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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 6

01/10/2019 Authored by Mahoney, Garofalo, Halverson, Nelson, Gunther and others
The bill was read for the first time and referred to the Committee on Labor
02/14/2019 Adoption of Report: Re-referred to the Committee on Ways and Means
04/26/2019 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to employment; prohibiting wage theft; modifying payment of wages;
1.3 increasing civil and criminal penalties; allowing for administrative review;
1.4 appropriating money; amending Minnesota Statutes 2018, sections 16C.285,
1.5 subdivision 3; 177.27, subdivision 2, by adding subdivisions; 177.30; 177.32,
1.6 subdivision 1; 181.03, subdivision 1, by adding subdivisions; 181.032; 181.101;
1.7 609.52, subdivisions 1, 2, 3; proposing coding for new law in Minnesota Statutes,
1.8 chapters 177; 181.

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

1.10 Section 1. Minnesota Statutes 2018, section 16C.285, subdivision 3, is amended to read:

1.11 Subd. 3. Minimum criteria. "Responsible contractor" means a contractor that conforms
1.12 to the responsibility requirements in the solicitation document for its portion of the work
1.13 on the project and verifies that it meets the following minimum criteria:

1.14 (1) the contractor:

1.15 (i) is in compliance with workers' compensation and unemployment insurance
1.16 requirements;

1.17 (ii) is in compliance with Department of Revenue and Department of Employment and
1.18 Economic Development registration requirements if it has employees;

1.19 (iii) has a valid federal tax identification number or a valid Social Security number if
1.20 an individual; and

1.21 (iv) has filed a certificate of authority to transact business in Minnesota with the secretary
1.22 of state if a foreign corporation or cooperative;

2.1 (2) the contractor or related entity is in compliance with and, during the three-year period
2.2 before submitting the verification, has not violated section 177.24, 177.25, 177.41 to 177.44,
2.3 181.03, 181.101, 181.13, 181.14, or 181.722, and has not violated United States Code, title
2.4 29, sections 201 to 219, or United States Code, title 40, sections 3141 to 3148. For purposes
2.5 of this clause, a violation occurs when a contractor or related entity:

2.6 (i) repeatedly fails to pay statutorily required wages or penalties on one or more separate
2.7 projects for a total underpayment of \$25,000 or more within the three-year period, provided
2.8 that a failure to pay is "repeated" only if it involves two or more separate and distinct
2.9 occurrences of underpayment during the three-year period;

2.10 (ii) has been issued an order to comply by the commissioner of labor and industry that
2.11 has become final;

2.12 (iii) has been issued at least two determination letters within the three-year period by
2.13 the Department of Transportation finding an underpayment by the contractor or related
2.14 entity to its own employees;

2.15 (iv) has been found by the commissioner of labor and industry to have repeatedly or
2.16 willfully violated any of the sections referenced in this clause pursuant to section 177.27;

2.17 (v) has been issued a ruling or findings of underpayment by the administrator of the
2.18 Wage and Hour Division of the United States Department of Labor that have become final
2.19 or have been upheld by an administrative law judge or the Administrative Review Board;
2.20 ~~or~~

2.21 (vi) has been found liable for underpayment of wages or penalties or misrepresenting a
2.22 construction worker as an independent contractor in an action brought in a court having
2.23 jurisdiction; or

2.24 (vii) has been convicted of a violation of section 609.52, subdivision 2, clause (19).

2.25 Provided that, if the contractor or related entity contests a determination of underpayment
2.26 by the Department of Transportation in a contested case proceeding, a violation does not
2.27 occur until the contested case proceeding has concluded with a determination that the
2.28 contractor or related entity underpaid wages or penalties;

2.29 (3) the contractor or related entity is in compliance with and, during the three-year period
2.30 before submitting the verification, has not violated section 181.723 or chapter 326B. For
2.31 purposes of this clause, a violation occurs when a contractor or related entity has been issued
2.32 a final administrative or licensing order;

3.1 (4) the contractor or related entity has not, more than twice during the three-year period
3.2 before submitting the verification, had a certificate of compliance under section 363A.36
3.3 revoked or suspended based on the provisions of section 363A.36, with the revocation or
3.4 suspension becoming final because it was upheld by the Office of Administrative Hearings
3.5 or was not appealed to the office;

3.6 (5) the contractor or related entity has not received a final determination assessing a
3.7 monetary sanction from the Department of Administration or Transportation for failure to
3.8 meet targeted group business, disadvantaged business enterprise, or veteran-owned business
3.9 goals, due to a lack of good faith effort, more than once during the three-year period before
3.10 submitting the verification;

3.11 (6) the contractor or related entity is not currently suspended or debarred by the federal
3.12 government or the state of Minnesota or any of its departments, commissions, agencies, or
3.13 political subdivisions that have authority to debar a contractor; and

3.14 (7) all subcontractors and motor carriers that the contractor intends to use to perform
3.15 project work have verified to the contractor through a signed statement under oath by an
3.16 owner or officer that they meet the minimum criteria listed in clauses (1) to (6).

3.17 Any violations, suspensions, revocations, or sanctions, as defined in clauses (2) to (5),
3.18 occurring prior to July 1, 2014, shall not be considered in determining whether a contractor
3.19 or related entity meets the minimum criteria.

3.20 Sec. 2. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to
3.21 read:

3.22 Subd. 1a. **Authority to investigate.** To carry out the purposes of this chapter and chapters
3.23 181, 181A, and 184, and utilizing the enforcement authority of section 175.20, the
3.24 commissioner is authorized to enter the places of business and employment of any employer
3.25 in the state to investigate wages, hours, and other conditions and practices of work, collect
3.26 evidence, and conduct interviews. The commissioner is authorized to enter the places of
3.27 business and employment during working hours and without delay. The commissioner may
3.28 use investigation methods that include but are not limited to examination, surveillance,
3.29 transcription, copying, scanning, photographing, audio or video recording, testing, and
3.30 sampling along with taking custody of evidence. Evidence that may be collected includes
3.31 but is not limited to documents, records, books, registers, payrolls, electronically and digitally
3.32 stored information, machinery, equipment, tools, and other tangible items that in any way
3.33 relate to wages, hours, and other conditions and practices of work. The commissioner may
3.34 privately interview any individual, including owners, employers, operators, agents, workers,

4.1 and other individuals who may have knowledge of the conditions and practices of work
4.2 under investigation.

4.3 Sec. 3. Minnesota Statutes 2018, section 177.27, subdivision 2, is amended to read:

4.4 Subd. 2. **Submission of records; penalty.** The commissioner may require the employer
4.5 of employees working in the state to submit to the commissioner photocopies, certified
4.6 copies, or, if necessary, the originals of employment records which the commissioner deems
4.7 necessary or appropriate. The records which may be required include full and correct
4.8 statements in writing, including sworn statements by the employer, containing information
4.9 relating to wages, hours, names, addresses, and any other information pertaining to the
4.10 employer's employees and the conditions of their employment as the commissioner deems
4.11 necessary or appropriate.

4.12 The commissioner may require the records to be submitted by certified mail delivery
4.13 or, if necessary, by personal delivery by the employer or a representative of the employer,
4.14 as authorized by the employer in writing.

4.15 The commissioner may fine the employer up to \$1,000 for each failure to submit or
4.16 deliver records as required by this section, and up to \$10,000 for each repeated failure. This
4.17 penalty is in addition to any penalties provided under section 177.32, subdivision 1. In
4.18 determining the amount of a civil penalty under this subdivision, the appropriateness of
4.19 such penalty to the size of the employer's business and the gravity of the violation shall be
4.20 considered.

4.21 Sec. 4. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to
4.22 read:

4.23 Subd. 11. **Subpoenas.** In order to carry out the purposes of this chapter and chapter 181,
4.24 181A, or 184, the commissioner may issue subpoenas to compel persons to appear before
4.25 the commissioner to give testimony and produce and permit inspection, copying, testing,
4.26 or sampling of documents, electronically stored information, tangible items, or other items
4.27 in the possession, custody, or control of that person that are deemed necessary or appropriate
4.28 by the commissioner. A subpoena may specify the form or format in which electronically
4.29 stored information is to be produced. Upon the application of the commissioner, a district
4.30 court shall treat the failure of any person to obey a subpoena lawfully issued by the
4.31 commissioner under this subdivision as a contempt of court.

5.1 Sec. 5. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to
5.2 read:

5.3 Subd. 12. **Court orders for entrance and inspection.** To carry out the purposes of this
5.4 chapter and chapters 181, 181A, and 184, and utilizing the enforcement authority of section
5.5 175.20, the commissioner is authorized to enter places of business and employment of any
5.6 employer in the state to investigate wages, hours, and other conditions and practices of
5.7 work, collect evidence, and conduct interviews. The commissioner is authorized to enter
5.8 the places of business and employment during working hours and without delay. Upon the
5.9 anticipated refusal based on a refusal to permit entrance on a prior occasion or actual refusal
5.10 of an employer, owner, operator, or agent in charge of an employer's place of business or
5.11 employment, the commissioner may apply for an order in the district court in the county in
5.12 which the place of business or employment is located, to compel an employer, owner,
5.13 operator, or agent in charge of the place of business or employment to permit the
5.14 commissioner entry to investigate wages, hours, and other conditions and practices of work,
5.15 collect evidence, and interview witnesses.

5.16 Sec. 6. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to
5.17 read:

5.18 Subd. 13. **State licensing or regulatory power.** In the case of an employer which is
5.19 subject to the licensing or regulatory power of the state or any political subdivision or agency
5.20 thereof, if the commissioner issues an order to comply under subdivision 4, the commissioner
5.21 may provide the licensing or regulatory agency a copy of the order to comply. Unless the
5.22 order to comply is reversed in the course of administrative or judicial review, the order to
5.23 comply is binding on the agency and the agency may take appropriate action, including
5.24 action related to the eligibility, renewal, suspension, or revocation of a license or certificate
5.25 of public convenience and necessity if the agency is otherwise authorized to take such action.

5.26 Sec. 7. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to
5.27 read:

5.28 Subd. 14. **Public contracts.** In the case of an employer that is a party to a public contract,
5.29 if the commissioner issues an order to comply under subdivision 4, the commissioner may
5.30 provide a copy of the order to comply to the contract letting agency. Unless the order to
5.31 comply is reversed in the course of administrative or judicial review, an order to comply is
5.32 binding on the contract letting agency and the agency may take appropriate administrative
5.33 action, including the imposition of financial penalties and eligibility for, termination or

6.1 nonrenewal of a contract, in whole or in part, if the agency is otherwise authorized to take
6.2 the action.

6.3 Sec. 8. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to
6.4 read:

6.5 Subd. 15. **Notice to employees of compliance orders and citations.** In a compliance
6.6 order or citation issued under this chapter and chapters 181, 181A, and 184, the commissioner
6.7 may require that the provisions of a compliance order or citation setting out the violations
6.8 found by the commissioner and any subsequent document setting out the resolution of the
6.9 compliance order or citation through settlement agreement or other final disposition, upon
6.10 receipt by the employer, be made available for review by the employees of the employer
6.11 using the means the employer uses to provide other work-related notices to the employer's
6.12 employees. The means used by the employer must be at least as effective as the following
6.13 options for providing notice: (1) posting a copy of the compliance order or citation at each
6.14 location where employees perform work and where the notice must be readily observed and
6.15 easily reviewed by all employees performing work; or (2) providing a paper or electronic
6.16 copy of the compliance order or citation to employees. Each citation and proposed penalty
6.17 shall be posted or made available to employees for a minimum period of 20 days. Upon
6.18 issuance of a compliance order or citation to an employer, the commissioner may also
6.19 provide the provisions of the compliance order or citation setting out the violations found
6.20 by the commissioner and any resolution of a compliance order or citation through settlement
6.21 agreement or other final disposition to the employer's employees who may be affected by
6.22 the order or citation and how the order or citation and resolution may affect their interests.

6.23 Sec. 9. Minnesota Statutes 2018, section 177.30, is amended to read:

6.24 **177.30 KEEPING RECORDS; PENALTY.**

6.25 (a) Every employer subject to sections 177.21 to 177.44 must make and keep a record
6.26 of:

6.27 (1) the name, address, and occupation of each employee;

6.28 (2) the rate of pay, and the amount paid each pay period to each employee, including
6.29 whether each employee is paid by the hour, shift, day, week, salary, piece, commission, or
6.30 other;

6.31 (3) the hours worked each day and each workweek by the employee, including for all
6.32 employees paid at piece rate, the number of pieces completed at each piece rate;

7.1 (4) any personnel policies provided to employees;

7.2 (5) a copy of the notice provided to each employee as required by section 181.032,
7.3 paragraph (d);

7.4 (6) for each employer subject to sections 177.41 to 177.44, and while performing work
7.5 on public works projects funded in whole or in part with state funds, the employer shall
7.6 furnish under oath signed by an owner or officer of an employer to the contracting authority
7.7 and the project owner every two weeks, a certified payroll report with respect to the wages
7.8 and benefits paid each employee during the preceding weeks specifying for each employee:
7.9 name; identifying number; prevailing wage master job classification; hours worked each
7.10 day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions;
7.11 net pay for week; dollars contributed per hour for each benefit, including name and address
7.12 of administrator; benefit account number; and telephone number for health and welfare,
7.13 vacation or holiday, apprenticeship training, pension, and other benefit programs; and

7.14 ~~(5)~~ (7) other information the commissioner finds necessary and appropriate to enforce
7.15 sections 177.21 to 177.435. The records must be kept for three years in ~~or near~~ the premises
7.16 where an employee works except each employer subject to sections 177.41 to 177.44, and
7.17 while performing work on public works projects funded in whole or in part with state funds,
7.18 the records must be kept for three years after the contracting authority has made final payment
7.19 on the public works project.

7.20 (b) All records required to be kept under paragraph (a) must be readily available for
7.21 inspection by the commissioner upon demand. The records must be either kept at the place
7.22 where employees are working or kept in a manner that allows the employer to comply with
7.23 this paragraph within 24 hours.

7.24 (c) The commissioner may fine an employer up to \$1,000 for each failure to maintain
7.25 records as required by this section, and up to \$10,000 for each repeated failure. This penalty
7.26 is in addition to any penalties provided under section 177.32, subdivision 1. In determining
7.27 the amount of a civil penalty under this subdivision, the appropriateness of such penalty to
7.28 the size of the employer's business and the gravity of the violation shall be considered.

7.29 (d) If the records maintained by the employer do not provide sufficient information to
7.30 determine the exact amount of back wages due an employee, the commissioner may make
7.31 a determination of wages due based on available evidence.

8.1 Sec. 10. Minnesota Statutes 2018, section 177.32, subdivision 1, is amended to read:

8.2 Subdivision 1. **Misdemeanors.** (a) An employer who does any of the following is guilty
8.3 of a misdemeanor:

8.4 (1) hinders or delays the commissioner in the performance of duties required under
8.5 sections 177.21 to 177.435, or chapter 181;

8.6 (2) refuses to admit the commissioner to the place of business or employment of the
8.7 employer, as required by section 177.27, subdivision 1;

8.8 (3) repeatedly fails to make, keep, and preserve records as required by section 177.30;

8.9 (4) falsifies any record;

8.10 (5) refuses to make any record available, or to furnish a sworn statement of the record
8.11 or any other information as required by section 177.27;

8.12 (6) repeatedly fails to post a summary of sections 177.21 to 177.44 or a copy or summary
8.13 of the applicable rules as required by section 177.31;

8.14 (7) pays or agrees to pay wages at a rate less than the rate required under sections 177.21
8.15 to 177.44, or described and provided by an employer to its employees under section 181.032;

8.16 (8) refuses to allow adequate time from work as required by section 177.253; or

8.17 (9) otherwise violates any provision of sections 177.21 to 177.44, or commits wage theft
8.18 as described in section 181.03, subdivision 1.

8.19 Intent is not an element of a misdemeanor under this paragraph.

8.20 (b) An employer is guilty of a gross misdemeanor if the employer is found to have
8.21 intentionally retaliated against an employee for asserting rights or remedies under sections
8.22 177.21 to 177.44 or section 181.03.

8.23 Sec. 11. **[177.45] ENFORCEMENT; REMEDIES.**

8.24 Subdivision 1. **Public enforcement.** In addition to the enforcement of this chapter by
8.25 the department, the attorney general may enforce this chapter under section 8.31.

8.26 Subd. 2. **Remedies cumulative.** The remedies provided in this chapter are cumulative
8.27 and do not restrict any remedy that is otherwise available, including remedies provided
8.28 under section 8.31. The remedies available under this section are not exclusive and are in
8.29 addition to any other requirements, rights, remedies, and penalties provided by law.

9.1 Sec. 12. Minnesota Statutes 2018, section 181.03, subdivision 1, is amended to read:

9.2 Subdivision 1. **Prohibited practices.** ~~An employer may not, directly or indirectly and~~
9.3 ~~with intent to defraud:~~ (a) No employer shall commit wage theft.

9.4 (b) For purposes of this section, wage theft is committed if:

9.5 (1) ~~cause~~ an employer has failed to pay an employee all wages, salary, gratuities, earnings,
9.6 or commissions at the employee's rate or rates of pay or at the rate or rates required by law,
9.7 including any applicable statute, regulation, rule, ordinance, government resolution or policy,
9.8 contract, or other legal authority, whichever rate of pay is greater;

9.9 (2) an employer directly or indirectly causes any employee to give a receipt for wages
9.10 for a greater amount than that actually paid to the employee for services rendered;

9.11 ~~(2)~~ (3) an employer directly or indirectly ~~demand~~ demands or ~~receive~~ receives from any
9.12 employee any rebate or refund from the wages owed the employee under contract of
9.13 employment with the employer; or

9.14 ~~(3)~~ (4) an employer in any manner ~~make~~ makes or ~~attempt~~ attempts to make it appear
9.15 that the wages paid to any employee were greater than the amount actually paid to the
9.16 employee.

9.17 Sec. 13. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to
9.18 read:

9.19 Subd. 4. **Enforcement.** The use of an enforcement provision in this section shall not
9.20 preclude the use of any other enforcement provision provided by law.

9.21 Sec. 14. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to
9.22 read:

9.23 Subd. 5. **Citations.** (a) In addition to other remedies and penalties provided by this
9.24 chapter and chapter 177, the commissioner may issue a citation for a civil penalty of up to
9.25 \$1,000 for any wage theft of up to \$1,000 by serving the citation on the employer. The
9.26 citation may direct the employer to pay employees in a manner prescribed by the
9.27 commissioner any wages, salary, gratuities, earnings, or commissions owed to the employee
9.28 within 15 days of service of the citation on the employer. The commissioner shall serve the
9.29 citation upon the employer or the employer's authorized representative in person or by
9.30 certified mail at the employer's place of business or registered office address with the
9.31 secretary of state. The citation shall require the employer to correct the violation and cease
9.32 and desist from committing the violation.

10.1 (b) In determining the amount of the civil penalty, the commissioner shall consider the
10.2 size of the employer's business and the gravity of the violation as provided in section 14.045,
10.3 subdivision 3, paragraph (a). If the citation includes a penalty assessment, the penalty is
10.4 due and payable on the date the citation becomes final. The commissioner may vacate the
10.5 citation if the employer pays the amount of wages, salaries, commissions, earnings, and
10.6 gratuities due in the citation within five days after the citation is served on the employer.

10.7 Sec. 15. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to
10.8 read:

10.9 Subd. 6. **Administrative review.** Within 15 days after the commissioner of labor and
10.10 industry issues a citation under subdivision 5, the employer to whom the citation is issued
10.11 may request an expedited hearing to review the citation. The request for hearing must be
10.12 in writing and must be served on the commissioner at the address specified in the citation.
10.13 If the employer does not request a hearing or if the employer's written request for hearing
10.14 is not served on the commissioner by the 15th day after the commissioner issues the citation,
10.15 the citation becomes a final order of the commissioner and is not subject to review by any
10.16 court or agency. The hearing request must state the reasons for seeking review of the citation.
10.17 The employer to whom the citation is issued and the commissioner are the parties to the
10.18 expedited hearing. The commissioner must notify the employer to whom the citation is
10.19 issued of the time and place of the hearing at least 15 days before the hearing. The hearing
10.20 shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by
10.21 this section. If a hearing has been held, the commissioner shall not issue a final order until
10.22 at least five days after the date of the administrative law judge's report. Any person aggrieved
10.23 by the administrative law judge's report may, within those five days, serve written comments
10.24 to the commissioner on the report and the commissioner shall consider and enter the
10.25 comments in the record. The commissioner's final order shall comply with sections 14.61,
10.26 subdivision 2, and 14.62, subdivisions 1 and 2a, and may be appealed in the manner provided
10.27 in sections 14.63 to 14.69.

10.28 Sec. 16. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to
10.29 read:

10.30 Subd. 7. **Effect on other laws.** Nothing in this section shall be construed to limit the
10.31 application of other state or federal laws.

11.1 Sec. 17. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to
11.2 read:

11.3 Subd. 8. **Retaliation.** An employer must not retaliate against an employee for asserting
11.4 rights or remedies under this section, including but not limited to filing a complaint with
11.5 the Department of Labor and Industry or telling the employer of intention to file a complaint.
11.6 A rebuttable presumption of unlawful retaliation under this section exists whenever an
11.7 employer takes adverse action against an employee within 90 days of the employee asserting
11.8 rights or remedies under this section.

11.9 Sec. 18. Minnesota Statutes 2018, section 181.032, is amended to read:

11.10 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER; NOTICE**
11.11 **TO EMPLOYEE.**

11.12 (a) At the end of each pay period, the employer shall provide each employee an earnings
11.13 statement, either in writing or by electronic means, covering that pay period. An employer
11.14 who chooses to provide an earnings statement by electronic means must provide employee
11.15 access to an employer-owned computer during an employee's regular working hours to
11.16 review and print earnings statements.

11.17 (b) The earnings statement may be in any form determined by the employer but must
11.18 include:

11.19 (1) the name of the employee;

11.20 (2) the ~~hourly~~ rate or rates of pay (if applicable) and basis thereof, including whether
11.21 the employee is paid by hour, shift, day, week, salary, piece, commission, or other method;

11.22 (3) allowances, if any, claimed pursuant to permitted meals and lodging;

11.23 (4) the total number of hours worked by the employee unless exempt from chapter 177;

11.24 ~~(4)~~ (5) the total amount of gross pay earned by the employee during that period;

11.25 ~~(5)~~ (6) a list of deductions made from the employee's pay;

11.26 ~~(6)~~ (7) the net amount of pay after all deductions are made;

11.27 ~~(7)~~ (8) the date on which the pay period ends; and

11.28 ~~(8)~~ (9) the legal name of the employer and the operating name of the employer if different
11.29 from the legal name;

11.30 (10) the physical address of the employer's main office or principal place of business,
11.31 and a mailing address if different; and

12.1 (11) the telephone number of the employer.

12.2 (c) An employer must provide earnings statements to an employee in writing, rather
12.3 than by electronic means, if the employer has received at least 24 hours notice from an
12.4 employee that the employee would like to receive earnings statements in written form. Once
12.5 an employer has received notice from an employee that the employee would like to receive
12.6 earnings statements in written form, the employer must comply with that request on an
12.7 ongoing basis.

12.8 (d) At the start of employment, an employer shall provide each employee a written notice
12.9 containing the following information:

12.10 (1) the rate or rates of pay and basis thereof, including whether the employee is paid by
12.11 the hour, shift, day, week, salary, piece, commission, or other method, and the specific
12.12 application of any additional rates;

12.13 (2) allowances, if any, claimed pursuant to permitted meals and lodging;

12.14 (3) paid vacation, sick time, or other paid time off accruals and terms of use;

12.15 (4) the employee's employment status and whether the employee is exempt from minimum
12.16 wage, overtime, and other provisions of chapter 177, and on what basis;

12.17 (5) a list of deductions that may be made from the employee's pay;

12.18 (6) the dates on which the pay periods start and end and the regularly scheduled payday;

12.19 (7) the legal name of the employer and the operating name of the employer if different
12.20 from the legal name;

12.21 (8) the physical address of the employer's main office or principal place of business, and
12.22 a mailing address if different; and

12.23 (9) the telephone number of the employer.

12.24 (e) The employer must keep a copy of the notice under paragraph (d) signed by each
12.25 employee acknowledging receipt of the notice. The notice must be provided to each employee
12.26 in English and in the employee's native language.

12.27 (f) An employer must provide the employee any written changes to the information
12.28 contained in the notice under paragraph (d) at least seven calendar days prior to the time
12.29 the changes take effect. The changes must be signed by the employee before the changes
12.30 go into effect. The employer must keep a signed copy of all notice of changes as well as
12.31 the initial notices under paragraph (d).

13.1 Sec. 19. Minnesota Statutes 2018, section 181.101, is amended to read:

13.2 **181.101 WAGES; HOW OFTEN PAID.**

13.3 (a) Except as provided in paragraph (b), every employer must pay all wages earned by
 13.4 an employee at least once every ~~31~~ 16 days on a regular payday designated in advance by
 13.5 the employer regardless of whether the employee requests payment at longer intervals.
 13.6 ~~Unless paid earlier, the wages earned during the first half of the first 31-day pay period~~
 13.7 ~~become due on the first regular payday following the first day of work.~~ An employer's pay
 13.8 period must be no longer than 16 days. All wages earned in a pay period must be paid to
 13.9 an employee within 16 days of the end of that pay period. If wages earned are not paid, the
 13.10 commissioner of labor and industry or the commissioner's representative may serve a demand
 13.11 for payment on behalf of an employee. If payment is not made within ~~ten~~ five days of service
 13.12 of the demand, the commissioner may charge and collect the wages earned and ~~a penalty~~
 13.13 liquidated damages in the amount of the employee's average daily earnings at the employee's
 13.14 rate agreed upon in the contract of employment or rates of pay or at the rate or rates required
 13.15 by law, including any applicable statute, regulation, rule, ordinance, government resolution
 13.16 or policy, contract, or other legal authority, whichever rate of pay is greater, ~~not exceeding~~
 13.17 ~~15 days in all~~, for each day beyond the ~~ten-day~~ five-day limit following the demand. Money
 13.18 collected by the commissioner must be paid to the employee concerned. This section does
 13.19 not prevent an employee from prosecuting a claim for wages. This section does not prevent
 13.20 a school district, other public school entity, or other school, as defined under section 120A.22,
 13.21 from paying any wages earned by its employees during a school year on regular paydays
 13.22 in the manner provided by an applicable contract or collective bargaining agreement, or a
 13.23 personnel policy adopted by the governing board. For purposes of this section, "employee"
 13.24 includes a person who performs agricultural labor as defined in section 181.85, subdivision
 13.25 2. For purposes of this section, wages are earned on the day an employee works.

13.26 (b) An employer of a volunteer firefighter, as defined in section 424A.001, subdivision
 13.27 10, a member of an organized first responder squad that is formally recognized by a political
 13.28 subdivision in the state, or a volunteer ambulance driver or attendant must pay all wages
 13.29 earned by the volunteer firefighter, first responder, or volunteer ambulance driver or attendant
 13.30 at least once every 31 days, unless the employer and the employee mutually agree upon
 13.31 payment at longer intervals.

13.32 Sec. 20. **[181.1721] ENFORCEMENT; REMEDIES.**

13.33 Subdivision 1. Public enforcement. In addition to the enforcement of this chapter by
 13.34 the department, the attorney general may enforce this chapter under section 8.31.

14.1 Subd. 2. Remedies cumulative. The remedies provided in this chapter are cumulative
14.2 and do not restrict any remedy that is otherwise available, including remedies provided
14.3 under section 8.31. The remedies available under this section are not exclusive and are in
14.4 addition to any other requirements, rights, remedies, and penalties provided by law.

14.5 Sec. 21. Minnesota Statutes 2018, section 609.52, subdivision 1, is amended to read:

14.6 Subdivision 1. **Definitions.** In this section:

14.7 (1) "Property" means all forms of tangible property, whether real or personal, without
14.8 limitation including documents of value, electricity, gas, water, corpses, domestic animals,
14.9 dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility
14.10 companies and articles, as defined in clause (4), representing trade secrets, which articles
14.11 shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any
14.12 trade secret represented by the article.

14.13 (2) "Movable property" is property whose physical location can be changed, including
14.14 without limitation things growing on, affixed to, or found in land.

14.15 (3) "Value" means the retail market value at the time of the theft, or if the retail market
14.16 value cannot be ascertained, the cost of replacement of the property within a reasonable
14.17 time after the theft, or in the case of a theft or the making of a copy of an article representing
14.18 a trade secret, where the retail market value or replacement cost cannot be ascertained, any
14.19 reasonable value representing the damage to the owner which the owner has suffered by
14.20 reason of losing an advantage over those who do not know of or use the trade secret. For a
14.21 check, draft, or other order for the payment of money, "value" means the amount of money
14.22 promised or ordered to be paid under the terms of the check, draft, or other order. For a
14.23 theft committed within the meaning of subdivision 2, clause (5), items (i) and (ii), if the
14.24 property has been restored to the owner, "value" means the value of the use of the property
14.25 or the damage which it sustained, whichever is greater, while the owner was deprived of
14.26 its possession, but not exceeding the value otherwise provided herein. For a theft committed
14.27 within the meaning of subdivision 2, clause (9), if the property has been restored to the
14.28 owner, "value" means the rental value of the property, determined at the rental rate contracted
14.29 by the defendant or, if no rental rate was contracted, the rental rate customarily charged by
14.30 the owner for use of the property, plus any damage that occurred to the property while the
14.31 owner was deprived of its possession, but not exceeding the total retail value of the property
14.32 at the time of rental. For a theft committed within the meaning of subdivision 2, clause (19),
14.33 "value" means the difference between wages legally required to be reported or paid to an
14.34 employee and the amount actually reported or paid to the employee.

15.1 (4) "Article" means any object, material, device or substance, including any writing,
15.2 record, recording, drawing, sample specimen, prototype, model, photograph, microorganism,
15.3 blueprint or map, or any copy of any of the foregoing.

15.4 (5) "Representing" means describing, depicting, containing, constituting, reflecting or
15.5 recording.

15.6 (6) "Trade secret" means information, including a formula, pattern, compilation, program,
15.7 device, method, technique, or process, that:

15.8 (i) derives independent economic value, actual or potential, from not being generally
15.9 known to, and not being readily ascertainable by proper means by, other persons who can
15.10 obtain economic value from its disclosure or use, and

15.11 (ii) is the subject of efforts that are reasonable under the circumstances to maintain its
15.12 secrecy.

15.13 (7) "Copy" means any facsimile, replica, photograph or other reproduction of an article,
15.14 and any note, drawing, or sketch made of or from an article while in the presence of the
15.15 article.

15.16 (8) "Property of another" includes property in which the actor is co-owner or has a lien,
15.17 pledge, bailment, or lease or other subordinate interest, property transferred by the actor in
15.18 circumstances which are known to the actor and which make the transfer fraudulent as
15.19 defined in section 513.44, property possessed pursuant to a short-term rental contract, and
15.20 property of a partnership of which the actor is a member, unless the actor and the victim
15.21 are husband and wife. It does not include property in which the actor asserts in good faith
15.22 a claim as a collection fee or commission out of property or funds recovered, or by virtue
15.23 of a lien, setoff, or counterclaim.

15.24 (9) "Services" include but are not limited to labor, professional services, transportation
15.25 services, electronic computer services, the supplying of hotel accommodations, restaurant
15.26 services, entertainment services, advertising services, telecommunication services, and the
15.27 supplying of equipment for use including rental of personal property or equipment.

15.28 (10) "Motor vehicle" means a self-propelled device for moving persons or property or
15.29 pulling implements from one place to another, whether the device is operated on land, rails,
15.30 water, or in the air.

15.31 (11) "Motor fuel" has the meaning given in section 604.15, subdivision 1.

15.32 (12) "Retailer" has the meaning given in section 604.15, subdivision 1.

16.1 Sec. 22. Minnesota Statutes 2018, section 609.52, subdivision 2, is amended to read:

16.2 Subd. 2. **Acts constituting theft.** (a) Whoever does any of the following commits theft
16.3 and may be sentenced as provided in subdivision 3:

16.4 (1) intentionally and without claim of right takes, uses, transfers, conceals or retains
16.5 possession of movable property of another without the other's consent and with intent to
16.6 deprive the owner permanently of possession of the property; or

16.7 (2) with or without having a legal interest in movable property, intentionally and without
16.8 consent, takes the property out of the possession of a pledgee or other person having a
16.9 superior right of possession, with intent thereby to deprive the pledgee or other person
16.10 permanently of the possession of the property; or

16.11 (3) obtains for the actor or another the possession, custody, or title to property of or
16.12 performance of services by a third person by intentionally deceiving the third person with
16.13 a false representation which is known to be false, made with intent to defraud, and which
16.14 does defraud the person to whom it is made. "False representation" includes without
16.15 limitation:

16.16 (i) the issuance of a check, draft, or order for the payment of money, except a forged
16.17 check as defined in section 609.631, or the delivery of property knowing that the actor is
16.18 not entitled to draw upon the drawee therefor or to order the payment or delivery thereof;
16.19 or

16.20 (ii) a promise made with intent not to perform. Failure to perform is not evidence of
16.21 intent not to perform unless corroborated by other substantial evidence; or

16.22 (iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost
16.23 report used to establish a rate or claim for payment for medical care provided to a recipient
16.24 of medical assistance under chapter 256B, which intentionally and falsely states the costs
16.25 of or actual services provided by a vendor of medical care; or

16.26 (iv) the preparation or filing of a claim for reimbursement for providing treatment or
16.27 supplies required to be furnished to an employee under section 176.135 which intentionally
16.28 and falsely states the costs of or actual treatment or supplies provided; or

16.29 (v) the preparation or filing of a claim for reimbursement for providing treatment or
16.30 supplies required to be furnished to an employee under section 176.135 for treatment or
16.31 supplies that the provider knew were medically unnecessary, inappropriate, or excessive;
16.32 or

17.1 (4) by swindling, whether by artifice, trick, device, or any other means, obtains property
17.2 or services from another person; or

17.3 (5) intentionally commits any of the acts listed in this subdivision but with intent to
17.4 exercise temporary control only and:

17.5 (i) the control exercised manifests an indifference to the rights of the owner or the
17.6 restoration of the property to the owner; or

17.7 (ii) the actor pledges or otherwise attempts to subject the property to an adverse claim;
17.8 or

17.9 (iii) the actor intends to restore the property only on condition that the owner pay a
17.10 reward or buy back or make other compensation; or

17.11 (6) finds lost property and, knowing or having reasonable means of ascertaining the true
17.12 owner, appropriates it to the finder's own use or to that of another not entitled thereto without
17.13 first having made reasonable effort to find the owner and offer and surrender the property
17.14 to the owner; or

17.15 (7) intentionally obtains property or services, offered upon the deposit of a sum of money
17.16 or tokens in a coin or token operated machine or other receptacle, without making the
17.17 required deposit or otherwise obtaining the consent of the owner; or

17.18 (8) intentionally and without claim of right converts any article representing a trade
17.19 secret, knowing it to be such, to the actor's own use or that of another person or makes a
17.20 copy of an article representing a trade secret, knowing it to be such, and intentionally and
17.21 without claim of right converts the same to the actor's own use or that of another person. It
17.22 shall be a complete defense to any prosecution under this clause for the defendant to show
17.23 that information comprising the trade secret was rightfully known or available to the
17.24 defendant from a source other than the owner of the trade secret; or

17.25 (9) leases or rents personal property under a written instrument and who:

17.26 (i) with intent to place the property beyond the control of the lessor conceals or aids or
17.27 abets the concealment of the property or any part thereof; or

17.28 (ii) sells, conveys, or encumbers the property or any part thereof without the written
17.29 consent of the lessor, without informing the person to whom the lessee sells, conveys, or
17.30 encumbers that the same is subject to such lease or rental contract with intent to deprive the
17.31 lessor of possession thereof; or

18.1 (iii) does not return the property to the lessor at the end of the lease or rental term, plus
18.2 agreed-upon extensions, with intent to wrongfully deprive the lessor of possession of the
18.3 property; or

18.4 (iv) returns the property to the lessor at the end of the lease or rental term, plus
18.5 agreed-upon extensions, but does not pay the lease or rental charges agreed upon in the
18.6 written instrument, with intent to wrongfully deprive the lessor of the agreed-upon charges.

18.7 For the purposes of items (iii) and (iv), the value of the property must be at least \$100.

18.8 Evidence that a lessee used a false, fictitious, or not current name, address, or place of
18.9 employment in obtaining the property or fails or refuses to return the property or pay the
18.10 rental contract charges to lessor within five days after written demand for the return has
18.11 been served personally in the manner provided for service of process of a civil action or
18.12 sent by certified mail to the last known address of the lessee, whichever shall occur later,
18.13 shall be evidence of intent to violate this clause. Service by certified mail shall be deemed
18.14 to be complete upon deposit in the United States mail of such demand, postpaid and addressed
18.15 to the person at the address for the person set forth in the lease or rental agreement, or, in
18.16 the absence of the address, to the person's last known place of residence; or

18.17 (10) alters, removes, or obliterates numbers or symbols placed on movable property for
18.18 purpose of identification by the owner or person who has legal custody or right to possession
18.19 thereof with the intent to prevent identification, if the person who alters, removes, or
18.20 obliterates the numbers or symbols is not the owner and does not have the permission of
18.21 the owner to make the alteration, removal, or obliteration; or

18.22 (11) with the intent to prevent the identification of property involved, so as to deprive
18.23 the rightful owner of possession thereof, alters or removes any permanent serial number,
18.24 permanent distinguishing number or manufacturer's identification number on personal
18.25 property or possesses, sells or buys any personal property knowing or having reason to
18.26 know that the permanent serial number, permanent distinguishing number or manufacturer's
18.27 identification number has been removed or altered; or

18.28 (12) intentionally deprives another of a lawful charge for cable television service by:

18.29 (i) making or using or attempting to make or use an unauthorized external connection
18.30 outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or
18.31 other connection; or by

18.32 (ii) attaching any unauthorized device to any cable, wire, microwave, or other component
18.33 of a licensed cable communications system as defined in chapter 238. Nothing herein shall

19.1 be construed to prohibit the electronic video rerecording of program material transmitted
19.2 on the cable communications system by a subscriber for fair use as defined by Public Law
19.3 94-553, section 107; or

19.4 (13) except as provided in clauses (12) and (14), obtains the services of another with
19.5 the intention of receiving those services without making the agreed or reasonably expected
19.6 payment of money or other consideration; or

19.7 (14) intentionally deprives another of a lawful charge for telecommunications service
19.8 by:

19.9 (i) making, using, or attempting to make or use an unauthorized connection whether
19.10 physical, electrical, by wire, microwave, radio, or other means to a component of a local
19.11 telecommunication system as provided in chapter 237; or

19.12 (ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other
19.13 component of a local telecommunication system as provided in chapter 237.

19.14 The existence of an unauthorized connection is prima facie evidence that the occupier
19.15 of the premises:

19.16 (A) made or was aware of the connection; and

19.17 (B) was aware that the connection was unauthorized;

19.18 (15) with intent to defraud, diverts corporate property other than in accordance with
19.19 general business purposes or for purposes other than those specified in the corporation's
19.20 articles of incorporation; or

19.21 (16) with intent to defraud, authorizes or causes a corporation to make a distribution in
19.22 violation of section 302A.551, or any other state law in conformity with it; or

19.23 (17) takes or drives a motor vehicle without the consent of the owner or an authorized
19.24 agent of the owner, knowing or having reason to know that the owner or an authorized agent
19.25 of the owner did not give consent; or

19.26 (18) intentionally, and without claim of right, takes motor fuel from a retailer without
19.27 the retailer's consent and with intent to deprive the retailer permanently of possession of
19.28 the fuel by driving a motor vehicle from the premises of the retailer without having paid
19.29 for the fuel dispensed into the vehicle; or

19.30 (19) intentionally engages in or authorizes a prohibited practice of wage theft as described
19.31 in section 181.03, subdivision 1.

20.1 (b) Proof that the driver of a motor vehicle into which motor fuel was dispensed drove
20.2 the vehicle from the premises of the retailer without having paid for the fuel permits the
20.3 factfinder to infer that the driver acted intentionally and without claim of right, and that the
20.4 driver intended to deprive the retailer permanently of possession of the fuel. This paragraph
20.5 does not apply if: (1) payment has been made to the retailer within 30 days of the receipt
20.6 of notice of nonpayment under section 604.15; or (2) a written notice as described in section
20.7 604.15, subdivision 4, disputing the retailer's claim, has been sent. This paragraph does not
20.8 apply to the owner of a motor vehicle if the vehicle or the vehicle's license plate has been
20.9 reported stolen before the theft of the fuel.

20.10 Sec. 23. Minnesota Statutes 2018, section 609.52, subdivision 3, is amended to read:

20.11 Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

20.12 (1) to imprisonment for not more than 20 years or to payment of a fine of not more than
20.13 \$100,000, or both, if the property is a firearm, or the value of the property or services stolen
20.14 is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4),
20.15 (15), ~~or (16)~~, or (19), or section 609.2335, subdivision 1, clause (1) or (2), item (i); or

20.16 (2) to imprisonment for not more than ten years or to payment of a fine of not more than
20.17 \$20,000, or both, if the value of the property or services stolen exceeds \$5,000, or if the
20.18 property stolen was an article representing a trade secret, an explosive or incendiary device,
20.19 or a controlled substance listed in Schedule I or II pursuant to section 152.02 with the
20.20 exception of marijuana; or

20.21 (3) to imprisonment for not more than five years or to payment of a fine of not more
20.22 than \$10,000, or both, if any of the following circumstances exist:

20.23 (a) the value of the property or services stolen is more than \$1,000 but not more than
20.24 \$5,000; or

20.25 (b) the property stolen was a controlled substance listed in Schedule III, IV, or V pursuant
20.26 to section 152.02; or

20.27 (c) the value of the property or services stolen is more than \$500 but not more than
20.28 \$1,000 and the person has been convicted within the preceding five years for an offense
20.29 under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision
20.30 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United
20.31 States, or a foreign jurisdiction, in conformity with any of those sections, and the person
20.32 received a felony or gross misdemeanor sentence for the offense, or a sentence that was

21.1 stayed under section 609.135 if the offense to which a plea was entered would allow
21.2 imposition of a felony or gross misdemeanor sentence; or

21.3 (d) the value of the property or services stolen is not more than \$1,000, and any of the
21.4 following circumstances exist:

21.5 (i) the property is taken from the person of another or from a corpse, or grave or coffin
21.6 containing a corpse; or

21.7 (ii) the property is a record of a court or officer, or a writing, instrument or record kept,
21.8 filed or deposited according to law with or in the keeping of any public officer or office; or

21.9 (iii) the property is taken from a burning, abandoned, or vacant building or upon its
21.10 removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing,
21.11 or the proximity of battle; or

21.12 (iv) the property consists of public funds belonging to the state or to any political
21.13 subdivision or agency thereof; or

21.14 (v) the property stolen is a motor vehicle; or

21.15 (4) to imprisonment for not more than one year or to payment of a fine of not more than
21.16 \$3,000, or both, if the value of the property or services stolen is more than \$500 but not
21.17 more than \$1,000; or

21.18 (5) in all other cases where the value of the property or services stolen is \$500 or less,
21.19 to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000,
21.20 or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3),
21.21 (4), and (13), the value of the money or property or services received by the defendant in
21.22 violation of any one or more of the above provisions within any six-month period may be
21.23 aggregated and the defendant charged accordingly in applying the provisions of this
21.24 subdivision; provided that when two or more offenses are committed by the same person
21.25 in two or more counties, the accused may be prosecuted in any county in which one of the
21.26 offenses was committed for all of the offenses aggregated under this paragraph.

21.27 **Sec. 24. APPROPRIATION.**

21.28 (a) \$2,046,000 in fiscal year 2020 and \$2,046,000 in fiscal year 2021 are appropriated
21.29 from the general fund to the commissioner of labor and industry to address wage theft.

21.30 (b) \$654,000 in fiscal year 2020 and \$654,000 in fiscal year 2021 are appropriated from
21.31 the general fund to the attorney general to address wage theft.

- 22.1 (c) If an appropriation in this act is enacted more than once in the 2019 legislative session,
22.2 the appropriation must be given effect only once.