

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 779

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| DATE | D-PG | OFFICIAL STATUS |
|------------|------|---|
| 02/12/2015 | 272 | Introduction and first reading Referred to Jobs, Agriculture and Rural Development |

1.1 A bill for an act
 1.2 relating to employment; providing for pregnancy, parenting, and caregiver
 1.3 insurance benefits; modifying leave; appropriating money; amending Minnesota
 1.4 Statutes 2014, sections 181.940; 181.941; 181.943; 181.9436; 290.01, subdivision
 1.5 19b; proposing coding for new law in Minnesota Statutes, chapter 181.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 181.940, is amended to read:

1.8 **181.940 DEFINITIONS.**

1.9 Subdivision 1. **Scope.** For the purposes of sections 181.940 to 181.944, the terms
 1.10 defined in this section have the meanings given them.

1.11 Subd. 2. **Employee.** "Employee" means ~~a person who performs services for hire for~~
 1.12 ~~an individual employed by an employer from whom a leave is requested under sections~~
 1.13 ~~181.940 to 181.944 for: who has performed at least 680 hours of work for that employer~~
 1.14 ~~or who has worked for that employer for at least 17 weeks. Employee does not mean an~~
 1.15 independent contractor.

1.16 ~~(1) at least 12 months preceding the request; and~~

1.17 ~~(2) for an average number of hours per week equal to one-half the full-time~~
 1.18 ~~equivalent position in the employee's job classification as defined by the employer's~~
 1.19 ~~personnel policies or practices or pursuant to the provisions of a collective bargaining~~
 1.20 ~~agreement, during the 12-month period immediately preceding the leave.~~

1.21 ~~Employee includes all individuals employed at any site owned or operated by the~~
 1.22 ~~employer but does not include an independent contractor.~~

1.23 Subd. 3. **Employer.** "Employer" means a person or entity that employs ~~21~~ one or
 1.24 ~~more employees at at least one site, except that, for purposes of the school leave allowed~~

2.1 ~~under section 181.9412, employer means a person or entity that employs one or more~~
 2.2 ~~employees in Minnesota.~~ The term includes an individual, corporation, partnership,
 2.3 association, nonprofit organization, group of persons, state, county, town, city, school
 2.4 district, or other governmental subdivision.

2.5 Subd. 4. **Child.** "Child" means an individual under 18 years of age or an individual
 2.6 under age 20 who is still attending secondary school.

2.7 Subd. 5. **Family member.** "Family member" means an employee's child, adult
 2.8 child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or
 2.9 stepparent.

2.10 Subd. 6. **FMLA.** "FMLA" means the "Family and Medical Leave Act of 1993,"
 2.11 United States Code, title 29, section 2601, et seq., as amended through the effective date
 2.12 of this section.

2.13 Subd. 7. **Commissioner.** "Commissioner" means the commissioner of labor and
 2.14 industry or authorized designee or representative.

2.15 Sec. 2. Minnesota Statutes 2014, section 181.941, is amended to read:

2.16 **181.941 PREGNANCY, AND PARENTING, AND CAREGIVER LEAVE.**

2.17 Subdivision 1. **Twelve-week leave; pregnancy, ~~birth, or adoption~~ parenting,**
 2.18 **and caregiver leave.** (a) An employer must grant an unpaid leave of absence to an
 2.19 employee who is:

2.20 (1) a biological, ~~or~~ adoptive, or foster parent in conjunction with the birth, ~~or~~
 2.21 adoption, or placement through foster care of a child; ~~or~~

2.22 (2) a female employee for prenatal care, or incapacity due to pregnancy, childbirth,
 2.23 or related health conditions; or

2.24 (3) caring for a family member who has a serious health condition.

2.25 (b) The length of the leave shall be determined by the employee, but must not exceed
 2.26 12 weeks, unless agreed to by the employer.

2.27 Subd. 2. **Start of leave.** The leave shall begin at a time requested by the employee.
 2.28 The employer may adopt reasonable policies governing the timing of requests for unpaid
 2.29 leave and may require an employee who plans to take a leave under this section to give
 2.30 the employer reasonable notice of the date the leave shall commence and the estimated
 2.31 duration of the leave. For leave taken under subdivision 1, paragraph (a), clause (1), the
 2.32 leave must begin within 12 months of the birth or adoption; except that, in the case where
 2.33 the child must remain in the hospital longer than the mother, the leave must begin within
 2.34 12 months after the child leaves the hospital.

3.1 Subd. 3. **No employer retribution.** An employer shall not retaliate against an
3.2 employee for requesting or obtaining a leave of absence as provided by this section.

3.3 Subd. 4. **Continued insurance.** The employer must continue to make coverage
3.4 available to the employee while on leave of absence under any group insurance policy,
3.5 group subscriber contract, or health care plan for the employee and any dependents.
3.6 Nothing in this section requires the employer to pay the costs of the insurance or health
3.7 care while the employee is on leave of absence.

3.8 Subd. 5. **Confidentiality and nondisclosure.** If, in conjunction with a leave under
3.9 this section, an employer possesses health or medical information regarding an employee
3.10 or an employee's family member, the employer must treat that information as confidential
3.11 and not disclose the information except with the permission of the employee.

3.12 Sec. 3. **[181.9411] PREGNANCY, PARENTING, AND CAREGIVER LEAVE**
3.13 **INSURANCE.**

3.14 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
3.15 this subdivision have the meanings given them.

3.16 (b) "Health care provider" has the same meaning as set forth in the FMLA.

3.17 (c) "Median county family income" means the median family income under the
3.18 American Community Survey 5-Year Estimates for the most recent year available in
3.19 the county where the employee resides.

3.20 (d) "Serious health condition" has the same meaning as set forth in the FMLA.

3.21 Subd. 2. **Benefits; application and eligibility.** (a) Beginning one year after the date
3.22 on which the commissioner starts collecting premiums pursuant to subdivision 6, benefits
3.23 under this section must be paid to an employee who:

3.24 (1) is eligible for leave under section 181.941; and

3.25 (2) files an application for benefits in the manner required by commissioner.

3.26 (b) In addition to the requirements of paragraph (a), the commissioner may require:

3.27 (1) an employee who files a claim for benefits to attest that the employee has
3.28 requested leave from an employer under section 181.941; or

3.29 (2) submit a certification from the health care provider providing care to the
3.30 employee's family member supporting the claim that the employee's family member has a
3.31 serious health condition, provided the employee is filing an application for benefits related
3.32 to leave under section 181.941, subdivision 1, paragraph (a), clause (3), or the FMLA.

3.33 Subd. 3. **Duration of benefits; payment intervals.** (a) The maximum amount of
3.34 time an employee may receive benefits under this section is six weeks.

4.1 (b) Failure to submit an application for benefits in the manner and form required by
4.2 the commissioner does not automatically invalidate an employee's eligibility for benefits,
4.3 but the commissioner is not required to pay benefits for a period of more than two weeks
4.4 before the date on which an employee files an application for benefits conforming with
4.5 the commissioner's requirements.

4.6 (c) The commissioner must make the first payment of benefits to an eligible employee
4.7 within two weeks after the employee files an application for benefits conforming to the
4.8 commissioner's requirements. The commissioner must make later payments biweekly.

4.9 Subd. 4. **Amount of benefits; maximum weekly benefit.** (a) The commissioner
4.10 must calculate an employee's weekly benefit amount as follows:

4.11 (1) for an employee whose yearly earnings are not more than ... percent of the
4.12 median county family income, the commissioner must pay weekly benefits in an amount
4.13 equal to 95 percent of the employee's weekly wage;

4.14 (2) for an employee whose yearly earnings are more than ... percent, but not more
4.15 than ... percent, of the median county family income, the commissioner must pay weekly
4.16 benefits in an amount equal to 90 percent of the employee's weekly wage;

4.17 (3) for an employee whose yearly earnings are more than ... percent, but not more
4.18 than ... percent, of the median county family income, the commissioner must pay weekly
4.19 benefits in an amount equal to 85 percent of the employee's weekly wage;

4.20 (4) for an employee whose yearly earnings are equal to or more than ... percent of
4.21 the median county family income, the commissioner must pay weekly benefits in an
4.22 amount equal to 66 percent of the eligible employee's weekly wage.

4.23 (b) Notwithstanding paragraph (a), an employee's weekly benefit must not exceed
4.24 \$1,000 per week.

4.25 (c) Beginning two years after the date on which the commissioner starts collecting
4.26 premiums pursuant to subdivision 6, the commissioner must annually adjust the maximum
4.27 weekly benefit amount to reflect changes in the United States Bureau of Labor Statistics
4.28 Consumer Price Index for the Minneapolis-St. Paul consolidated metropolitan statistical
4.29 area for all urban consumers, all goods, or its successor index.

4.30 (d) Benefits are not payable for less than one day of leave taken in one work week.

4.31 Subd. 5. **Pregnancy, parenting, and caregiver leave insurance account.** A
4.32 pregnancy, parenting, and caregiver leave insurance account is created in the special
4.33 revenue fund. Money in the account is annually appropriated to the Department of Labor
4.34 and Industry and does not lapse. The commissioner shall manage and administer the
4.35 account in accordance with this section.

5.1 Subd. 6. **Employee and employer premiums.** (a) Beginning on a date determined
5.2 by the commissioner but no later than one year after the effective date of this section,
5.3 every employee employed by an employer must pay a premium equal to 0.1 percent of
5.4 the employee's yearly wages to fund the program, but the maximum annual premium
5.5 charged to an employee must not exceed \$78 per year. The premium is assessed on the
5.6 first \$78,000 of wages earned in a calendar year.

5.7 (b) Beginning on a date determined by the commissioner but no later than one year
5.8 after the effective date of this section, every employer must pay a premium equal to the
5.9 total of premiums paid by the employer's employees.

5.10 (c) Each employer must collect the premium amount from each employee as a
5.11 payroll deduction from the employee's wages each payroll period and shall remit the
5.12 premium amount, along with the matching employer premium, to the commissioner, who
5.13 must send the premiums to the Department of Management and Budget for deposit in the
5.14 pregnancy, parenting, and caregiver leave insurance account in the special revenue fund.

5.15 (d) Beginning two years after the date on which the commissioner begins collecting
5.16 premiums pursuant to this subdivision, the commissioner must annually adjust the
5.17 maximum annual premium amount and the amount of annual income on which the
5.18 premium is assessed to reflect changes in the United States Bureau of Labor Statistics
5.19 Consumer Price Index for the Minneapolis-St. Paul consolidated metropolitan statistical
5.20 area for all urban consumers, all goods, or its successor index.

5.21 Subd. 7. **Disqualification from benefits; erroneous payments.** (a) An employee
5.22 must not receive benefits under this section for one year if the individual willfully makes a
5.23 false statement or misrepresentation regarding a material fact, or willfully fails to report a
5.24 material fact, to obtain benefits under this section.

5.25 (b) If benefits under this section are paid erroneously or as a result of a willful
5.26 misrepresentation or omission, or if a claim for benefits under this section is rejected after
5.27 benefits are paid, the commissioner may seek repayment of benefits from the recipient.

5.28 Subd. 8. **Federal taxation of benefits.** (a) If the Internal Revenue Service
5.29 determines that benefits under this section are subject to federal income tax, the
5.30 commissioner must advise an individual filing a claim for benefits, at the time of filing, that:

5.31 (1) the Internal Revenue Service has determined that benefits are subject to federal
5.32 income tax;

5.33 (2) requirements exist pertaining to estimated tax payments;

5.34 (3) the employee may elect to have federal income tax deducted and withheld
5.35 from the individual's payment of benefits in the amount specified in the federal Internal
5.36 Revenue Code; and

6.1 (4) the employee may change a previously elected withholding status.

6.2 (b) Amounts deducted and withheld from benefits under this subdivision must
 6.3 remain in the pregnancy, parenting, and caregiver leave insurance account in the special
 6.4 revenue fund until transferred to the federal taxing authority as payment of income tax.

6.5 (c) The commissioner must follow all procedures specified by the Internal Revenue
 6.6 Service relating to deducting and withholding income tax.

6.7 Subd. 9. Confidentiality and nondisclosure. If, in conjunction with a leave under
 6.8 this section, an employer possesses health or medical information regarding an employee
 6.9 or an employee's family member, the employer must treat that information as confidential
 6.10 and not disclose the information except with the permission of the employee.

6.11 Sec. 4. Minnesota Statutes 2014, section 181.943, is amended to read:

6.12 **181.943 RELATIONSHIP TO OTHER LEAVE.**

6.13 (a) The length of leave provided under section 181.941 may be reduced by any
 6.14 period of:

6.15 (1) paid parental, disability, personal, medical, or sick leave, or accrued vacation
 6.16 provided by the employer so that the total leave does not exceed 12 weeks, unless agreed
 6.17 to by the employer; or

6.18 (2) leave taken for the same purpose by the employee under ~~United States Code,~~
 6.19 ~~title 29, chapter 28~~ the FMLA.

6.20 (b) Nothing in sections 181.940 to 181.943 prevents any employer from providing
 6.21 leave benefits in addition to those provided in sections 181.940 to 181.944 or otherwise
 6.22 affects an employee's rights with respect to any other employment benefit.

6.23 (c) Nothing in this section shall be construed to diminish an employee's entitlement
 6.24 to benefits under section 181.9411.

6.25 (d) Nothing in sections 181.940 to 181.944 shall be construed to limit the right
 6.26 of parties to a collective bargaining agreement to bargain and agree with respect to
 6.27 leave policies or to diminish the obligation of an employer to comply with any contract,
 6.28 collective bargaining agreement, or any employment benefit program or plan that meets or
 6.29 exceeds, and does not otherwise conflict with, the minimum standards and requirements
 6.30 provided in sections 181.940 to 181.944.

6.31 Sec. 5. Minnesota Statutes 2014, section 181.9436, is amended to read:

6.32 **181.9436 POSTING OF LAW NOTICE TO AFFECTED EMPLOYEES.**

6.33 Subdivision 1. Poster. The Division of Labor Standards and Apprenticeship shall
 6.34 develop, with the assistance of interested business and community organizations, an

7.1 educational poster stating employees' rights under sections 181.940 to ~~181.9436~~ 181.944.
 7.2 The department shall make the poster available, upon request, to employers for posting on
 7.3 the employer's premises.

7.4 Subd. 2. **Grants to community organizations.** The commissioner may make grants
 7.5 to community organizations for the purpose of outreach to and education for employees
 7.6 affected by sections 181.939 and 181.9441 regarding those employees' rights under those
 7.7 sections. The community-based organizations must be selected based on their experience,
 7.8 capacity, and relationships with high-violation industries. The work under these grants
 7.9 may include the creation and administration of a statewide worker hotline.

7.10 Sec. 6. Minnesota Statutes 2014, section 290.01, subdivision 19b, is amended to read:

7.11 Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates,
 7.12 and trusts, there shall be subtracted from federal taxable income:

7.13 (1) net interest income on obligations of any authority, commission, or
 7.14 instrumentality of the United States to the extent includable in taxable income for federal
 7.15 income tax purposes but exempt from state income tax under the laws of the United States;

7.16 (2) if included in federal taxable income, the amount of any overpayment of income
 7.17 tax to Minnesota or to any other state, for any previous taxable year, whether the amount
 7.18 is received as a refund or as a credit to another taxable year's income tax liability;

7.19 (3) the amount paid to others, less the amount used to claim the credit allowed under
 7.20 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten
 7.21 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and
 7.22 transportation of each qualifying child in attending an elementary or secondary school
 7.23 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a
 7.24 resident of this state may legally fulfill the state's compulsory attendance laws, which
 7.25 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
 7.26 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
 7.27 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
 7.28 "textbooks" includes books and other instructional materials and equipment purchased
 7.29 or leased for use in elementary and secondary schools in teaching only those subjects
 7.30 legally and commonly taught in public elementary and secondary schools in this state.
 7.31 Equipment expenses qualifying for deduction includes expenses as defined and limited in
 7.32 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
 7.33 books and materials used in the teaching of religious tenets, doctrines, or worship, the
 7.34 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
 7.35 or materials for, or transportation to, extracurricular activities including sporting events,

8.1 musical or dramatic events, speech activities, driver's education, or similar programs. No
8.2 deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or
8.3 the qualifying child's vehicle to provide such transportation for a qualifying child. For
8.4 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
8.5 given in section 32(c)(3) of the Internal Revenue Code;

8.6 (4) income as provided under section 290.0802;

8.7 (5) to the extent included in federal adjusted gross income, income realized on
8.8 disposition of property exempt from tax under section 290.491;

8.9 (6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E)
8.10 of the Internal Revenue Code in determining federal taxable income by an individual
8.11 who does not itemize deductions for federal income tax purposes for the taxable year, an
8.12 amount equal to 50 percent of the excess of charitable contributions over \$500 allowable
8.13 as a deduction for the taxable year under section 170(a) of the Internal Revenue Code,
8.14 under the provisions of Public Law 109-1 and Public Law 111-126;

8.15 (7) for individuals who are allowed a federal foreign tax credit for taxes that do not
8.16 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
8.17 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
8.18 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
8.19 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
8.20 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
8.21 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
8.22 the extent they exceed the federal foreign tax credit;

8.23 (8) in each of the five tax years immediately following the tax year in which an
8.24 addition is required under subdivision 19a, clause (7), or 19c, clause (12), in the case of a
8.25 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
8.26 delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount
8.27 of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c,
8.28 clause (12), in the case of a shareholder of an S corporation, minus the positive value of
8.29 any net operating loss under section 172 of the Internal Revenue Code generated for the
8.30 tax year of the addition. The resulting delayed depreciation cannot be less than zero;

8.31 (9) job opportunity building zone income as provided under section 469.316;

8.32 (10) to the extent included in federal taxable income, the amount of compensation
8.33 paid to members of the Minnesota National Guard or other reserve components of the
8.34 United States military for active service, including compensation for services performed
8.35 under the Active Guard Reserve (AGR) program. For purposes of this clause, "active
8.36 service" means (i) state active service as defined in section 190.05, subdivision 5a, clause

9.1 (1); or (ii) federally funded state active service as defined in section 190.05, subdivision
9.2 5b, and "active service" includes service performed in accordance with section 190.08,
9.3 subdivision 3;

9.4 (11) to the extent included in federal taxable income, the amount of compensation
9.5 paid to Minnesota residents who are members of the armed forces of the United States
9.6 or United Nations for active duty performed under United States Code, title 10; or the
9.7 authority of the United Nations;

9.8 (12) an amount, not to exceed \$10,000, equal to qualified expenses related to a
9.9 qualified donor's donation, while living, of one or more of the qualified donor's organs
9.10 to another person for human organ transplantation. For purposes of this clause, "organ"
9.11 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;
9.12 "human organ transplantation" means the medical procedure by which transfer of a human
9.13 organ is made from the body of one person to the body of another person; "qualified
9.14 expenses" means unreimbursed expenses for both the individual and the qualified donor
9.15 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
9.16 may be subtracted under this clause only once; and "qualified donor" means the individual
9.17 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
9.18 individual may claim the subtraction in this clause for each instance of organ donation for
9.19 transplantation during the taxable year in which the qualified expenses occur;

9.20 (13) in each of the five tax years immediately following the tax year in which an
9.21 addition is required under subdivision 19a, clause (8), or 19c, clause (13), in the case of a
9.22 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
9.23 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (13), in the
9.24 case of a shareholder of a corporation that is an S corporation, minus the positive value of
9.25 any net operating loss under section 172 of the Internal Revenue Code generated for the
9.26 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
9.27 subtraction is not allowed under this clause;

9.28 (14) to the extent included in the federal taxable income of a nonresident of
9.29 Minnesota, compensation paid to a service member as defined in United States Code, title
9.30 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief
9.31 Act, Public Law 108-189, section 101(2);

9.32 (15) to the extent included in federal taxable income, the amount of national service
9.33 educational awards received from the National Service Trust under United States Code,
9.34 title 42, sections 12601 to 12604, for service in an approved Americorps National Service
9.35 program;

10.1 (16) to the extent included in federal taxable income, discharge of indebtedness
10.2 income resulting from reacquisition of business indebtedness included in federal taxable
10.3 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
10.4 to the extent that the income was included in net income in a prior year as a result of the
10.5 addition under subdivision 19a, clause (13);

10.6 (17) the amount of the net operating loss allowed under section 290.095, subdivision
10.7 11, paragraph (c);

10.8 (18) the amount of expenses not allowed for federal income tax purposes due
10.9 to claiming the railroad track maintenance credit under section 45G(a) of the Internal
10.10 Revenue Code;

10.11 (19) the amount of the limitation on itemized deductions under section 68(b) of the
10.12 Internal Revenue Code;

10.13 (20) the amount of the phaseout of personal exemptions under section 151(d) of
10.14 the Internal Revenue Code; ~~and~~

10.15 (21) to the extent included in federal taxable income, the amount of qualified
10.16 transportation fringe benefits described in section 132(f)(1)(A) and (B) of the Internal
10.17 Revenue Code. The subtraction is limited to the lesser of the amount of qualified
10.18 transportation fringe benefits received in excess of the limitations under section
10.19 132(f)(2)(A) of the Internal Revenue Code for the year or the difference between the
10.20 maximum qualified parking benefits excludable under section 132(f)(2)(B) of the Internal
10.21 Revenue Code minus the amount of transit benefits excludable under section 132(f)(2)(A)
10.22 of the Internal Revenue Code; and

10.23 (22) the amount received in benefits under section 181.9411.