

## ARTICLE 2

## FAMILY AND MEDICAL BENEFITS

Section 1. Minnesota Statutes 2018, section 13.719, is amended by adding a subdivision to read:

Subd. 7. **Family and medical insurance data.** (a) For the purposes of this subdivision, the terms used have the meanings given them in section 268B.01.

(b) Data on applicants, family members, or employers under chapter 268B are private or nonpublic data, provided that the department may share data collected from applicants with employers or health care providers to the extent necessary to meet the requirements of chapter 268B or other applicable law.

(c) The department and the Department of Labor and Industry may share data classified under paragraph (b) to the extent necessary to meet the requirements of chapter 268B or the Department of Labor and Industry's enforcement authority over chapter 268B, as provided in section 177.27.

Sec. 2. Minnesota Statutes 2018, section 177.27, subdivision 4, is amended to read:

Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032, 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275, subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, 268B.09, subdivisions 1 to 6, and 268B.12, subdivision 2, or with any rule promulgated under section 177.28. The commissioner shall issue an order requiring an employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes of this subdivision only, a violation is repeated if at any time during the two years that preceded the date of violation, the commissioner issued an order to the employer for violation of sections 177.41 to 177.435 and the order is final or the commissioner and the employer have entered into a settlement agreement that required the employer to pay back wages that were required by sections 177.41 to 177.435. The department shall serve the order upon the employer or the employer's authorized representative in person or by certified mail at the employer's place of business. An employer who wishes to contest the order must file written notice of objection to the order with the commissioner within 15 calendar days after being served with the order. A contested case proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the employer fails to file a written notice of objection with the commissioner, the order becomes a final order of the commissioner.

Sec. 3. Minnesota Statutes 2018, section 181.032, is amended to read:  
181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER.

(a) At the end of each pay period, the employer shall provide each employee an earnings statement, either in writing or by electronic means, covering that pay period. An employer

36.13 who chooses to provide an earnings statement by electronic means must provide employee  
36.14 access to an employer-owned computer during an employee's regular working hours to  
36.15 review and print earnings statements, and must make statements available for review or  
36.16 printing for a period of at least 12 months.

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

36.19 (1) the name of the employee;

36.20 (2) the hourly rate of pay (if applicable);

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

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

36.23 (5) a list of deductions made from the employee's pay;

36.24 (6) any amount deducted by the employer under section 268B.12, subdivision 2, and  
36.25 the amount paid by the employer based on the employee's wages under section 268B.12,  
36.26 subdivision 1;

36.27 ~~(6)~~ (7) the net amount of pay after all deductions are made;

36.28 ~~(7)~~ (8) the date on which the pay period ends; and

36.29 ~~(8)~~ (9) the legal name of the employer and the operating name of the employer if different  
36.30 from the legal name.

37.1 (c) An employer must provide earnings statements to an employee in writing, rather  
37.2 than by electronic means, if the employer has received at least 24 hours notice from an  
37.3 employee that the employee would like to receive earnings statements in written form. Once  
37.4 an employer has received notice from an employee that the employee would like to receive  
37.5 earnings statements in written form, the employer must comply with that request on an  
37.6 ongoing basis.

37.7 Sec. 4. Minnesota Statutes 2018, section 268.19, subdivision 1, is amended to read:

37.8 Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from  
37.9 any person under the administration of the Minnesota Unemployment Insurance Law are  
37.10 private data on individuals or nonpublic data not on individuals as defined in section 13.02,  
37.11 subdivisions 9 and 12, and may not be disclosed except according to a district court order  
37.12 or section 13.05. A subpoena is not considered a district court order. These data may be  
37.13 disseminated to and used by the following agencies without the consent of the subject of  
37.14 the data:

37.15 (1) state and federal agencies specifically authorized access to the data by state or federal  
37.16 law;

- 37.17 (2) any agency of any other state or any federal agency charged with the administration  
37.18 of an unemployment insurance program;
- 37.19 (3) any agency responsible for the maintenance of a system of public employment offices  
37.20 for the purpose of assisting individuals in obtaining employment;
- 37.21 (4) the public authority responsible for child support in Minnesota or any other state in  
37.22 accordance with section 256.978;
- 37.23 (5) human rights agencies within Minnesota that have enforcement powers;
- 37.24 (6) the Department of Revenue to the extent necessary for its duties under Minnesota  
37.25 laws;
- 37.26 (7) public and private agencies responsible for administering publicly financed assistance  
37.27 programs for the purpose of monitoring the eligibility of the program's recipients;
- 37.28 (8) the Department of Labor and Industry and the Commerce Fraud Bureau in the  
37.29 Department of Commerce for uses consistent with the administration of their duties under  
37.30 Minnesota law;
- 37.31 (9) the Department of Human Services and the Office of Inspector General and its agents  
37.32 within the Department of Human Services, including county fraud investigators, for  
38.1 investigations related to recipient or provider fraud and employees of providers when the  
38.2 provider is suspected of committing public assistance fraud;
- 38.3 (10) local and state welfare agencies for monitoring the eligibility of the data subject  
38.4 for assistance programs, or for any employment or training program administered by those  
38.5 agencies, whether alone, in combination with another welfare agency, or in conjunction  
38.6 with the department or to monitor and evaluate the statewide Minnesota family investment  
38.7 program by providing data on recipients and former recipients of food stamps or food  
38.8 support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under  
38.9 chapter 119B, or medical programs under chapter 256B or 256L or formerly codified under  
38.10 chapter 256D;
- 38.11 (11) local and state welfare agencies for the purpose of identifying employment, wages,  
38.12 and other information to assist in the collection of an overpayment debt in an assistance  
38.13 program;
- 38.14 (12) local, state, and federal law enforcement agencies for the purpose of ascertaining  
38.15 the last known address and employment location of an individual who is the subject of a  
38.16 criminal investigation;
- 38.17 (13) the United States Immigration and Customs Enforcement has access to data on  
38.18 specific individuals and specific employers provided the specific individual or specific  
38.19 employer is the subject of an investigation by that agency;
- 38.20 (14) the Department of Health for the purposes of epidemiologic investigations;

38.21 (15) the Department of Corrections for the purposes of case planning and internal research  
38.22 for preprobation, probation, and postprobation employment tracking of offenders sentenced  
38.23 to probation and preconfinement and postconfinement employment tracking of committed  
38.24 offenders;

38.25 (16) the state auditor to the extent necessary to conduct audits of job opportunity building  
38.26 zones as required under section 469.3201; ~~and~~

38.27 (17) the Office of Higher Education for purposes of supporting program improvement,  
38.28 system evaluation, and research initiatives including the Statewide Longitudinal Education  
38.29 Data System; and

38.30 (18) the Family and Medical Benefits Division of the Department of Employment and  
38.31 Economic Development to be used as necessary to administer chapter 268B.

38.32 (b) Data on individuals and employers that are collected, maintained, or used by the  
38.33 department in an investigation under section 268.182 are confidential as to data on individuals  
39.1 and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3  
39.2 and 13, and must not be disclosed except under statute or district court order or to a party  
39.3 named in a criminal proceeding, administrative or judicial, for preparation of a defense.

39.4 (c) Data gathered by the department in the administration of the Minnesota unemployment  
39.5 insurance program must not be made the subject or the basis for any suit in any civil  
39.6 proceedings, administrative or judicial, unless the action is initiated by the department.

39.7 Sec. 5. [268B.01] DEFINITIONS.

39.8 Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section  
39.9 have the meanings given them.

39.10 Subd. 2. **Account.** "Account" means the family and medical benefit insurance account  
39.11 in the special revenue fund in the state treasury under section 268B.02.

39.12 Subd. 3. **Applicant.** "Applicant" means an individual applying for leave with benefits  
39.13 under this chapter.

39.14 Subd. 4. **Applicant's average weekly wage.** "Applicant's average weekly wage" means  
39.15 an amount equal to the applicant's high quarter wage credits divided by 13.

39.16 Subd. 5. **Benefit.** "Benefit" or "benefits" mean monetary payments under this chapter  
39.17 associated with qualifying bonding, family care, pregnancy, serious health condition,  
39.18 qualifying exigency, or safety leave events, unless otherwise indicated by context.

39.19 Subd. 6. **Benefit year.** "Benefit year" means a period of 52 consecutive calendar weeks  
39.20 beginning on the first day of a leave approved for benefits under this chapter.

39.21 Subd. 7. **Bonding.** "Bonding" means time spent by an applicant who is a biological,  
39.22 adoptive, or foster parent with a biological, adopted, or foster child in conjunction with the  
39.23 child's birth, adoption, or placement.

39.24 Subd. 8. **Calendar day.** "Calendar day" or "day" means a fixed 24-hour period  
39.25 corresponding to a single calendar date.

39.26 Subd. 9. **Calendar week.** "Calendar week" means a period of seven consecutive calendar  
39.27 days.

39.28 Subd. 10. **Commissioner.** "Commissioner" means the commissioner of employment  
39.29 and economic development, unless otherwise indicated by context.

39.30 Subd. 11. **Continuing treatment.** A serious health condition involving continuing  
39.31 treatment by a health care provider includes any one or more of the following:

40.1 (1) a period of incapacity of more than three consecutive, full calendar days, and any  
40.2 subsequent treatment or period of incapacity relating to the same condition, that also involves:

40.3 (i) treatment two or more times within 30 calendar days of the first day of incapacity,  
40.4 unless extenuating circumstances exist, by a health care provider; or

40.5 (ii) treatment by a health care provider on at least one occasion that results in a regimen  
40.6 of continuing treatment under the supervision of the health care provider;

40.7 (2) any period of incapacity or treatment for such incapacity due to a chronic serious  
40.8 health condition. A chronic serious health condition is one that:

40.9 (i) requires periodic visits, defined as at least twice per year, for treatment for the  
40.10 incapacity by a health care provider;

40.11 (ii) continues over an extended period of time, including recurring episodes of a single  
40.12 underlying condition; and

40.13 (iii) may cause episodic rather than a continuing period of incapacity;

40.14 (3) a period of incapacity that is long-term due to a condition for which treatment may  
40.15 not be effective, with the employee or family member under the supervision of, but not  
40.16 necessarily receiving active treatment by a health care provider; and

40.17 (4) any period of absence to receive multiple treatments by a health care provider,  
40.18 including any period of recovery therefrom, for:

40.19 (i) restorative surgery after an accident or other injury; or

40.20 (ii) a condition that would likely result in a period of incapacity of more than seven  
40.21 consecutive, calendar days in the absence of medical intervention or treatment, such as  
40.22 cancer, severe arthritis, or kidney disease.

40.23 Subd. 12. **Covered employment.** "Covered employment" has the meaning given in  
40.24 section 268.035, subdivision 12.

40.25 Subd. 13. **Day.** "Day" means an eight-hour period.

40.26 Subd. 14. **Department.** "Department" means the Department of Employment and  
40.27 Economic Development, unless otherwise indicated by context.

40.28 Subd. 15. **Employee.** "Employee" means an individual for whom premiums are paid on  
40.29 wages under this chapter.

40.30 Subd. 16. **Employer.** "Employer" means a person or entity, other than an employee,  
40.31 required to pay premiums under this chapter, except that a self-employed individual who  
41.1 has elected and been approved for coverage under section 268B.11 is not considered an  
41.2 employer with regard to the self-employed individual's own coverage and benefits.

41.3 Subd. 17. **Estimated self-employment income.** "Estimated self-employment income"  
41.4 means a self-employed individual's average net earnings from self-employment in the two  
41.5 most recent taxable years. For a self-employed individual who had net earnings from  
41.6 self-employment in only one of the years, the individual's estimated self-employment income  
41.7 equals the individual's net earnings from self-employment in the year in which the individual  
41.8 had net earnings from self-employment.

41.9 Subd. 18. **Family benefit program.** "Family benefit program" means the program  
41.10 administered under this chapter for the collection of premiums and payment of benefits  
41.11 related to family care, bonding, safety leave, and leave related to a qualifying exigency.

41.12 Subd. 19. **Family care.** "Family care" means an applicant caring for a family member  
41.13 with a serious health condition or caring for a family member who is a covered service  
41.14 member.

41.15 Subd. 20. **Family member.** (a) "Family member" means an employee's child, adult  
41.16 child, spouse, sibling, parent, parent-in-law, grandchild, grandparent, stepparent, member  
41.17 of the employee's household, or an individual described in paragraph (e).

41.18 (b) For the purposes of this chapter, a child includes a stepchild, biological, adopted, or  
41.19 foster child of the employee.

41.20 (c) For the purposes of this chapter, a grandchild includes a step-grandchild, biological,  
41.21 adopted, or foster grandchild of the employee.

41.22 (d) For the purposes of this chapter, an individual is a member of the employee's  
41.23 household if the individual has resided at the same address as the employee for at least one  
41.24 year as of the first day of a leave under this chapter.

41.25 (e) For the purposes of this chapter, an individual with a serious health condition is  
41.26 deemed a family member of the employee if (1) a health care provider certifies in writing  
41.27 that the individual requires care relating to the serious health condition, and (2) the employee

41.28 and the care recipient certify in writing that the employee will be providing the required  
41.29 care.

41.30 Subd. 21. **Health care provider.** "Health care provider" means an individual who is  
41.31 licensed, certified, or otherwise authorized under law to practice in the individual's scope  
41.32 of practice as a physician, osteopath, physician assistant, chiropractor, advanced practice  
41.33 registered nurse, licensed psychologist, licensed independent clinical social worker, or  
42.1 dentist. "Chiropractor" means only a chiropractor who provides manual manipulation of  
42.2 the spine to correct a subluxation demonstrated to exist by an x-ray.

42.3 Subd. 22. **High quarter.** "High quarter" has the meaning given in section 268.035,  
42.4 subdivision 19.

42.5 Subd. 23. **Independent contractor.** (a) If there is an existing specific test or definition  
42.6 for independent contractor in Minnesota statute or rule applicable to an occupation or sector  
42.7 as of the date of enactment of this chapter, that test or definition will apply to that occupation  
42.8 or sector for purposes of this chapter. If there is not an existing test or definition as described,  
42.9 the definition for independent contractor shall be as provided in this subdivision.

42.10 (b) An individual is an independent contractor and not an employee of the person for  
42.11 whom the individual is performing services in the course of the person's trade, business,  
42.12 profession, or occupation only if:

42.13 (1) the individual maintains a separate business with the individual's own office,  
42.14 equipment, materials, and other facilities;

42.15 (2) the individual:

42.16 (i) holds or has applied for a federal employer identification number; or

42.17 (ii) has filed business or self-employment income tax returns with the federal Internal  
42.18 Revenue Service if the individual has performed services in the previous year;

42.19 (3) the individual is operating under contract to perform the specific services for the  
42.20 person for specific amounts of money and under which the individual controls the means  
42.21 of performing the services;

42.22 (4) the individual is incurring the main expenses related to the services that the individual  
42.23 is performing for the person under the contract;

42.24 (5) the individual is responsible for the satisfactory completion of the services that the  
42.25 individual has contracted to perform for the person and is liable for a failure to complete  
42.26 the services;

42.27 (6) the individual receives compensation from the person for the services performed  
42.28 under the contract on a commission or per-job or competitive bid basis and not on any other  
42.29 basis;

42.30 (7) the individual may realize a profit or suffer a loss under the contract to perform  
 42.31 services for the person;

42.32 (8) the individual has continuing or recurring business liabilities or obligations; and

43.1 (9) the success or failure of the individual's business depends on the relationship of  
 43.2 business receipts to expenditures.

43.3 (c) For the purposes of this chapter, an insurance producer, as defined in section 60K.31,  
 43.4 subdivision 6, is an independent contractor of an insurance company, as defined in section  
 43.5 60A.02, subdivision 4, unless the insurance producer and insurance company agree otherwise.

43.6 Subd. 24. **Inpatient care.** "Inpatient care" means an overnight stay in a hospital, hospice,  
 43.7 or residential medical care facility, including any period of incapacity defined under  
 43.8 subdivision 33, paragraph (b), or any subsequent treatment in connection with such inpatient  
 43.9 care.

43.10 Subd. 25. **Maximum weekly benefit amount.** "Maximum weekly benefit amount"  
 43.11 means the state's average weekly wage as calculated under section 268.035, subdivision 23.

43.12 Subd. 26. **Medical benefit program.** "Medical benefit program" means the program  
 43.13 administered under this chapter for the collection of premiums and payment of benefits  
 43.14 related to an applicant's serious health condition or pregnancy.

43.15 Subd. 27. **Net earnings from self-employment.** "Net earnings from self-employment"  
 43.16 has the meaning given in section 1402 of the Internal Revenue Code, as defined in section  
 43.17 290.01, subdivision 31.

43.18 Subd. 28. **Noncovered employment.** "Noncovered employment" has the meaning given  
 43.19 in section 268.035, subdivision 20.

43.20 Subd. 29. **Pregnancy.** "Pregnancy" means prenatal care or incapacity due to pregnancy,  
 43.21 or recovery from childbirth, still birth, miscarriage, or related health conditions.

43.22 Subd. 30. **Qualifying exigency.** (a) "Qualifying exigency" means a need arising out of  
 43.23 a military member's active duty service or notice of an impending call or order to active  
 43.24 duty in the United States armed forces, including providing for the care or other needs of  
 43.25 the family member's child or other dependent, making financial or legal arrangements for  
 43.26 the family member, attending counseling, attending military events or ceremonies, spending  
 43.27 time with the family member during a rest and recuperation leave or following return from  
 43.28 deployment, or making arrangements following the death of the military member.

43.29 (b) For the purposes of this chapter, a "military member" means a current or former  
 43.30 member of the United States armed forces, including a member of the National Guard or  
 43.31 reserves, who, except for a deceased military member, is a resident of the state and is a  
 43.32 family member of the employee taking leave related to the qualifying exigency.



44.1 Subd. 31. **Safety leave.** "Safety leave" means leave from work because of domestic  
 44.2 abuse, sexual assault, or stalking of the employee or employee's family member, provided  
 44.3 the leave is to:

44.4 (1) seek medical attention related to the physical or psychological injury or disability  
 44.5 caused by domestic abuse, sexual assault, or stalking;

44.6 (2) obtain services from a victim services organization;

44.7 (3) obtain psychological or other counseling;

44.8 (4) seek relocation due to the domestic abuse, sexual assault, or stalking; or

44.9 (5) seek legal advice or take legal action, including preparing for or participating in any  
 44.10 civil or criminal legal proceeding related to, or resulting from, the domestic abuse, sexual  
 44.11 assault, or stalking.

44.12 Subd. 32. **Self-employed individual.** "Self-employed individual" means a resident of  
 44.13 the state who, in one of the two taxable years preceding the current calendar year, derived  
 44.14 at least \$10,000 in net earnings from self-employment from an entity other than an S  
 44.15 corporation for the performance of services in this state.

44.16 Subd. 33. **Self-employment premium base.** "Self-employment premium base" means  
 44.17 the lesser of:

44.18 (1) a self-employed individual's estimated self-employment income for the calendar year  
 44.19 plus the individual's self-employment wages in the calendar year; or

44.20 (2) the maximum earnings subject to the FICA Old-Age, Survivors, and Disability  
 44.21 Insurance tax in the taxable year.

44.22 Subd. 34. **Self-employment wages.** "Self-employment wages" means the amount of  
 44.23 wages that a self-employed individual earned in the calendar year from an entity from which  
 44.24 the individual also received net earnings from self-employment.

44.25 Subd. 35. **Serious health condition.** (a) "Serious health condition" means an illness,  
 44.26 injury, impairment, or physical or mental condition that involves inpatient care as defined  
 44.27 in subdivision 24 or continuing treatment by a health care provider as defined in subdivision  
 44.28 11.

44.29 (b) "Incapacity" means inability to work, attend school, or perform other regular daily  
 44.30 activities due to the serious health condition, treatment therefore, or recovery therefrom.

44.31 (c) Treatment includes but is not limited to examinations to determine if a serious health  
 44.32 condition exists and evaluations of the condition. Treatment does not include routine physical  
 45.1 examinations, eye examinations, or dental examinations. A regimen of continuing treatment  
 45.2 includes, for example, a course of prescription medication or therapy requiring special  
 45.3 equipment to resolve or alleviate the health condition.

- 45.4 Subd. 36. **State's average weekly wage.** "State's average weekly wage" means the  
45.5 weekly wage calculated under section 268.035, subdivision 23.
- 45.6 Subd. 37. **Taxable year.** "Taxable year" has the meaning given in section 290.01,  
45.7 subdivision 9.
- 45.8 Subd. 38. **Wage credits.** "Wage credits" has the meaning given in section 268.035,  
45.9 subdivision 27.
- 45.10 Sec. 6. [268B.02] FAMILY AND MEDICAL BENEFIT INSURANCE PROGRAM  
45.11 CREATION.
- 45.12 Subdivision 1. **Creation.** A family and medical benefit insurance program is created to  
45.13 be administered by the commissioner according to the terms of this chapter.
- 45.14 Subd. 2. **Creation of division.** A Family and Medical Benefit Insurance Division is  
45.15 created within the department under the authority of the commissioner. The commissioner  
45.16 shall appoint a director of the division. The division shall administer and operate the benefit  
45.17 program under this chapter.
- 45.18 Subd. 3. **Rulemaking.** The commissioner may adopt rules to implement the provisions  
45.19 of this chapter.
- 45.20 Subd. 4. **Account creation; appropriation.** The family and medical benefit insurance  
45.21 account is created in the special revenue fund in the state treasury. Money in this account  
45.22 is appropriated to the commissioner to pay benefits under and to administer this chapter,  
45.23 including outreach required under section 268B.15.
- 45.24 Subd. 5. **Information technology services and equipment.** The department is exempt  
45.25 from the provisions of section 16E.016 for the purposes of this chapter.
- 45.26 Sec. 7. [268B.03] ELIGIBILITY.
- 45.27 Subdivision 1. **Applicant.** An applicant who has a serious health condition, has a  
45.28 qualifying exigency, is taking safety leave, is providing family care, is bonding, or is pregnant  
45.29 or recovering from pregnancy, and who satisfies the conditions of this section is eligible to  
45.30 receive benefits subject to the provisions of this chapter.
- 46.1 Subd. 2. **Wage credits.** An applicant must have sufficient wage credits from an employer  
46.2 or employers as defined in section 268B.01, subdivision 16, to establish a benefit account  
46.3 under section 268.07, subdivision 2.
- 46.4 Subd. 3. **Seven-day qualifying event.** (a) The period for which an applicant is seeking  
46.5 benefits must be or have been based on a single event of at least seven calendar days' duration  
46.6 related to pregnancy, recovery from pregnancy, family care, a qualifying exigency, safety  
46.7 leave, or the applicant's serious health condition. The days need not be consecutive.
- 46.8 (b) Benefits related to bonding need not meet the seven-day qualifying event requirement.

46.9 (c) The commissioner must use the rulemaking authority under section 268B.02,  
46.10 subdivision 3, to adopt rules regarding what serious health conditions and other events are  
46.11 prospectively presumed to constitute seven-day qualifying events under this chapter.

46.12 Subd. 4. **Ineligible.** (a) An applicant is not eligible for benefits for any portion of a day  
46.13 for which the applicant worked for pay.

46.14 (b) An applicant is not eligible for benefits for any day for which the applicant received  
46.15 benefits under chapter 176 or 268.

46.16 Subd. 5. **Certification.** An applicant for benefits under this chapter must fulfill the  
46.17 certification requirements under section 268B.04, subdivision 2.

46.18 Subd. 6. **Records release.** An individual whose medical records are necessary to  
46.19 determine eligibility for benefits under this chapter must sign and date a legally effective  
46.20 waiver authorizing release of medical or other records, to the limited extent necessary to  
46.21 administer or enforce this chapter, to the department and the Department of Labor and  
46.22 Industry.

46.23 Subd. 7. **Self-employed individual applicant.** To fulfill the requirements of this section,  
46.24 a self-employed individual or independent contractor who has elected and been approved  
46.25 for coverage under section 268B.011 must fulfill only the requirements of subdivisions 3,  
46.26 4, 5, and 6.

46.27 Sec. 8. [268B.04] APPLICATIONS.

46.28 Subdivision 1. **Process; deadline.** Applicants must file a benefit claim pursuant to rules  
46.29 promulgated by the commissioner within 90 calendar days of the related qualifying event.  
46.30 If a claim is filed more than 90 calendar days after the start of leave, the covered individual  
46.31 may receive reduced benefits. All claims shall include a certification supporting a request  
46.32 for leave under this chapter. The commissioner must establish good cause exemptions from  
47.1 the certification requirement deadline in the event that a serious health condition of the  
47.2 applicant prevents the applicant from providing the required certification within the 90  
47.3 calendar days.

47.4 Subd. 2. **Certification.** (a) Certification for an applicant taking leave related to the  
47.5 applicant's serious health condition shall be sufficient if the certification states the date on  
47.6 which the serious health condition began, the probable duration of the condition, and the  
47.7 appropriate medical facts within the knowledge of the health care provider as required by  
47.8 the commissioner.

47.9 (b) Certification for an applicant taking leave to care for a family member with a serious  
47.10 health condition shall be sufficient if the certification states the date on which the serious  
47.11 health condition commenced, the probable duration of the condition, the appropriate medical  
47.12 facts within the knowledge of the health care provider as required by the commissioner, a

47.13 statement that the family member requires care, and an estimate of the amount of time that  
47.14 the family member will require care.

47.15 (c) Certification for an applicant taking leave related to pregnancy shall be sufficient if  
47.16 the certification states the expected due date and recovery period based on appropriate  
47.17 medical facts within the knowledge of the health care provider.

47.18 (d) Certification for an applicant taking bonding leave because of the birth of the  
47.19 applicant's child shall be sufficient if the certification includes either the child's birth  
47.20 certificate or a document issued by the health care provider of the child or the health care  
47.21 provider of the person who gave birth, stating the child's birth date.

47.22 (e) Certification for an applicant taking bonding leave because of the placement of a  
47.23 child with the applicant for adoption or foster care shall be sufficient if the applicant provides  
47.24 a document issued by the health care provider of the child, an adoption or foster care agency  
47.25 involved in the placement, or by other individuals as determined by the commissioner that  
47.26 confirms the placement and the date of placement. To the extent that the status of an applicant  
47.27 as an adoptive or foster parent changes while an application for benefits is pending, or while  
47.28 the covered individual is receiving benefits, the applicant must notify the department of  
47.29 such change in status in writing.

47.30 (f) Certification for an applicant taking leave because of a qualifying exigency shall be  
47.31 sufficient if the certification includes:

47.32 (1) a copy of the family member's active-duty orders;

47.33 (2) other documentation issued by the United States armed forces; or

48.1 (3) other documentation permitted by the commissioner.

48.2 (g) Certification for an applicant taking safety leave is sufficient if the certification  
48.3 includes a court record or documentation signed by a volunteer or employee of a victim's  
48.4 services organization, an attorney, a police officer, or an antiviolenence counselor. The  
48.5 commissioner must not require disclosure of details relating to an applicant's or applicant's  
48.6 family member's domestic abuse, sexual assault, or stalking.

48.7 (h) Certifications under paragraphs (a) to (e) must be reviewed and signed by a health  
48.8 care provider with knowledge of the qualifying event associated with the leave.

48.9 (i) For a leave taken on an intermittent or reduced-schedule basis, based on a serious  
48.10 health condition of an applicant or applicant's family member, the certification under this  
48.11 subdivision must include an explanation of how such leave would be medically beneficial  
48.12 to the individual with the serious health condition.

48.13 Sec. 9. [268B.05] DETERMINATION OF APPLICATION.

48.14 Upon the filing of a complete application for benefits, the commissioner shall examine  
48.15 the application and on the basis of facts found by the commissioner and records maintained

48.16 by the department, the applicant shall be determined to be eligible or ineligible within two  
 48.17 weeks. If the application is determined to be valid, the commissioner shall promptly notify  
 48.18 the applicant and any other interested party as to the week when benefits commence, the  
 48.19 weekly benefit amount payable, and the maximum duration of those benefits. If the  
 48.20 application is determined to be invalid, the commissioner shall notify the applicant and any  
 48.21 other interested party of that determination and the reasons for it. If the processing of the  
 48.22 application is delayed for any reason, the commissioner shall notify the applicant, in writing,  
 48.23 within two weeks of the date the application for benefits is filed of the reason for the delay.  
 48.24 Unless the applicant or any other interested party, within 30 calendar days, requests a hearing  
 48.25 before a benefit judge, the determination is final. For good cause shown, the 30-day period  
 48.26 may be extended. At any time within one year from the date of a monetary determination,  
 48.27 the commissioner, upon request of the applicant or on the commissioner's own initiative,  
 48.28 may reconsider the determination if it is found that an error in computation or identity has  
 48.29 occurred in connection with the determination or that additional wages pertinent to the  
 48.30 applicant's status have become available, or if that determination has been made as a result  
 48.31 of a nondisclosure or misrepresentation of a material fact.

49.1 Sec. 10. [268B.06] EMPLOYER NOTIFICATION.

49.2 (a) Upon a determination under section 268B.05 that an applicant is entitled to benefits,  
 49.3 the commissioner must promptly send a notification to each current employer of the applicant,  
 49.4 if any, in accordance with paragraph (b).

49.5 (b) The notification under paragraph (a) must include, at a minimum:

49.6 (1) the name of the applicant;

49.7 (2) that the applicant has applied for and received benefits;

49.8 (3) the week the benefits commence;

49.9 (4) the weekly benefit amount payable;

49.10 (5) the maximum duration of benefits; and

49.11 (6) descriptions of the employer's right to participate in a hearing under section 268B.05,  
 49.12 and appeal process under section 268B.07.

49.13 Sec. 11. [268B.07] APPEAL PROCESS.

49.14 Subdivision 1. **Hearing.** (a) The commissioner shall designate a chief benefit judge.

49.15 (b) Upon a timely appeal to a determination having been filed or upon a referral for  
 49.16 direct hearing, the chief benefit judge must set a time and date for a de novo due-process  
 49.17 hearing and send notice to an applicant and an employer, by mail or electronic transmission,  
 49.18 not less than ten calendar days before the date of the hearing.

49.19 (c) The commissioner may adopt rules on procedures for hearings. The rules need not  
49.20 conform to common law or statutory rules of evidence and other technical rules of procedure.

49.21 (d) The chief benefit judge has discretion regarding the method by which the hearing is  
49.22 conducted.

49.23 Subd. 2. **Decision.** (a) After the conclusion of the hearing, upon the evidence obtained,  
49.24 the benefit judge must serve by mail or electronic transmission to all parties, the decision,  
49.25 reasons for the decision, and written findings of fact.

49.26 (b) Decisions of a benefit judge are not precedential.

49.27 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within  
49.28 30 calendar days after service of the benefit judge's decision, file a request for reconsideration  
49.29 asking the judge to reconsider that decision.

50.1 Subd. 4. **Appeal to court of appeals.** Any final determination on a request for  
50.2 reconsideration may be appealed by any party directly to the Minnesota Court of Appeals.

50.3 Subd. 5. **Benefit judges.** (a) Only employees of the department who are attorneys licensed  
50.4 to practice law in Minnesota may serve as a chief benefit judge, senior benefit judges who  
50.5 are supervisors, or benefit judges.

50.6 (b) The chief benefit judge must assign a benefit judge to conduct a hearing and may  
50.7 transfer to another benefit judge any proceedings pending before another benefit judge.

50.8 Sec. 12. [268B.08] BENEFITS.

50.9 Subdivision 1. **Weekly benefit amount.** (a) Subject to the maximum weekly benefit  
50.10 amount, an applicant's weekly benefit is calculated by adding the amounts obtained by  
50.11 applying the following percentage to an applicant's average weekly wage:

50.12 (1) 90 percent of wages that do not exceed 50 percent of the state's average weekly wage;  
50.13 plus

50.14 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage but  
50.15 not 100 percent; plus

50.16 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.

50.17 (b) The state's average weekly wage is the average wage as calculated under section  
50.18 268.035, subdivision 23, at the time a benefit amount is first determined.

50.19 (c) Notwithstanding any other provision in this section, weekly benefits must not exceed  
50.20 the maximum weekly benefit amount applicable at the time benefit payments commence.

50.21 Subd. 2. **Timing of payment.** Except as otherwise provided for in this chapter, benefits  
50.22 must be paid weekly.

50.23 Subd. 3. **Maximum length of benefits.** (a) Except as provided in paragraph (b), in a  
 50.24 single benefit year, an applicant may receive up to 12 weeks of benefits under this chapter  
 50.25 related to the applicant's serious health condition or pregnancy and up to 12 weeks of benefits  
 50.26 under this chapter for bonding, safety leave, or family care.

50.27 (b) An applicant may receive up to 12 weeks of benefits in a single benefit year for leave  
 50.28 related to one or more qualifying exigencies.

50.29 Subd. 4. **Minimum period for which benefits payable.** Except for a claim for benefits  
 50.30 for bonding leave, any claim for benefits must be based on a single-qualifying event of at  
 50.31 least seven calendar days. Benefits may be paid for a minimum increment of one day. The  
 51.1 minimum increment of one day may consist of multiple, nonconsecutive portions of a day  
 51.2 totaling eight hours.

51.3 Subd. 5. **Withholding of federal tax.** If the Internal Revenue Service determines that  
 51.4 benefits are subject to federal income tax, and an applicant elects to have federal income  
 51.5 tax deducted and withheld from the applicant's benefits, the commissioner must deduct and  
 51.6 withhold the amount specified in the Internal Revenue Code in a manner consistent with  
 51.7 state law.

51.8 Sec. 13. [268B.085] LEAVE.

51.9 Subdivision 1. **Right to leave.** Ninety calendar days from the date of hire, an employee  
 51.10 has a right to leave from employment for any day, or portion of a day, for which the employee  
 51.11 would be eligible for benefits under this chapter, regardless of whether the employee actually  
 51.12 applied for benefits and regardless of whether the employee is covered under a private plan  
 51.13 or the public program under this chapter.

51.14 Subd. 2. **Notice to employer.** (a) If the need for leave is foreseeable, an employee must  
 51.15 provide the employer at least 30 days' advance notice before leave under this chapter is to  
 51.16 begin. If 30 days' notice is not practicable because of a lack of knowledge of approximately  
 51.17 when leave will be required to begin, a change in circumstances, or a medical emergency,  
 51.18 notice must be given as soon as practicable. Whether leave is to be continuous or is to be  
 51.19 taken intermittently or on a reduced schedule basis, notice need only be given one time, but  
 51.20 the employee must advise the employer as soon as practicable if dates of scheduled leave  
 51.21 change or are extended, or were initially unknown. In those cases where the employee is  
 51.22 required to provide at least 30 days' notice of foreseeable leave and does not do so, the  
 51.23 employee must explain the reasons why such notice was not practicable upon a request from  
 51.24 the employer for such information.

51.25 (b) "As soon as practicable" means as soon as both possible and practical, taking into  
 51.26 account all of the facts and circumstances in the individual case. When an employee becomes  
 51.27 aware of a need for leave under this chapter less than 30 days in advance, it should be  
 51.28 practicable for the employee to provide notice of the need for leave either the same day or  
 51.29 the next day, unless the need for leave is based on a medical emergency. In all cases,

51.30 however, the determination of when an employee could practicably provide notice must  
51.31 take into account the individual facts and circumstances.

51.32 (c) An employee shall provide at least verbal notice sufficient to make the employer  
51.33 aware that the employee needs leave allowed under this chapter and the anticipated timing  
51.34 and duration of the leave. An employer may require an employee giving notice of leave to  
52.1 include a certification for the leave as described in section 268B.04, subdivision 2. Such  
52.2 certification, if required by an employer, is timely when the employee delivers it as soon  
52.3 as practicable given the circumstances requiring the need for leave, and the required contents  
52.4 of the certification.

52.5 (d) An employer may require an employee to comply with the employer's usual and  
52.6 customary notice and procedural requirements for requesting leave, absent unusual  
52.7 circumstances or other circumstances caused by the reason for the employee's need for  
52.8 leave. Leave under this chapter must not be delayed or denied where an employer's usual  
52.9 and customary notice or procedural requirements require notice to be given sooner than set  
52.10 forth in this subdivision.

52.11 (e) If an employer has failed to provide notice to the employee as required under section  
52.12 268B.22, paragraph (a), (b), or (e), the employee is not required to comply with the notice  
52.13 requirements of this subdivision.

52.14 Subd. 3. **Bonding leave.** Bonding leave taken under this chapter begins at a time requested  
52.15 by the employee. Bonding leave must begin within 12 months of the birth, adoption, or  
52.16 placement of a foster child, except that, in the case where the child must remain in the  
52.17 hospital longer than the mother, the leave must begin within 12 months after the child leaves  
52.18 the hospital.

52.19 Subd. 4. **Intermittent or reduced leave schedule.** (a) Leave under this chapter, based  
52.20 on a serious health condition, may be taken intermittently or on a reduced leave schedule  
52.21 if such leave would be medically beneficial to the individual with the serious health condition.  
52.22 For all other leaves under this chapter, leave may be taken intermittently or on a reduced  
52.23 leave schedule. Intermittent leave is leave taken in separate blocks of time due to a single,  
52.24 seven-day qualifying event. A reduced leave schedule is a leave schedule that reduces an  
52.25 employee's usual number of working hours per workweek or hours per workday.

52.26 (b) Leave taken intermittently or on a reduced schedule basis counts toward the  
52.27 maximums described in section 268B.08, subdivision 3.

52.28 Sec. 14. [268B.09] EMPLOYMENT PROTECTIONS.

52.29 Subdivision 1. **Retaliation prohibited.** An employer must not retaliate against an  
52.30 employee for requesting or obtaining benefits, or for exercising any other right under this  
52.31 chapter.



- 52.32 Subd. 2. **Interference prohibited.** An employer must not obstruct or impede an  
52.33 application for leave or benefits or the exercise of any other right under this chapter.
- 53.1 Subd. 3. **Waiver of rights void.** Any agreement to waive, release, or commute rights  
53.2 to benefits or any other right under this chapter is void.
- 53.3 Subd. 4. **No assignment of benefits.** Any assignment, pledge, or encumbrance of benefits  
53.4 is void. Benefits are exempt from levy, execution, attachment, or any other remedy provided  
53.5 for the collection of debt. Any waiver of this subdivision is void.
- 53.6 Subd. 5. **Continued insurance.** During any leave for which an employee is entitled to  
53.7 benefits under this chapter, the employer must maintain coverage under any group insurance  
53.8 policy, group subscriber contract, or health care plan for the employee and any dependents  
53.9 as if the employee was not on leave, provided, however, that the employee must continue  
53.10 to pay any employee share of the cost of such benefits.
- 53.11 Subd. 6. **Employee right to reinstatement.** (a) On return from leave under this chapter,  
53.12 an employee is entitled to be returned to the same position the employee held when leave  
53.13 commenced or to an equivalent position with equivalent benefits, pay, and other terms and  
53.14 conditions of employment. An employee is entitled to such reinstatement even if the  
53.15 employee has been replaced or the employee's position has been restructured to accommodate  
53.16 the employee's absence.
- 53.17 (b)(1) An equivalent position is one that is virtually identical to the employee's former  
53.18 position in terms of pay, benefits, and working conditions, including privileges, prerequisites,  
53.19 and status. It must involve the same or substantially similar duties and responsibilities,  
53.20 which must entail substantially equivalent skill, effort, responsibility, and authority.
- 53.21 (2) If an employee is no longer qualified for the position because of the employee's  
53.22 inability to attend a necessary course, renew a license, fly a minimum number of hours, or  
53.23 the like, as a result of the leave, the employee must be given a reasonable opportunity to  
53.24 fulfill those conditions upon return from leave.
- 53.25 (c)(1) An employee is entitled to any unconditional pay increases which may have  
53.26 occurred during the leave period, such as cost of living increases. Pay increases conditioned  
53.27 upon seniority, length of service, or work performed must be granted in accordance with  
53.28 the employer's policy or practice with respect to other employees on an equivalent leave  
53.29 status for a reason that does not qualify for leave under this chapter. An employee is entitled  
53.30 to be restored to a position with the same or equivalent pay premiums, such as a shift  
53.31 differential. If an employee departed from a position averaging ten hours of overtime, and  
53.32 corresponding overtime pay, each week an employee is ordinarily entitled to such a position  
53.33 on return from leave under this chapter.
- 54.1 (2) Equivalent pay includes any bonus or payment, whether it is discretionary or  
54.2 nondiscretionary, made to employees consistent with the provisions of clause (1). However,  
54.3 if a bonus or other payment is based on the achievement of a specified goal such as hours  
54.4 worked, products sold, or perfect attendance, and the employee has not met the goal due to

54.5 leave under this chapter, the payment may be denied, unless otherwise paid to employees  
54.6 on an equivalent leave status for a reason that does not qualify for leave under this chapter.

54.7 (d) Benefits under this section include all benefits provided or made available to  
54.8 employees by an employer, including group life insurance, health insurance, disability  
54.9 insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether  
54.10 such benefits are provided by a practice or written policy of an employer through an employee  
54.11 benefit plan as defined in section 3(3) of United States Code, title 29, section 1002(3).

54.12 (1) At the end of an employee's leave under this chapter, benefits must be resumed in  
54.13 the same manner and at the same levels as provided when the leave began, and subject to  
54.14 any changes in benefit levels that may have taken place during the period of leave affecting  
54.15 the entire workforce, unless otherwise elected by the employee. Upon return from a leave  
54.16 under this chapter, an employee cannot be required to requalify for any benefits the employee  
54.17 enjoyed before leave began, including family or dependent coverages.

54.18 (2) An employee may, but is not entitled to, accrue any additional benefits or seniority  
54.19 during a leave under this chapter. Benefits accrued at the time leave began, however, must  
54.20 be available to an employee upon return from leave.

54.21 (3) With respect to pension and other retirement plans, leave under this chapter must  
54.22 not be treated as or counted toward a break in service for purposes of vesting and eligibility  
54.23 to participate. Also, if the plan requires an employee to be employed on a specific date in  
54.24 order to be credited with a year of service for vesting, contributions, or participation purposes,  
54.25 an employee on leave under this chapter must be treated as employed on that date. However,  
54.26 periods of leave under this chapter need not be treated as credited service for purposes of  
54.27 benefit accrual, vesting, and eligibility to participate.

54.28 (4) Employees on leave under this chapter must be treated as if they continued to work  
54.29 for purposes of changes to benefit plans. Employees on leave under this chapter are entitled  
54.30 to changes in benefit plans, except those which may be dependent upon seniority or accrual  
54.31 during the leave period, immediately upon return from leave or to the same extent they  
54.32 would have qualified if no leave had been taken.

54.33 (e) An equivalent position must have substantially similar duties, conditions,  
54.34 responsibilities, privileges, and status as the employee's original position.

55.1 (1) The employee must be reinstated to the same or a geographically proximate worksite  
55.2 from where the employee had previously been employed. If the employee's original worksite  
55.3 has been closed, the employee is entitled to the same rights as if the employee had not been  
55.4 on leave when the worksite closed.

55.5 (2) The employee is ordinarily entitled to return to the same shift or the same or an  
55.6 equivalent work schedule.

55.7       (3) The employee must have the same or an equivalent opportunity for bonuses,  
55.8 profit-sharing, and other similar discretionary and nondiscretionary payments.

55.9       (4) This chapter does not prohibit an employer from accommodating an employee's  
55.10 request to be restored to a different shift, schedule, or position which better suits the  
55.11 employee's personal needs on return from leave, or to offer a promotion to a better position.  
55.12 However, an employee must not be induced by the employer to accept a different position  
55.13 against the employee's wishes.

55.14       (f) The requirement that an employee be restored to the same or equivalent job with the  
55.15 same or equivalent pay, benefits, and terms and conditions of employment does not extend  
55.16 to de minimis, intangible, or unmeasurable aspects of the job.

55.17       Subd. 7. **Limitations on an employee's right to reinstatement.** An employee has no  
55.18 greater right to reinstatement or to other benefits and conditions of employment than if the  
55.19 employee had been continuously employed during the period of leave under this chapter.  
55.20 An employer must be able to show that an employee would not otherwise have been  
55.21 employed at the time reinstatement is requested in order to deny restoration to employment.

55.22       (1) If an employee is laid off during the course of taking a leave under this chapter and  
55.23 employment is terminated, the employer's responsibility to continue the leave, maintain  
55.24 group health plan benefits, and restore the employee cease at the time the employee is laid  
55.25 off, provided the employer has no continuing obligations under a collective bargaining  
55.26 agreement or otherwise. An employer would have the burden of proving that an employee  
55.27 would have been laid off during the period of leave under this chapter and, therefore, would  
55.28 not be entitled to restoration. Restoration to a job slated for layoff when the employee's  
55.29 original position would not meet the requirements of an equivalent position.

55.30       (2) If a shift has been eliminated or overtime has been decreased, an employee would  
55.31 not be entitled to return to work that shift or the original overtime hours upon restoration.  
55.32 However, if a position on, for example, a night shift has been filled by another employee,  
55.33 the employee is entitled to return to the same shift on which employed before taking leave  
55.34 under this chapter.

56.1       (3) If an employee was hired for a specific term or only to perform work on a discrete  
56.2 project, the employer has no obligation to restore the employee if the employment term or  
56.3 project is over and the employer would not otherwise have continued to employ the employee.

56.4       Subd. 8. **Remedies.** (a) In addition to any other remedies available to an employee in  
56.5 law or equity, an employer who violates the provisions of this section is liable to any  
56.6 employee affected for:

56.7       (1) damages equal to the amount of:

56.8       (i) any wages, salary, employment benefits, or other compensation denied or lost to such  
56.9 employee by reason of the violation, or, in a cases in which wages, salary, employment

56.10 benefits, or other compensation have not been denied or lost to the employee, any actual  
56.11 monetary losses sustained by the employee as a direct result of the violation; and

56.12 (ii) reasonable interest on the amount described in item (i); and

56.13 (2) such equitable relief as may be appropriate, including employment, reinstatement,  
56.14 and promotion.

56.15 (b) An action to recover damages or equitable relief prescribed in paragraph (a) may be  
56.16 maintained against any employer in any federal or state court of competent jurisdiction by  
56.17 any one or more employees for and on behalf of:

56.18 (1) the employees; or

56.19 (2) the employees and other employees similarly situated.

56.20 (c) The court in an action under this section must, in addition to any judgment awarded  
56.21 to the plaintiff or plaintiffs, allow reasonable attorney fees, reasonable expert witness fees,  
56.22 and other costs of the action to be paid by the defendant.

56.23 (d) Nothing in this section shall be construed to allow an employee to recover damages  
56.24 from an employer for the denial of benefits under this chapter by the department, unless the  
56.25 employer unlawfully interfered with the application for benefits under subdivision 2.

56.26 Sec. 15. [268B.10] SUBSTITUTION OF A PRIVATE PLAN.

56.27 Subdivision 1. **Application for substitution.** Employers may apply to the commissioner  
56.28 for approval to meet their obligations under this chapter through the substitution of a private  
56.29 plan that provides paid family, paid medical, or paid family and medical benefits. In order  
56.30 to be approved as meeting an employer's obligations under this chapter, a private plan must  
56.31 confer all of the same rights, protections, and benefits provided to employees under this  
56.32 chapter, including but not limited to benefits under section 268B.08 and employment  
57.1 protections under section 268B.09. An employee covered by a private plan under this section  
57.2 retains all applicable rights and remedies under section 268B.09.

57.3 Subd. 2. **Private plan requirements; medical benefit program.** (a) The commissioner  
57.4 must approve an application for private provision of the medical benefit program if the  
57.5 commissioner determines;

57.6 (1) all of the employees of the employer are to be covered under the provisions of the  
57.7 employer plan;

57.8 (2) eligibility requirements for benefits and leave are no more restrictive than as provided  
57.9 under this chapter;

57.10 (3) the weekly benefits payable under the private plan for any week are at least equal to  
57.11 the weekly benefit amount payable under this chapter, taking into consideration any coverage  
57.12 with respect to concurrent employment by another employer;

57.13 (4) the total number of weeks for which benefits are payable under the private plan is  
57.14 at least equal to the total number of weeks for which benefits would have been payable  
57.15 under this chapter;

57.16 (5) no greater amount is required to be paid by employees toward the cost of benefits  
57.17 under the employer plan than by this chapter;

57.18 (6) wage replacement benefits are stated in the plan separately and distinctly from other  
57.19 benefits;

57.20 (7) the private plan will provide benefits and leave for any serious health condition or  
57.21 pregnancy for which benefits are payable, and leave provided, under this chapter;

57.22 (8) the private plan will impose no additional condition or restriction on the use of  
57.23 medical benefits beyond those explicitly authorized by this chapter or regulations  
57.24 promulgated pursuant to this chapter;

57.25 (9) the private plan will allow any employee covered under the private plan who is  
57.26 eligible to receive medical benefits under this chapter to receive medical benefits under the  
57.27 employer plan; and

57.28 (10) coverage will be continued under the private plan while an employee remains  
57.29 employed by the employer.

57.30 (b) Notwithstanding paragraph (a), a private plan may provide shorter durations of leave  
57.31 and benefit eligibility if the total dollar value of wage replacement benefits under the private  
58.1 plan for an employee for any particular qualifying event meets or exceeds what the total  
58.2 dollar value would be under the public family and medical benefit program.

58.3 Subd. 3. **Private plan requirements; family benefit program.** (a) The commissioner  
58.4 must approve an application for private provision of the family benefit program if the  
58.5 commissioner determines;

58.6 (1) all of the employees of the employer are to be covered under the provisions of the  
58.7 employer plan;

58.8 (2) eligibility requirements for benefits and leave are no more restrictive than as provided  
58.9 under this chapter;

58.10 (3) the weekly benefits payable under the private plan for any week are at least equal to  
58.11 the weekly benefit amount payable under this chapter, taking into consideration any coverage  
58.12 with respect to concurrent employment by another employer;

58.13 (4) the total number of weeks for which benefits are payable under the private plan is  
58.14 at least equal to the total number of weeks for which benefits would have been payable  
58.15 under this chapter;

58.16 (5) no greater amount is required to be paid by employees toward the cost of benefits  
 58.17 under the employer plan than by this chapter;

58.18 (6) wage replacement benefits are stated in the plan separately and distinctly from other  
 58.19 benefits;

58.20 (7) the private plan will provide benefits and leave for any care for a family member  
 58.21 with a serious health condition, bonding with a child, qualifying exigency, or safety leave  
 58.22 event for which benefits are payable, and leave provided, under this chapter;

58.23 (8) the private plan will impose no additional condition or restriction on the use of family  
 58.24 benefits beyond those explicitly authorized by this chapter or regulations promulgated  
 58.25 pursuant to this chapter;

58.26 (9) the private plan will allow any employee covered under the private plan who is  
 58.27 eligible to receive medical benefits under this chapter to receive medical benefits under the  
 58.28 employer plan; and

58.29 (10) coverage will be continued under the private plan while an employee remains  
 58.30 employed by the employer.

58.31 (b) Notwithstanding paragraph (a), a private plan may provide shorter durations of leave  
 58.32 and benefit eligibility if the total dollar value of wage replacement benefits under the private  
 59.1 plan for an employee for any particular qualifying event meets or exceeds what the total  
 59.2 dollar value would be under the public family and medical benefit program.

59.3 Subd. 4. **Use of private insurance products.** Nothing in this section prohibits an  
 59.4 employer from meeting the requirements of a private plan through a private insurance  
 59.5 product. If the employer plan involves a private insurance product, that insurance product  
 59.6 must conform to any applicable law or rule.

59.7 Subd. 5. **Private plan approval and oversight fee.** An employer with an approved  
 59.8 private plan will not be required to pay premiums established under section 268B.12. An  
 59.9 employer with an approved private plan will be responsible for a private plan approval and  
 59.10 oversight fee equal to \$250 for employers with fewer than 50 employees, \$500 for employers  
 59.11 with 50 to 499 employees, and \$1,000 for employers with 500 or more employees. The  
 59.12 employer must pay this fee (1) upon initial application for private plan approval and (2) any  
 59.13 time the employer applies to amend the private plan. The commissioner will review and  
 59.14 report on the adequacy of this fee to cover private plan administrative costs annually  
 59.15 beginning in 2020 as part of the annual report established in section 268B.21.

59.16 Subd. 6. **Plan duration.** A private plan under this section must be in effect for a period  
 59.17 of at least one year and, thereafter, continuously unless the commissioner finds that the  
 59.18 employer has given notice of withdrawal from the plan in a manner specified by the  
 59.19 commissioner in this section or rule. The plan may be withdrawn by the employer within  
 59.20 30 days of the effective date of any law increasing the benefit amounts or within 30 days  
 59.21 of the date of any change in the rate of premiums. If the plan is not withdrawn, it must be

59.22 amended to conform to provide the increased benefit amount or change in the rate of the  
59.23 employee's premium on the date of the increase or change.

59.24 Subd. 7. **Appeals.** An employer may appeal any adverse action regarding that employer's  
59.25 private plan to the commissioner, in a manner specified by the commissioner.

59.26 Subd. 8. **Employees no longer covered.** (a) An employee is no longer covered by an  
59.27 approved private plan if a leave under this chapter occurs after the employment relationship  
59.28 with the private plan employer ends, or if the commissioner revokes the approval of the  
59.29 private plan.

59.30 (b) An employee no longer covered by an approved private plan is, if otherwise eligible,  
59.31 immediately entitled to benefits under this chapter to the same extent as though there had  
59.32 been no approval of the private plan.

60.1 Subd. 9. **Posting of notice regarding private plan.** An employer with a private plan  
60.2 must provide a notice prepared by or approved by the commissioner regarding the private  
60.3 plan consistent with the provisions of section 268B.22.

60.4 Subd. 10. **Amendment.** (a) The commissioner must approve any amendment to a private  
60.5 plan adjusting the provisions thereof, if the commissioner determines:

60.6 (1) that the plan, as amended, will conform to the standards set forth in this chapter; and

60.7 (2) that notice of the amendment has been delivered to all affected employees at least  
60.8 ten days before the submission of the amendment.

60.9 (b) Any amendments approved under this subdivision are effective on the date of the  
60.10 commissioner's approval, unless the commissioner and the employer agree on a later date.

60.11 Subd. 11. **Successor employer.** A private plan in effect at the time a successor acquires  
60.12 the employer organization, trade, or business, or substantially all the assets thereof, or a  
60.13 distinct and severable portion of the organization, trade, or business, and continues its  
60.14 operation without substantial reduction of personnel resulting from the acquisition, must  
60.15 continue the approved private plan and must not withdraw the plan without a specific request  
60.16 for withdrawal in a manner and at a time specified by the commissioner. A successor may  
60.17 terminate a private plan with notice to the commissioner and within 90 days from the date  
60.18 of the acquisition.

60.19 Subd. 12. **Revocation of approval by commissioner.** (a) The commissioner may  
60.20 terminate any private plan if the commissioner determines the employer:

60.21 (1) failed to pay benefits;

60.22 (2) failed to pay benefits in a timely manner, consistent with the requirements of this  
60.23 chapter;

- 60.24 (3) failed to submit reports as required by this chapter or rule adopted under this chapter;  
 60.25 or
- 60.26 (4) otherwise failed to comply with this chapter or rule adopted under this chapter.
- 60.27 (b) The commissioner must give notice of the intention to terminate a plan to the employer  
 60.28 at least ten days before taking any final action. The notice must state the effective date and  
 60.29 the reason for the termination.
- 60.30 (c) The employer may, within ten days from mailing or personal service of the notice,  
 60.31 file an appeal to the commissioner in the time, manner, method, and procedure provided by  
 60.32 the commissioner under subdivision 7.
- 61.1 (d) The payment of benefits must not be delayed during an employer's appeal of the  
 61.2 revocation of approval of a private plan.
- 61.3 (e) If the commissioner revokes approval of an employer's private plan, that employer  
 61.4 is ineligible to apply for approval of another private plan for a period of three years, beginning  
 61.5 on the date of revocation.
- 61.6 Subd. 13. **Employer penalties.** (a) The commissioner may assess the following monetary  
 61.7 penalties against an employer with an approved private plan found to have violated this  
 61.8 chapter:
- 61.9 (1) \$1,000 for the first violation; and
- 61.10 (2) \$2,000 for the second, and each successive violation.
- 61.11 (b) The commissioner must waive collection of any penalty if the employer corrects the  
 61.12 violation within 30 days of receiving a notice of the violation and the notice is for a first  
 61.13 violation.
- 61.14 (c) The commissioner may waive collection of any penalty if the commissioner determines  
 61.15 the violation to be an inadvertent error by the employer.
- 61.16 (d) Monetary penalties collected under this section shall be deposited in the account.
- 61.17 (e) Assessment of penalties under this subdivision may be appealed as provided by the  
 61.18 commissioner under subdivision 7.
- 61.19 Subd. 14. **Reports, information, and records.** Employers with an approved private  
 61.20 plan must maintain all reports, information, and records as relating to the private plan and  
 61.21 claims for a period of six years from creation and provide to the commissioner upon request.
- 61.22 Subd. 15. **Audit and investigation.** The commissioner may investigate and audit plans  
 61.23 approved under this section both before and after the plans are approved.
- 61.24 Sec. 16. [268B.11] SELF-EMPLOYED AND INDEPENDENT CONTRACTOR  
 61.25 ELECTION OF COVERAGE.



61.26 Subdivision 1. **Election of coverage.** (a) A self-employed individual or independent  
 61.27 contractor may file with the commissioner by electronic transmission in a format prescribed  
 61.28 by the commissioner an application to be entitled to benefits under this chapter for a period  
 61.29 not less than 104 consecutive calendar weeks. Upon the approval of the commissioner, sent  
 61.30 by United States mail or electronic transmission, the individual is entitled to benefits under  
 61.31 this chapter beginning the calendar quarter after the date of approval or beginning in a later  
 61.32 calendar quarter if requested by the self-employed individual or independent contractor.  
 62.1 The individual ceases to be entitled to benefits as of the first day of January of any calendar  
 62.2 year only if, at least 30 calendar days before the first day of January, the individual has filed  
 62.3 with the commissioner by electronic transmission in a format prescribed by the commissioner  
 62.4 a notice to that effect.

62.5 (b) The commissioner may terminate any application approved under this section with  
 62.6 30 calendar days' notice sent by United States mail or electronic transmission if the  
 62.7 self-employed individual is delinquent on any premiums due under this chapter an election  
 62.8 agreement. If an approved application is terminated in this manner during the first 104  
 62.9 consecutive calendar weeks of election, the self-employed individual remains obligated to  
 62.10 pay the premium under subdivision 3 for the remainder of that 104-week period.

62.11 Subd. 2. **Application** A self-employed individual who applies for coverage under this  
 62.12 section must provide the commissioner with (1) the amount of the individual's net earnings  
 62.13 from self-employment, if any, from the two most recent taxable years and all tax documents  
 62.14 necessary to prove the accuracy of the amounts reported and (2) any other documentation  
 62.15 the commissioner requires. A self-employed individual who is covered under this chapter  
 62.16 must annually provide the commissioner with the amount of the individual's net earnings  
 62.17 from self-employment within 30 days of filing a federal income tax return.

62.18 Subd. 3. **Premium.** A self-employed individual who elects to receive coverage under  
 62.19 this chapter must annually pay a premium equal to one-half the percentage in section  
 62.20 268B.12, subdivision 4, clause (1), times the lesser of:

62.21 (1) the individual's self-employment premium base; or

62.22 (2) the maximum earnings subject to the FICA Old-Age, Survivors, and Disability  
 62.23 Insurance tax.

62.24 Subd. 4. **Benefits.** Notwithstanding anything to the contrary, a self-employed individual  
 62.25 who has applied to and been approved for coverage by the commissioner under this section  
 62.26 is entitled to benefits on the same basis as an employee under this chapter, except that a  
 62.27 self-employed individual's weekly benefit amount under section 268B.08, subdivision 1,  
 62.28 must calculated as a percentage of the self-employed individual's self-employment premium  
 62.29 base, rather than wages.

62.30 Sec. 17. [268B.12] PREMIUMS.

62.31 Subdivision 1. **Employer.** (a) Each person or entity required, or who elected, to register  
 62.32 for a tax account under sections 268.042, 268.045, and 268.046 must pay a premium on the

63.1 wages paid to employees in covered employment for each calendar year. The premium must  
 63.2 be paid on all wages up to the maximum specified by this section.

63.3 (b) Each person or entity required, or who elected, to register for a reimbursable account  
 63.4 under sections 268.042, 268.045, and 268.046 must pay a premium on the wages paid to  
 63.5 employees in covered employment in the same amount and manner as provided by paragraph  
 63.6 (a).

63.7 Subd. 2. **Employee charge back.** Notwithstanding section 177.24, subdivision 4, or  
 63.8 181.06, subdivision 1, employers and covered business entities may deduct up to 50 percent  
 63.9 of annual premiums paid under this section from employee wages. Such deductions for any  
 63.10 given employee must be in equal proportion to the premiums paid based on the wages of  
 63.11 that employee, and all employees of an employer must be subject to the same percentage  
 63.12 deduction. Deductions under this section must not cause an employee's wage, after the  
 63.13 deduction, to fall below the rate required to be paid to the worker by law, including any  
 63.14 applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or  
 63.15 other legal authority, whichever rate of pay is greater.

63.16 Subd. 3. **Wages and payments subject to premium.** (a) The maximum wages subject  
 63.17 to premium in a calendar year is equal to the maximum earnings in that year subject to the  
 63.18 FICA Old-Age, Survivors, and Disability Insurance tax.

63.19 (b) The maximum payment amount subject to premium in a calendar year, under  
 63.20 subdivision 1, paragraph (c), is equal to the maximum earnings in that year subject to the  
 63.21 FICA Old-Age, Survivors, and Disability Insurance tax.

63.22 Subd. 4. **Annual premium rates.** The employer premium rates for the calendar year  
 63.23 beginning January 1, 2021, shall be as follows:

63.24 (1) for employers participating in both family and medical benefit programs, 0.6 percent;

63.25 (2) for an employer participating in only the medical benefit program and with an  
 63.26 approved private plan for the family benefit program, 0.486 percent; and

63.27 (3) for an employer participating in only the family benefit program and with an approved  
 63.28 private plan for the medical benefit program, 0.114 percent.

63.29 Subd. 5. **Premium rate adjustments.** (a) Each calendar year following the calendar  
 63.30 year beginning January 1, 2023, the commissioner must adjust the annual premium rates  
 63.31 using the formula in paragraph (b).

63.32 (b) To calculate the employer rates for a calendar year, the commissioner must:

64.1 (1) multiply 1.45 times the amount disbursed from the account for the 52-week period  
 64.2 ending September 30 of the prior year;

64.3 (2) subtract the amount in the account on that September 30 from the resulting figure;

64.4       (3) divide the resulting figure by twice the total wages in covered employment of  
64.5 employees of employers without approved private plans under section 268B.10 for either  
64.6 the family or medical benefit program. For employers with an approved private plan for  
64.7 either the medical benefit program or the family benefit program, but not both, count only  
64.8 the proportion of wages in covered employment associated with the program for which the  
64.9 employer does not have an approved private plan; and

64.10       (4) round the resulting figure down to the nearest one-hundredth of one percent.

64.11       (c) The commissioner must apportion the premium rate between the family and medical  
64.12 benefit programs based on the relative proportion of expenditures for each program during  
64.13 the preceding year.

64.14       Subd. 6. **Deposit of premiums.** All premiums collected under this section must be  
64.15 deposited into the account.

64.16       Subd. 7. **Nonpayment of premiums by employer.** The failure of an employer to pay  
64.17 premiums does not impact the right of an employee to benefits, or any other right, under  
64.18 this chapter.

64.19       Sec. 18. [268B.13] COLLECTION OF PREMIUMS.

64.20       Subdivision 1. **Amount computed presumed correct.** Any amount due from an  
64.21 employer, as computed by the commissioner, is presumed to be correctly determined and  
64.22 assessed, and the burden is upon the employer to show any error. A statement by the  
64.23 commissioner of the amount due is admissible in evidence in any court or administrative  
64.24 proceeding and is prima facie evidence of the facts in the statement.

64.25       Subd. 2. **Priority of payments.** (a) Any payment received from an employer must be  
64.26 applied in the following order:

64.27       (1) premiums due under this chapter; then

64.28       (2) interest on past due premiums; then

64.29       (3) penalties, late fees, administrative service fees, and costs.

64.30       (b) Paragraph (a) is the priority used for all payments received from an employer,  
64.31 regardless of how the employer may designate the payment to be applied, except when:

65.1       (1) there is an outstanding lien and the employer designates that the payment made  
65.2 should be applied to satisfy the lien;

65.3       (2) a court or administrative order directs that the payment be applied to a specific  
65.4 obligation;

65.5       (3) a preexisting payment plan provides for the application of payment; or

65.6       (4) the commissioner agrees to apply the payment to a different priority.

65.7 Subd. 3. **Costs.** (a) Any employer that fails to pay any amount when due under this  
65.8 chapter is liable for any filing fees, recording fees, sheriff fees, costs incurred by referral  
65.9 to any public or private collection agency, or litigation costs, including attorney fees, incurred  
65.10 in the collection of the amounts due.

65.11 (b) If any tendered payment of any amount due is not honored when presented to a  
65.12 financial institution for payment, any costs assessed to the department by the financial  
65.13 institution and a fee of \$25 must be assessed to the person.

65.14 (c) Costs and fees collected under this subdivision are credited to the account.

65.15 Subd. 4. **Interest on amounts past due.** If any amounts due from an employer under  
65.16 this chapter, except late fees, are not received on the date due, the unpaid balance bears  
65.17 interest at the rate of one percent per month or any part of a month. Interest collected under  
65.18 this subdivision is payable to the account.

65.19 Subd. 5. **Interest on judgments.** Regardless of section 549.09, if judgment is entered  
65.20 upon any past due amounts from an employer under this chapter, the unpaid judgment bears  
65.21 interest at the rate specified in subdivision 4 until the date of payment.

65.22 Subd. 6. **Credit adjustments; refunds.** (a) If an employer makes an application for a  
65.23 credit adjustment of any amount paid under this chapter within four years of the date that  
65.24 the payment was due, in a manner and format prescribed by the commissioner, and the  
65.25 commissioner determines that the payment or any portion thereof was erroneous, the  
65.26 commissioner must make an adjustment and issue a credit without interest. If a credit cannot  
65.27 be used, the commissioner must refund, without interest, the amount erroneously paid. The  
65.28 commissioner, on the commissioner's own motion, may make a credit adjustment or refund  
65.29 under this subdivision.

65.30 (b) Any refund returned to the commissioner is considered unclaimed property under  
65.31 chapter 345.

66.1 (c) If a credit adjustment or refund is denied in whole or in part, a determination of denial  
66.2 must be sent to the employer by United States mail or electronic transmission. The  
66.3 determination of denial is final unless an employer files an appeal within 20 calendar days  
66.4 after receipt of the determination.

66.5 (d) If an employer receives a credit adjustment or refund under this section, the employer  
66.6 must determine the amount of any overpayment attributable to a deduction from employee  
66.7 wages under section 268B.12, subdivision 2, and return any amount erroneously deducted  
66.8 to each affected employee.

66.9 Subd. 7. **Priorities under legal dissolutions or distributions.** In the event of any  
66.10 distribution of an employer's assets according to an order of any court, including any  
66.11 receivership, assignment for benefit of creditors, adjudicated insolvency, or similar  
66.12 proceeding, premiums then or thereafter due must be paid in full before all other claims  
66.13 except claims for wages of not more than \$1,000 per former employee that are earned within

66.14 six months of the commencement of the proceedings. In the event of an employer's  
66.15 adjudication in bankruptcy under federal law, premiums then or thereafter due are entitled  
66.16 to the priority provided in that law for taxes due.

66.17 Sec. 19. [268B.14] ADMINISTRATIVE COSTS.

66.18 From July 1, 2021, through December 31, 2021, the commissioner may spend up to  
66.19 seven percent of premiums collected under section 268B.13 for administration of this chapter.  
66.20 Beginning January 1, 2022, and each calendar year thereafter, the commissioner may spend  
66.21 up to seven percent of projected benefit payments for that calendar year for the administration  
66.22 of this chapter. The department may enter into interagency agreements with the Department  
66.23 of Labor and Industry, including agreements to transfer funds, subject to the limit in this  
66.24 section, for the Department of Labor and Industry to fulfill its enforcement authority of this  
66.25 chapter.

66.26 Sec. 20. [268B.15] PUBLIC OUTREACH.

66.27 Beginning in fiscal year 2022, the commissioner must use at least 0.5 percent of revenue  
66.28 collected under this chapter for the purpose of outreach, education, and technical assistance  
66.29 for employees, employers, and self-employed individuals eligible to elect coverage under  
66.30 section 268B.11. The department may enter into interagency agreements with the Department  
66.31 of Labor and Industry, including agreements to transfer funds, subject to the limit in section  
66.32 268B.14, to accomplish the requirements of this section. At least one-half of the amount  
66.33 spent under this section must be used for grants to community-based groups.

67.1 Sec. 21. [268B.16] APPLICANT'S FALSE REPRESENTATIONS; CONCEALMENT  
67.2 OF FACTS; PENALTY.

67.3 (a) Any applicant who knowingly makes a false statement or representation, knowingly  
67.4 fails to disclose a material fact, or makes a false statement or representation without a  
67.5 good-faith belief as to the correctness of the statement or representation in order to obtain  
67.6 or in an attempt to obtain benefits may be assessed, in addition to any other penalties, an  
67.7 administrative penalty of ineligibility of benefits for 13 to 104 weeks.

67.8 (b) A determination of ineligibility setting out the weeks the applicant is ineligible must  
67.9 be sent to the applicant by United States mail or electronic transmission. The determination  
67.10 is final unless an appeal is filed within 30 calendar days after receipt of the determination.

67.11 Sec. 22. [268B.17] EMPLOYER MISCONDUCT; PENALTY.

67.12 (a) The commissioner must penalize an employer if that employer or any employee,  
67.13 officer, or agent of that employer is in collusion with any applicant for the purpose of  
67.14 assisting the applicant in receiving benefits fraudulently. The penalty is \$500 or the amount  
67.15 of benefits determined to be overpaid, whichever is greater.

67.16 (b) The commissioner must penalize an employer if that employer or any employee,  
67.17 officer, or agent of that employer:

- 67.18 (1) made a false statement or representation knowing it to be false;
- 67.19 (2) made a false statement or representation without a good-faith belief as to the
- 67.20 correctness of the statement or representation; or
- 67.21 (3) knowingly failed to disclose a material fact.
- 67.22 (c) The penalty is the greater of \$500 or 50 percent of the following resulting from the
- 67.23 employer's action:
- 67.24 (1) the amount of any overpaid benefits to an applicant;
- 67.25 (2) the amount of benefits not paid to an applicant that would otherwise have been paid;
- 67.26 or
- 67.27 (3) the amount of any payment required from the employer under this chapter that was
- 67.28 not paid.
- 67.29 (d) Penalties must be paid within 30 calendar days of issuance of the determination of
- 67.30 penalty and credited to the account.
- 68.1 (e) The determination of penalty is final unless the employer files an appeal within 30
- 68.2 calendar days after the sending of the determination of penalty to the employer by United
- 68.3 States mail or electronic transmission.
- 68.4 Sec. 23. [268B.18] RECORDS; AUDITS.
- 68.5 (a) Each employer must keep true and accurate records on individuals performing services
- 68.6 for the employer, containing the information the commissioner may require under this
- 68.7 chapter. The records must be kept for a period of not less than four years in addition to the
- 68.8 current calendar year.
- 68.9 (b) For the purpose of administering this chapter, the commissioner has the power to
- 68.10 investigate, audit, examine, or cause to be supplied or copied, any books, correspondence,
- 68.11 papers, records, or memoranda that are the property of, or in the possession of, an employer
- 68.12 or any other person at any reasonable time and as often as may be necessary.
- 68.13 (c) An employer or other person that refuses to allow an audit of its records by the
- 68.14 department or that fails to make all necessary records available for audit in the state upon
- 68.15 request of the commissioner may be assessed an administrative penalty of \$500. The penalty
- 68.16 collected is credited to the account.
- 68.17 Sec. 24. [268B.19] SUBPOENAS; OATHS.
- 68.18 (a) The commissioner or benefit judge has authority to administer oaths and affirmations,
- 68.19 take depositions, certify to official acts, and issue subpoenas to compel the attendance of
- 68.20 individuals and the production of documents and other personal property necessary in
- 68.21 connection with the administration of this chapter.

68.22 (b) Individuals subpoenaed, other than applicants or officers and employees of an  
 68.23 employer that is the subject of the inquiry, must be paid witness fees the same as witness  
 68.24 fees in civil actions in district court. The fees need not be paid in advance.

68.25 (c) The subpoena is enforceable through the district court in Ramsey County.

68.26 Sec. 25. [268B.20] CONCILIATION SERVICES.

68.27 The Department of Labor and Industry may offer conciliation services to employers and  
 68.28 employees to resolve disputes concerning alleged violations of employment protections  
 68.29 identified in section 268B.09.

69.1 Sec. 26. [268B.21] ANNUAL REPORTS.

69.2 (a) Annually, beginning on or before December 1, 2021, the commissioner must report  
 69.3 to the Department of Management and Budget and the house of representatives and senate  
 69.4 committee chairs with jurisdiction over this chapter on program administrative expenditures  
 69.5 and revenue collection for the prior fiscal year, including but not limited to:

69.6 (1) total revenue raised through premium collection;

69.7 (2) the number of self-employed individuals or independent contractors electing coverage  
 69.8 under section 268B.11 and amount of associated revenue;

69.9 (3) the number of covered business entities paying premiums under this chapter and  
 69.10 associated revenue;

69.11 (4) administrative expenditures including transfers to other state agencies expended in  
 69.12 the administration of the chapter;

69.13 (5) summary of contracted services expended in the administration of this chapter;

69.14 (6) grant amounts and recipients under section 268B.15;

69.15 (7) an accounting of required outreach expenditures;

69.16 (8) summary of private plan approvals including the number of employers and employees  
 69.17 covered under private plans; and

69.18 (9) adequacy and use of the private plan approval and oversight fee.

69.19 (b) Annually, beginning on or before December 1, 2022, the commissioner must publish  
 69.20 a publicly available report providing the following information for the previous fiscal year:

69.21 (1) total eligible claims;

69.22 (2) the number and percentage of claims attributable to each category of benefit;

69.23 (3) claimant demographics by age, gender, average weekly wage, occupation, and the  
 69.24 type of leave taken;

69.25 (4) the percentage of claims denied and the reasons therefor, including, but not limited  
69.26 to insufficient information and ineligibility and the reason therefor;

69.27 (5) average weekly benefit amount paid for all claims and by category of benefit;

69.28 (6) changes in the benefits paid compared to previous fiscal years;

69.29 (7) processing times for initial claims processing, initial determinations, and final  
69.30 decisions;

70.1 (8) average duration for cases completed; and

70.2 (9) the number of cases remaining open at the close of such year.

70.3 Sec. 27. [268B.22] NOTICE REQUIREMENTS.

70.4 (a) Each employer must post in a conspicuous place on each of its premises a workplace  
70.5 notice prepared or approved by the commissioner providing notice of benefits available  
70.6 under this chapter. The required workplace notice must be in English and each language  
70.7 other than English which is the primary language of five or more employees or independent  
70.8 contractors of that workplace, if such notice is available from the department.

70.9 (b) Each employer must issue to each employee not more than 30 days from the beginning  
70.10 date of the employee's employment, or 30 days before premium collection begins, which  
70.11 ever is later, the following written information provided or approved by the department in  
70.12 the primary language of the employee:

70.13 (1) an explanation of the availability of family and medical leave benefits provided under  
70.14 this chapter, including rights to reinstatement and continuation of health insurance;

70.15 (2) the amount of premium deductions made by the employer under this chapter;

70.16 (3) the employer's premium amount and obligations under this chapter;

70.17 (4) the name and mailing address of the employer;

70.18 (5) the identification number assigned to the employer by the department;

70.19 (6) instructions on how to file a claim for family and medical leave benefits;

70.20 (7) the mailing address, e-mail address, and telephone number of the department; and

70.21 (8) any other information required by the department.

70.22 Delivery is made when an employee provides written acknowledgment of receipt of the  
70.23 information, or signs a statement indicating the employee's refusal to sign such  
70.24 acknowledgment.

70.25 (c) Each employer shall provide to each independent contractor with whom it contracts,  
70.26 at the time such contract is made or, for existing contracts, within 30 days of the effective



- 70.27 date of this section, the following written information provided or approved by the department  
70.28 in the self-employed individual's primary language:
- 70.29 (1) the address and telephone number of the department; and  
70.30 (2) any other information required by the department.
- 71.1 (d) An employer that fails to comply with this subsection may be issued, for a first  
71.2 violation, a civil penalty of \$50 per employee and per independent contractor with whom  
71.3 it has contracted, and for each subsequent violation, a civil penalty of \$300 per employee  
71.4 or self-employed individual with whom it has contracted. The employer shall have the  
71.5 burden of demonstrating compliance with this section.
- 71.6 (e) Employer notice to an employee under this section may be provided in paper or  
71.7 electronic format. For notice provided in electronic format only, the employer must provide  
71.8 employee access to an employer-owner computer during an employee's regular working  
71.9 hours to review and print required notices.
- 71.10 Sec. 28. [268B.23] RELATIONSHIP TO OTHER LEAVE; CONSTRUCTION.
- 71.11 Subdivision 1. **Concurrent leave.** An employer may require leave taken under this  
71.12 chapter to run concurrently with leave taken for the same purpose under section 181.941  
71.13 or the Family and Medical Leave Act, United States Code, title 29, sections 2601 to 2654,  
71.14 as amended.
- 71.15 Subd. 2. **Construction.** Nothing in this chapter shall be construed to:
- 71.16 (1) allow an employer to compel an employee to exhaust accumulated sick, vacation,  
71.17 or personal time before or while taking leave under this chapter;
- 71.18 (2) prohibit an employer from providing additional benefits, including, but not limited  
71.19 to, covering the portion of earnings not provided under this chapter during periods of leave  
71.20 covered under this chapter; or
- 71.21 (3) limit the parties to a collective bargaining agreement from bargaining and agreeing  
71.22 with respect to leave benefits and related procedures and employee protections that meet  
71.23 or exceed, and do not otherwise conflict with, the minimum standards and requirements in  
71.24 this chapter.
- 71.25 Sec. 29. [268B.24] SMALL BUSINESS ASSISTANCE GRANTS.
- 71.26 (a) Employers with 50 or fewer employees may apply to the department for grants under  
71.27 this section.
- 71.28 (b) The commissioner may approve a grant of up to \$3,000 if the employer hires a  
71.29 temporary worker to replace an employee on family or medical leave for a period of seven  
71.30 days or more.

- 72.1 (c) For an employee's family or medical leave, the commissioner may approve a grant  
72.2 of up to \$1,000 as reimbursement for significant additional wage-related costs due to the  
72.3 employee's leave.
- 72.4 (d) To be eligible for consideration for a grant under this section, the employer must  
72.5 provide the department written documentation showing the temporary worker hired or  
72.6 significant wage-related costs incurred are due to an employee's use of leave under this  
72.7 chapter.
- 72.8 (e) The grants under this section may be funded from the account.
- 72.9 (f) For the purposes of this section, the commissioner shall average the number of  
72.10 employees reported by an employer over the last four completed calendar quarters to  
72.11 determine the size of the employer.
- 72.12 (g) An employer who has an approved private plan is not eligible to receive a grant under  
72.13 this section.
- 72.14 (h) The commissioner may award grants under this section only up to a maximum of  
72.15 \$5,000,000 per calendar year.
- 72.16 Sec. 30. **EFFECTIVE DATES.**
- 72.17 (a) Benefits under Minnesota Statutes, chapter 268B, shall not be applied for or paid  
72.18 until January 1, 2022, and thereafter.
- 72.19 (b) Sections 1, 2, 4, 5, and 6 are effective July 1, 2019.
- 72.20 (c) Section 15 is effective July 1, 2020.
- 72.21 (d) Sections 3, 17, 18, 22, 23, 24, and 26 are effective January 1, 2021.
- 72.22 (e) Sections 19 and 20 are effective July 1, 2021.
- 72.23 (f) Sections 7, 8, 9, 10, 11, 12, 13, 14, 16, 21, 25, 27, 28, and 29 are effective January  
72.24 1, 2022.

### ARTICLE 3

#### FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS

- 73.3 Section 1. Minnesota Statutes 2018, section 256J.561, is amended by adding a subdivision  
73.4 to read:
- 73.5 Subd. 4. **Parents receiving family and medical leave benefits.** A parent who meets  
73.6 the criteria under subdivision 2 and who receives benefits under chapter 268B is not required  
73.7 to participate in employment services.
- 73.8 Sec. 2. Minnesota Statutes 2018, section 256J.95, subdivision 3, is amended to read:

73.9 Subd. 3. **Eligibility for diversionary work program.** (a) Except for the categories of  
73.10 family units listed in clauses (1) to (8), all family units who apply for cash benefits and who  
73.11 meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must  
73.12 participate in the diversionary work program. Family units or individuals that are not eligible  
73.13 for the diversionary work program include:

73.14 (1) child only cases;

73.15 (2) single-parent family units that include a child under 12 months of age. A parent is  
73.16 eligible for this exception once in a parent's lifetime;

73.17 (3) family units with a minor parent without a high school diploma or its equivalent;

73.18 (4) family units with an 18- or 19-year-old caregiver without a high school diploma or  
73.19 its equivalent who chooses to have an employment plan with an education option;

73.20 (5) family units with a caregiver who received DWP benefits within the 12 months prior  
73.21 to the month the family applied for DWP, except as provided in paragraph (c);

73.22 (6) family units with a caregiver who received MFIP within the 12 months prior to the  
73.23 month the family applied for DWP;

73.24 (7) family units with a caregiver who received 60 or more months of TANF assistance;  
73.25 ~~and~~

73.26 (8) family units with a caregiver who is disqualified from the work participation cash  
73.27 benefit program, DWP, or MFIP due to fraud; and

73.28 (9) single-parent family units where a parent is receiving family and medical leave  
73.29 benefits under chapter 268B.

74.1 (b) A two-parent family must participate in DWP unless both caregivers meet the criteria  
74.2 for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a  
74.3 parent who meets the criteria in paragraph (a), clause (6), (7), or (8).

74.4 (c) Once DWP eligibility is determined, the four months run consecutively. If a participant  
74.5 leaves the program for any reason and reapplies during the four-month period, the county  
74.6 must redetermine eligibility for DWP.

74.7 Sec. 3. Minnesota Statutes 2018, section 256J.95, subdivision 11, is amended to read:

74.8 Subd. 11. **Universal participation required.** (a) All DWP caregivers, except caregivers  
74.9 who meet the criteria in paragraph (d), are required to participate in DWP employment  
74.10 services. Except as specified in paragraphs (b) and (c), employment plans under DWP must,  
74.11 at a minimum, meet the requirements in section 256J.55, subdivision 1.

74.12 (b) A caregiver who is a member of a two-parent family that is required to participate  
74.13 in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed

74.14 to develop an employment plan under section 256J.521, subdivision 2, that may contain  
74.15 alternate activities and reduced hours.

74.16 (c) A participant who is a victim of family violence shall be allowed to develop an  
74.17 employment plan under section 256J.521, subdivision 3. A claim of family violence must  
74.18 be documented by the applicant or participant by providing a sworn statement which is  
74.19 supported by collateral documentation in section 256J.545, paragraph (b).

74.20 (d) One parent in a two-parent family unit ~~that has a natural born child under 12 months~~  
74.21 ~~of age~~ is not required to have an employment plan ~~until the child reaches 12 months of age~~  
74.22 ~~unless the family unit has already used the exclusion under section 256J.561, subdivision~~  
74.23 ~~3, or the previously allowed child under age one exemption under section 256J.56, paragraph~~  
74.24 ~~(a), clause (5); if that parent:~~

74.25 (1) receives family and medical leave benefits under chapter 268B; or

74.26 (2) has a natural born child under 12 months of age until the child reaches 12 months  
74.27 of age unless the family unit has already used the exclusion under section 256J.561,  
74.28 subdivision 3, or the previously allowed child under age one exemption under section  
74.29 256J.56, paragraph (a), clause (5).

74.30 (e) The provision in paragraph (d) ends the first full month after the child reaches 12  
74.31 months of age. This provision is allowable only once in a caregiver's lifetime. In a two-parent  
74.32 household, only one parent shall be allowed to use this category.

75.1 (f) The participant and job counselor must meet in the month after the month the child  
75.2 reaches 12 months of age to revise the participant's employment plan. The employment plan  
75.3 for a family unit that has a child under 12 months of age that has already used the exclusion  
75.4 in section 256J.561 must be tailored to recognize the caregiving needs of the parent.

75.5 Sec. 4. Minnesota Statutes 2018, section 256P.01, subdivision 3, is amended to read:

75.6 Subd. 3. **Earned income.** "Earned income" means cash or in-kind income earned through  
75.7 the receipt of wages, salary, commissions, bonuses, tips, gratuities, profit from employment  
75.8 activities, net profit from self-employment activities, payments made by an employer for  
75.9 regularly accrued vacation or sick leave, severance pay based on accrued leave time, benefits  
75.10 paid under chapter 268B, payments from training programs at a rate at or greater than the  
75.11 state's minimum wage, royalties, honoraria, or other profit from activity that results from  
75.12 the client's work, service, effort, or labor. The income must be in return for, or as a result  
75.13 of, legal activity.

75.14 Sec. 5. **EFFECTIVE DATES.**

75.15 Sections 1 to 4 are effective January 1, 2022.