demonstrated capacity to provide services to targeted populations. Allocates a portion of funding for capacity building competitive grants to small, culturally specific nonprofits to improve the organization's ability to serve historically underserved cultural communities. Stipulates that programs must comply with the uniform outcome report card and make reports to the commissioner that will be incorporated into a report to the legislature.

17 Innovative employment solutions grant program. [§ 116L.22]

Creates the innovative employment solutions grant program, a competitive grant program to provide training, education, supportive services, and employment placement in innovative ways to individuals with barriers to employment. Prioritizes services to socially and economically disadvantaged minority populations. Requires

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consultation with the Grant Review Advisory Council (section 16 below) on grant awards and outreach and technical assistance to prospective training organizations. Structures all grants under this program as pay for performance based on achievement of specified performance measures as determined by an independent evaluator. Stipulates that programs must comply with the uniform outcome report card and make reports to the commissioner that will be incorporated into a report to the legislature.

18 Grant Review Advisory Council. [§ 116L.23]

Establishes the Grant Review Advisory Council to review grant applications and make recommendations to the commissioner. Allows the commissioner to appoint all 15 members of the advisory council; members must have demonstrated expertise in workforce development and represent a diverse range of communities and perspectives. Sets rules for appointments, terms, operations, and expenses. Outlines criteria for reviewing grants and handling conflicts of interest.

19 Automation technology.

Adds a definition of “automation technology” to the job training grants program.

20 Employee.

Broadens the definition of “employee” to include workers in existing jobs for the job training grants program.

21 Employer.

Broadens the definition of “employer” to include those investing in automation, as well as those creating new jobs, for the job training grants program.

22 Program costs.

Conforming change to the job training grants program.

23 Program services.

Expands the definition of “program services” to include both new and existing jobs for the job training grants program.

24 Service provision.

Makes job training grants under section 116L.41, rather than 116L.42.

25 Job training incentive program.

Creates a job training incentive program, as part of the job training grants, which provides up to \$200,000 to employers in greater Minnesota for training and education for new jobs the commissioner approves, with a preference for programs serving disadvantaged people or areas. Reimburses employer education and training

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- program costs of up to \$10,000 per job and an additional \$1,000 for employees with disabilities.
- 26 **Automation incentive program.**
Creates a new automation incentive program, as part of the job training grants, which provides up to \$35,000 to manufacturing or skilled assembly employers in greater Minnesota with less than 150 employees that invested in new automation technology in the past year or plan to in the near future. Reimburses employers for the cost of training and educating employees to work with this new technology, with preference for programs serving disadvantaged people or areas, up to \$5,000 per employee.
- 27 **Agreements; required terms.**
Changes the wage requirement for the job training grants from the prevailing wage in that county to 120 percent of the federal poverty level for a family of four, plus benefits.
- 28 **Recovery of program costs.**
Conforming change, broadening the job training grants to both new and existing employees.
- 29 **Reports.**
Requires a new report to the legislature about the job training grants by February 1, 2024, which must include an analysis of the effectiveness of the grants in encouraging investments in automation.
- 30 **Requirements.**
Requires uniform outcome report cards for both adult and youth workforce programs funded by the state.
- 31 **Definitions.**
Allows broader credentials to count for the uniform outcome report cards and also defines “placement” to include work, education, training, apprenticeship, or the military.
- 32 **Uniform outcome report card; reporting by commissioner.**
Removes some items that adult workforce programs are required to report on the uniform outcome report cards, namely information about the cost of the program. Adds a summary of current program trends relevant to workforce development and employment outcomes to the department’s biennial report to the legislature. Defines

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the information that youth workforce programs must report on the uniform outcome report card.

33 Pathways to prosperity program. [§ 116L.981]

Codifies the pathways to prosperity program, which has existed for years, but has yet to be put into statute. Awards grants to organizations to train adults facing significant employment barriers for careers in high-demand industries. Provides competitive two-year grants for organizations to serve participants with a mix of education, training, and employment services. Allows an expedited application process for previous grant recipients with strong performance outcomes. Requires providers to comply with the uniform outcome report card obligations.

34 Launch Minnesota.

Amends the section of the 2019 Jobs Omnibus law that established the Launch Minnesota program to refine program definitions and priorities, as well as make technical corrections. Changes substantively the following significant elements:

- Modifies the program to focus on “innovative technology” businesses rather than “high technology” businesses, with a definition based on the novelty of the business and excluding a specific list of fields instead of a definition based on including a specific list of fields.
- Includes a lawful permanent resident who is Asian, Pacific Islander, Black, Hispanic, or Native American in the definition of “minority group member,” along with United States citizens from those groups.
- Adds individuals with disabilities to those who are given priority by the program.
- Decreases the matching fund requirement from 100 percent to 50 percent.
- Stops providing grants for housing or child care expenses of entrepreneurs.
- Allows grants of up to \$35,000 to be made to businesses that have been awarded a first time Phase 1 award under the Small Business Innovation Research (SBIR) or Small Business Technology Transfer (STTR), in addition to the \$50,000 Phase 2 grants already allowed.
- Increases the advisory board from ten to 12 members and adds a requirement that at least three members be members of minority groups. Also allows any member to be selected as chair.

35 Grant exceptions.

Raises the maximum grant amount under the Minnesota investment fund and job creation fund to \$2,000,000 for qualified applicants until July 1, 2022.

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Effective date: This section is effective the day following final enactment.

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| 36 | Onetime exception to restrictions on use of Minnesota investment fund local government loan repayment funds. |
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Allows local governments a onetime exception to the rules that apply to locally-held revolving loan funds created by repayments of Minnesota Investment Fund loans. Gives option to transfer 20 percent of the balance of the local fund to the state general fund in exchange for permission for the local government to use the remaining 80 percent of the money for any lawful expenditure. Requires a report to the legislature of what the money was used for if this option is exercised.

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| 37 | Repealer. |
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Repeals the special incumbent worker training grants.

Article 4: Family and Medical Benefits

Provides the substance of the new family and medical leave program under chapter 268B.

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| Section | Description – Article 4: Family and Medical Benefits |
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| 1 | Family and medical insurance data. [§ 13.719, subd. 7] |
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Classifies data under chapter 268B as private or nonpublic under the Minnesota Government Data Practices Act, and allows sharing of the data between the Department of Employment and Economic Development and the Department of Labor and Industry.

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| 2 | Compliance orders. [§ 177.27, subd. 4] |
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Gives enforcement powers over chapter 268B to the commissioner of labor and industry. Authorizes the commissioner to issue orders to comply.

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| 3 | Required statement of earnings by employer. [§ 181.032] |
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Requires that employers include the amount charged back to employees and deducted from their paychecks for premiums under section 268B.14, subdivision 3, and the amount paid by employers as premiums, be included on employee statement of earnings, which must be kept for review for three years.

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| 4 | Use of data. [§ 268.19, subd. 1] |
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Allows data gathered under the administration of Minnesota's unemployment insurance statute to be used by the Family and Benefits Division of the Department of Employment and Economic Development as necessary to administer chapter 268B.

Section Description – Article 4: Family and Medical Benefits

5 Definitions. [§ 268B.01]

Provides a number of definitions of terms used throughout chapter 268B. Several definitions model Minnesota's unemployment insurance statute.

6 Family and medical benefit insurance program creation. [§ 268B.02]

Subd. 1. Creation. Creates the program and assigns responsibility for administration to the commissioner of employment and economic development.

Subd. 2. Creation of division. Creates the Family and Medical Benefits Insurance Division within the Department of Employment and Economic Development for administration of the program and requires the commissioner to appoint a director of the division.

Subd. 3. Rulemaking. Allows the commissioner of employment and economic development to adopt rules to implement the program under the normal, note and comment, rulemaking procedures that typically take 18 months to two years.

Subd. 4. Account creation; appropriation. Creates the family and medical benefit insurance account in the special revenue fund and appropriates all money in the account to the commissioner of employment and economic development to pay benefits under and administer the program, including outreach.

Subd. 5. Information technology services and equipment. Exempts the new department created under the bill from existing statutory requirements that the Office of MN.IT services be responsible for information technology and services.

7 Payment of benefits. [§ 268B.03]

Subd. 1. Requirements. Provides applicant requirements for payment of family and medical leave benefits, including: (1) file an application and establish a benefit account; (2) meet all ongoing eligibility requirements; (3) have no outstanding overpayment; (4) not found to be ineligible; and (5) have wage credits during the base year with an employer covered by chapter 268B.

Subd. 2. Benefits paid from state funds. Specifies that family and medical leave benefits are paid from state funds out of the family and medical insurance account and gives the commissioner of employment and economic development responsibility for making proper payments.

8 Benefit account; benefits. [§ 268B.04]

Subd. 1. Application for benefits; determination of benefit account. Models state's unemployment insurance benefit account determination. Requires the commissioner of employment and economic development to determine an eligible applicant's weekly and maximum benefit amount based on their benefit

Section Description – Article 4: Family and Medical Benefits

year and wage information. Requires certification supporting leave request. Provides process and timeline for amended determination.

Subd. 2. Benefit account requirements. Requires an applicant to have earned at least 5.3 percent of the state's average annual wage rounded to the next lower \$100 increment (\$3,100 for 2021) in covered employment in their base period (the most recent four quarters, or as provided in section 268B.01, subdivision 5). Provides requirements for establishing a new benefit account after expiration.

Subd. 3. Weekly benefit amount; maximum amount of benefits available; prorated amount. Sets the formula for calculating weekly benefit amount under the program. That formula works as follows:

- An applicant's weekly wage is calculated by finding the quarter, out of the prior four completed quarters, in which the applicant earned the most wages and dividing that wage amount by 13.
- An applicant is entitled to a weekly benefit amount equal to: (1) 90 percent of their weekly wages that do not exceed 50 percent of the state's average weekly wage (\$1,144 for 2021 and 50 percent is \$572, so the max amount is 90 percent of \$572 which is \$514.80); (2) plus benefits equal to 66 percent of weekly wages above 50 percent (\$572 in 2021) but below 100 percent of the state's average weekly wage (max amount for 2021 is 66 percent of \$572, so \$377.52); (3) plus 55 percent of any weekly wages that exceed 100 percent of the state's average weekly wage (\$1,144 for 2021).
- Weekly benefits are capped at a maximum of the state's average weekly wage (again, \$1,144 for 2021).
- As an example, an applicant earning \$40,000 per year (evenly divided into \$10,000 quarters) has an average weekly wage of \$769.23 (\$10,000 divided by 13). The state's average weekly wage at the time of application is \$1,144 (with 50 percent equal to \$572). So, under the formula, the applicant would be entitled to \$644.97 ($0.9 \times \$572 + 0.66 \times 197.23$).
- Provides for prorated weekly benefit amounts for hourly workers or employees who use sick leave, paid time off, or other paid time off.

Subd. 4. Timing of payment. Requires benefits be paid weekly.

Subd. 5. Maximum length of benefits. Sets maximum duration an applicant may receive benefits in their 52-week benefit year. Allows up to 12 weeks of benefits to care for a family member with a serious health condition, for a qualifying exigency, for safety leave, or for bonding and up to 12 weeks of benefits for an applicant's own pregnancy or a serious health condition.

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Subd. 6. Minimum period for which benefits are payable. Except for bonding leave, an applicant must accrue at least seven days for which they are eligible for benefits before making a claim for benefits. After that, benefits may be paid out for a minimum duration of eight hours in a week.

Subd. 7. Right of appeal. Provides for appeal process for benefit account determinations or amended determinations.

Subd. 8. Limitations on applications and benefit accounts. Provides timing for the effective date, withdrawal, or expiration of a benefit account. An application is effective the Sunday of the week it is filed, unless backdated.

9 Continued request for benefits. [§ 268B.05]

Requires applicants to certify each week they are unable to work due to a qualifying event and meet ongoing eligibility requirements.

10 Eligibility requirements; payments that affect benefits. [§ 268B.06]

Subd. 1. Eligibility conditions. Specifies that an applicant who meets criteria under the program is eligible for benefits. An applicant must: (1) file continued request for benefits; (2) request benefits for week in the applicant's benefit year; (3) be unable to work due to a family member's serious health condition, a qualifying exigency, safety leave, bonding leave, or applicant's own pregnancy, pregnancy recovery, or serious health condition for the time required under subdivision 2; (4) have earned enough money through covered employment in the prior four completed quarters to establish a benefit account (\$3,100 for 2021, other than a self-employed applicant); and (5) submit certification supporting request for benefits under subdivision 3.

Subd. 2. Seven-day qualifying event. Sets a requirement that benefits can only be paid for a qualifying event of, at least, seven days duration. The seven days need not be sequential. For example, if an otherwise eligible employee breaks their leg, and the injury requires three days of treatment in a hospital, two days recovery at home, and two follow-up visits to a doctor, that would count as a seven-day qualifying event. Leave and benefits for bonding with a child are not subject to this requirement. Provides for rulemaking to determine what serious health conditions and events qualify.

Subd. 3. Certification. Requires certification for a request for benefits. Sets certification requirements for each type of leave, including health provider review and signature for leaves other than safety or exigency leave.

Subd. 4. Not eligible. Provides that an applicant is ineligible for benefits for any portion of a week before their benefit account becomes effective or if the

Section Description – Article 4: Family and Medical Benefits

applicant has an overpayment balance, fails to provide information on ineligibility, or worked for pay.

Subd. 5. Vacation, sick leave, and supplemental benefit payments. Provides an applicant cannot receive benefits for any portion of a week they are receiving vacation, sick, or personal leave. Does not apply to supplemental benefit payments, which an employer provides as salary continuation or as paid time off to supplement family and medical leave benefits the employee is receiving.

Subds. 6 to 8. Offsets. Provides that an applicant is ineligible for benefits for any portion of a week the applicant is receiving workers' compensation benefits or separation, severance, or bonus payments as wages. For an eligible applicant, there is no deduction from benefits for Social Security benefits.

11 Determination on issues of eligibility. [§ 268B.07]

Provides for content of notification to employer when an employee is granted benefits under the program. Requires commissioner to provide notice within two weeks. A determination or amended determination is final unless an appeal is filed within 20 days. The commissioner has four years to revisit a determination of eligibility for misrepresentation.

12 Appeal process. [§ 268B.08]

The structure created under this section is generally similar to the structure of appeals under the state's unemployment insurance program.

Subd. 1. Hearing. Requires the commissioner of employment and economic development to appoint a chief benefit judge, who, in turn, appoints a benefit judge to conduct a hearing each time an applicant or employer appeals a determination of benefits. This subdivision also allows the commissioner to adopt rules for appeals hearings and provides discretion for the commissioner over how those hearings are structured.

Subd. 2. Decision. Requires a benefit judge to send a written decision, including reasons and finding of facts, upon completion of an appeals hearing.

Subd. 3. Request for reconsideration. Allows any party or the commissioner to seek reconsideration of an appeals decision within 30 days of receipt of the decision.

Subd. 4. Appeal to court of appeals. Allows a final decision on a request for reconsideration to be appealed to the Minnesota Court of Appeals.

Subd. 5. Benefit judges. Requires the chief benefit judge and other benefit judges to be attorneys, licensed in Minnesota, and employees of the Department

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of Employment and Economic Development. Also grants the chief benefit judge power to assign and reassign hearings to benefit judges.

13 Leave. [§ 268B.085]

Subd. 1. Right to leave. Provides that an employee, 90 days after date of hire, has a right to leave for any day, or portion of a day, in which the employee would be eligible for benefits under the chapter.

Subd. 2. Notice to employer. Provides for notice to employers about the need for leave, modeled on similar provisions from the federal Family and Medical Leave Act. Requires 30-day notice to employer for foreseeable leave. An employer may require certification of need for leave under section 268B.06, subdivision 3.

Subd. 3. Bonding leave. Provides that bonding leave begins at a time chosen by the employee, but such leave must begin within 12 months of the birth, adoption, or foster care placement of the child. There is an exception for children who must remain in the hospital longer than the child's mother. In that case, the 12-month clock begins when the child leaves the hospital.

Subd. 4. Intermittent leave. Provides that employment leave may be taken on an intermittent or reduced-schedule, modeled on similar language from the federal Family and Medical Leave Act.

14 Employment protections. [§ 268B.09]

Subd. 1. Retaliation prohibited. Prohibits retaliation for requesting or obtaining benefits or for exercising any right granted under chapter 268B.

Subd. 2. Interference prohibited. Prohibits employer interference with an employee application for benefits or with an employee exercising any right under chapter 268B.

Subd. 3. Waiver of rights void. Voids any agreement to waive, or otherwise give up the right to benefits under chapter 268B.

Subd. 4. No assignment of benefits. Voids any assignment of benefits under chapter 268B.

Subd. 5. Continued insurance. Requires employers to continue any insurance or health plan during an employee's leave under the program. Employees continue to be responsible to pay any employee share of such program.

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Subd. 6. Employee right to reinstatement after leave. Entitles an employee on leave to reinstatement following the leave in a position with equivalent seniority, status, benefits, pay, duties, responsibilities, and other terms and conditions.

Subd. 7. Limitations on reinstatement after leave. An employee on leave is not entitled to better seniority, status, benefits, pay, duties, responsibilities, or other terms and conditions than if the employee had not taken leave. For example, if a continuously employed employee would have been laid off, the employee on leave is not entitled to reinstatement after leave.

Subd. 8. Remedies. Allows a person injured by a violation of section 268B.09 to bring a private lawsuit seeking damages, equitable remedies (such as reinstatement in a job), and attorney fees.

15 Substitution of private plan. [§ 268B.10]

Subd. 1. Application for substitution. Allows an employer to apply to the commissioner of employment and economic development to substitute a private plan for either paid family, or paid medical, or both benefit programs under chapter 268B. Any private plan must provide the same rights, protections, and benefits as those conferred under chapter 268B.

Subd. 2. Private plan requirements; medical benefit program. Sets requirements for a private, employer-provided medical benefit program that would allow the employer to substitute the private plan under subdivision 1. Generally requires a private plan to meet the rights, protections, and benefits provided under chapter 268B. A private plan may provide shorter durations of leave and benefit eligibility if the total amount of wage replacement for a qualifying event is the same or better than under the public plan.

Subd. 3. Employer plan requirements; family benefit program. Sets requirements for a private, employer-provided family benefit program that would allow the employer to substitute the private plan under subdivision 1. Generally requires a private plan to meet or exceed the rights, protections, and benefits provided under chapter 268B. A private plan may provide shorter durations of leave and benefit eligibility if the total amount of wage replacement for a qualifying event is the same or better than under the public plan.

Subd. 4. Use of private insurance products. Clarifies that private insurance products may be used in the creation of a private plan.

Subd. 5. Private plan approval and oversight fee. Sets an annual oversight fee for employers utilizing approved private plans, based on the employer's number of employees.

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Subd. 6. Plan duration. Requires that private plans must be in effect for at least one year and continuously thereafter unless the commissioner approves a withdrawal. Employers can withdraw plans within 30 days of the effective date of a law increasing benefits under chapter 268B or a change in premium rates. If the plan is not withdrawn it must be amended to meet the new requirements.

Subd. 7. Appeals. Provides that employers may use the appeals process under section 268B.08 to appeal a decision by the commissioner regarding the use of a private plan.

Subd. 8. Employees no longer covered. Provides the condition under which an employee is no longer covered by a private plan (termination of the employment relationship with the private-plan employer or approval for the private plan ends) and that such an employee is thereafter immediately covered by the public insurance provisions of chapter 268B.

Subd. 9. Posting of notice regarding private plan. Requires an employer with a private plan to notify affected employees following the requirements of section 268B.26.

Subd. 10. Amendment. Provides the conditions under which the commissioner must approve an amendment to a private plan.

Subd. 11. Successor employer. Provides for private plan continuation and termination when a business acquires an employer with a private plan. Gives acquiring business a 90-day window after acquisition to terminate a private plan.

Subd. 12. Revocation of approval by commissioner. Provides that the commissioner may terminate a private plan if certain conditions are met.

Subd. 13. Employer penalties. Provides penalties that the Department of Labor and Industry may assess if an employer with a private plan violates chapter 268B.

Subd. 14. Reports, information, and records. Requires employers with private plans to keep all records relating to the plan for six years and give them to the commissioner of employment and economic development upon request.

Subd. 15. Audit and investigation. Allows the commissioner to investigate and audit opt-out plans under this section.

16 Self-employed and independent contractor election of coverage. [§ 268B.11]

Allows for self-employed people and independent contractors to elect participation in the program. Requires net earnings of at least \$10,000 in the previous two taxable years. Those electing to participate pay half of the employer premium under the

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- program and must elect to participate for a minimum of two years. A self-employed applicant's weekly wage is calculated based on their premium base (the lesser of \$142,800 for 2021 or estimated self-employment income and wages for the year).
- 17 **Wage reporting. [§ 268B.12]**
Requires employers to submit wage detail reports electronically each quarter listing certain information for each employee, including total wages paid and hours worked. Provides for late fees and administrative service fees if information is missing or inaccurate.
- 18 **Employer premium accounts. [§ 268B.13]**
Establishes employer premium accounts with the commissioner of employment and economic development to pay family and medical benefit program premiums assessed under section 268B.14.
- 19 **Premiums. [§ 268B.14]**
Subd. 1. Payments. Requires all employers to pay a yearly premium on employee taxable wages, set in subdivision 4. Premiums are paid quarterly into the family and medical benefit insurance account and calculated based on the wage detail report submitted under section 268B.12.
Subd. 2. Payments by electronic payment required. Requires employers to pay premiums electronically.
Subd. 3. Employee charge back. Allows an employer to deduct up to 50 percent of the premiums paid by the employer from employee wages.
Subd. 4. Wages and payments subject to premium. Sets the maximum earnings or taxable wages on which premiums are assessed at the Social Security wage base (\$142,800 for 2021). Employers and employees pay the percentage premium set under this section on all earnings up to that amount. For example, 0.6 percent of \$142,800 or up to \$856.80 per employee for an employer participating in both family and medical benefits programs under this chapter.
Subd. 5. Annual premium rates. Provides initial annual percentage rates of premiums from January 1, 2023, through December 31, 2025.
Subd. 6. Premium rate adjustments. Sets the formula by which annual percentage rates of premiums increase or decrease each year starting January 1, 2026. Under the formula, the commissioner must calculate 1.45 times the amount disbursed under the program during the prior year, ending on September 30. The amount remaining in the program account is subtracted from the resulting sum. The resulting difference is divided by twice the total wages in

Section Description – Article 4: Family and Medical Benefits

covered employment (an amount determined currently by the Department of Employment and Economic Development). The resulting quotient is rounded down to the nearest one-hundredth of one percent. The result is the premium rate for the following year.

Subd. 7. Deposit of premiums. Requires all premiums collected be deposited in the family and medical benefit insurance account in the special revenue fund, established under section 268B.02, subdivision 4 (section 6 of this bill).

Subd. 8. Nonpayment of premiums by employer. Clarifies that nonpayment of premiums by an employer does not affect an employee's right to benefits under chapter 268B.

20 Income tax withholding. [§ 268B.145]

If the IRS finds benefits under the program to be taxable under federal law, and the applicant elects to have those federal taxes withheld, the commissioner of employment and economic development must withhold the tax.

21 Collection of premiums. [§ 268B.15]

Provides for treatment of premiums under chapter 268B, with language modeled from analogous sections under the state's unemployment insurance statute. Provides priority for how employer payments are applied. Allows for interest on past due amounts and judgments and credits or refunds for incorrect amounts assessed.

22 Child support deduction from benefits. [268B.155]

Requires the commissioner of employment and economic development to deduct child support owed from an applicant's leave amount to pay the child support agency. Related costs are paid by the child support agency.

23 Compromise. [268B.16]

Allows commissioner to compromise a premium or reimbursement due from an employer at any time, if it is in the state's best interest. Requires a compromise of more than \$10,000 to be approved by an attorney licensed in Minnesota, and employed by the Department of Employment and Economic Development.

24 Administrative costs. [§ 268B.17]

Allows the commissioner of employment and economic development to use up to seven percent of projected benefit payments for a calendar year to administer the program in that year and allows interagency agreements with the Department of Labor and Industry for transferring funds for enforcement of chapter 268B.

Section Description – Article 4: Family and Medical Benefits

25 Public outreach. [§ 268B.18]

Requires the commissioner to use at least 0.5 percent of revenue collected under chapter 268B for outreach, education, and technical assistance about the program for employees and employers. Allows interagency agreements with the Department of Labor and Industry for transferring funds for this purpose. At least half of the amount spent must be used for grants to community groups that will conduct the outreach, education, and technical assistance.

26 Benefit overpayments. [268B.185]

Requires an applicant to repay overpaid benefits under chapter 268B, based on a determination or amended determination or a benefit law judge's decision. Provides for penalties and interest (after 30 days of nonpayment) for overpayments due to an applicant's intentional misrepresentation or omission to obtain benefits. Penalties or interest collected under this section are deposited into the family and medical leave enforcement account to be used for administering and enforcing this chapter. Provides for offset against future benefits for overpayments due to reasons other than misrepresentation and gives the commissioner of employment and economic development discretion in pursuing recovery of these amounts. Requires cancellation of unpaid overpayments after six to ten years.

27 Applicant administrative penalties. [§ 268B.19]

Sets administrative penalty of being ineligible for benefits for up to two years for applicants who intentionally misrepresent or omit facts in an effort to obtain benefits for which they do not qualify. Modeled on analogous language under the state's unemployment insurance statutes.

28 Employer misconduct; penalty. [§ 268B.20]

Sets circumstances and penalties for when an employer colludes with an employee to obtain benefits for which the employee was not eligible and for when an employer intentionally misrepresents or omits facts. Modeled on analogous language under the state's unemployment insurance statutes.

29 Records; audits. [§ 268B.21]

Requires employers to keep records related to the program that are prescribed by the commissioner of employment and economic development for a period of at least four years. This section also grants the commissioner power to conduct audits and investigations of employers, when necessary to administering chapter 268B, and sets penalties for failure to comply with such audits or requests for information.

| Section | Description – Article 4: Family and Medical Benefits |
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| 30 | Subpoenas; oaths. [§ 268B.22] |
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| | Grants the commissioner or benefit judge power to administer oaths, take depositions, certify official acts, and issue subpoenas when necessary for the administration of chapter 268B. |
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| 31 | Lien; levy; setoff; and civil action. [§ 268B.23] |
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| | Provides that amounts due from an employer or applicant under chapter 268B may become a lien or level on property and requires setoff to the commissioner of employment and economic development for unpaid liability. Provides for a private civil action to collect amounts due under this chapter. Modeled on analogous language under the state's unemployment insurance statutes. |
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| 32 | Conciliation services. [§ 268B.24] |
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| | Allows the Department of Labor and Industry to offer conciliation services to help settle disputes that arise under chapter 268B. |
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| 33 | Annual reports. [§ 268B.25] |
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| | Requires the commissioner of employment and economic development to annually report, to the legislative and executive branches, a number of items regarding the operation and finances of the program under chapter 268B. |
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| 34 | Notice requirements. [§ 268B.26] |
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| | Requires employers to post notices, prepared by the commissioner of employment and economic development, regarding rights and benefits under chapter 268B. Also requires employers to provide separate written notices about this chapter to individual employees and contractors respectively. |
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| 35 | Relationship to other leave; construction. [§ 268B.27] |
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| | Subd. 1. Concurrent leave. Provides that an employer may require leave taken under chapter 268B run concurrently with leave taken for the same purpose under the federal Family and Medical Leave Act or section 181.941 (pregnancy and parenting leave). |
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| | Subd. 2. Construction. Clarifies that nothing in chapter 268B is intended (1) to allow an employer to require an employee to exhaust accumulated employer-provided sick, vacation, or personal leave before taking leave under this chapter, or (2) to prohibit an employer or parties to a collective bargaining agreement from providing more generous benefits than those required under chapter 268B. |
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| Section | Description – Article 4: Family and Medical Benefits |
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| 36 | Severable. [§ 268B.28] |
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Clarifies that if a provision or part of a provision under chapter 268B is found to be inconsistent with federal law, it has no effect, but any remaining portion of the provision may remain in effect.

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| 37 | Small business assistance grants. [§ 268B.29] |
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Allows the commissioner to make grants to businesses with 50 or fewer employees to defray the cost of hiring replacement workers for employees on leave.

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| 38 | Effective dates. |
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Article 5: Family and Medical Leave Benefit as Earnings

Provides for treatment of family and medical leave benefits under the Minnesota Family Investment Program (MFIP) and other programs.

| Section | Description – Article 5: Family and Medical Leave Benefit as Earnings |
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| 1 | Parents receiving family and medical leave benefits. [§ 256J.561, subd. 4] |
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Exempts a parent receiving benefits under chapter 268B and participating in MFIP from the employment services requirements of MFIP.

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| 2 | Eligibility for diversionary work program. [§ 256J.95, subd. 3] |
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Exempts single parents receiving benefits under chapter 268B from the diversionary work program requirements of MFIP.

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| 3 | Universal participation required. [§ 256J.95, subd. 11] |
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Exempts a parent, in a two-parent household, receiving benefits under chapter 268B from the MFIP diversionary work requirement, under certain circumstances.

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| 4 | Earned income. [§ 256P.01, subd. 3] |
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Defines benefits received under chapter 268B as earned income for the purposes of MFIP, general assistance, housing support services, and several other programs.

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| 5 | Effective date. |
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This article is effective January 1, 2024.

Article 6: Unemployment Insurance

Makes several changes to the Minnesota unemployment insurance law. Extends temporary COVID-19 unemployment provisions.

| Section | Description – Article 6: Unemployment Insurance |
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| 1 | <p>Modifying definition of reemployment assistance training.</p> <p>Allows more types of training to be pursued while still qualifying for unemployment insurance. To qualify for unemployment insurance, an applicant must be engaged in either a job search or qualified training that will increase their employment prospects. Currently, adult basic education, such as English as a second language, high school equivalency, or basic computer skills, is not a “qualified training.” This section would modify that definition so that applicants could still qualify for benefits while pursuing these and other similar skills that while not specifically tailored to any one occupation, do broadly enhance an applicant’s future employability.</p> |
| 2 | <p>Unemployment benefits for high school students.</p> <p>Allows high school students to qualify for unemployment insurance benefits if they otherwise meet eligibility requirements. Currently high school students are excluded from receiving unemployment benefits under Minnesota law. Following a recent Minnesota Court of Appeals decision, high school students may be eligible for temporary Pandemic Unemployment Assistance under the federal CARES Act. This section is effective August 1, 2021.</p> |
| 3 | <p>Unemployment Social Security offset removed.</p> <p>This section and section 12, paragraph (a), eliminate the Social Security old age and Social Security disability offset from unemployment benefits for applicants who otherwise qualify for unemployment. Modifies current law, which requires that 50 percent of the weekly equivalent of Social Security old age or Social Security disability be deducted from an applicant’s weekly unemployment benefit payment if the applicant is receiving, has received, or has filed for Social Security benefits. This deduction does not currently apply if the applicant received Social Security the entire time they were earning wage credits. Applies retroactively to January 1, 2021.</p> |
| 4 | <p>Unemployment benefits for certain school workers.</p> <p>This section and section 12, paragraph (b), allow certain school workers who are unemployed between school terms to qualify for unemployment benefits if they otherwise meet eligibility requirements. Currently certain contracted school workers, like bus drivers and hourly employees, cannot qualify for unemployment over the summer or between school terms. This expands unemployment eligibility to school contractors regardless of the type of services they provide and school workers performing functions that do not require licenses from the Professional Educator Licensing and Standards Board (PELSB) or the Board of School Administrators (BOSA), including elementary, secondary, and higher education workers. It does not apply to</p> |

Section Description – Article 6: Unemployment Insurance

- professional licensed school staff such as teachers, principals, administrators, curriculum specialists, school nurses, librarians, or other school employees licensed by PELSB or BOSA.
- 5 Unemployment appeals timeline.**
Changes the unemployment appeals deadline to 60 days for an unemployment applicant or employer. Currently they have 20 days to appeal a determination that the applicant is eligible or ineligible for unemployment benefits. If no appeal is filed or if the appeal is filed late, the determination is final.
- 6 Unemployment benefits while in entrepreneurial training.**
Makes conforming change to section 2.
- 7 Shared work plan eligibility.**
Modifies the length of employment requirement to participate in a shared work plan from 12 months to three months. A shared work plan is an alternative to layoffs. Participating employees work reduced hours for their employer and are eligible for partial unemployment insurance benefits. They also continue to receive health and pension benefits. The three-month eligibility provision was temporarily in place under Laws 2020, First Special Session chapter 10. Under the existing statute, only full-time or regular part-time employees who work for their employer for one year or more can participate in a shared work plan. Seasonal, temporary, or intermittent workers would remain ineligible. Effective the day after final enactment.
- 8 Continued suspension of one-week waiting period.**
Between December 27, 2020, and September 4, 2021, waives the one-week waiting period for an applicant to start receiving unemployment insurance benefits so payments start sooner. Applies retroactively to December 27, 2020. Continues Laws 2020, chapter 71, article 2, section 21.
- 9 Continued suspension of five-week business owner benefit limitation.**
Between December 27, 2020, and September 4, 2021, suspends the five-week limitation on business owners, so business owners may be eligible for more than five weeks of unemployment insurance benefits during the COVID-19 pandemic. Applies retroactively to December 27, 2020. Continues Laws 2020, chapter 71, article 2, section 22.
- 10 Leave of absence due to COVID-19.**
Between December 27, 2020, and September 4, 2021, certain “leaves of absence” by an applicant are considered involuntary, so the leave does not make the applicant ineligible for unemployment insurance benefits. Leaves considered involuntary during the COVID-19 pandemic include: (1) determination by a health authority or

Section Description – Article 6: Unemployment Insurance

health care professional that the applicant’s presence in the workplace is a risk to the health of others; (2) quarantine or isolation order; (3) self-isolation or self-quarantine; (4) direction by employer not to come to work; or (5) schools or child care are cancelled or unavailable and no other child care or time off from employer is available. Applies retroactively to December 27, 2020. Continues Laws 2020, chapter 71, article 2, section 23.

11 Suitable employment during COVID-19 pandemic.

Between December 27, 2020, and September 4, 2021, “suitable employment” for an unemployment applicant does not include employment that puts the health and safety of the applicant, other workers, or the public at risk due to their potential exposure to COVID-19. Under existing unemployment law, an applicant must be actively seeking and available for “suitable employment” to be eligible for unemployment insurance benefits. Applies retroactively to December 27, 2020. Continues Laws 2020, chapter 71, article 2, section 20.

12 Pandemic unemployment assistance to high school students.

Clarifies that federal Pandemic Unemployment Assistance (PUA) payments made to high school students are not counted as income in determining eligibility for Department of Human Services programs. Applies retroactively to January 7, 2021.

13 Repealer.

Paragraph (a) repeals Minnesota Statutes, section 268.085, subdivision 4, the Social Security old age offset language, retroactive to January 1, 2021. Paragraph (b) repeals Minnesota Statutes, section 268.085, subdivision 8, eliminating limitations on certain school contractors receiving unemployment between school terms.

Article 7: Labor Appropriations

Appropriates money to the Department of Labor and Industry, Bureau of Mediation Services, Workers’ Compensation Court of Appeals, Minnesota Management and Budget, and Attorney General. See spreadsheet for details.

Article 8: Labor and Industry Policy

Contains various labor and industry policy provisions.

| Sections | Description – Article 8: Labor and Industry Policy |
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| 1 | Occupational safety and health citations [§ 13.7905, subd. 6]. Makes conforming change with section 14. |
| 2 | Data on individuals who are minors [§ 13.7905, subd. 8]. Makes conforming change with section 13. |
| 3 | Gratuities; credit cards or charges [§ 177.24, subd. 3a]. Requires payment of all tips received by an employee on a credit, charge, or debit card with no deduction. Payment of the tip must be included in the pay period the tip was received and must be paid to the employee no later than the next pay period. |
| 4 | Compliance orders [§ 177.27, subd. 4]. Adds section 14 [§ 181.987] to the list of statutes the commissioner of labor and industry may issue a compliance order to an employer about, effective October 15, 2021. |
| 5 | Apprenticeship rules [§ 178.012, subd. 1]. Makes changes to state apprenticeship law to conform with federal apprenticeship requirements. |
| 6 | Law enforcement supervisors unit [§ 179A.10, subd. 2]. Creates a new law enforcement supervisors unit under the Public Employment Labor Relations Act (PELRA) for state law enforcement supervisor positions. The unit would include law enforcement supervisor positions that are currently covered under the Middle Management Association (MMA) agreement or commissioner’s plan. |
| 7 | State employee severance [§ 179A.10, subd. 3]. Removes state-patrol supervisors, Department of Natural Resources enforcement supervisors, and criminal apprehension investigative-supervisors as groups that have the right to separate from the general supervisory unit under PELRA. Currently, criminal apprehension investigative-supervisors are under the MMA agreement, while the other two severed and are covered under the commissioner’s plan. |
| 8 | Request or use of credit information prohibited [§ 181.53]. Prohibits employers from requesting or using credit information as a condition of employment, for hiring, firing, or compensation determinations, or in any way that affects the terms and conditions of employment. Credit information includes a credit |

Sections Description – Article 8: Labor and Industry Policy

- score or history, credit account balance, payment history, or savings or checking account balances or account numbers. Includes several exceptions for certain types of positions, for a valid business need, or if the information is required under state or federal law. Provides a private civil cause of action for violations.
- 9 **Nursing mothers, lactating employees, and pregnancy accommodations [§ 181.939, subds. 1-4].**
Requires an employer with one or more employees to provide nursing and lactating employees with paid break time to express milk. Removes previous language allowing an employer to opt out if it would cause undue disruption. An employee may, but is not required, to use existing break times provided by the employer. Also requires such an employer to provide a requesting employee with reasonable accommodations for health conditions related to pregnancy or childbirth, unless the employer shows it would be an undue hardship. Accommodations may require advice from a medical provider. Prohibits retaliation against an employee for requesting accommodations or break times for lactation.
- 10-11 **Parenting leave and accommodations; definitions [§ 181.940, subds. 2 and 3].**
Modifies definitions of “employee” and “employer” to expand parenting and pregnancy leave accommodations eligibility. Applies to an employer with one or more employees and to employees who have worked for an employer at least 90 days.
- 12 **Use of skilled and trained contractor workforces at oil refineries [§ 181.987].**
Creates a new requirement that at least 85 percent of the employees of any contractor working at an oil refinery must have experience with a registered apprenticeship program in the applicable trade. Establishes fines and a private right of action to punish violators. Effective October 15, 2021.
- Subd. 1. Definitions.** Provides definitions, including defining “skilled and trained workforce” as a minimum of 85 percent of the employees of a contractor or subcontractor working at the site of the oil refinery either currently or previously being registered apprentices in the applicable trade.
- Subd. 2. Use of contractors by owner, operator; requirement.** Requires the owner or operator of an oil refinery to require that all contractors and subcontractors performing certain types of work on site to use a skilled and trained workforce as defined in subdivision 1.
- Subd. 3. Penalties.** Directs the commissioner of labor and industry to fine owners, operators, contractors, or subcontractors at least \$5,000, but no more than \$10,000 for every shift where the skilled and trained workforce requirement is violated, in addition to other penalties. Allows the size of the

Sections Description – Article 8: Labor and Industry Policy

penalty to be scaled to the size of the violator's business and the gravity of the violation.

Subd. 4. Civil actions. Creates a private right of action for anyone injured by a violation of this section to sue the violator for damages in district court. Allows the court to award a successful plaintiff these damages, plus attorney fees, cost, disbursements, and other relief.

Effective date. This section is effective October 15, 2021.

13 Data on individuals who are minors [§ 181A.112].

Classifies child labor data obtained by the commissioner of labor and industry as private data on individuals, unless it is considered public under the Minnesota Government Data Practices Act. Protects a minor's name, date of birth, social security number, email and mailing addresses, phone number, online access information, and other identifying information from disclosure.

14 Classification of citation data [§ 182.66, subd. 4].

Makes citations received by the Minnesota Occupational Safety and Health Administration (MNOSHA) public as soon as MNOSHA confirms that an employer has received them. Includes all parts of a citation.

15-20 Occupational Safety and Health; penalties [§ 182.666, subds. 1-5 and 6a].

Sections 15 to 19 raise the fine amounts for willful, repeat, serious, nonserious, failure to correct, and posting violations of occupational safety and health standards to conform to federal law. Section 20 provides that future yearly increases to fine amounts will be tied to inflation.

21 Automatic sprinklers in existing high-rise buildings [§ 299F.48]

Subd. 1. Requirements. Requires existing buildings where humans occupy a floor above the reach of fire department vehicles (75 feet) to have automatic sprinkler systems installed, to code, in every area where one would be required if the building was built today. Applies, for example, to most high-rise residential or office buildings, except those exempt under subdivision 2. Sets August 1, 2033, as the deadline for having sprinklers fully installed.

Subd. 2. Exemptions. Exempts certain types of buildings and spaces within buildings from the sprinkler requirement, primarily those where specific activities occur (monuments, airport control, parking, agriculture, elevators, electric plants, telecommunications) or other types of safety laws apply (surgical facilities licensed by the Department of Health or manufacturing facilities covered by federal fire standards). Exempts also most condominium buildings,

Sections Description – Article 8: Labor and Industry Policy

i.e. “residential building[s] in which at least 70 percent of the dwelling units are owner occupied.”

Subd. 3. Reporting. Sets a two year deadline for the owners of buildings subject to this section to inform the state fire marshal of their plans for complying and installing an automatic sprinkler system.

Subd. 4. Extensions. Allows the state fire marshal to grant extensions to the deadlines for both reporting a compliance plan and fully installing sprinklers. Requires building owners to apply for an extension and demonstrate a genuine inability to comply within the deadline despite appropriate effort to do so.

Subd. 5. Rules. Permits the commissioner to adopt rules to implement this section.

Subd. 6. Working group. Provides for the appointment of an advisory working group to advise on implementation of this section and applications for extensions. Requires, if the commissioner elects to appoint a working group, that the group include representatives from 12 specific groups representing a wide range of affected stakeholders.

Subd. 7. Effect on other laws. Clarifies that this section does not supersede the State Building Code or State Fire Code.

22 Construction Codes Advisory Council membership [§ 326B.07, subd. 1].

Adds members to the Construction Codes Advisory Council that work in the energy conservation industry and building accessibility advocacy.

23 License fees and license renewal fees [§ 326B.092, subd. 7]

Extends fee reductions that were enacted in 2015 and extended in 2017 for construction contractors, electricians, plumbers, high pressure pipefitters, boiler operators, and also for permit and plan review fees.

24 State building code; general powers of commissioner of labor and industry [§ 326B.106, subd. 1].

Provides framework for the commissioner to adopt the statewide building energy code and reach net zero energy standard for new commercial buildings by 2036.

25-27 Contractor recovery fund [§ 326.89, subds. 1, 5, and 9].

Makes changes to the definitions, payment limitations, and applications for compensation for the contractor recovery fund. Clarifies language and increases the frequency and limits on payouts.

Sections Description – Article 8: Labor and Industry Policy

28 Law enforcement supervisors transition.

Clarifies that until a collective bargaining agreement is negotiated and approved for the new law enforcement supervisors unit under §179A.10, subd. 2 (18), positions to be included in the unit will remain covered by their existing agreement, either the MMA agreement or the commissioner’s plan. Those currently represented by MMA may elect to remain with MMA. Those in the new unit may participate in electing an exclusive representative and negotiations for the new unit during the transition.

29 Career pathway demonstration program.

Creates a career pathway demonstration program to promote student participation in a structured career pathway program. The Houston school district operates the Minnesota Virtual Academy, which provides online courses for students throughout the state and offers a high school career pathways program called Stride. Article 1 appropriates money from the workforce development fund for a \$100,000 grant to the Minnesota Virtual Academy for the manufacturing and trades career pathway of the program operated with Operating Engineers Local 49. Requires a report to the legislature on the program.

30 Repealer [§ 181.9414, and Minn. R. 5200.0080, subp. 7].

Paragraph (a) repeals § 181.9414, which is made part of § 181.939, subdivision 2, under section 9. Paragraph (b) repeals the rule allowing a deduction from tips.

Article 9: Earned Sick and Safe Time

Establishes earned sick and safe time requirements for employees who work more than 80 hours a year for an employer.

Section Description – Article 9: Earned Sick and Safe Time

1 Comparable position [§ 181.942, subd. 1].

Makes conforming change; requires that an employee be able to return to their former position after using earned sick and safe time.

2 Definitions [§ 181.9445].

Provides definitions for the article. Defines “employee” as anyone who has worked at least 80 hours in a year for an employer, but not an independent contractor.

3 Accrual of earned sick and safe time (ESS) [§ 181.9446].

Requires employers to allow employees to earn, at a minimum, one hour of paid ESS time for every 30 hours worked, up to at least 48 hours per year. Employees must be

Section Description – Article 9: Earned Sick and Safe Time

able to carry over at least 80 accrued hours of ESS time from year to year. Accrual begins when a qualified employee begins employment, but an employee may not begin using ESS time until they have worked for the employer for a period of 90 calendar days. Salaried employees, who are exempt from the provisions of federal overtime laws, are deemed to work 40 hours per week for purposes of ESS accrual.

4 Use of earned sick and safe (ESS) time [§ 181.9447].

Subd. 1. Eligible use. Provides the conditions under which an employee may use ESS time. These include: (1) the employee's mental or physical illness, treatment, or preventative care; (2) care of a sick family member or a family member in need of preventative care or treatment; (3) absence related to domestic abuse, sexual assault, or stalking of the employee or family member; (4) closure of the employee's workplace due to weather or public emergency or closure of a family member's school or care facility due to weather or public emergency; and (5) a determination by a health care provider that the employee or family member is at risk of infecting others with a communicable disease. Employees receive their regular hourly rate of employment for ESS time.

Subd. 2. Notice. Allows an employer to require reasonable notice of up to seven days when the need for ESS time is foreseeable, or as soon as practicable when the need is unforeseeable.

Subd. 3. Documentation. Allows an employer to require an employee to provide reasonable documentation justifying use of three or more consecutive days of ESS time. Provides examples of reasonable documentation for ESS time.

Subd. 4. Replacement worker. Prohibits employers from making employees find replacement workers as a condition of using ESS time.

Subd. 5. Increment of time used. Allows employees to use ESS time in smaller increments of up to four hours, as tracked by the employer's payroll.

Subd. 6. Retaliation prohibited. Prohibits an employer from retaliating against an employee for taking ESS time or for exercising another right under this section.

Subd. 7. Reinstatement to comparable position after leave. Requires an employer to reinstate an employee in the same or comparable position after return from use of ESS time.

Subd. 8. Pay and benefits after leave. Requires an employer to provide the same pay or benefits to an employee returning from use of ESS time, including seniority and accrued preleave benefits and any automatic pay adjustments.

Section Description – Article 9: Earned Sick and Safe Time

Subd. 9. Part-time return from leave. Provides that an employee returning to work during the ESS leave, on a part-time basis by agreement with the employer, gets the same benefits of reinstatement at the end of the ESS time.

Subd. 10. Notice and posting by employer. Requires employers to post notice of employee rights under this section and provide similar notice to employees at the later of commencement of employment or the effective date of this article.

Subd. 11. Required statement to employee. Requires an employer, upon employee request, to provide a statement including the amount of ESS time available to the employee and the amount of ESS time used by the employee.

Subd. 12. Employer records. Requires an employer to keep records about hours worked and ESS accrual and use, and allows an employee to view that employee's records.

Subd. 13. Confidentiality and nondisclosure. Sets requirements for confidential treatment of employee records collected in relation to ESS time.

5 Effect on other law or policy [§ 181.9448].

Subd. 1. No effect on more generous sick and safe time policies. Clarifies that nothing prohibits an employer from providing more generous leave policies than the minimum required by this article. Permits collective bargaining agreements or paid time off policies that provide the same or better leave. An employer may opt out of these requirements for construction workers by paying prevailing wage or the rate established in a registered apprenticeship agreement.

Subd. 2. Termination; separation; transfer. Provides that employers are not required to pay out any accrued ESS time on separation. An employee transferred within a single employer retains accrued ESS time and an employee hired back by the same employer within 180 days of termination is entitled to reinstatement of accrued ESS time.

Subd. 3. Employer succession. Provides for the rights of accrued but unused ESS time for a retained employee or an employee rehired within 30 days of a transfer when ownership of an employer transfers.

6 Repealer [§ 181.9413].

Repeals the section of law that allows employees to use employer provided sick days to care for a sick relative or to provide or receive assistance for domestic abuse, sexual assault, or stalking.

| Section | Description – Article 9: Earned Sick and Safe Time |
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| 7 | Effective date. Effective 180 days following final enactment. |
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Article 10: Earned Sick and Safe Time Enforcement

Provides enforcement and penalty provisions for earned sick and safe time.

| Section | Description – Article 10: Earned Sick and Safe Time Enforcement |
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| 1 | Submission of records; penalty [§ 177.27, subd. 2]. Increases the maximum penalty for employers who fail to submit required records to the Department of Labor and Industry from \$1,000 to \$10,000 per violation. Removes penalty for repeated failure. |
| 2 | Compliance orders [§ 177.27, subd. 4]. Adds earned sick and safe time to the list of laws that the Department of Labor and Industry may enforce through compliance orders. |
| 3 | Employer liability [§ 177.27, subd. 7]. Increases the maximum civil penalty, from \$1,000 to \$10,000 for employers who violate any of the sections over which the Department of Labor and Industry has enforcement authority under § 177.27, subd. 4. |
| 4 | Earned sick and safe time enforcement [§ 177.50]. Subd. 1. Definitions. Provides the same definitions from article 1 apply to this article. Subd. 2. Rulemaking authority. Allows the commissioner of labor and industry to adopt rules under this section as well as under the sections created by article 1. Subd. 3. Individual remedies. Allows an employee affected by an employer violation of the ESS provisions to bring a civil law suit in court within three years of the violation. Subd. 4. Grants to community organizations. Allows the Department of Labor and Industry to make grants to community organizations for outreach and education about the ESS provisions. |

Section Description – Article 10: Earned Sick and Safe Time Enforcement

Subd. 5. Report to legislature. Requires an annual report to the legislature, from the Department of Labor and Industry, addressing violations of the ESS provisions and trends in violations by employer, industry, or geography.

Subd. 6. Contract for labor or services. Prohibits an employer knowingly contracting with an entity that has violated this section within the last two years and has not cured their noncompliance.

Effective date. Effective 180 days following final enactment.

Article 11: Emergency Rehire and Retention

Provides rehire and retention protections to employees in the hospitality industry who are laid off due to a declared emergency or ownership change.

Section Description – Article 11: Emergency Rehire and Retention

1 Definitions.

Provides several definitions used in this article.

Defines “enterprise” to include: hotels, airports, and event centers; the facilities attached to them, including restaurants, bars, and retail; as well as related services, including maintenance, security, ticketing, ground-handling, and food and beverage services. Also includes an enterprise providing maintenance and security services to office, retail, or commercial buildings, like a staffing agency.

Defines “declared emergency” as: a national security or peacetime emergency declared by the governor; a locally declared emergency; a federal public health emergency; or a major disaster or national emergency declared by the president.

2 Emergency rehire and retention of laid-off employees.

Provides rehire and retention protections for eligible laid-off employees in the hospitality industry due to a declared emergency or a change in control.

Subd. 1. Rehire and recall requirements. Requires employers to offer employees laid-off due to a declared emergency information about available job positions for which they qualify, and to rehire employees based on a preference system of qualifications and seniority. Applies to a “laid-off employee” of an enterprise who worked for the employer for at least six months in the year prior to January 31, 2020, and became unemployed after January 31, 2020, due to a declared emergency. Also includes an employer whose form of organization or location

Section Description – Article 11: Emergency Rehire and Retention

changed after a declared emergency, or a new employer conducting substantially similar operations after a change of ownership or acquisition.

Subd. 2. Successor employer and retention requirements. Applies to an employer subject to a change of ownership. Requires the previous or “incumbent employer” to provide the new or “successor employer” with information about eligible employees within 15 days of transfer to be used for preferential hiring. Requires the successor employer for the first six months after opening to hire eligible employees from the list for at least a 90-day transition period or to retain employees based on seniority if fewer employee are needed. After 90 days, the successor employer must consider retaining satisfactory employees. Applies to “eligible employees” who worked for the incumbent employer for at least one month before the change of control, excluding supervisors, managers, and confidential employees.

Subd. 3. Employment protections. Prohibits adverse action against any employee for asserting their rights or a complaint under these sections.

Subd. 4. Collective bargaining rights. Allows waivers or agreement to better rehiring or retention conditions for valid collective bargaining agreements.

3 Enforcement and compliance.

Provides for investigation and enforcement of complaints by the Department of Labor and Industry, Labor Standards and Apprenticeship Division, which may award hiring and reinstatement rights as provided under this article, daily front or back pay, or missed benefits for violations. Authorizes a district court action for complaints and attorneys’ fees and costs for a prevailing employee. Authorizes the commissioner of labor and industry to issue an order to comply with the rehire and retention provisions as provided under § 177.27, subd. 4. Does not limit local law from imposing greater standards.

4 Citation.

Refers to these sections as the Emergency Rehire and Retention Law.

5 Effective dates.

Applies the day following final enactment until December 31, 2022.

Article 12: Essential Workers Emergency Leave

Provides emergency paid sick leave to essential workers unable to work or telecommute to a COVID-19 related reasons.

| Section | Description – Article 6: Essential Workers Emergency Leave |
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| 1 | Essential Workers Emergency Leave Act. |
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Subd. 1. Definitions. Provides several definitions for the act. Defines “essential worker” as someone who has worked for an employer one day or more, and is: an emergency responder; a health care provider; a licensed or unlicensed worker employed at a hospital, care home, outpatient surgical center, nursing home, assisted living, arranged home care provider, or an unlicensed health care clinic or practice; a public school employee; an airport service provider worker; or someone working for a private employer in the building maintenance or security services, child care, food service, hotel accommodations, manufacturing, or retail sectors.

Subd. 2. Emergency paid sick leave. Requires an employer to provide up to 160 hours of emergency paid sick leave to an essential worker who is unable to work or telework due to one of the qualifying COVID-19 related reasons and who is not being fully compensated by workers’ compensation, unemployment benefits, or other state or federal benefits:

(1) quarantine or isolation order; (2) self-quarantine at advice of a health care provider; (3) seeking medical diagnosis for their COVID-19 symptoms; (4) seeking medical diagnosis or waiting for test results after exposure to COVID-19 or at the request of their employer; (5) receiving or recovering from a COVID-19 vaccine; (6) caring for an individual subject to clause (1) or (2); or (7) caring for their child whose school or child care provider is closed.

Subd. 3. Duration and use of leave. Requires employers to provide up to 80 hours of paid leave for a qualifying reason for a full-time essential worker through March 31, 2021, and an additional 80 hours from April 1, 2021, until September 30, 2021 (or the date the act expires). Provides a percentage of hours for part-time and variable hour essential workers. Allows intermittent use of leave and reasonable notice for continued leave. Leave is available until 30 days after the end of the COVID-19 peacetime emergency.

Subd. 4. Amount of compensation. Provides full compensation for the leave at essential worker’s regular rate of pay or the applicable minimum wage rate, whichever is higher. Leave benefits cannot exceed \$511 per day, or \$10,220 total (\$5,110 total until March 31, 2021, and \$5,110 total from April 1, 2021, until the act expires). Does not allow for carryover of unused leave and offers no benefit upon separation from employment.

Section Description – Article 6: Essential Workers Emergency Leave

Subd. 5. Relationship to other leave. Applies in addition to any existing paid time off or leave policy that an employer provides. Allows an essential worker to use emergency sick leave first before using accrued paid time off or unpaid leave. Except that, an employer who already provided additional paid leave that provides the same or better benefits for the listed COVID-19 reasons is not required to provide additional leave—unless the essential worker was paid less for the additional leave than the full amount of emergency paid sick leave required by this act. Employers may offer the same or better leave than required and must provide notice of leave requirements to essential workers.

Subd. 6. Nursing home reimbursement for emergency paid sick leave benefits. Allows nursing homes to seek reimbursement for emergency paid sick leave costs from the Department of Human Services through natural disaster assistance as provided under § 12A.10, subdivision 1.

Subd. 7. Requirements and enforcement. Prohibits retaliation against essential workers who request or use this leave. Provides for enforcement and investigation by the Department of Labor and Industry, including authority to issue a compliance order. Allows for \$1,000 fine for willful violations.

Effective date. Effective the day following final enactment for eligible essential workers who are hired on or after that date. Effective retroactively from March 13, 2020, for qualified essential workers employed on or after that date who remain currently employed when this act takes effect, or as of May 17, 2021, whichever is earlier. The emergency sick leave expires September 30, 2021, or 30 days after the end of the COVID-19 peacetime emergency, whichever is later, except the enforcement provision remains in place until June 30, 2023.

Article 13: Safe Workplaces for Meat and Poultry Processing Workers

Establishes safety requirements for meat and poultry processing operations and workplaces.

Section Description – Article 13: Safe Workplaces for Meat and Poultry Processing Workers

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| 1 | Title [§ 179.87]. Titles the new sections created under this article as the Safe Workplace for Meat and Poultry Processing Workers Act (the Act). |
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Section Description – Article 13: Safe Workplaces for Meat and Poultry Processing Workers

2 Definitions [§179.871].

Provides definitions used in the Act. Defines “meat-processing worker” as an individual working directly with raw meatpacking products in the meatpacking operation, including independent contractors and those hired by a staffing agency.

3 Worker rights coordinator [§ 179.8715].

Requires the commissioner of labor and industry to appoint a meatpacking industry worker rights coordinator to enforce the Act, who will inspect, review, and recommend practices and procedures for improving meatpacking operations, and must submit an annual report to the governor and legislative committees.

4 Refusal to work under dangerous conditions [§ 179.872].

Allows a meat-processing worker to refuse to work if they have a good faith belief there is a hazardous working condition that would put themselves, other workers, or the public at risk, the worker has requested the employer correct the hazardous condition, and the employer has not done so. Requires continued pay for the hours the worker would have worked and prohibits an employer from taking adverse action against the worker for their good faith refusal to work.

5 Unemployment insurance; dangerous meatpacking conditions [§ 179.874].

Leaving meatpacking employment for the following reasons is considered “good cause” for the purposes of qualifying for unemployment insurance benefits: (1) due to an unsafe or unhealthy working condition if the employer was notified or should have known of the condition and did not correct it; (2) due to a condition requiring a workplace closure or reduced operations by executive order during a public health emergency; (3) to care for a seriously ill or quarantined family member or to care for a child whose school is closed during a public health emergency; or (4) if the condition would require the worker to violate public health guidance or pose an unreasonable health risk. Proof of the risk is not required during a public health emergency.

6 Enforcement and compliance [§ 179.875].

Gives the worker rights coordinator administrative enforcement authority, the attorney general and state and county attorneys enforcement authority, and the commissioner of labor and industry compliance authority. Provides a private civil action for violations of the Act, including for whistleblower claims. Provides for a civil penalty, damages, payment, attorney’s fees, and injunctive relief for violations.

7 Retaliation against employees and whistleblowers prohibited [§ 179.8755].

Prohibits retaliation or any adverse action against a meatpacking worker who reports health or safety concerns, and creates a presumption of retaliation if adverse action is taken against the worker within 90 days of reporting. Prohibits a contract or

Section Description – Article 13: Safe Workplaces for Meat and Poultry Processing Workers

agreement limiting a worker's right to report. Provides a fine, lost pay, attorney fees, and three times the amount of damages for whistleblower violations.

8 Meatpacking worker chronic injuries and workplace safety [§ 179.8756].

Subds. 1-5. Establishes safe worker program requirements for meatpacking employers as part of their work accident and injury reduction program. Requires a knowledgeable committee to develop and implement the program, which must address procedures for identifying, preventing, and reducing ergonomic hazards and contributing risk factors. Requires training and information for new employees or new tasks, and at least eight hours of annual health and safety training. Training compliance records for each employee must be maintained and available upon request.

Subds. 6-7. Provides qualifications and requirements for medical and first-aid workers engaged by a meatpacking employer, including guidance on management of musculoskeletal injuries like carpal tunnel, tendinitis, muscle strains, or shoulder, finger, or back injuries. Authorizes rulemaking for record keeping requirements of ergonomic hazards.

Subd. 8. Pandemic protections. Provides several pandemic protections that apply during a peacetime public health emergency declared by the governor. Pandemic-specific requirements include: provide and require PPE for employees, maintain social distancing and minimum six-foot radius of space between workers, provide hand sanitizer, and ensure frequent cleaning and disinfecting. General requirements include: provide notice to employees, provide adequate break times and sufficient PPE, establish a health and safety committee, and keep records of workplace injuries and illnesses. Additional sick leave requirements include: provide one hour of paid sick time per 30 hours worked to employees, and allow mandatory carryover of accrued leave from one year to the next or annual payout, at the employee's option. Employers must maintain and keep sick use records for three years and cannot require employees to disclose private details of the reason for sick leave. An employer or collective bargaining agreement may provide better sick leave benefits than the Act requires.

Subd. 9. Small Processor Exemption. Exempts small meat-processing operations with 50 or fewer employees from the requirements of section 8.

9 Notification required [§ 179.8757].

Employers must provide written notice to employees of their rights under the Act in a language they understand at least annually. The worker rights coordinator must provide annual updates and post information for employees.



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