

1.1 **Senator Hoffman from the Committee on Human Services, to which was re-referred**

1.2 **S.F. No. 2:** A bill for an act relating to employment; providing for paid family, pregnancy,
 1.3 bonding, and applicant's serious medical condition benefits; regulating and requiring certain
 1.4 employment leaves; classifying certain data; authorizing rulemaking; appropriating money;
 1.5 amending Minnesota Statutes 2022, sections 13.719, by adding a subdivision; 177.27,
 1.6 subdivision 4; 181.032; 256J.561, by adding a subdivision; 256J.95, subdivisions 3, 11;
 1.7 256P.01, subdivision 3; 268.19, subdivision 1; proposing coding for new law as Minnesota
 1.8 Statutes, chapter 268B.

1.9 Reports the same back with the recommendation that the bill be amended as follows:

1.10 Page 2, line 6, delete "subdivision 3" and insert "subdivisions 3 and 3a"

1.11 Page 23, line 1, delete "or pregnancy"

1.12 Page 24, line 30, delete the first "pregnancy,"

1.13 Page 45, line 32, after "deduction" insert "except as provided under subdivision 3a"

1.14 Page 46, after line 3, insert:

1.15 "Subd. 3a. **Direct care worker charge back.** (a) For the purposes of this subdivision,
 1.16 "direct care worker" means either (1) an employee of a medical assistance enrolled provider
 1.17 who provides direct nonprofessional long-term care services and supports funded through
 1.18 medical assistance, including through a home and community-based waiver or alternative
 1.19 care, to a person with a disability or an older adult or (2) an individual provider as defined
 1.20 under section 256B.0711.

1.21 (b) Notwithstanding the permissible employee charge back provisions under subdivision
 1.22 3, employers and covered business entities may not deduct any amount of annual premiums
 1.23 paid under this section from the wages of a direct care worker. Employers and covered
 1.24 business entities that employ both direct care workers and nondirect care workers may
 1.25 deduct up to 50 percent of annual premiums paid under this section from nondirect care
 1.26 worker wages. Such deductions for any given nondirect care worker must be in equal
 1.27 proportion to the premiums paid based on the wages of that employee, and all nondirect
 1.28 care workers of an employer must be subject to the same percentage deduction. Deductions
 1.29 under this section must not cause a nondirect care worker's wage, after the deduction, to
 1.30 fall below the rate required to be paid to the worker by law, including any applicable statute,
 1.31 regulation, rule, ordinance, government resolution or policy, contract, or other legal authority,
 1.32 whichever rate of pay is greater."

1.33 Page 64, after line 21, insert:

2.1 "Sec. 37. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; RATES**
 2.2 **FOR EMPLOYERS OF DIRECT CARE WORKERS.**

2.3 Subdivision 1. **Definition.** For the purposes of this section, "direct care worker" has the
 2.4 meaning given in Minnesota Statutes, section 268B.14, subdivision 3a.

2.5 Subd. 2. **Rate increases for employers of direct care workers.** Beginning July 1, 2025,
 2.6 the commissioner of human services must increase the medical assistance reimbursement
 2.7 rates of any employer that employs a direct care worker by an amount sufficient to cover
 2.8 100 percent of the employer premiums paid under Minnesota Statutes, section 268B.14, on
 2.9 the wages of direct care workers.

2.10 Subd. 3. **Draft legislation required.** By January 1, 2025, for any medical assistance
 2.11 rates established in Minnesota Statutes that reimburse employers of direct care workers, the
 2.12 commissioner must develop draft legislation to incorporate the rate increase described in
 2.13 subdivision 2 into the rate or rate framework and submit the draft legislation to the chairs
 2.14 and ranking minority members of the legislative committees or divisions with jurisdiction
 2.15 over human services finance. The commissioner must not construe failure of the legislature
 2.16 to enact the draft legislation as relieving the commissioner of the commissioner's duty to
 2.17 increase rates as required under subdivision 2. If the legislature enacts the draft legislation,
 2.18 implementation of the statutory rate increases will satisfy the requirements of subdivision
 2.19 2 with respect to employers reimbursed under those rates."

2.20 Page 65, after line 19, insert:

2.21 "Section 1. Minnesota Statutes 2022, section 256B.057, subdivision 9, is amended to read:

2.22 Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid for
 2.23 a person who is employed and who:

2.24 (1) but for excess earnings or assets, meets the definition of disabled under the
 2.25 Supplemental Security Income program;

2.26 (2) meets the asset limits in paragraph (d); and

2.27 (3) pays a premium and other obligations under paragraph (e).

2.28 (b) For purposes of eligibility, there is a \$65 earned income disregard. To be eligible
 2.29 for medical assistance under this subdivision, a person must have more than \$65 of earned
 2.30 income, be receiving an unemployment insurance benefit under chapter 268 that the person
 2.31 began receiving while eligible under this subdivision, or be receiving family and medical
 2.32 leave benefits under chapter 268B that the person began receiving while eligible under this

3.1 subdivision. Earned income must have Medicare, Social Security, and applicable state and
3.2 federal taxes withheld. The person must document earned income tax withholding. Any
3.3 spousal income or assets shall be disregarded for purposes of eligibility and premium
3.4 determinations.

3.5 (c) After the month of enrollment, a person enrolled in medical assistance under this
3.6 subdivision who would otherwise be ineligible and be disenrolled due to one of the following
3.7 circumstances may retain eligibility for up to four consecutive months after a month of job
3.8 loss if the person:

3.9 (1) is temporarily unable to work and without receipt of earned income due to a medical
3.10 condition, as verified by a physician, advanced practice registered nurse, or physician
3.11 assistant; or

3.12 (2) loses employment for reasons not attributable to the enrollee, and is without receipt
3.13 of earned income ~~may retain eligibility for up to four consecutive months after the month~~
3.14 ~~of job loss.~~

3.15 To receive a four-month extension of continued eligibility under this paragraph, enrollees
3.16 must verify the medical condition or provide notification of job loss, continue to meet all
3.17 other eligibility requirements must be met, and the enrollee must continue to pay all
3.18 calculated premium costs for continued eligibility.

3.19 (d) For purposes of determining eligibility under this subdivision, a person's assets must
3.20 not exceed \$20,000, excluding:

3.21 (1) all assets excluded under section 256B.056;

3.22 (2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh
3.23 plans, and pension plans;

3.24 (3) medical expense accounts set up through the person's employer; and

3.25 (4) spousal assets, including spouse's share of jointly held assets.

3.26 (e) All enrollees must pay a premium to be eligible for medical assistance under this
3.27 subdivision, except as provided under clause (5).

3.28 (1) An enrollee must pay the greater of a \$35 premium or the premium calculated based
3.29 on the person's gross earned and unearned income and the applicable family size using a
3.30 sliding fee scale established by the commissioner, which begins at one percent of income
3.31 at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for
3.32 those with incomes at or above 300 percent of the federal poverty guidelines.

4.1 (2) Annual adjustments in the premium schedule based upon changes in the federal
4.2 poverty guidelines shall be effective for premiums due in July of each year.

4.3 (3) All enrollees who receive unearned income must pay one-half of one percent of
4.4 unearned income in addition to the premium amount, except as provided under clause (5).

4.5 (4) Increases in benefits under title II of the Social Security Act shall not be counted as
4.6 income for purposes of this subdivision until July 1 of each year.

4.7 (5) Effective July 1, 2009, American Indians are exempt from paying premiums as
4.8 required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public
4.9 Law 111-5. For purposes of this clause, an American Indian is any person who meets the
4.10 definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

4.11 (f) A person's eligibility and premium shall be determined by the local county agency.
4.12 Premiums must be paid to the commissioner. All premiums are dedicated to the
4.13 commissioner.

4.14 (g) Any required premium shall be determined at application and redetermined at the
4.15 enrollee's six-month income review or when a change in income or household size is reported.
4.16 Enrollees must report any change in income or household size within ten days of when the
4.17 change occurs. A decreased premium resulting from a reported change in income or
4.18 household size shall be effective the first day of the next available billing month after the
4.19 change is reported. Except for changes occurring from annual cost-of-living increases, a
4.20 change resulting in an increased premium shall not affect the premium amount until the
4.21 next six-month review.

4.22 (h) Premium payment is due upon notification from the commissioner of the premium
4.23 amount required. Premiums may be paid in installments at the discretion of the commissioner.

4.24 (i) Nonpayment of the premium shall result in denial or termination of medical assistance
4.25 unless the person demonstrates good cause for nonpayment. "Good cause" means an excuse
4.26 for the enrollee's failure to pay the required premium when due because the circumstances
4.27 were beyond the enrollee's control or not reasonably foreseeable. The commissioner shall
4.28 determine whether good cause exists based on the weight of the supporting evidence
4.29 submitted by the enrollee to demonstrate good cause. Except when an installment agreement
4.30 is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must
4.31 pay any past due premiums as well as current premiums due prior to being reenrolled.
4.32 Nonpayment shall include payment with a returned, refused, or dishonored instrument. The
4.33 commissioner may require a guaranteed form of payment as the only means to replace a
4.34 returned, refused, or dishonored instrument.

5.1 (j) For enrollees whose income does not exceed 200 percent of the federal poverty
 5.2 guidelines and who are also enrolled in Medicare, the commissioner shall reimburse the
 5.3 enrollee for Medicare part B premiums under section 256B.0625, subdivision 15, paragraph
 5.4 (a)."

5.5 Page 67, after line 32, insert:

5.6 "ARTICLE 3
 5.7 FAMILY AND MEDICAL LEAVE ACTUARIAL STUDY

5.8 Section 1. ACTUARIAL STUDY REQUIREMENT.

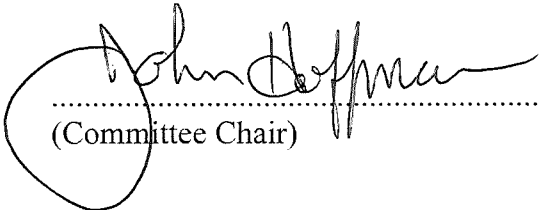
5.9 The commissioner of employment and economic development must contract with an
 5.10 independent third party to conduct an actuarial study of the family and medical leave premium
 5.11 rate, premium structure, weekly benefit formula, duration of benefit weeks, fund reserve,
 5.12 and other components as necessary to determine the financial soundness of the family and
 5.13 medical benefit insurance program created in this act. The commissioner must issue a request
 5.14 for proposal to satisfy the requirements of this section no later than 30 days following
 5.15 enactment. A copy of the actuarial study must be provided to the majority and minority
 5.16 leaders in the senate and house of representatives no later than October 31, 2023.

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

5.18 Renumber the sections in sequence

5.19 Amend the title numbers accordingly

5.20 And when so amended the bill do pass and be re-referred to the Committee on Jobs and
 5.21 Economic Development. Amendments adopted. Report adopted.

5.22 
 5.23 (Committee Chair)

5.24 February 21, 2023.....
 5.25 (Date of Committee recommendation)