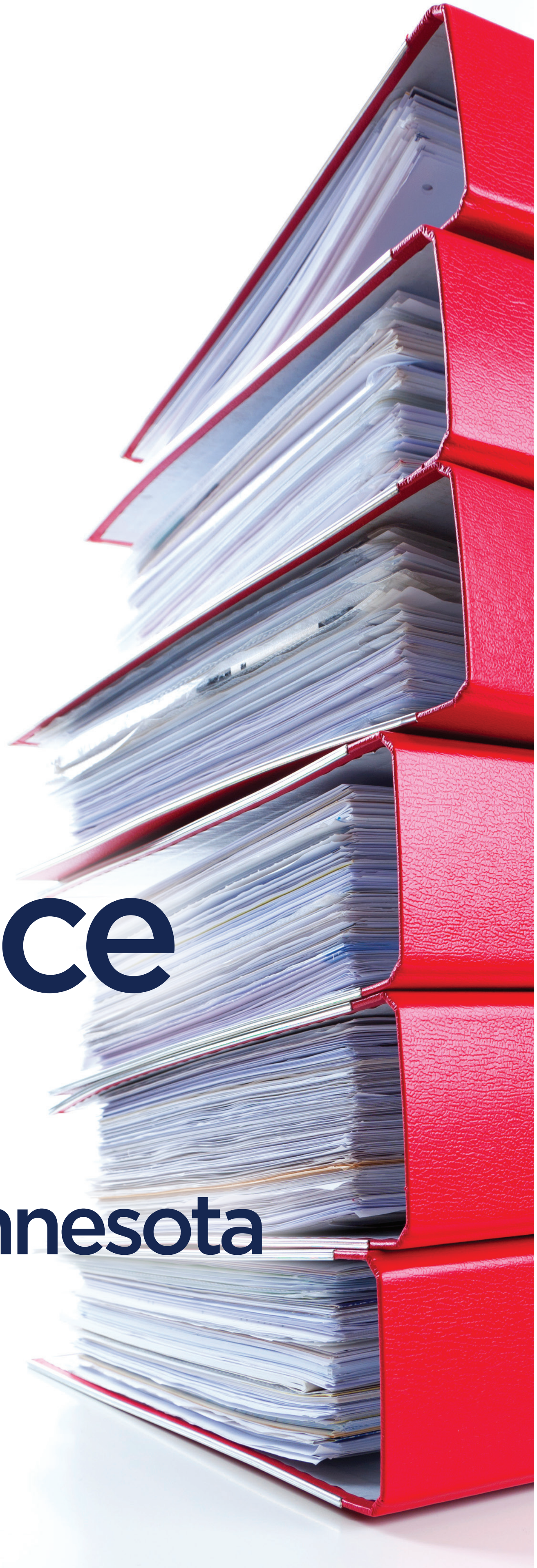
MINNESOTA CHAMBER OF COMMERCE

GROWING MINNESOTA



# Cost and compliance guide

## to the 2023-24 Minnesota legislative sessions

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## A note to Minnesota Chamber members:

The Minnesota Chamber's year-round goal is to advocate for a better economy, one where businesses can grow and thrive, hire a highly talented workforce and contribute to quality of life we all enjoy.

The 2023 and 2024 legislative sessions were a departure from years past, with the DFL controlling both the legislature and the governor's mansion. And despite a one-vote majority, the policies that passed this year were the most progressive and expansive in decades.

Lawmakers began the biennium with a record $18 billion surplus and have since raised taxes by $10 billion. They passed legislation that dictates how employers run their benefits and their workplaces, added layers of regulations, new mandates, taxes and increased fines.

You're probably wondering what your business is subject to and how to comply. We're here for you.

This guide is meant to help you make sense of the costs and compliance from this legislative session.

No doubt our economy will be negatively impacted by the decisions lawmakers made this year. Despite this overreach, we will continue to advocate for your business – no matter where in Minnesota you operate or how many employees you have.

The Minnesota Chamber will continue to advocate for Minnesota to be a place to start and grow a business. Our state's long legacy of economic strength and success is too important not to defend. We want to stay here. As always, we welcome your feedback, value your support, and commitment to our great state.

Doug Loon
President and CEO,
Minnesota Chamber
of Commerce

# When will new policies impact your business?

**The Minnesota legislature passed many bills this legislative biennium. Here is a timeline of when those bills become a reality for your business.**

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## ALREADY IN EFFECT FROM 2023-24 LEGISLATIVE SESSION

- Hair texture and styles added to the definition of race
- Ban on restrictive franchise agreements ("no-poach" or "nonsolicitation" agreements)
- State Building Code process/rules change to require adult-size changing facilities
- Cumulative impact reporting on state air permits
- Odor management oversight
- Air toxics reporting criteria to obtain a permit
- Additional public meetings for nonexpiring air permits
- Noncompete agreements banned
- Lactating employees, pregnancy accommodations, unpaid leave updates and small business exemptions removed
- Human Rights Act updated with new definitions of sexual orientation and gender identity
- New and increased OSHA penalties, classification of citation data; authority to inspect employer exclusion
- Gratuities on credit card changes
- New ergonomics reporting requirements
- New agriculture and food processing worker standards
- Nursing Home Workforce Standards Board established to set new employment standards
- Motor vehicle sales tax increases
- Restrictions on employer-sponsored meetings and communications
- New standards for warehouse distribution centers
- Stricter construction worker wage protections
- Fees increase for groundwater appropriation permits
- Recreational marijuana legal
- Sick and safe time mandated
- New ergonomics standards in effect for warehouse, meatpacking, health care workers
- New safety standards for meatpacking
- New worker standards for meat and poultry processing
- Ban established on asking about pay history
- Tab fee increases
- Compliance protocols for air emission permits
- 1% metro area sales tax for transit and housing
- New 50 cent per-delivery fee on retail deliveries over $100
- Restrictive employment covenants in service contracts prohibited
- Worker misclassification prohibited

## 2024

### October 2024
- Minnesota OSHA fines/penalties indexed to inflation
- First Quarterly Wage Reports Due for Paid Family and Medical Leave mandate

## 2025

### January 1, 2025
- PFAS ban on 11 products begins
- Increases to the minimum wage
- Salary range in job postings disclosure required
- New health care mandates
- Gas tax indexed to inflation
- New pricing disclosure requirements
- Sick and Safe Time mandate applies to more generous PTO

### March 1, 2025
- Changes to building construction or improvement services independent contractor test

### July 1, 2025
- Minnesota Secure Choice Plan – retirement savings program launched

### December 2025
- Employer Notification Deadline for Paid Family and Medical Leave Mandate

## 2026

### January 1, 2026
- New paid family & medical leave mandate and new payroll taxes imposed
- New reporting requirements for all PFAS products

### April 30, 2026
- Paid Family and Medical Leave Quarterly Payroll Taxes Due

## 2027

## 2028

## 2029

### February 1, 2029
- Producers cover 50% of new recycling costs (EPR)

## 2030

### February 1, 2030
- Producers cover 75% of new recycling costs (EPR)

## 2031

### February 1, 2031
- Producers cover at least 90% of net recycling costs (EPR)

# COSTS

**Many of the proposals that became law in the 2023-24 legislative sessions increase costs for your business and your employees. Read further to better understand which costs will increase and how they will impact you.**

## Budget and spending

**37% spending increases**

At the beginning of the 2023 session, lawmakers had a nearly $18 billion budget surplus. This historic budget position could have provided relief for job creators and fuel the growth of Minnesota's economy. Instead, a majority of this sum was promised to spending increases. The general fund budget increased $19.3 billion for 2024/25. That's an increase of 37% and will put the state in a structural deficit for fiscal years 2026/27.

## Taxes

Despite a historic nearly $18 billion budget surplus and Minnesota's already high-tax environment, this session the Legislature increased taxes by nearly $10 billion over the next four years. Although some taxes decreased, mostly for lower-income taxpayers through one-time rebates and refundable tax credits, businesses and taxpayers at all income levels will see permanent cost increases. The process of passing these historic increases lacked transparency. Many bills and provisions were not introduced or allowed public testimony, and the language was not provided until the night before a final vote. Minnesota's corporate and income tax rates are already in the top five highest in the nation, which adds headwinds to investment, entrepreneurship, and talent recruitment and retention – all needed for a growing economy.

**Corporate taxes:** The tax bill contained $1.18 billion in tax increases on businesses over four years. Minnesota will tax income earned overseas with inclusion of Global Intangible Low-Taxed Income (GILTI) income. Only 20 states tax this income, and Minnesota's 50% rate will be at the high end nationally. For example, New York only taxes 5% of GILTI income. Corporate dividends received deduction (DRD) was reduced from 80% to 50%. This deduction helps prevent triple taxation for dividends paid by one company to another. In addition, the net operating loss (NOL) cap, which limits the amount of operating loss that a corporation can claim in a year, was reduced from 80% to 70%.

**Individual tax increases:** Lawmakers imposed $1 billion in tax increases on higher-income taxpayers over the next four years. The tax bill imposed an additional 1% tax rate on top of the current 9.85% rate for net investment income above $1 million (defined as income from capital gains, interest, dividends and other gains not derived from a trade or business). The average increase will be about $20,000. In addition, the standard itemized deduction phase-out is accelerated for taxpayers in the 4th tier rate, effective for tax year 2023. An estimated 116,300 returns would have an average increase in tax of $1,494 per return.

## WIN | No increase in the capital gains tax

**Capital gains:** Governor Walz proposed increasing the capital gains tax from the current rate of 9.85% to between 11.35% and 13.85% this legislative session. The Chamber and its partners were successful in blocking this 40% tax hike that would have undermined entrepreneurship and investment, and provided another strong financial incentive for high-wealth individuals to leave the state. This increase would have made Minnesota an extreme outlier with the highest capital gains tax in the nation.

## WIN | No worldwide reporting tax

**Worldwide combined mandatory reporting:** This proposal would have required companies subject to Minnesota's corporate income tax to file one combined tax return in Minnesota for all their businesses operating worldwide. This income would then be apportioned based on Minnesota's single sales factor to determine the amount due to Minnesota. No other state or country in the world requires mandatory reporting to calculate corporate income taxes earned on global operations. Other states and nations have rejected these proposals. The Minnesota Chamber and its partners successfully defeated this effort because of the potential international backlash, undermining foreign investment and instability of this revenue source.

## WIN | No fifth tier

**New fifth tier:** This proposal would have created a fifth tier for the state's income tax, at 10.85%. That would have made Minnesota's income tax the fourth highest in the nation, and disproportionately affected "pass-through entities," those that pay business taxes through their individual income taxes. The Minnesota Chamber and its partners were successful in defeating this proposal, although it is likely to arise again in the future.

**Paid Family and Medical Leave (PFML)**: The new, historic paid leave mandate forces employers to offer 12 weeks paid medical leave and 12 weeks of paid family leave (maxing out at 20 weeks total in a 52-week period). The program will be administered by a new state agency with over 400 full-time employees. It will be paid for through surplus funds and a considerable increase in payroll taxes, which can be split between employers and employees.

## WIN | No releasing of private tax returns

**Private tax returns:** Defeated a provision requiring the Commissioner of Revenue to release private tax return data for certain corporations. No other state requires a similar release of private taxpayer data and this is prohibited at the federal level. This provision was NOT included in final tax bill.

## WIN | WIN Net operating loss moved back

**Net operating losss (NOL):** Passed a needed fix from the 2023 tax bill dealing with the effective date for the net operating loss provision (NOL) to allow taxpayers another year to plan for this tax increase from the 2023 bill. The ability to deduct net operating losses is especially important for start-up companies and those operating in cyclical industries as it allows businesses to offset those losses in future years to even out business profitability. Minnesota will deviate from the federal cap of 80% and move to 70% cap. The conference committee agreement had an effective date for tax year 2024 which at least gave a little more notice and planning time for taxpayers – however the bill language mistakenly had a date of tax year 2023.

# "Relief"

**Rebate checks:** The Legislature approved $1.13 billion in rebate checks for Individuals or families under a certain income threshold. Those who lived in Minnesota in 2021 and filed an income tax return or property tax refund are eligible, if their adjusted gross income is $75,000 or less for single filers or $150,000 or less for married couples. Recipients will receive payments between $260 and $520.

**Child tax credits**: The Legislature approved $893 in child tax credits, starting at $1,750 per child. That amount decreases for married filers who make $35,000 annually.

# Transportation

The Legislature provided significant, ongoing increases in annual funding for our transportation infrastructure this session – totaling $3.8 billion in just the next four years – roughly $1 billion per year. While the Chamber has long-advocated for increased investment in our transportation system, it's disappointing that the Legislature chose to make these investments largely through increased taxes and fees. With a nearly $18 billion surplus at its disposal, the resources were available to make needed investments without raising taxes. Instead, Minnesotans will pay more to register, purchase and fuel up their vehicles, and they'll pay more when they make purchases in the metro or online.

**Transportation taxes and fees:**

- The metro area sales tax will increase by .75% in October, 2023. 83% of the funds derived from this increase will benefit the Met Council.
- Drivers will also see tab fees increase.
- The motor vehicle sales tax will also increase from 6.5% to 6.85%. This will take effect January 1, 2024.
- Beginning in August 2023, the gas tax will increase each year automatically, based on inflation. It's expected to increase by as much as 3 cents on January 1, 2024, and it'll continue to increase automatically every year thereafter.
- Minnesota will also join Colorado as the only state to levy an extra tax on online purchases. Beginning July 1, 2024, any non-food purchase over $100 that's made online and that's delivered to your door will be subject to an additional $0.50 fee.

## WIN | Dedicating auto parts sales

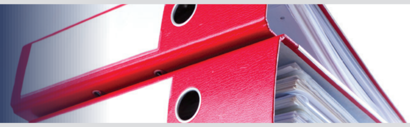
**Dedicating auto parts sales:** For years, the Chamber and its partners advocated for the state to dedicate the proceeds from auto part sales to transportation funding. Thanks to legislation passed this year, 100% of the receipts from this sales tax will be used to support transportation infrastructure. While this is a long-term win for much-needed funds, lawmakers also decided to phase in this plan over 10 years, which stands in stark contrast to the many transportation tax and fee increases that are set to take effect in the coming months.

## WIN | State and local funding

**State and local matching funds:** The final transportation bill included full funding for the state and local communities to match and draw down federal funds available through the federal Infrastructure Investment and Jobs Act (IIJA). The bill also established the position of IIJA coordinator, offering a state agency lead for activities related to federal funding opportunities available to the state and local communities for infrastructure.

# Health care

The Minnesota Chamber advocates for health care policies that ensure quality health care is affordable and accessible to all Minnesotans, and that enhances and supports the ability of employers to provide coverage to their employees. Unfortunately, in the 2023 legislative session, lawmakers passed policies that will increase costs and jeopardize access to doctors, hospitals and treatments.





**Health care mandates:** Numerous new health care mandates from the state will contribute to already increasing health care costs for employers. Minnesota already has the second longest list of required coverages in the country, at more than 60. These requirements were put in place to help a segment of our population, but each comes with a cost. In the last two years, the legislature added another 14 to the list. It is estimated that these new coverage requirements will add more than $130 million a year in costs to the state's fully insured market.

**Public health care expansion:** This session, the Legislature also set us on the path of allowing anyone, regardless of income, to "buy in" to the state public health insurance programs that are designed and intended for the lowest-income Minnesotans. Changing public programs, which pay health care providers significantly less than the commercial rate, into an expanded government-sponsored health insurance option that is available to any Minnesotan, regardless of income, will lead to significant financial impact on providers and hospitals – especially practices that operate on already narrow margins in rural areas and underserved communities. This may further reduce access to critical care and services in some parts of the state. It will also lead to increased costs for those with private coverage – whether fully insured or self-funded – because health care providers will likely shift even more costs to these Minnesotans.

# Energy

Lawmakers focused heavily on decarbonization this session, passing policies that force individuals and companies to take steps toward sustainability, regardless of cost. The Minnesota Chamber's ongoing goal is to ensure policymakers understand the price that businesses are paying for power and seek to maintain reliable and cost-effective power at competitive prices.

**EV expansion, subsidies:** The state passed policies this year that will expand electric vehicle infrastructure through customer utility bills. This includes over $100 million in energy subsidies for electric vehicles, solar panels, heat pumps, electrical panels and battery storage through direct grants and rebates.

## WIN | Statewide broadband

**Broadband:** Minnesota has made traction in recent years in statewide broadband access. This access is required to grow regional economies and close the workforce gap. This legislative session, the Minnesota Chamber helped secure $100 million in broadband funding, with $30 million designated for less densely-populated areas.

**Carbon-free 2040:** Minnesota now has a standard to be 100% carbon-free by 2040. This requires utilities in Minnesota to get a percentage of their electricity from carbon-free sources, starting with 80% by 2030, 90% by 2035 and 100% by 2040. Minnesota businesses and utilities are already moving toward goals of sustainability. But this aggressive timeline will force utilities to move quickly. Although nuclear power is carbon-free, no provisions for new nuclear energy production were included this legislative session.

# Housing

## WIN | Funding for housing

Lawmakers dedicated an historic appropriation of over $1 billion (mostly one-time funding) to help address the lack of affordable housing, a barrier for attraction of workforce in communities all across the state. This includes a $39 million appropriation to help build workforce housing in Greater Minnesota, $20 million for the workforce homeownership program and $200 million in housing infrastructure bonds to help communities develop public infrastructure to support additional housing.

# COMPLIANCE

**The 2023-24 legislative sessions brought many new regulations on business practices, from how employers run their benefits to mandating the benefits they offer.**

## Paid leave

This biennium, the legislature passed the most sweeping paid leave mandates on business in state history. Despite more than 80% of Minnesota Chamber members offering leave to their employees, the state now mandates all employers to grant employees sick, safe and paid time off equaling nearly 40% of a work year.

> **Paid Family and Medical Leave (PFML)**: The new, historic paid leave mandate forces employers to offer 12 weeks paid medical leave <u>and</u> 12 weeks of paid family leave (maxing out at 20 weeks total in a 52-week period). The program will be administered by a new state agency with over 400 full-time employees. It will be paid for through surplus funds and a considerable increase in payroll taxes, which can be split between employers and employees. Additional program expansions and requirements along with technical and programmatic changes made the 2024 legislative session revealed that the payroll tax would need to dramatically increase to cover the program and ensure solvency (0.88% amended from the originally stated 0.7%). The state will work with employees to determine length and justification for leave, and agency officials will oversee compliance and penalties. This will take effect January 1, 2026.

**Note:** The Minnesota Chamber and its partners worked tirelessly to scale back this legislation. Although the final legislation will impact businesses greatly - some to the point of devastation - the legislation as originally proposed went much further. The Chamber was successful in scaling back the number of weeks, which was originally proposed at 24, an exemption for seasonal hospitality workers, a refined definition of family member and an actuarial study. The effective date of this bill was also pushed to 2026.

**Earned sick and safe time**: Employers are also mandated to provide one hour of fully paid sick time for every 30 hours worked, up to 48 hours a year, with a carryover up to 80 hours, including temporary and part-time employees. Employees must be paid at the same rate they would earn if they were working. Employees may take this time off to care for a broad-based definition of "family members." The 2024 legislative session expanded eligible uses and now applies sick and safe time protections to employer-offered more generous sick leave, not just the mandated sick and safe time required, including retaliation protections, eligible uses, documentation, and notice requirements. The Department of Labor and Industry (DLI) oversees compliance and penalties and sick and safe time can be used in tandem - "stacked" - with Paid Family Medical Leave. This will take effect January 1, 2024. While the underlying mandate and most of the changes from the 2024 legislative session are already in effect, the provisions applying to more generous PTO policies take effect on Jan 1, 2025.

# Business practices and compliance

**Environmental regulations:** Lawmakers passed several policies that impacted environmental regulation this session.

- **PFAS (Per- and polyfluoroalkyl substances):** Minnesota laws now go further than any other state in the nation by working toward a complete PFAS ban by 2032. PFAS are found in hundreds of household products in varying levels, including along supply chains for manufacturers and other businesses. 11 products are banned by 2025, including textiles for homes; drapery and floor coverings and furnishings, bedding, towels, tablecloths, ski wax, cosmetics, dental floss and menstrual products. A reporting requirement for all businesses starts in 2026. Although medical devices are exempted, they must register and pay.

- **Cumulative impact reporting:** Air permits are now subject to cumulative impact reporting in "environmental justice" areas, defined by their poverty index, non-English speaking populations and minority populations (a federal definition). This reporting considers past and current air, water and land pollution for state or federal air permits in these areas in the seven-county metro, Duluth and Rochester. These are determined by the Commissioner of the Minnesota Pollution Control Agency (PCA) or at least 100 signatures on a public petition. This law is already in effect.

- **Odor/air toxics rules:** Businesses are subject to new rules regarding odor management since legislative session. They could be required to submit odor management plans in the seven-county metro to the Minnesota Pollution Control Agency if the PCA receives 10 calls from citizens within 48 hours and the odor is "hurting the enjoyment of life." The state added five new reporting criteria to obtain an air permit, and expiring permits face additional public meeting requirements. These rules are already in effect.

- **Water permit fines:** The Department of Natural Resources increased fees and fines increases on water appropriation permits.

- **Extended Producer Responsibility (EPR):** This new policy requires manufacturers of paper and plastic packaging to be responsible for the cost of disposal of their products. In other states, this has added $35 – $65 per month in grocery costs for a family of four.

**Noncompetes banned:** Noncompete and restrictive-franchise provisions in nearly all employee agreements are banned. The 2024 legislative session went further and banned restrictive employment covenants in service contracts. All of these provisions are already in effect.

**Note:** The Minnesota Chamber and its partners worked to ensure that a covenant not to compete does not include a nondisclosure agreement, or agreement designed to protect trade secrets or confidential information, a nonsolicitation agreement, or agreement restricting the ability to use client or contact lists or solicit customers of the employer. In addition, this work ensured a noncompete is still valid and enforceable during the sale of a business or the dissolution of a business. The effective date was also pushed out to July 1, 2023.

**Legalization of recreational marijuana:** Marijuana is now legal for adult recreational use. This means that cannabis is now considered a "lawful consumable product" in the state. The new law established a new Office of Cannabis Management created an expungement process for marijuana-related offenses, established regulations and licensing structures for the new industry and provided guidelines for workplaces and employee cannabis use. The new law provides restrictions and guidelines and parameters for testing employees and job applicants for cannabis use. This bill takes effect August 1, 2023.

**Pay transparency:** The 2024 legislative session continued its focus on "pay transparency" legislation. Employers with 30 or more employees in Minnesota are now required to include a salary range and a general description of all benefits and other compensation provided in any job posting. Employers are prohibited from leaving salary ranges open-ended within job postings. This policy is effective Jan. 1, 2025.

**Minimum wage changes:** The 2024 legislative session significantly altered Minnesota's existing minimum wage structure and increased the minimum wage. For our state's smallest employers, there will no longer be a designated small business minimum wage, as this rate option was specifically rescinded. Moving forward, there will only be one statewide minimum wage rate for all employers, regardless of size. In addition, the current automatic minimum wage annual inflator adjustment cap of 2.5% was increased to a 5% cap. The state's large employer rate increased to $10.85 and the small employer rate was $8.85 for 2024 under the 2.5% inflator. Looking toward 2025, it has already been announced that Minnesota's minimum wage inflator will be 2.6% and the minimum wage will be $11.13, which will apply to all of Minnesota's businesses, including small businesses. This represents the largest increase in the minimum wage in recent years. As a result of the 2024 legislative changes, small businesses will face a 26% increase in its applicable minimum wage rate. The new minimum wage kicks in on January 1, 2025.

### WIN | Preventing $20 minimum wage

In addition to changing Minnesota's minimum wage structure, lawmakers proposed increasing the state's base wage rate itself to $20/hour. While this proposal was heard in committee, it did not advance this session.

**Employee misclassification:** Despite Minnesota having some of the toughest worker protection and human rights statutes on the books, the 2024 legislative session imposed a new regulatory and compliance regime surrounding worker misclassification. Employers can now be subjected to a civil right of action under state law for misclassified individuals regardless of intent. This new law makes several additional changes to misclassification provisions in existing laws, including significant new penalties and fines as well as successor liability, stop work orders, and a new multi-part independent contractor test for building construction and improvement services. The legislation also made changes to how the state investigates, forming an Intergovernmental Misclassification Enforcement and Education Partnership between the Departments of Labor and Industry, Revenue, Employment and Economic Development, and Commerce, as well as the Attorney General. Most of this new law went into effect July 1, 2024, with construction industry provisions going into effect March 1, 2025.

**Increased OSHA fines and penalties:** Minnesota increased its regulatory fines and penalties and indexed them for inflation. Takes effect October 1, 2024.
**"Secure Choice" retirement:** This establishes a new state-run retirement program for private sector employees and requires employers that do not offer retirement plans to participate. Employers will be required to remit the employee's payroll contributions to retirement plans. Employers cannot contribute and-employees can opt out. Businesses with fewer than five employees are exempt. This policy will be implemented in 2025 and phased in over two years.

## Workplace/staffing regulations

**Restricting employer communication:** Lawmakers passed a new law that prohibits employers from meeting or communicating with their employees on public policy. The "captive audience" law stipulates that communications must be "wholly voluntary" and not be political or religious in nature. There is a federal preemption of these laws, and they have been litigated in other states. Minnesota's law is effective on August 1, 2023.

**Expanding accommodations for pregnant and lactating employees:** The Department of Labor and Industry (DLI) will oversee expanded accommodations for pregnant employees including a temporary leave of absence, work schedule or job assignment modifications and more frequent or longer breaks. Lactating employees should now receive specific break times of their choice, lactation spaces and notice of these accommodations must be given to employees in writing.

Businesses with fewer than 15 employees, and in some cases fewer than 21 employees, will be newly subject to these statutes as existing small business exemptions were rescinded. During the 2024 legislative session, provisions were added to require that this leave can't be reduced by any paid or unpaid leave taken for prenatal care medical appointments. While on leave, employers must maintain coverage for the employee and any dependents under any group insurance policy, group subscriber contract, or healthcare plan. This new law and its amendments are already in effect.

**Expanding Human Rights Act definitions:** Minnesota's Human Rights Act was updated to include banning salary history questions during the hiring process (effective January 1, 2024), including hair in the definition of race (already in effect) and changing definitions of sexual orientation and gender identity (effective as of July 1, 2023).

**Requirements and penalties for workers in specific industries:** There are new requirements and penalties regarding workers in warehouses, meat and poultry processing facilities, health care facilities and nursing homes, and refineries. The suite of new laws include a variety of requirements ranging from quota systems management processes (warehouses) and new workplace safety obligations (meat processing) to new labor standards boards (nursing homes) and unionized workforce thresholds (refineries). The law gives the Department of Labor and Industry (DLI) compliance order authority to oversee enhanced workplace safety standards. These new laws take effect August 1, 2023 through January 1, 2024.

**New ergonomics standards:** New laws require employers in warehouses, health care facilities, nursing homes, and meat and poultry processing facilities (subject to varying employee headcount thresholds) to comply with new ergonomic standards, effective January 1, 2024.

## WIN | Workers' compensation advisory council

The Minnesota Chamber was successful this year in preventing an unchecked benefits increase that would have resulted in a nearly 10% rate increase. The final legislation includes a number of system efficiencies to balance reasonably increased benefits for injured workers with controlled costs in the system. It also prevented a new presumption for PTSD by establishing a legislative study to improve outcomes for injured workers with work-related PTSD.

**Looking for more resources on these policies and the impact to your business?**

**The Minnesota Chamber's website has a toolkit of videos, presentations and FAQs to answer your questions.**

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380 St Peter St Suite 1050, St Paul, MN 55102
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