

March 12, 2025

Mr. Chair Baker and Representatives serving on the Workforce, Labor, and Economic Development Finance and Policy:

I want to begin by expressing my sincere appreciation for the time, dedication, and hard work you all invest on behalf of the people of Minnesota. Having firsthand experience with the challenges of balancing the needs of various stakeholders within very limited financial resources, I deeply understand the complexities you face. I can only imagine the weight of balancing the vast and diverse needs of all Minnesotans. So, I would like to start by offering my heartfelt gratitude for your tireless efforts.

Additionally, I appreciate the opportunity to submit written testimony for your review. I have carefully reviewed the proposed changes to the Earned Safe and Sick Time (ESST) legislation and would like to provide specific insights and feedback on the proposed revisions:

1. Change in Definition of Employee: The proposed changes to the definition of an employee—specifically, the exclusion of casual stipend and substitute positions from ESST requirements—seem to be a reasonable approach. If my understanding is correct, I believe this modification helps focus the application of paid time off on part-time and full-time employees, which makes sense in my experience. Stipend positions, by nature, are not subject to the same attendance tracking or adjustments for missed time; employees in these roles receive their stipend regardless of absences. Similarly, substitute positions have historically operated without paid time off, balanced by the flexibility of taking assignments on an ad-hoc basis. The addition of administration of ESST for substitutes, especially in cases for finding a substitute of a substitute, has added considerable logistical challenges and strain school operations. Therefore, the addition of lines 2.23-2.26 would help address these existing concerns with ESST.

2. Proration of ESST: I want to express my gratitude for including a proration option in the proposed changes. This flexibility is important, but I would like to suggest that the language surrounding "the middle of an employer's 12-month consecutive year" be clarified. The term "middle" could be interpreted in various ways, so a clear definition would be helpful for implementation. Additionally, I would respectfully propose that the proration be based on the eligible Full-Time Equivalent (FTE) for the employee. Employers and employees are already accustomed to proration based on FTE, so implementing this system would align with common practices. For instance, an employee hired after the start of the year working at a 0.75 FTE should receive 75% of the total benefit entitlement for that year, and similarly, an employee at a 0.25 FTE should receive 25%.

3. 90-Day Waiting Period: The 90-day waiting period option is a welcome provision for employers. It addresses concerns about employees who may start with an employer, immediately take ESST, and then leave before completing a meaningful period of work. In my

district, we currently do not have a waiting period, but I understand that districts have different needs and structures based on their local stakeholders and operational needs. It would be beneficial if the legislation continues to provide flexibility, so employers can establish practices that balance the needs of employees with fiscal responsibility and operational efficiency.

4. Clarification on Written Documentation Requirements

I would like to request clarification on the addition of "written policy containing reasonable procedures." The legislation specifies that employees must receive a written copy of the policy, and I would like to confirm whether an electronic copy would be sufficient. If a hard copy is mandatory, there could be financial and logistical implications for employers that should be considered.

Additionally, the language stating that "written statements by an employee may be written in the employee's first language and need not be notarized or in any particular format" could potentially conflict with the addition for employers to create a "written policy containing reasonable procedures." In my view, a reasonable procedure would likely involve a standardized form for self-certification, which includes essential details like leave dates, a checkbox for the category of ESST leave, and a statement confirming the employee's attestation. However, the requirement for not specifying a format might make it challenging to develop such a policy.

Closing Remarks: In closing, I want to thank you once again for your efforts in reviewing potential additions to this important legislation. As I have shared in previous testimony, we deeply value the well-being of our staff. Our robust paid time off programs prior to ESST were a testament to that commitment. We have spent many hours negotiating with our local bargaining units and employee groups to meet their needs within our financial and operational constraints.

While we strongly support the overall goals of ESST, I urge the legislature to consider reducing the mandate in a way that allows for more flexibility for local bargaining units and employers to have benefit discussions at the local negotiation tables. I would also like to respectfully request that the same consideration provided to the building and construction industry be extended to the public education sector. While I understand this may not be feasible this year, I hope this remains an option for future consideration. Given that many school districts' existing Collective Bargaining Agreements (CBAs) and employee contracts already meet the intent of ESST, adding additional mandates has placed an undue burden on already strained school districts.

Thank you for your time, attention, and commitment to addressing these important issues.

Sincerely,



Emily Herman

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