Department of Planning and Budget
2022 Fiscal Impact Statement

1. **Bill Number:** HB851

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Reid

3. **Committee:** Commerce and Energy

4. **Title:** Paid sick leave; penalty; state tax deduction.

5. **Summary:** Requires employers, as defined in the bill, to provide 40 hours of paid sick leave, prorated to reflect the average number of hours worked per week by each employee, as defined in the bill, in the previous 12 months, for all existing eligible employees and eligible employees that have been employed for at least 12 months. For eligible employees who have been employed for less than 12 months, employers must provide 20 to 40 hours of paid sick leave, prorated to reflect the expected number of hours worked per week by each employee, as determined by the employer. Employers with at least 25 but not more than 49 full-time employees receive a nonrefundable state tax deduction equivalent to 120 percent of the value of any paid sick leave provided by an employer to an employee.

   Employers with existing paid sick leave policies providing at least 40 hours per year of paid sick leave are exempt from the requirements of the bill. The bill allows employers to request a hardship waiver from the Department of Labor and Industry for certain circumstances and requires employers to provide a written notice of information related to paid sick leave to each employee at the commencement of employment or by January 1, 2023. The bill requires that sick leave be available for any eligible employee to use at the commencement of employment and provides that paid sick leave may be used (i) for an employee's mental or physical illness, injury, or health condition, an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, or an employee's need for preventive medical care or (ii) to provide care to a family member under similar circumstances.

   The law prohibits employers from taking certain retaliatory actions against employees related to paid sick leave, and the bill authorizes the Department, in the case of a knowing violation, to subject an employer to a penalty not to exceed $150 for the first violation, $300 for the second violation, and $500 for each successive violation, if the second or successive violation occurs within two years of the previous violation. The Commissioner of Labor and Industry may institute proceedings on behalf of an employee to enforce compliance with the bill and to collect specified amounts from the employer, which shall be awarded to the employee.

Many of the provisions of the bill currently apply to certain home health workers. The bill has a delayed effective date of January 1, 2023.

6. **Budget Amendment Necessary**: Yes. Item 120 of HB30/SB30, as Introduced.

7. **Fiscal Impact Estimates:** Preliminary. See item 8.

7a. Expenditure Impact:

Fiscal Year	***Dollars***	***Positions***	***Fund***
2023	307,973	4	General
2024	410,631	4	General
2025	410,631	4	General
2026	410,631	4	General
2027	410,631	4	General
2028	410,631	4	General
2029	410,631	4	General

8. **Fiscal Implications:** This fiscal impact estimate is preliminary and will be updated as information becomes available. It is anticipated that this bill will have a general fund expenditure impact and an indeterminate general fund and nongeneral fund revenue impact.

This bill establishes a state tax deduction which is anticipated to impact general fund revenue beginning in FY 2024, and a nongeneral fund revenue impact as it bill creates civil penalties for violation in amounts not to exceed $150 for the first violation, $300 for second violations within two years of the first, and $500 for subsequent violation. Revenue from these fines would be deposited into the Literary Fund. Because the number of violations is unknown, the impact is indeterminate.

Department of Labor and Industry

The Department of Labor and Industry (DOLI) anticipates that their Labor Law Division would need three additional compliance officer positions to conduct inspections and one Labor Law Supervisor. With recent additions to the labor law staff impacting current supervisory resources, an additional supervisor would be need to oversee this new program. Currently, the paid leave law applies only to a limited number of customer directed home health care workers which has led to few claims as the Department of Medical Assistance Services monitors this program. Based on the number of payment of wage claims DOLI receives (1,250) and the number of minimum wage claims the federal Wage and Hour Division has been conducting (750), it is estimated that DOLI will receive between 475 to 625 claims on paid sick leave from employers of 25 or more employees. DOLI indicates that the agency would need to upgrade its labor law software to include this new enforcement responsibility. The last time this software was upgraded to accommodate child labor enforcement, it cost $100,000. It is anticipated that a similar amount would be required to include paid sick leave enforcement.

Department of Taxation

The Department of Taxation considers implementation of this bill routine and does not require additional funding. The department projects that this bill will have an indeterminate negative general fund revenue impact beginning in fiscal year 2024 and continuing thereafter. It is unknown to what extent employers would qualify for and claim the tax incentive provided by the bill.

9. **Specific Agency or Political Subdivisions Affected:** Department of Labor and Industry, Department of Taxation

10. **Technical Amendment Necessary:** No

11. **Other Comments:** None