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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2

- 01/04/2023 Authored by Richardson, Hortman, Frazier, Noor, Hassan and others
The bill was read for the first time and referred to the Committee on Workforce Development Finance and Policy
- 01/26/2023 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
- 02/01/2023 Adoption of Report: Amended and re-referred to the Committee on Children and Families Finance and Policy
- 02/06/2023 Adoption of Report: Amended and re-referred to the Committee on Labor and Industry Finance and Policy
- 02/08/2023 Adoption of Report: Amended and re-referred to the Committee on State and Local Government Finance and Policy
- 02/13/2023 Adoption of Report: Re-referred to the Committee on Human Services Finance
- 02/20/2023 Adoption of Report: Re-referred to the Committee on Commerce Finance and Policy
- 04/12/2023 Adoption of Report: Amended and re-referred to the Committee on Workforce Development Finance and Policy
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration
Adoption of Report: Re-referred to the Committee on Workforce Development Finance and Policy
Joint Rule 2.03 has been waived for any subsequent committee action on this bill
- 04/17/2023 Adoption of Report: Re-referred to the Committee on Taxes

1.1 A bill for an act

1.2 relating to employment; creating a family and medical benefit insurance program;

1.3 requiring leave from employment under certain circumstances; allowing substitution

1.4 of a private plan; prohibiting retaliation; classifying data; authorizing expedited

1.5 rulemaking; appropriating money; amending Minnesota Statutes 2022, sections

1.6 13.719, by adding a subdivision; 62A.01, subdivision 1; 177.27, subdivision 4;

1.7 181.032; 256B.0659, subdivision 18; 256B.85, subdivisions 13, 13a; 256J.561,

1.8 by adding a subdivision; 256J.95, subdivisions 3, 11; 256P.01, subdivision 3;

1.9 268.19, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter

1.10 268B.

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

ARTICLE 1

FAMILY AND MEDICAL BENEFITS

1.14 Section 1. Minnesota Statutes 2022, section 13.719, is amended by adding a subdivision

1.15 to read:

1.16 Subd. 7. Family and medical insurance data. (a) For the purposes of this subdivision,

1.17 the terms used have the meanings given them in section 268B.01.

1.18 (b) Data on applicants, family members, or employers under chapter 268B are private

1.19 or nonpublic data, provided that the department may share data collected from applicants

1.20 with employers or health care providers to the extent necessary to meet the requirements

1.21 of chapter 268B or other applicable law.

1.22 (c) The department and the Department of Labor and Industry may share data classified

1.23 under paragraph (b) to the extent necessary to meet the requirements of chapter 268B or

1.24 the Department of Labor and Industry's enforcement authority over chapter 268B, as provided

1.25 in section 177.27.

2.1 **EFFECTIVE DATE.** This section is effective July 1, 2023.

2.2 Sec. 2. Minnesota Statutes 2022, section 62A.01, subdivision 1, is amended to read:

2.3 Subdivision 1. **Definition.** The term "policy of accident and sickness insurance" as used
2.4 herein includes any policy covering the kind of insurance described in section 60A.06,
2.5 subdivision 1, clause (5)(a), or the paid family and medical leave benefits as described in
2.6 section 268B.10.

2.7 Sec. 3. Minnesota Statutes 2022, section 177.27, subdivision 4, is amended to read:

2.8 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
2.9 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
2.10 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
2.11 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, 268B.09, subdivisions 1 to 6, and
2.12 268B.14, subdivision 3, or with any rule promulgated under section 177.28. The
2.13 commissioner shall issue an order requiring an employer to comply with sections 177.41
2.14 to 177.435 if the violation is repeated. For purposes of this subdivision only, a violation is
2.15 repeated if at any time during the two years that preceded the date of violation, the
2.16 commissioner issued an order to the employer for violation of sections 177.41 to 177.435
2.17 and the order is final or the commissioner and the employer have entered into a settlement
2.18 agreement that required the employer to pay back wages that were required by sections
2.19 177.41 to 177.435. The department shall serve the order upon the employer or the employer's
2.20 authorized representative in person or by certified mail at the employer's place of business.
2.21 An employer who wishes to contest the order must file written notice of objection to the
2.22 order with the commissioner within 15 calendar days after being served with the order. A
2.23 contested case proceeding must then be held in accordance with sections 14.57 to 14.69.
2.24 If, within 15 calendar days after being served with the order, the employer fails to file a
2.25 written notice of objection with the commissioner, the order becomes a final order of the
2.26 commissioner.

2.27 **EFFECTIVE DATE.** This section is effective July 1, 2023.

2.28 Sec. 4. Minnesota Statutes 2022, section 181.032, is amended to read:

2.29 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER; NOTICE**
2.30 **TO EMPLOYEE.**

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

3.1 who chooses to provide an earnings statement by electronic means must provide employee
3.2 access to an employer-owned computer during an employee's regular working hours to
3.3 review and print earnings statements, and must make statements available for review or
3.4 printing for a period of three years.

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

3.7 (1) the name of the employee;

3.8 (2) the rate or rates of pay and basis thereof, including whether the employee is paid by
3.9 hour, shift, day, week, salary, piece, commission, or other method;

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

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

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

3.13 (6) a list of deductions made from the employee's pay;

3.14 (7) any amount deducted by the employer under section 268B.14, subdivision 3, and
3.15 the amount paid by the employer based on the employee's wages under section 268B.14,
3.16 subdivision 1;

3.17 ~~(7)~~ (8) the net amount of pay after all deductions are made;

3.18 ~~(8)~~ (9) the date on which the pay period ends;

3.19 ~~(9)~~ (10) the legal name of the employer and the operating name of the employer if
3.20 different from the legal name;

3.21 ~~(10)~~ (11) the physical address of the employer's main office or principal place of business,
3.22 and a mailing address if different; and

3.23 ~~(11)~~ (12) the telephone number of the employer.

3.24 (c) An employer must provide earnings statements to an employee in writing, rather
3.25 than by electronic means, if the employer has received at least 24 hours notice from an
3.26 employee that the employee would like to receive earnings statements in written form. Once
3.27 an employer has received notice from an employee that the employee would like to receive
3.28 earnings statements in written form, the employer must comply with that request on an
3.29 ongoing basis.

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

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

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

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

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

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

4.9 (6) the number of days in the pay period, the regularly scheduled pay day, and the pay
4.10 day on which the employee will receive the first payment of wages earned;

4.11 (7) the legal name of the employer and the operating name of the employer if different
4.12 from the legal name;

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

4.15 (9) the telephone number of the employer.

4.16 (e) The employer must keep a copy of the notice under paragraph (d) signed by each
4.17 employee acknowledging receipt of the notice. The notice must be provided to each employee
4.18 in English. The English version of the notice must include text provided by the commissioner
4.19 that informs employees that they may request, by indicating on the form, the notice be
4.20 provided in a particular language. If requested, the employer shall provide the notice in the
4.21 language requested by the employee. The commissioner shall make available to employers
4.22 the text to be included in the English version of the notice required by this section and assist
4.23 employers with translation of the notice in the languages requested by their employees.

4.24 (f) An employer must provide the employee any written changes to the information
4.25 contained in the notice under paragraph (d) prior to the date the changes take effect.

4.26 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
4.27 2025.

4.28 Sec. 5. Minnesota Statutes 2022, section 256B.0659, subdivision 18, is amended to read:

4.29 Subd. 18. **Personal care assistance choice option; generally.** (a) The commissioner
4.30 may allow a recipient of personal care assistance services to use a fiscal intermediary to
4.31 assist the recipient in paying and accounting for medically necessary covered personal care

5.1 assistance services. Unless otherwise provided in this section, all other statutory and
5.2 regulatory provisions relating to personal care assistance services apply to a recipient using
5.3 the personal care assistance choice option.

5.4 (b) Personal care assistance choice is an option of the personal care assistance program
5.5 that allows the recipient who receives personal care assistance services to be responsible
5.6 for the hiring, training, scheduling, and firing of personal care assistants according to the
5.7 terms of the written agreement with the personal care assistance choice agency required
5.8 under subdivision 20, paragraph (a). This program offers greater control and choice for the
5.9 recipient in who provides the personal care assistance service and when the service is
5.10 scheduled. The recipient or the recipient's responsible party must choose a personal care
5.11 assistance choice provider agency as a fiscal intermediary. This personal care assistance
5.12 choice provider agency manages payroll, invoices the state, is responsible for all
5.13 payroll-related taxes and insurance, including premiums for family and medical benefit
5.14 insurance, and is responsible for providing the consumer training and support in managing
5.15 the recipient's personal care assistance services.

5.16 Sec. 6. Minnesota Statutes 2022, section 256B.85, subdivision 13, is amended to read:

5.17 Subd. 13. **Budget model.** (a) Under the budget model participants exercise responsibility
5.18 and control over the services and supports described and budgeted within the CFSS service
5.19 delivery plan. Participants must use services specified in subdivision 13a provided by an
5.20 FMS provider. Under this model, participants may use their approved service budget
5.21 allocation to:

5.22 (1) directly employ support workers, and pay wages, federal and state payroll taxes, and
5.23 premiums for workers' compensation, liability, family and medical benefit insurance, and
5.24 health insurance coverage; and

5.25 (2) obtain supports and goods as defined in subdivision 7.

5.26 (b) Participants who are unable to fulfill any of the functions listed in paragraph (a) may
5.27 authorize a legal representative or participant's representative to do so on their behalf.

5.28 (c) If two or more participants using the budget model live in the same household and
5.29 have the same support worker, the participants must use the same FMS provider.

5.30 (d) If the FMS provider advises that there is a joint employer in the budget model, all
5.31 participants associated with that joint employer must use the same FMS provider.

6.1 (e) The commissioner shall disenroll or exclude participants from the budget model and
6.2 transfer them to the agency-provider model under, but not limited to, the following
6.3 circumstances:

6.4 (1) when a participant has been restricted by the Minnesota restricted recipient program,
6.5 in which case the participant may be excluded for a specified time period under Minnesota
6.6 Rules, parts 9505.2160 to 9505.2245;

6.7 (2) when a participant exits the budget model during the participant's service plan year.
6.8 Upon transfer, the participant shall not access the budget model for the remainder of that
6.9 service plan year; or

6.10 (3) when the department determines that the participant or participant's representative
6.11 or legal representative is unable to fulfill the responsibilities under the budget model, as
6.12 specified in subdivision 14.

6.13 (f) A participant may appeal in writing to the department under section 256.045,
6.14 subdivision 3, to contest the department's decision under paragraph (e), clause (3), to disenroll
6.15 or exclude the participant from the budget model.

6.16 Sec. 7. Minnesota Statutes 2022, section 256B.85, subdivision 13a, is amended to read:

6.17 Subd. 13a. **Financial management services.** (a) Services provided by an FMS provider
6.18 include but are not limited to: filing and payment of federal and state payroll taxes and
6.19 premiums on behalf of the participant; initiating and complying with background study
6.20 requirements under chapter 245C and maintaining documentation of background study
6.21 requests and results; billing for approved CFSS services with authorized funds; monitoring
6.22 expenditures; accounting for and disbursing CFSS funds; providing assistance in obtaining
6.23 and filing for liability, workers' compensation, family and medical benefit insurance, and
6.24 unemployment coverage; and providing participant instruction and technical assistance to
6.25 the participant in fulfilling employer-related requirements in accordance with section 3504
6.26 of the Internal Revenue Code and related regulations and interpretations, including Code
6.27 of Federal Regulations, title 26, section 31.3504-1.

6.28 (b) Agency-provider services shall not be provided by the FMS provider.

6.29 (c) The FMS provider shall provide service functions as determined by the commissioner
6.30 for budget model participants that include but are not limited to:

6.31 (1) assistance with the development of the detailed budget for expenditures portion of
6.32 the CFSS service delivery plan as requested by the consultation services provider or
6.33 participant;

7.1 (2) data recording and reporting of participant spending;

7.2 (3) other duties established by the department, including with respect to providing
7.3 assistance to the participant, participant's representative, or legal representative in performing
7.4 employer responsibilities regarding support workers. The support worker shall not be
7.5 considered the employee of the FMS provider; and

7.6 (4) billing, payment, and accounting of approved expenditures for goods.

7.7 (d) The FMS provider shall obtain an assurance statement from the participant employer
7.8 agreeing to follow state and federal regulations and CFSS policies regarding employment
7.9 of support workers.

7.10 (e) The FMS provider shall:

7.11 (1) not limit or restrict the participant's choice of service or support providers or service
7.12 delivery models consistent with any applicable state and federal requirements;

7.13 (2) provide the participant, consultation services provider, and case manager or care
7.14 coordinator, if applicable, with a monthly written summary of the spending for services and
7.15 supports that were billed against the spending budget;

7.16 (3) be knowledgeable of state and federal employment regulations, including those under
7.17 the Fair Labor Standards Act of 1938, and comply with the requirements under chapter
7.18 268B and section 3504 of the Internal Revenue Code and related regulations and
7.19 interpretations, including Code of Federal Regulations, title 26, section 31.3504-1, regarding
7.20 agency employer tax liability for vendor fiscal/employer agent, and any requirements
7.21 necessary to process employer and employee deductions, provide appropriate and timely
7.22 submission of employer tax liabilities, and maintain documentation to support medical
7.23 assistance claims;

7.24 (4) have current and adequate liability insurance and bonding and sufficient cash flow
7.25 as determined by the commissioner and have on staff or under contract a certified public
7.26 accountant or an individual with a baccalaureate degree in accounting;

7.27 (5) assume fiscal accountability for state funds designated for the program and be held
7.28 liable for any overpayments or violations of applicable statutes or rules, including but not
7.29 limited to the Minnesota False Claims Act, chapter 15C;

7.30 (6) maintain documentation of receipts, invoices, and bills to track all services and
7.31 supports expenditures for any goods purchased and maintain time records of support workers.
7.32 The documentation and time records must be maintained for a minimum of five years from
7.33 the claim date and be available for audit or review upon request by the commissioner. Claims

8.1 submitted by the FMS provider to the commissioner for payment must correspond with
8.2 services, amounts, and time periods as authorized in the participant's service budget and
8.3 service plan and must contain specific identifying information as determined by the
8.4 commissioner; and

8.5 (7) provide written notice to the participant or the participant's representative at least 30
8.6 calendar days before a proposed service termination becomes effective.

8.7 (f) The commissioner shall:

8.8 (1) establish rates and payment methodology for the FMS provider;

8.9 (2) identify a process to ensure quality and performance standards for the FMS provider
8.10 and ensure statewide access to FMS providers; and

8.11 (3) establish a uniform protocol for delivering and administering CFSS services to be
8.12 used by eligible FMS providers.

8.13 Sec. 8. Minnesota Statutes 2022, section 268.19, subdivision 1, is amended to read:

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

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

8.23 (2) any agency of any other state or any federal agency charged with the administration
8.24 of an unemployment insurance program;

8.25 (3) any agency responsible for the maintenance of a system of public employment offices
8.26 for the purpose of assisting individuals in obtaining employment;

8.27 (4) the public authority responsible for child support in Minnesota or any other state in
8.28 accordance with section 256.978;

8.29 (5) human rights agencies within Minnesota that have enforcement powers;

8.30 (6) the Department of Revenue to the extent necessary for its duties under Minnesota
8.31 laws;

9.1 (7) public and private agencies responsible for administering publicly financed assistance
9.2 programs for the purpose of monitoring the eligibility of the program's recipients;

9.3 (8) the Department of Labor and Industry and the Commerce Fraud Bureau in the
9.4 Department of Commerce for uses consistent with the administration of their duties under
9.5 Minnesota law;

9.6 (9) the Department of Human Services and the Office of Inspector General and its agents
9.7 within the Department of Human Services, including county fraud investigators, for
9.8 investigations related to recipient or provider fraud and employees of providers when the
9.9 provider is suspected of committing public assistance fraud;

9.10 (10) local and state welfare agencies for monitoring the eligibility of the data subject
9.11 for assistance programs, or for any employment or training program administered by those
9.12 agencies, whether alone, in combination with another welfare agency, or in conjunction
9.13 with the department or to monitor and evaluate the statewide Minnesota family investment
9.14 program and other cash assistance programs, the Supplemental Nutrition Assistance Program,
9.15 and the Supplemental Nutrition Assistance Program Employment and Training program by
9.16 providing data on recipients and former recipients of Supplemental Nutrition Assistance
9.17 Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child
9.18 care assistance under chapter 119B, or medical programs under chapter 256B or 256L or
9.19 formerly codified under chapter 256D;

9.20 (11) local and state welfare agencies for the purpose of identifying employment, wages,
9.21 and other information to assist in the collection of an overpayment debt in an assistance
9.22 program;

9.23 (12) local, state, and federal law enforcement agencies for the purpose of ascertaining
9.24 the last known address and employment location of an individual who is the subject of a
9.25 criminal investigation;

9.26 (13) the United States Immigration and Customs Enforcement has access to data on
9.27 specific individuals and specific employers provided the specific individual or specific
9.28 employer is the subject of an investigation by that agency;

9.29 (14) the Department of Health for the purposes of epidemiologic investigations;

9.30 (15) the Department of Corrections for the purposes of case planning and internal research
9.31 for preprobation, probation, and postprobation employment tracking of offenders sentenced
9.32 to probation and preconfinement and postconfinement employment tracking of committed
9.33 offenders;

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

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

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

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

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

10.16 **EFFECTIVE DATE.** This section is effective July 1, 2023.

10.17 Sec. 9. **[268B.01] DEFINITIONS.**

10.18 Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section
 10.19 have the meanings given.

10.20 Subd. 2. **Applicant.** "Applicant" means an individual applying for leave with benefits
 10.21 under this chapter.

10.22 Subd. 3. **Applicant's average weekly wage.** "Applicant's average weekly wage" means
 10.23 an amount equal to the applicant's high quarter wage credits divided by 13.

10.24 Subd. 4. **Base period.** (a) "Base period," unless otherwise provided in this subdivision,
 10.25 means the most recent four completed calendar quarters before the effective date of an
 10.26 applicant's application for family or medical leave benefits if the application has an effective
 10.27 date occurring after the month following the most recent completed calendar quarter. The
 10.28 base period under this paragraph is as follows:

10.29 <u>If the application for family or medical leave</u>	
10.30 <u>benefits is effective on or between these</u>	
10.31 <u>dates:</u>	<u>The base period is the prior:</u>
10.32 <u>February 1 to March 31</u>	<u>January 1 to December 31</u>
10.33 <u>May 1 to June 30</u>	<u>April 1 to March 31</u>

11.1	<u>August 1 to September 30</u>	<u>July 1 to June 30</u>
11.2	<u>November 1 to December 31</u>	<u>October 1 to September 30</u>

11.3 (b) If an application for family or medical leave benefits has an effective date that is
 11.4 during the month following the most recent completed calendar quarter, then the base period
 11.5 is the first four of the most recent five completed calendar quarters before the effective date
 11.6 of an applicant's application for family or medical leave benefits. The base period under
 11.7 this paragraph is as follows:

11.8	<u>If the application for family or medical leave</u>	
11.9	<u>benefits is effective on or between these</u>	
11.10	<u>dates:</u>	<u>The base period is the prior:</u>
11.11	<u>January 1 to January 31</u>	<u>October 1 to September 30</u>
11.12	<u>April 1 to April 30</u>	<u>January 1 to December 31</u>
11.13	<u>July 1 to July 31</u>	<u>April 1 to March 31</u>
11.14	<u>October 1 to October 31</u>	<u>July 1 to June 30</u>

11.15 (c) Regardless of paragraph (a), a base period of the first four of the most recent five
 11.16 completed calendar quarters must be used if the applicant would have more wage credits
 11.17 under that base period than under a base period of the four most recent completed calendar
 11.18 quarters.

11.19 (d) If the applicant has insufficient wage credits to establish a benefit account under a
 11.20 base period of the four most recent completed calendar quarters, or a base period of the first
 11.21 four of the most recent five completed calendar quarters, but during either base period the
 11.22 applicant received workers' compensation for temporary disability under chapter 176 or a
 11.23 similar federal law or similar law of another state, or if the applicant whose own serious
 11.24 illness caused a loss of work for which the applicant received compensation for loss of
 11.25 wages from some other source, the applicant may request a base period as follows:

11.26 (1) if an applicant was compensated for a loss of work of seven to 13 weeks during a
 11.27 base period referred to in paragraph (a) or (b), then the base period is the first four of the
 11.28 most recent six completed calendar quarters before the effective date of the application for
 11.29 family or medical leave benefits;

11.30 (2) if an applicant was compensated for a loss of work of 14 to 26 weeks during a base
 11.31 period referred to in paragraph (a) or (b), then the base period is the first four of the most
 11.32 recent seven completed calendar quarters before the effective date of the application for
 11.33 family or medical leave benefits;

11.34 (3) if an applicant was compensated for a loss of work of 27 to 39 weeks during a base
 11.35 period referred to in paragraph (a) or (b), then the base period is the first four of the most

12.1 recent eight completed calendar quarters before the effective date of the application for
12.2 family or medical leave benefits; and

12.3 (4) if an applicant was compensated for a loss of work of 40 to 52 weeks during a base
12.4 period referred to in paragraph (a) or (b), then the base period is the first four of the most
12.5 recent nine completed calendar quarters before the effective date of the application for
12.6 family or medical leave benefits.

12.7 (e) For an applicant under a private plan as provided in section 268B.10, the base period
12.8 is those most recent four quarters in which wage credits were earned with the current
12.9 employer as provided by the current employer. If an employer does not have four quarters
12.10 of wage detail information, the employer must accept an employee's certification of wage
12.11 credits, based on the employee's records. If the employee does not provide certification of
12.12 additional wage credits, the employer may use a base period that consists of all available
12.13 quarters.

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

12.17 Subd. 6. **Benefit account.** "Benefit account" means a benefit account established under
12.18 section 268B.04.

12.19 Subd. 7. **Benefit year.** (a) Except as provided in paragraph (b), "benefit year" means
12.20 the period of 52 calendar weeks beginning the date a benefit account under section 268B.04
12.21 is effective. For a benefit account established effective any January 1, April 1, July 1, or
12.22 October 1, the benefit year will be a period of 53 calendar weeks.

12.23 (b) For a private plan under section 268B.10, "benefit year" means:

12.24 (1) a calendar year;

12.25 (2) any fixed 12-month period, such as a fiscal year or a 12-month period measured
12.26 forward from an employee's first date of employment;

12.27 (3) a 12-month period measured forward from an employee's first day of leave taken;

12.28 or

12.29 (4) a rolling 12-month period measured backward from an employee's first day of leave
12.30 taken.

12.31 Employers are required to notify employees of their benefit year within 30 days of the
12.32 private plan approval and first day of employment.

13.1 Subd. 8. **Bonding.** "Bonding" means time spent by an applicant who is a biological,
13.2 adoptive, or foster parent with a biological, adopted, or foster child in conjunction with the
13.3 child's birth, adoption, or placement.

13.4 Subd. 9. **Calendar day.** "Calendar day" or "day" means a fixed 24-hour period
13.5 corresponding to a single calendar date.

13.6 Subd. 10. **Calendar quarter.** "Calendar quarter" means the period of three consecutive
13.7 calendar months ending on March 31, June 30, September 30, or December 31.

13.8 Subd. 11. **Calendar week.** "Calendar week" has the same meaning as "week" under
13.9 subdivision 46.

13.10 Subd. 12. **Commissioner.** "Commissioner" means the commissioner of employment
13.11 and economic development, unless otherwise indicated by context.

13.12 Subd. 13. **Construction industry** "Construction industry" means any construction,
13.13 reconstruction, building erection, alteration, remodel, repair, renovation, rehabilitation,
13.14 excavation, or demolition of any building, structure, facility utility, power plant, sewer,
13.15 dam, highway, road, street, airport, bridge, or other improvement.

13.16 Subd. 14. **Covered active duty.** "Covered active duty" has the meaning given in United
13.17 States Code, title 29, section 2611(14).

13.18 Subd. 15. **Covered employment.** (a) "Covered employment" means performing services
13.19 of whatever nature, unlimited by the relationship of master and servant as known to the
13.20 common law, or any other legal relationship performed for wages or under any contract
13.21 calling for the performance of services, written or oral, express or implied.

13.22 (b) "Covered employment" includes an individual's entire service performed within or
13.23 without or both within and without this state, if:

13.24 (1) the service is localized in this state; or

13.25 (2) the service is not localized in any state, but some of the service is performed in this
13.26 state and:

13.27 (i) the base of operations of the employee is in the state, or if there is no base of
13.28 operations, then the place from which such service is directed or controlled is in this state;
13.29 or

13.30 (ii) the base of operations or place from which such service is directed or controlled is
13.31 not in any state in which some part of the service is performed, but the individual's residence
13.32 is in this state.

14.1 (c) "Covered employment" does not include:

14.2 (1) a self-employed individual; or

14.3 (2) an independent contractor.

14.4 Subd. 16. **Department.** "Department" means the Department of Employment and

14.5 Economic Development, unless otherwise indicated by context.

14.6 Subd. 17. **Employee.** (a) "Employee" means an individual who performs services of

14.7 whatever nature for an employer.

14.8 (b) Employee does not include employees of the United States of America, self-employed

14.9 individuals, or independent contractors.

14.10 Subd. 18. **Employer.** (a) "Employer" means:

14.11 (1) any person, type of organization, or entity, including any partnership, association,

14.12 trust, estate, joint stock company, insurance company, limited liability company, or

14.13 corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or

14.14 the legal representative of a deceased person, having any individual in covered employment;

14.15 (2) the state, state agencies, Minnesota State Colleges and Universities, University of

14.16 Minnesota, and other statewide public systems; and

14.17 (3) any municipality or local government entity, including but not limited to a county,

14.18 city, town, school district, Metropolitan Council, Metropolitan Airports Commission, housing

14.19 and redevelopment authority, port authority, economic development authority, sports facilities

14.20 authority, joint powers board or organization created under section 471.59, destination

14.21 medical center corporation, municipal corporation, quasimunicipal corporation, or other

14.22 political subdivision. An employer also includes charter schools.

14.23 (b) Employer does not include:

14.24 (1) the United States of America; or

14.25 (2) a self-employed individual who has elected and been approved for coverage under

14.26 section 268B.11 with regard to the self-employed individual's own coverage and benefits.

14.27 Subd. 19. **Estimated self-employment income.** "Estimated self-employment income"

14.28 means a self-employed individual's average net earnings from self-employment in the two

14.29 most recent taxable years. For a self-employed individual who had net earnings from

14.30 self-employment in only one of the years, the individual's estimated self-employment income

14.31 equals the individual's net earnings from self-employment in the year in which the individual

14.32 had net earnings from self-employment.

15.1 Subd. 20. **Family and medical benefit insurance account.** "Family and medical benefit
15.2 insurance account" means the family and medical benefit insurance account in the special
15.3 revenue fund in the state treasury under section 268B.02.

15.4 Subd. 21. **Family and medical benefit insurance enforcement account.** "Family and
15.5 medical benefit insurance enforcement account" means the family and medical benefit
15.6 insurance enforcement account in the state treasury under section 268B.185.

15.7 Subd. 22. **Family benefit program.** "Family benefit program" means the program
15.8 administered under this chapter for the collection of premiums and payment of benefits
15.9 related to family care, bonding, safety leave, and leave related to a qualifying exigency.

15.10 Subd. 23. **Family care.** "Family care" means an applicant caring for a family member
15.11 with a serious health condition or caring for a family member who is a covered service
15.12 member.

15.13 Subd. 24. **Family member.** (a) "Family member" means, with respect to an applicant:

15.14 (1) a spouse, including a domestic partner in a civil union or other registered domestic
15.15 partnership recognized by the state, and a spouse's parent;

15.16 (2) a child and a child's spouse;

15.17 (3) a parent and a parent's spouse;

15.18 (4) a sibling and a sibling's spouse;

15.19 (5) a grandparent, a grandchild, or a spouse of a grandparent or grandchild;

15.20 (6) any other individual who is related by blood or whose close association with the
15.21 applicant is equivalent of a family relationship. For the purposes of this clause, with respect
15.22 to an applicant, this includes but is not limited to:

15.23 (i) a child of a sibling of the applicant;

15.24 (ii) a sibling of the parents of the applicant; and

15.25 (iii) a child-in-law, a parent-in-law, a sibling-in-law, and a grandparent-in-law; and

15.26 (7) up to one person designated by the applicant.

15.27 (b) For the purposes of this chapter, a child includes a stepchild; biological, adopted, or
15.28 foster child of the applicant; or a child for whom the applicant is standing or stood in loco
15.29 parentis.

15.30 (c) For the purposes of this chapter, a grandchild includes a stepgrandchild or biological,
15.31 adopted, or foster grandchild of the applicant.

16.1 (d) For purposes of this chapter, a parent includes a stepparent; biological, adoptive, or
16.2 foster parent of the applicant; a legal guardian; or an individual who stood in loco parentis
16.3 to the applicant.

16.4 (e) For purposes of this chapter, a grandparent includes a stepgrandparent or biological,
16.5 adoptive, or foster grandparent of the applicant.

16.6 Subd. 25. **Health care provider.** "Health care provider" means:

16.7 (1) an individual who is licensed, certified, or otherwise authorized under law to practice
16.8 in the individual's scope of practice as a physician, physician assistant, osteopath, surgeon,
16.9 podiatrist, advanced practice registered nurse, alcohol and drug counselor, as defined in
16.10 section 148F.01, subdivision 5, or mental health professional, as defined in section 245I.02,
16.11 subdivision 27; or

16.12 (2) any other individual determined by the commissioner by rule, in accordance with
16.13 the rulemaking procedures in the Administrative Procedure Act, to be capable of providing
16.14 health care services.

16.15 Subd. 26. **High quarter.** "High quarter" means the calendar quarter in an applicant's
16.16 base period with the highest amount of wage credits.

16.17 Subd. 27. **Incapacity.** "Incapacity" means inability to perform regular work, attend
16.18 school, or fully perform other regular daily activities due to a serious health condition,
16.19 treatment therefore, or recovery therefrom.

16.20 Subd. 28. **Independent contractor.** If there is an existing specific test or definition for
16.21 independent contractor in Minnesota statute or rule applicable to an occupation or sector
16.22 as of the date of enactment of this chapter, that test or definition shall apply to that occupation
16.23 or sector for purposes of this chapter. If there is not an existing test or definition as described,
16.24 the definition for independent contractor shall be as provided in Minnesota Rules, part
16.25 5200.0221.

16.26 Subd. 29. **Inpatient care.** "Inpatient care" means an overnight stay in a hospital, hospice,
16.27 or residential medical care facility, including any period of incapacity, or any subsequent
16.28 treatment in connection with such inpatient care.

16.29 Subd. 30. **Maximum weekly benefit amount.** "Maximum weekly benefit amount"
16.30 means the state's average weekly wage as calculated under section 268.035, subdivision 23.

16.31 Subd. 31. **Medical benefit program.** "Medical benefit program" means the program
16.32 administered under this chapter for the collection of premiums and payment of benefits
16.33 related to an applicant's serious health condition or pregnancy.

17.1 Subd. 32. **Net earnings from self-employment.** "Net earnings from self-employment"
17.2 has the meaning given in section 1402 of the Internal Revenue Code, as defined in section
17.3 290.01, subdivision 31.

17.4 Subd. 33. **Pregnancy.** "Pregnancy" includes prenatal care or incapacity due to pregnancy
17.5 or recovery from childbirth, stillbirth, miscarriage, or related health conditions.

17.6 Subd. 34. **Qualifying exigency.** (a) "Qualifying exigency" means a need arising out of
17.7 a military member's covered active duty service or notice of an impending call or order to
17.8 covered active duty in the United States armed forces, including providing for the care or
17.9 other needs of the family member's child or other dependent, making financial or legal
17.10 arrangements for the family member, attending counseling, attending military events or
17.11 ceremonies, spending time with the family member during a rest and recuperation leave or
17.12 following return from deployment, or making arrangements following the death of the
17.13 military member.

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

17.18 Subd. 35. **Safety leave.** "Safety leave" means leave from work because of domestic
17.19 abuse, sexual assault, or stalking of the applicant or applicant's family member, provided
17.20 the leave is to:

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

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

17.24 (3) obtain psychological or other counseling;

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

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

17.29 Subd. 36. **Self-employed individual.** "Self-employed individual" means a resident of
17.30 the state who, in one of the two taxable years preceding the current calendar year, derived
17.31 at least 5.3 percent of the state's average annual wage in net earnings from self-employment
17.32 from an entity other than an S corporation for the performance of services in this state.

18.1 Subd. 37. **Self-employment premium base.** "Self-employment premium base" means
18.2 the lesser of:

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

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

18.7 Subd. 38. **Self-employment wages.** "Self-employment wages" means the amount of
18.8 wages that a self-employed individual earned in the calendar year from an entity from which
18.9 the individual also received net earnings from self-employment.

18.10 Subd. 39. **Serious health condition.** (a) "Serious health condition" means a physical or
18.11 mental illness, injury, impairment, condition, or substance use disorder that involves:

18.12 (1) inpatient care in a hospital, hospice, or residential medical care facility, including
18.13 any period of incapacity; or

18.14 (2) continuing treatment or supervision by a health care provider which includes any
18.15 one or more of the following:

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

18.18 (A) treatment two or more times, within 30 days of the first day of incapacity, unless
18.19 extenuating circumstances beyond the applicant's control prevent a follow-up visit from
18.20 occurring as planned, by a health care provider or by a provider of health care services under
18.21 orders of, or on referral by, a health care provider; or

18.22 (B) treatment by a health care provider on at least one occasion that results in a regimen
18.23 of continuing treatment under the supervision of the health care provider;

18.24 (ii) a period of incapacity due to pregnancy;

18.25 (iii) a period of incapacity or treatment for a chronic health condition that:

18.26 (A) requires periodic visits, defined as at least twice a year, for treatment by a health
18.27 care provider or under orders of, or on referral by, a health care provider;

18.28 (B) continues over an extended period of time, including recurring episodes of a single
18.29 underlying condition; and

18.30 (C) may cause episodic rather than continuing periods of incapacity;

19.1 (iv) a period of incapacity which is permanent or long term due to a condition for which
19.2 treatment may not be effective. The applicant or family member must be under the continuing
19.3 supervision of, but need not be receiving active treatment by, a health care provider; or

19.4 (v) a period of absence to receive multiple treatments, including any period of recovery
19.5 from the treatments, by a health care provider or by a provider of health care services under
19.6 orders of, or on referral by, a health care provider, for:

19.7 (A) restorative surgery after an accident or other injury; or

19.8 (B) a condition that would likely result in a period of incapacity of more than three
19.9 consecutive, full calendar days in the absence of medical intervention or treatment.

19.10 (b) For the purposes of paragraph (a), clauses (1) and (2), treatment by a health care
19.11 provider means an in-person visit or telemedicine visit with a health care provider, or by a
19.12 provider of health care services under orders of, or on referral by, a health care provider.

19.13 (c) For the purposes of paragraph (a), treatment includes but is not limited to examinations
19.14 to determine if a serious health condition exists and evaluations of the condition.

19.15 (d) Absences attributable to incapacity under paragraph (a), clause (2), item (ii) or (iii),
19.16 qualify for leave under this chapter even if the applicant or the family member does not
19.17 receive treatment from a health care provider during the absence, and even if the absence
19.18 does not last more than three consecutive, full calendar days.

19.19 Subd. 40. **State's average weekly wage.** "State's average weekly wage" means the
19.20 weekly wage calculated under section 268.035, subdivision 23.

19.21 Subd. 41. **Supplemental benefit payment.** (a) "Supplemental benefit payment" means:

19.22 (1) a payment made by an employer to an employee as salary continuation or as paid
19.23 time off. Such a payment must be in addition to any family or medical leave benefits the
19.24 employee is receiving under this chapter; and

19.25 (2) a payment offered by an employer to an employee who is taking leave under this
19.26 chapter to supplement the family or medical leave benefits the employee is receiving.

19.27 (b) Employers may, but are not required to, designate certain benefits including but not
19.28 limited to salary continuation, vacation leave, sick leave, or other paid time off as a
19.29 supplemental benefit payment.

19.30 (c) Nothing in this chapter requires an employee to receive supplemental benefit
19.31 payments.

20.1 Subd. 42. **Taxable year.** "Taxable year" has the meaning given in section 290.01,
20.2 subdivision 9.

20.3 Subd. 43. **Taxable wages.** "Taxable wages" means those wages paid to an employee in
20.4 covered employment each calendar year up to an amount equal to the maximum wages
20.5 subject to premium in a calendar year, which is equal to the maximum earnings in that year
20.6 subject to the FICA Old-Age, Survivors, and Disability Insurance tax rounded to the nearest
20.7 \$1,000.

20.8 Subd. 44. **Typical workweek.** "Typical workweek" means:

20.9 (1) for an hourly employee, the average number of hours worked per week by an
20.10 employee within the high quarter during the base year; or

20.11 (2) 40 hours for a salaried employee, regardless of the number of hours the salaried
20.12 employee typically works.

20.13 Subd. 45. **Wage credits.** "Wage credits" means the amount of wages paid within an
20.14 applicant's base period for covered employment, as defined in subdivision 13.

20.15 Subd. 46. **Wage detail report.** "Wage detail report" means the report on each employee
20.16 in covered employment required from an employer on a calendar quarter basis under section
20.17 268B.12.

20.18 Subd. 47. **Wages.** (a) "Wages" means all compensation for employment, including
20.19 commissions; bonuses, awards, and prizes; severance payments; standby pay; vacation and
20.20 holiday pay; back pay as of the date of payment; tips and gratuities paid to an employee by
20.21 a customer of an employer and accounted for by the employee to the employer; sickness
20.22 and accident disability payments, except as otherwise provided in this subdivision; and the
20.23 cash value of housing, utilities, meals, exchanges of services, and any other goods and
20.24 services provided to compensate an employee, except:

20.25 (1) the amount of any payment made to, or on behalf of, an employee under a plan
20.26 established by an employer that makes provision for employees generally or for a class or
20.27 classes of employees, including any amount paid by an employer for insurance or annuities,
20.28 or into a plan, to provide for a payment, on account of (i) retirement, (ii) medical and
20.29 hospitalization expenses in connection with sickness or accident disability, or (iii) death;

20.30 (2) the payment by an employer of the tax imposed upon an employee under United
20.31 States Code, title 26, section 3101 of the Federal Insurance Contribution Act, with respect
20.32 to compensation paid to an employee for domestic employment in a private household of
20.33 the employer or for agricultural employment;

21.1 (3) any payment made to, or on behalf of, an employee or beneficiary (i) from or to a
21.2 trust described in United States Code, title 26, section 401(a) of the federal Internal Revenue
21.3 Code, that is exempt from tax under section 501(a) at the time of the payment unless the
21.4 payment is made to an employee of the trust as compensation for services as an employee
21.5 and not as a beneficiary of the trust, or (ii) under or to an annuity plan that, at the time of
21.6 the payment, is a plan described in section 403(a);

21.7 (4) the value of any special discount or markdown allowed to an employee on goods
21.8 purchased from or services supplied by the employer where the purchases are optional and
21.9 do not constitute regular or systematic payment for services;

21.10 (5) customary and reasonable directors' fees paid to individuals who are not otherwise
21.11 employed by the corporation of which they are directors;

21.12 (6) the payment to employees for reimbursement of meal expenses when employees are
21.13 required to perform work after their regular hours;

21.14 (7) the payment into a trust or plan for purposes of providing legal or dental services if
21.15 provided for all employees generally or for a class or classes of employees;

21.16 (8) the value of parking facilities provided or paid for by an employer, in whole or in
21.17 part, if provided for all employees generally or for a class or classes of employees;

21.18 (9) royalties to an owner of a franchise, license, copyright, patent, oil, mineral, or other
21.19 right;

21.20 (10) advances or reimbursements for traveling or other ordinary and necessary expenses
21.21 incurred or reasonably expected to be incurred in the business of the employer. Traveling
21.22 and other reimbursed expenses must be identified either by making separate payments or
21.23 by specifically indicating the separate amounts where both wages and expense allowances
21.24 are combined in a single payment;

21.25 (11) residual payments to radio, television, and similar artists that accrue after the
21.26 production of television commercials, musical jingles, spot announcements, radio
21.27 transcriptions, film soundtracks, and similar activities;

21.28 (12) the income to a former employee resulting from the exercise of a nonqualified stock
21.29 option;

21.30 (13) supplemental unemployment benefit payments under a plan established by an
21.31 employer, if the payment is not wages under the Federal Unemployment Tax Act. The
21.32 payments are wages unless made solely for the supplementing of weekly state or federal
21.33 unemployment benefits. Supplemental unemployment benefit payments may not be assigned,

22.1 nor may any consideration be required from the applicant, other than a release of claims in
22.2 order to be excluded from wages;

22.3 (14) sickness or accident disability payments made by the employer after the expiration
22.4 of six calendar months following the last calendar month that the individual worked for the
22.5 employer;

22.6 (15) disability payments made under the provisions of any workers' compensation law;

22.7 (16) sickness or accident disability payments made by a third-party payer such as an
22.8 insurance company; or

22.9 (17) payments made into a trust fund, or for the purchase of insurance or an annuity, to
22.10 provide for sickness or accident disability payments to employees under a plan or system
22.11 established by the employer that provides for the employer's employees generally or for a
22.12 class or classes of employees.

22.13 (b) Nothing in this subdivision excludes from the term "wages" any payment made under
22.14 any type of salary reduction agreement, including payments made under a cash or deferred
22.15 arrangement and cafeteria plan, as defined in United States Code, title 26, sections 401(k)
22.16 and 125 of the federal Internal Revenue Code, to the extent that the employee has the option
22.17 to receive the payment in cash.

22.18 (c) Wages includes the total payment to the operator and supplier of a vehicle or other
22.19 equipment where the payment combines compensation for personal services as well as
22.20 compensation for the cost of operating and hiring the equipment in a single payment. This
22.21 paragraph does not apply if:

22.22 (1) there is a preexisting written agreement providing for allocation of specific amounts;
22.23 or

22.24 (2) at the time of each payment there is a written acknowledgment indicating the separate
22.25 allocated amounts.

22.26 (d) Wages includes payments made for services as a caretaker. Unless there is a contract
22.27 or other proof to the contrary, compensation is considered as being equally received by a
22.28 married couple where the employer makes payment to only one spouse, or by all tenants of
22.29 a household who perform services where two or more individuals share the same dwelling
22.30 and the employer makes payment to only one individual.

22.31 (e) Wages includes payments made for services by a migrant family. Where services
22.32 are performed by a married couple or a family and an employer makes payment to only one

23.1 individual, each worker is considered as having received an equal share of the compensation
23.2 unless there is a contract or other proof to the contrary.

23.3 (f) Wages includes advances or draws against future earnings, when paid, unless the
23.4 payments are designated as a loan or return of capital on the books and records of the
23.5 employer at the time of payment.

23.6 (g) Wages includes payments made by a subchapter "S" corporation, as organized under
23.7 the Internal Revenue Code, to or on behalf of officers and shareholders that are reasonable
23.8 compensation for services performed for the corporation.

23.9 For a subchapter "S" corporation, wages does not include:

23.10 (1) a loan for business purposes to an officer or shareholder evidenced by a promissory
23.11 note signed by an officer before the payment of the loan proceeds and recorded on the books
23.12 and records of the corporation as a loan to an officer or shareholder;

23.13 (2) a repayment of a loan or payment of interest on a loan made by an officer to the
23.14 corporation and recorded on the books and records of the corporation as a liability;

23.15 (3) a reimbursement of reasonable corporation expenses incurred by an officer and
23.16 documented by a written expense voucher and recorded on the books and records of the
23.17 corporation as corporate expenses; and

23.18 (4) a reasonable lease or rental payment to an officer who owns property that is leased
23.19 or rented to the corporation.

23.20 Subd. 48. **Wages paid.** (a) "Wages paid" means the amount of wages:

23.21 (1) that have been actually paid; or

23.22 (2) that have been credited to or set apart so that payment and disposition is under the
23.23 control of the employee.

23.24 (b) Wage payments delayed beyond the regularly scheduled pay date are wages paid on
23.25 the missed pay date. Back pay is wages paid on the date of actual payment. Any wages
23.26 earned but not paid with no scheduled date of payment are wages paid on the last day of
23.27 employment.

23.28 (c) Wages paid does not include wages earned but not paid except as provided for in
23.29 this subdivision.

23.30 Subd. 49. **Week.** "Week" means calendar week ending at midnight Saturday.

24.1 Subd. 50. **Weekly benefit amount.** "Weekly benefit amount" means the amount of
24.2 family and medical leave benefits computed under section 268B.04.

24.3 **EFFECTIVE DATE.** This section is effective July 1, 2023.

24.4 Sec. 10. **[268B.02] FAMILY AND MEDICAL BENEFIT INSURANCE PROGRAM**
24.5 **CREATION.**

24.6 Subdivision 1. **Creation.** A family and medical benefit insurance program is created to
24.7 be administered by the commissioner according to the terms of this chapter.

24.8 Subd. 2. **Creation of division.** A Family and Medical Benefit Insurance Division is
24.9 created within the department under the authority of the commissioner. The commissioner
24.10 shall appoint a director of the division. The division shall administer and operate the benefit
24.11 program under this chapter.

24.12 Subd. 3. **Rulemaking.** The commissioner shall adopt rules to implement the provisions
24.13 of this chapter. For the purposes of this chapter, the commissioner may use the expedited
24.14 rulemaking process under section 14.389.

24.15 Subd. 4. **Account creation; appropriation.** The family and medical benefit insurance
24.16 account is created in the special revenue fund in the state treasury. Money in this account
24.17 is appropriated to the commissioner to pay benefits under and to administer this chapter,
24.18 including outreach required under section 268B.18. Appropriations and transfers to the
24.19 account are credited to the account. Earnings, such as interest, dividends, and any other
24.20 earnings arising from assets of the account, are credited to the account. Money remaining
24.21 in the account at the end of a fiscal year are not canceled to the general fund but remain in
24.22 the account until expended.

24.23 Subd. 5. **Information technology services and equipment.** The department is exempt
24.24 from the provisions of section 16E.016 for the purposes of this chapter.

24.25 **EFFECTIVE DATE.** This section is effective July 1, 2023.

24.26 Sec. 11. **[268B.03] PAYMENT OF BENEFITS.**

24.27 Subdivision 1. **Requirements.** The commissioner must pay benefits from the family
24.28 and medical benefit insurance account as provided under this chapter to an applicant who
24.29 has met each of the following requirements:

24.30 (1) the applicant has filed an application for benefits and established a benefit account
24.31 in accordance with section 268B.04;

25.1 (2) the applicant has met all of the ongoing eligibility requirements under section
25.2 268B.06;

25.3 (3) the applicant does not have an outstanding overpayment of family or medical leave
25.4 benefits, including any penalties or interest;

25.5 (4) the applicant has not been held ineligible for benefits under section 268.07, subdivision
25.6 2; and

25.7 (5) the applicant is not employed exclusively by a private plan employer and has wage
25.8 credits during the base year attributable to employers covered under the state family and
25.9 medical leave program.

25.10 Subd. 2. **Benefits paid from state funds.** Benefits are paid from state funds and are not
25.11 considered paid from any special insurance plan, nor as paid by an employer. An application
25.12 for family or medical leave benefits is not considered a claim against an employer but is
25.13 considered a request for benefits from the family and medical benefit insurance account.
25.14 The commissioner has the responsibility for the proper payment of benefits regardless of
25.15 the level of interest or participation by an applicant or an employer in any determination or
25.16 appeal. An applicant's entitlement to benefits must be determined based upon that information
25.17 available without regard to a burden of proof. Any agreement between an applicant and an
25.18 employer is not binding on the commissioner in determining an applicant's entitlement.
25.19 There is no presumption of entitlement or nonentitlement to benefits.

25.20 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
25.21 2025.

25.22 **Sec. 12. [268B.04] BENEFIT ACCOUNT; BENEFITS.**

25.23 Subdivision 1. **Application for benefits; determination of benefit account.** (a) An
25.24 application for benefits may be filed up to 60 days before leave taken under section 268B.085
25.25 in person, by mail, or by electronic transmission as the commissioner may require. The
25.26 applicant must include certification supporting a request for leave under this chapter. The
25.27 applicant must meet eligibility requirements and must provide all requested information in
25.28 the manner required. If the applicant fails to provide all requested information, the
25.29 communication is not an application for family and medical leave benefits.

25.30 (b) The commissioner must examine each application for benefits to determine the base
25.31 period and the benefit year, and based upon all the covered employment in the base period
25.32 the commissioner must determine the weekly benefit amount available, if any, and the
25.33 maximum amount of benefits available, if any. The determination, which is a document

26.1 separate and distinct from a document titled a determination of eligibility or determination
26.2 of ineligibility, must be titled determination of benefit account. A determination of benefit
26.3 account must be sent to the applicant and all base period employers, by mail or electronic
26.4 transmission.

26.5 (c) If a base period employer did not provide wage detail information for the applicant
26.6 as required under section 268B.12, the commissioner may accept an applicant certification
26.7 of wage credits, based upon the applicant's records, and issue a determination of benefit
26.8 account.

26.9 (d) The commissioner may, at any time within 24 months from the establishment of a
26.10 benefit account, reconsider any determination of benefit account and make an amended
26.11 determination if the commissioner finds that the wage credits listed in the determination
26.12 were incorrect for any reason. An amended determination of benefit account must be
26.13 promptly sent to the applicant and all base period employers, by mail or electronic
26.14 transmission. This paragraph does not apply to documents titled determinations of eligibility
26.15 or determinations of ineligibility issued.

26.16 (e) If an amended determination of benefit account reduces the weekly benefit amount
26.17 or maximum amount of benefits available, any benefits that have been paid greater than the
26.18 applicant was entitled is an overpayment of benefits. A determination or amended
26.19 determination issued under this section that results in an overpayment of benefits must set
26.20 out the amount of the overpayment and the requirement that the overpaid benefits must be
26.21 repaid according to section 268B.185.

26.22 Subd. 2. **Benefit account requirements.** To establish a benefit account, an applicant
26.23 must have wage credits of at least 5.3 percent of the state's average annual wage rounded
26.24 down to the next lower \$100.

26.25 Subd. 3. **Weekly benefit amount; maximum amount of benefits available; prorated**
26.26 **amount.** (a) Subject to the maximum weekly benefit amount, an applicant's weekly benefit
26.27 is calculated by adding the amounts obtained by applying the following percentage to an
26.28 applicant's average typical workweek and weekly wage during the high quarter of the base
26.29 period:

26.30 (1) 90 percent of wages that do not exceed 50 percent of the state's average weekly wage;
26.31 plus

26.32 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage but
26.33 not 100 percent; plus

- 27.1 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.
- 27.2 (b) The state's average weekly wage is the average wage as calculated under section
27.3 268.035, subdivision 23, at the time a benefit amount is first determined.
- 27.4 (c) The maximum weekly benefit amount is the state's average weekly wage as calculated
27.5 under section 268.035, subdivision 23.
- 27.6 (d) The state's maximum weekly benefit amount, computed in accordance with section
27.7 268.035, subdivision 23, applies to a benefit account established effective on or after the
27.8 last Sunday in October. Once established, an applicant's weekly benefit amount is not
27.9 affected by the last Sunday in October change in the state's maximum weekly benefit amount.
- 27.10 (e) For an employee receiving family or medical leave, a weekly benefit amount is
27.11 prorated when:
- 27.12 (1) the employee works hours for wages; or
- 27.13 (2) the employee uses paid sick leave, paid vacation leave, or other paid time off that is
27.14 not considered a supplemental benefit payment as defined in section 268B.01, subdivision
27.15 41.
- 27.16 Subd. 4. **Timing of payment.** Except as otherwise provided for in this chapter, benefits
27.17 must be paid weekly.
- 27.18 Subd. 5. **Maximum length of benefits.** In a single benefit year, an applicant may receive:
- 27.19 (1) up to 12 weeks of benefits under this chapter related to the applicant's serious health
27.20 condition or pregnancy; and
- 27.21 (2) up to 12 weeks of benefits under this chapter:
- 27.22 (i) for bonding, safety leave, or family care; or
- 27.23 (ii) for leave related to one or more qualifying exigencies.
- 27.24 Subd. 6. **Minimum period for which benefits payable.** Except for a claim for benefits
27.25 for bonding leave, any claim for benefits must be based on a single qualifying event of at
27.26 least seven calendar days. Benefits may be paid for a minimum duration of eight consecutive
27.27 hours in a week. If an applicant on leave claims eight hours at any point during a week, the
27.28 minimum duration is satisfied.
- 27.29 Subd. 7. **Right of appeal.** (a) A determination or amended determination of benefit
27.30 account is final unless an appeal is filed by the applicant within 60 calendar days after the
27.31 sending of the determination or amended determination.

28.1 (b) Any applicant may appeal from a determination or amended determination of benefit
28.2 account on the issue of whether services performed constitute employment, whether the
28.3 employment is covered employment, and whether money paid constitutes wages.

28.4 Subd. 8. **Limitations on applications and benefit accounts.** (a) An application for
28.5 family or medical leave benefits is effective the Sunday of the calendar week that the
28.6 application was filed. An application for benefits may be backdated one calendar week
28.7 before the Sunday of the week the application was actually filed if the applicant requests
28.8 the backdating within seven calendar days of the date the application is filed. An application
28.9 may be backdated only if the applicant was eligible for the benefit during the period of the
28.10 backdating. If an individual attempted to file an application for benefits, but was prevented
28.11 from filing an application by the department, the application is effective the Sunday of the
28.12 calendar week the individual first attempted to file an application.

28.13 (b) A benefit account established under subdivision 2 is effective the date the application
28.14 for benefits was effective.

28.15 (c) A benefit account, once established, may later be withdrawn if:

28.16 (1) the applicant has not been paid any benefits on that benefit account; and

28.17 (2) a new application for benefits is filed and a new benefit account is established at the
28.18 time of the withdrawal.

28.19 (d) A benefit account may be withdrawn after the expiration of the benefit year if the
28.20 applicant was not paid any benefits on the benefit account that is being withdrawn.

28.21 (e) A determination or amended determination of eligibility or ineligibility issued under
28.22 section 268B.07 that was sent before the withdrawal of the benefit account, remains in effect
28.23 and is not voided by the withdrawal of the benefit account.

28.24 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
28.25 2025.

28.26 Sec. 13. **[268B.05] NOTIFICATION OF CHANGED CIRCUMSTANCES.**

28.27 An applicant shall promptly notify the department of changes that may affect eligibility
28.28 under section 268B.06.

28.29 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
28.30 2025.

29.1 Sec. 14. **[268B.06] ELIGIBILITY REQUIREMENTS; PAYMENTS THAT AFFECT**
29.2 **BENEFITS.**

29.3 Subdivision 1. Eligibility conditions. (a) An applicant may be eligible to receive family
29.4 or medical leave benefits for any week if:

29.5 (1) the week for which benefits are requested is in the applicant's benefit year;

29.6 (2) the applicant was unable to perform regular work due to a serious health condition,
29.7 a qualifying exigency, safety leave, family care, bonding, pregnancy, or recovery from
29.8 pregnancy for the period required under subdivision 2. For bonding leave, eligibility ends
29.9 12 months after birth or placement;

29.10 (3) the applicant has sufficient wage credits from an employer or employers as defined
29.11 in section 268B.01, subdivision 41, to establish a benefit account under section 268B.04;
29.12 and

29.13 (4) an applicant requesting benefits under this chapter must fulfill certification
29.14 requirements under subdivision 3.

29.15 (b) A self-employed individual or independent contractor who has elected and been
29.16 approved for coverage under section 268B.11 need not fulfill the requirement of paragraph
29.17 (a), clause (3) or (4).

29.18 Subd. 2. Seven-day qualifying event. (a) The period for which an applicant is seeking
29.19 benefits must be or have been based on a single event of at least seven calendar days' duration
29.20 related to pregnancy, recovery from pregnancy, family care, a qualifying exigency, safety
29.21 leave, or the applicant's serious health condition. The days must be consecutive, unless the
29.22 leave is intermittent.

29.23 (b) Benefits related to bonding need not meet the seven-day qualifying event requirement.

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

29.27 Subd. 3. Certification. (a) Certification for an applicant taking leave related to the
29.28 applicant's serious health condition shall be sufficient if the certification states the date on
29.29 which the serious health condition began, the probable duration of the condition, and the
29.30 appropriate medical facts within the knowledge of the health care provider as required by
29.31 the commissioner.

30.1 (b) Certification for an applicant taking leave to care for a family member with a serious
30.2 health condition shall be sufficient if the certification states the date on which the serious
30.3 health condition commenced, the probable duration of the condition, the appropriate medical
30.4 facts within the knowledge of the health care provider as required by the commissioner, a
30.5 statement that the family member requires care, and an estimate of the amount of time that
30.6 the family member will require care.

30.7 (c) Certification for an applicant taking leave related to pregnancy shall be sufficient if
30.8 the certification states the applicant is experiencing a pregnancy and recovery period based
30.9 on appropriate medical facts within the knowledge of the health care provider.

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

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

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

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

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

30.26 (3) other documentation permitted by the commissioner.

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

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

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

31.5 Subd. 4. **Not eligible.** An applicant is ineligible for family or medical leave benefits for
31.6 any portion of a typical workweek:

31.7 (1) that occurs before the effective date of a benefit account;

31.8 (2) that the applicant fails or refuses to provide information on an issue of ineligibility
31.9 required under section 268B.07, subdivision 2; or

31.10 (3) for which the applicant worked for pay from the employer from whom the applicant
31.11 is taking leave under this chapter.

31.12 Subd. 5. **Vacation, sick leave, paid time off, and disability insurance payments.** (a)
31.13 An employee may use vacation pay, sick pay, paid time off pay, or disability insurance
31.14 payments, in lieu of family or medical leave program benefits under this chapter, provided
31.15 the employee is concurrently eligible. Subject to the limitations of section 268B.09,
31.16 subdivision 1, an employee is entitled to the employment protections under section 268B.09
31.17 for those workdays during which this option is exercised. This subdivision applies to private
31.18 plans under section 268B.10.

31.19 (b) An employer may offer a supplemental benefit payment, as defined in section
31.20 268B.01, subdivision 41, to an employee on family or medical leave in addition to any paid
31.21 family or medical leave benefits the employee is receiving. The choice to receive a
31.22 supplemental benefit payment lies with the employee. Nothing in this section shall be
31.23 construed as requiring an employee to receive, or an employer to provide, a supplemental
31.24 benefit payment.

31.25 Subd. 6. **Workers' compensation offset.** (a) An applicant is not eligible to receive
31.26 benefits for any portion of a week in which the applicant is receiving or has received
31.27 compensation for loss of wages equal to or in excess of the applicant's weekly family or
31.28 medical leave benefit amount under:

31.29 (1) the workers' compensation law of this state; or

31.30 (2) the workers' compensation law of any other state or similar federal law.

31.31 (b) This subdivision does not apply to an applicant who has a claim pending for loss of
31.32 wages under paragraph (a). If the applicant later receives compensation as a result of the

32.1 pending claim, the applicant is subject to paragraph (a) and the family or medical leave
32.2 benefits paid are overpaid benefits under section 268B.185.

32.3 (c) If the amount of compensation described under paragraph (a) for any week is less
32.4 than the applicant's weekly family or medical leave benefit amount, benefits requested for
32.5 that week are reduced by the amount of that compensation payment.

32.6 Subd. 7. **Separation, severance, or bonus payments.** (a) An applicant is not eligible
32.7 to receive benefits for any week the applicant is receiving, has received, or will receive
32.8 separation pay, severance pay, bonus pay, or any other payments paid by an employer
32.9 because of, upon, or after separation from employment. This subdivision applies if the
32.10 payment is:

32.11 (1) considered wages under section 268B.01, subdivision 43; or

32.12 (2) subject to the Federal Insurance Contributions Act (FICA) tax imposed to fund Social
32.13 Security and Medicare.

32.14 (b) Payments under this subdivision are applied to the period immediately following the
32.15 later of the date of separation from employment or the date the applicant first becomes
32.16 aware that the employer will be making a payment. The date the payment is actually made
32.17 or received, or that an applicant must agree to a release of claims, does not affect the
32.18 application of this paragraph.

32.19 (c) This subdivision does not apply to vacation pay, sick pay, personal time off pay, or
32.20 supplemental benefit payment under subdivision 4.

32.21 (d) This subdivision applies to all the weeks of payment.

32.22 (e) Under this subdivision, if the payment with respect to a week is equal to or more
32.23 than the applicant's weekly benefit amount, the applicant is ineligible for benefits for that
32.24 week. If the payment with respect to a week is less than the applicant's weekly benefit
32.25 amount, benefits are reduced by the amount of the payment.

32.26 Subd. 8. **Social Security disability benefits.** (a) An applicant who is receiving, has
32.27 received, or has filed for primary Social Security disability benefits for any week is ineligible
32.28 for benefits for that week, unless:

32.29 (1) the Social Security Administration approved the collecting of primary Social Security
32.30 disability benefits each month the applicant was employed during the base period; or

32.31 (2) the applicant provides a statement from an appropriate health care professional who
32.32 is aware of the applicant's Social Security disability claim and the basis for that claim,

33.1 certifying that the applicant is able to perform the essential functions of their employment
33.2 with or without a reasonable accommodation.

33.3 (b) If an applicant meets the requirements of paragraph (a), clause (1) or (2), there is no
33.4 deduction from the applicant's weekly benefit amount for any Social Security disability
33.5 benefits.

33.6 (c) Information from the Social Security Administration is conclusive, absent specific
33.7 evidence showing that the information was erroneous.

33.8 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
33.9 2025.

33.10 Sec. 15. **[268B.07] DETERMINATION ON ISSUES OF ELIGIBILITY.**

33.11 Subdivision 1. **Employer notification.** (a) Upon a determination that an applicant is
33.12 entitled to benefits, the commissioner must promptly send a notification to each current
33.13 employer of the applicant, if any, in accordance with paragraph (b).

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

33.15 (1) the name of the applicant;

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

33.17 (3) the week the benefits commence;

33.18 (4) the weekly benefit amount payable; and

33.19 (5) the maximum duration of benefits.

33.20 Subd. 2. **Determination.** (a) The commissioner must determine any issue of ineligibility
33.21 raised by information required from an applicant and send to the applicant and any current
33.22 base period employer, by mail or electronic transmission, a document titled a determination
33.23 of eligibility or a determination of ineligibility, as is appropriate, within two weeks, unless
33.24 the application is incomplete due to outstanding requests for information including clerical
33.25 or other errors. Nothing prohibits the commissioner from requesting additional information
33.26 or the applicant from supplementing their initial application before a determination of
33.27 eligibility. The commissioner may extend the deadline for a determination under this
33.28 subdivision due to extenuating circumstances.

33.29 (b) If an applicant obtained benefits through misrepresentation, the department is
33.30 authorized to issue a determination of ineligibility within 12 months of the establishment
33.31 of the benefit account.

34.1 (c) If the department has filed an intervention in a worker's compensation matter under
34.2 section 176.361, the department is authorized to issue a determination of ineligibility within
34.3 48 months of the establishment of the benefit account.

34.4 (d) A determination of eligibility or determination of ineligibility is final unless an appeal
34.5 is filed by the applicant within 60 calendar days after sending. The determination must
34.6 contain a prominent statement indicating the consequences of not appealing. Proceedings
34.7 on the appeal are conducted in accordance with section 268B.08.

34.8 (e) An issue of ineligibility required to be determined under this section includes any
34.9 question regarding the denial or allowing of benefits under this chapter.

34.10 Subd. 3. **Amended determination.** Unless an appeal has been filed, the commissioner,
34.11 on the commissioner's own motion, may reconsider a determination of eligibility or
34.12 determination of ineligibility that has not become final and issue an amended determination.
34.13 Any amended determination must be sent to the applicant and any employer in the current
34.14 base period by mail or electronic transmission. Any amended determination is final unless
34.15 an appeal is filed by the applicant within 60 calendar days after sending.

34.16 Subd. 4. **Benefit payment.** If a determination or amended determination allows benefits
34.17 to an applicant, the family or medical leave benefits must be paid regardless of any appeal
34.18 period or any appeal having been filed.

34.19 Subd. 5. **Overpayment.** A determination or amended determination that holds an
34.20 applicant ineligible for benefits for periods an applicant has been paid benefits is an
34.21 overpayment of those family or medical leave benefits. A determination or amended
34.22 determination issued under this section that results in an overpayment of benefits must set
34.23 out the amount of the overpayment and the requirement that the overpaid benefits must be
34.24 repaid according to section 268B.185.

34.25 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
34.26 2025.

34.27 Sec. 16. **[268B.08] APPEAL PROCESS.**

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

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

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

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

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

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

35.9 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within
35.10 30 calendar days after service of the benefit judge's decision, file a request for reconsideration
35.11 asking the judge to reconsider that decision.

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

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

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

35.19 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
35.20 2025.

35.21 Sec. 17. **[268B.085] LEAVE.**

35.22 Subdivision 1. **Right to leave.** (a) Ninety calendar days from the date of hire, an employee
35.23 has a right to leave from employment for any day, or portion of a day, for which:

35.24 (1) the employee meets the eligibility criteria under section 268B.06, subdivision 1,
35.25 clause (2); or

35.26 (2) the employee has applied for benefits in good faith under this chapter. For the purposes
35.27 of this subdivision, good faith is defined as anything that is not knowingly false or in reckless
35.28 disregard of the truth.

35.29 (b) Notwithstanding paragraph (a), an employee no longer has a right to leave following
35.30 a denial of benefits by a benefit judge. The employee's right to leave under this section is
35.31 not to exceed the maximum length of benefits under section 268B.04, subdivision 5.

36.1 Subd. 2. Notice to employer. (a) If the need for leave is foreseeable, an employee must
36.2 provide the employer at least 30 days' advance notice before leave under this chapter is to
36.3 begin. If 30 days' notice is not practicable because of a lack of knowledge of approximately
36.4 when leave will be required to begin, a change in circumstances, or a medical emergency,
36.5 notice must be given as soon as practicable. Whether leave is to be continuous or is to be
36.6 taken intermittently or on a reduced-schedule basis, notice need only be given one time, but
36.7 the employee must advise the employer as soon as practicable if dates of scheduled leave
36.8 change or are extended, or were initially unknown. In those cases where the employee is
36.9 required to provide at least 30 days' notice of foreseeable leave and does not do so, the
36.10 employee must explain the reasons why notice was not practicable upon request from the
36.11 employer.

36.12 (b) "As soon as practicable" means as soon as both possible and practical, taking into
36.13 account all of the facts and circumstances in the individual case. When an employee becomes
36.14 aware of a need for leave under this chapter less than 30 days in advance, it should be
36.15 practicable for the employee to provide notice of the need for leave either the same day or
36.16 the next day, unless the need for leave is based on a medical emergency. In all cases,
36.17 however, the determination of when an employee could practicably provide notice must
36.18 take into account the individual facts and circumstances.

36.19 (c) An employee shall provide at least oral, telephone, or text message notice sufficient
36.20 to make the employer aware that the employee needs leave allowed under this chapter and
36.21 the anticipated timing and duration of the leave.

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

36.28 (e) An employer may require that an employee taking leave under this chapter provide
36.29 a copy of the certification under section 268B.06, subdivision 3. Upon a written request
36.30 from the employer, the employee shall provide a copy of the certification as soon as
36.31 practicable given all of the facts and circumstances in the individual situation. Providing
36.32 certification at or around the time the employee provides a certification to the department
36.33 is considered practicable. In addition to any prohibition imposed under section 268B.09,
36.34 an employer must not discharge, discipline, penalize, interfere with, threaten, restrain,

37.1 coerce, or otherwise retaliate or discriminate against an employee for providing this
37.2 certification.

37.3 (f) If an employer has failed to provide notice to the employee as required under section
37.4 268B.26, paragraph (a), (b), or (e), the employee is not required to comply with the notice
37.5 requirements of this subdivision.

37.6 Subd. 3. **Bonding leave.** Bonding leave taken under this chapter begins at a time requested
37.7 by the employee. Bonding leave must end within 12 months of the birth, adoption, or
37.8 placement of a foster child, except that, in the case where the child must remain in the
37.9 hospital longer than the mother, the leave must end within 12 months after the child leaves
37.10 the hospital. Employees may also use bonding leave under this chapter before the actual
37.11 placement or adoption of a child in situations that include but are not limited to an employee's
37.12 requirement to: attend counseling sessions; appear in court; consult with any attorney or
37.13 doctor representing the birth parent; submit to a physical examination; or travel to another
37.14 country to complete an adoption.

37.15 Subd. 4. **Intermittent or reduced-leave schedule.** (a) Leave under this chapter, based
37.16 on a serious health condition, may be taken intermittently or on a reduced-leave schedule
37.17 if such leave is reasonable and appropriate to the needs of the individual with the serious
37.18 health condition. For all other leaves under this chapter, leave may be taken intermittently
37.19 or on a reduced-leave schedule. Intermittent leave is leave taken in separate blocks of time
37.20 due to a single, seven-day qualifying event. A reduced-leave schedule is a leave schedule
37.21 that reduces an employee's usual number of working hours per workweek or hours per
37.22 workday.

37.23 (b) Leave taken intermittently or on a reduced-schedule basis counts toward the
37.24 maximums described in section 268B.04, subdivision 5.

37.25 (c) For applicants who take leave on an intermittent or reduced leave schedule, the
37.26 weekly benefit amount is prorated.

37.27 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
37.28 2025.

37.29 Sec. 18. **[268B.09] EMPLOYMENT PROTECTIONS.**

37.30 Subdivision 1. **Retaliation prohibited.** An employer must not discharge, discipline,
37.31 penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate
37.32 against an employee for requesting or obtaining benefits or leave, or for exercising any
37.33 other right under this chapter. In addition to the remedies provided in subdivision 8, the

38.1 commissioner of labor and industry may also issue a penalty to the employer of not less
38.2 than \$1,000 and not more than \$10,000 per violation, payable to the employee aggrieved.
38.3 In determining the amount of the penalty under this subdivision, the appropriateness of the
38.4 penalty to the size of the employer's business and the gravity of the violation shall be
38.5 considered.

38.6 Subd. 2. **Interference prohibited.** An employer must not obstruct or impede an
38.7 application for leave or benefits or the exercise of any other right under this chapter. In
38.8 addition to the remedies provided in subdivision 8, the commissioner of labor and industry
38.9 may also issue a penalty to the employer of not less than \$1,000 and not more than \$10,000
38.10 per violation, payable to the employee aggrieved. In determining the amount of the penalty
38.11 under this subdivision, the appropriateness of the penalty to the size of the employer's
38.12 business and the gravity of the violation shall be considered.

38.13 Subd. 3. **Waiver of rights void.** (a) Any agreement to waive, release, or commute rights
38.14 to benefits or any other right under this chapter is void, except for a voluntary settlement
38.15 agreement resolving disputed claims or a valid separation agreement releasing putative
38.16 claims.

38.17 (b) Any provision, whether oral or written, of a lease, contract, or other agreement or
38.18 instrument that purports to be a waiver by an individual of any right or remedy provided in
38.19 this chapter is contrary to public policy and void if the waiver or release purports to waive
38.20 claims arising out of acts or practices that occur after the execution of the waiver or release.

38.21 (c) A waiver or release of rights or remedies secured by this chapter that purports to
38.22 apply to claims arising out of acts or practices prior to, or concurrent with, the execution of
38.23 the waiver or release may be rescinded within 15 calendar days of its execution, except that
38.24 a waiver or release given in settlement of a claim filed with the department or with another
38.25 administrative agency or judicial body is valid and final upon execution. A waiving or
38.26 releasing party must be informed in writing of the right to rescind the waiver or release. To
38.27 be effective, the rescission must be in writing and delivered to the waived or released party
38.28 by hand, electronically with the receiving party's consent, or by mail within the 15-day
38.29 period. If delivered by mail, the rescission must be:

- 38.30 (1) postmarked within the 15-day period;
38.31 (2) properly addressed to the waived or released party; and
38.32 (3) sent by certified mail, return receipt requested.

39.1 Subd. 4. **No assignment of benefits.** Any assignment, pledge, or encumbrance of benefits
39.2 is void, except as provided under section 268B.10, subdivision 7. Benefits are exempt from
39.3 levy, execution, attachment, or any other remedy provided for the collection of debt. Any
39.4 waiver of this subdivision is void.

39.5 Subd. 5. **Continued insurance.** (a) During any leave for which an employee is entitled
39.6 to benefits or leave under this chapter, the employer must maintain coverage under any
39.7 group insurance policy, group subscriber contract, or health care plan for the employee and
39.8 any dependents as if the employee was not on leave, provided, however, that the employee
39.9 must continue to pay any employee share of the cost of such benefits.

39.10 (b) This subdivision may be waived for employees who are working in the construction
39.11 industry under a bona fide collective bargaining agreement that requires employer
39.12 contributions to a multiemployer health plan pursuant to United States Code, title 29, section
39.13 186(c)(5), but only if the waiver is set forth in clear and unambiguous terms in the collective
39.14 bargaining agreement and explicitly cites this subdivision.

39.15 Subd. 6. **Employee right to reinstatement.** (a) On return from leave under this chapter,
39.16 an employee is entitled to be returned to the same position the employee held when leave
39.17 commenced or to an equivalent position with equivalent benefits, pay, and other terms and
39.18 conditions of employment. An employee is entitled to reinstatement even if the employee
39.19 has been replaced or the employee's position has been restructured to accommodate the
39.20 employee's absence.

39.21 (b)(1) An equivalent position is one that is virtually identical to the employee's former
39.22 position in terms of pay, benefits, and working conditions, including privileges, prerequisites,
39.23 and status. It must involve the same or substantially similar duties and responsibilities,
39.24 which must entail substantially equivalent skill, effort, responsibility, and authority.

39.25 (2) If an employee is no longer qualified for the position because of the employee's
39.26 inability to attend a necessary course, renew a license, fly a minimum number of hours, or
39.27 similar condition, as a result of the leave, the employee must be given a reasonable
39.28 opportunity to fulfill those conditions upon return from leave.

39.29 (c)(1) An employee is entitled to any unconditional pay increases which may have
39.30 occurred during the leave period, such as cost of living increases. Pay increases conditioned
39.31 upon seniority, length of service, or work performed must be granted in accordance with
39.32 the employer's policy or practice with respect to other employees on an equivalent leave
39.33 status for a reason that does not qualify for leave under this chapter. An employee is entitled
39.34 to be restored to a position with the same or equivalent pay premiums, such as a shift

40.1 differential. If an employee departed from a position averaging ten hours of overtime, and
40.2 corresponding overtime pay, each week an employee is ordinarily entitled to such a position
40.3 on return from leave under this chapter.

40.4 (2) Equivalent pay includes any bonus or payment, whether it is discretionary or
40.5 nondiscretionary, made to employees consistent with clause (1). If a bonus or other payment
40.6 is based on the achievement of a specified goal such as hours worked, products sold, or
40.7 perfect attendance, and the employee has not met the goal due to leave under this chapter,
40.8 the payment may be denied, unless otherwise paid to employees on an equivalent leave
40.9 status for a reason that does not qualify for leave under this chapter.

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

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

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

40.24 (3) With respect to pension and other retirement plans, leave under this chapter must
40.25 not be treated as or counted toward a break in service for purposes of vesting and eligibility
40.26 to participate. If the plan requires an employee to be employed on a specific date in order
40.27 to be credited with a year of service for vesting, contributions, or participation purposes,
40.28 an employee on leave under this chapter must be treated as employed on that date. Periods
40.29 of leave under this chapter need not be treated as credited service for purposes of benefit
40.30 accrual, vesting, and eligibility to participate.

40.31 (4) Employees on leave under this chapter must be treated as if they continued to work
40.32 for purposes of changes to benefit plans. Employees on leave under this chapter are entitled
40.33 to changes in benefit plans, except those which may be dependent upon seniority or accrual

41.1 during the leave period, immediately upon return from leave or to the same extent they
41.2 would have qualified if no leave had been taken.

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

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

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

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

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

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

41.21 (g) Nothing in this section shall be deemed to affect the Americans with Disabilities
41.22 Act, United States Code, title 42, chapter 126.

41.23 (h) This subdivision and subdivision 7 may be waived for employees who are working
41.24 in the construction industry under a bona fide collective bargaining agreement with a
41.25 construction trade union that maintains a referral-to-work procedure for employees to obtain
41.26 employment with multiple signatory employers, but only if the waiver is set forth in clear
41.27 and unambiguous terms in the collective bargaining agreement and explicitly cites this
41.28 subdivision and subdivision 7.

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

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

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

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

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

42.20 (1) damages equal to the amount of:

42.21 (i) any and all damages recoverable by law;

42.22 (ii) reasonable interest on the amount of damages awarded; and

42.23 (iii) an additional amount as liquidated damages equal to the sum of the amount described
42.24 in item (i) and the interest described in item (ii), except that if an employer who has violated
42.25 the provisions of this section proves to the satisfaction of the court that the act or omission
42.26 which violated the provisions of this section was in good faith and that the employer had
42.27 reasonable grounds for believing that the act or omission was not a violation of the provisions
42.28 of this section, the court may, in the discretion of the court, reduce the amount of the liability
42.29 to the amount and interest determined under items (i) and (ii), respectively; and

42.30 (2) such injunctive and other equitable relief as determined by a court or jury, including
42.31 employment, reinstatement, and promotion.

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

43.4 (1) the employees; or

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

43.6 Rule 23 of the Rules of Civil Procedure applies to this section.

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

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

43.13 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
43.14 2025.

43.15 Sec. 19. **[268B.10] SUBSTITUTION OF A PRIVATE PLAN.**

43.16 Subdivision 1. **Application for substitution.** Employers may apply to the commissioner
43.17 for approval to meet their obligations under this chapter through the substitution of a private
43.18 plan that provides paid family, paid medical, or paid family and medical benefits. In order
43.19 to be approved as meeting an employer's obligations under this chapter, a private plan must
43.20 confer all of the same rights, protections, and benefits provided to employees under this
43.21 chapter, including but not limited to benefits under section 268B.04 and employment
43.22 protections under section 268B.09. Employers may apply for approval of private plans that
43.23 exceed the benefits provided to employees under this chapter. An employee covered by a
43.24 private plan under this section retains all applicable rights and remedies under section
43.25 268B.09.

43.26 Subd. 2. **Private plan requirements; medical benefit program.** The commissioner,
43.27 in consultation with the commissioner of commerce, must approve an application for private
43.28 provision of the medical benefit program if the commissioner determines:

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

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

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

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

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

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

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

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

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

44.19 (10) coverage will continue under the private plan while an employee remains employed
44.20 by the employer.

44.21 Subd. 3. **Private plan requirements; family benefit program.** The commissioner, in
44.22 consultation with the commissioner of commerce, must approve an application for private
44.23 provision of the family benefit program if the commissioner determines:

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

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

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

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

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

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

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

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

45.14 (9) the private plan will allow any employee covered under the private plan who is
45.15 eligible to receive family benefits under this chapter to receive family benefits under the
45.16 employer plan; and

45.17 (10) coverage will continue under the private plan while an employee remains employed
45.18 by the employer.

45.19 Subd. 4. **Surety bond requirement.** If the private plan is in the form of self-insurance,
45.20 the employer shall file with its application for private provision of the medical benefit or
45.21 family benefit program a surety bond in an amount equal to the employer's annual premium
45.22 that it would otherwise be required to pay to the family and medical benefit insurance
45.23 account. The surety bond must be in a form approved by the commissioner and issued by
45.24 a surety company authorized to transact business in Minnesota.

45.25 Subd. 5. **Private plan requirements; timing of payment; intermittent leave**
45.26 **increments; and weekly benefit determination.** (a) Private plan benefits under this section
45.27 may be paid to align with the employer's payroll cycle or according to the terms of the
45.28 approved private plan.

45.29 (b) Intermittent leave under a private plan may be taken in the minimum increment the
45.30 employer offers to employees for other types of leave, not to exceed the eight-hour minimum
45.31 increment under section 268B.04, subdivision 6.

45.32 (c) For purposes of determining the family and medical benefit amount and duration
45.33 under a private plan, the weekly benefit amount and duration must be based on the employee's

46.1 typical workweek and wages earned with the employer at the time of an application for
46.2 benefits or over the past 52-week calendar year, whichever calculation results in the highest
46.3 benefit amount for the employee. If an employer does not have complete wage information
46.4 for the full calendar year, the employer must accept an employee's certification of wage
46.5 credits, based upon the employee's records.

46.6 Subd. 6. **Use of private insurance products.** Nothing in this section prohibits an
46.7 employer from meeting the requirements of a private plan through a private insurance
46.8 product. If the employer plan involves a private insurance product, that insurance product's
46.9 policy form must be approved by the commissioner of commerce and issued by an insurance
46.10 company authorized to transact insurance in this state.

46.11 Subd. 7. **Private plan approval and oversight fee.** An employer with an approved
46.12 private plan is not required to pay premiums established under section 268B.14. An employer
46.13 with an approved private plan is responsible for a private plan approval and oversight fee
46.14 equal to \$250 for employers with fewer than 50 employees, \$500 for employers with 50 to
46.15 499 employees, and \$1,000 for employers with 500 or more employees. The employer must
46.16 pay this fee (1) upon initial application for private plan approval, and (2) any time the
46.17 employer applies to amend the private plan. The commissioner must review and report on
46.18 the adequacy of this fee to cover private plan administrative costs annually beginning July
46.19 1, 2025, as part of the annual report established in section 268B.24.

46.20 Subd. 8. **Plan duration.** A private plan under this section must be in effect for a period
46.21 of at least one year and, thereafter, continuously unless the commissioner finds that the
46.22 employer has given notice of withdrawal from the plan in a manner specified by the
46.23 commissioner in this section or rule. The plan may be withdrawn by the employer within
46.24 30 days of the effective date of any law increasing the benefit amounts or within 30 days
46.25 of the date of any change in the rate of premiums. If the plan is not withdrawn, it must be
46.26 administered to provide the increased benefit amount or change in the rate of the employee's
46.27 premium on the date of the increase or change.

46.28 Subd. 9. **Employer reimbursement.** If an employer meeting the requirements of a
46.29 private plan through an insurance product under subdivision 6 has made advance payments
46.30 of benefits due under this chapter or has made payments to an employee in like manner as
46.31 wages during any period of family or medical leave for which the employee is entitled to
46.32 the benefits provided by this chapter, the employer is entitled to be reimbursed by the carrier
46.33 or third party administrator out of any benefits due or to become due for the family or
46.34 medical leave, if the claim for reimbursement is filed with the carrier prior to payment of
46.35 the benefits by the carrier.

47.1 Subd. 10. Appeals. (a) An employer may appeal any adverse action regarding that
47.2 employer's application for private provision of the medical benefit or family benefit program,
47.3 in a manner specified by the commissioner.

47.4 (b) An employee covered under a private plan has the same right to appeal to the state
47.5 under section 268B.04, subdivision 7, as any other employee. An employee covered under
47.6 a private plan has the right to request reconsideration of a decision under a private plan
47.7 made by an insurer, private plan administrator, or employer prior to exercising appeal rights
47.8 under section 268B.04.

47.9 Subd. 11. Employees no longer covered. (a) An employee is no longer covered by an
47.10 approved private plan if a leave under this chapter occurs after the employment relationship
47.11 with the private plan employer ends, or if the commissioner revokes the approval of the
47.12 private plan.

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

47.16 Subd. 12. Posting of notice regarding private plan. An employer with a private plan
47.17 must provide a notice prepared by or approved by the commissioner regarding the private
47.18 plan consistent with section 268B.26.

47.19 Subd. 13. Amendment. (a) The commissioner must approve any amendment to a private
47.20 plan adjusting the provisions thereof, if the commissioner determines:

47.21 (1) that the plan, as amended, will conform to the standards set forth in this chapter; and
47.22 (2) that notice of the amendment has been delivered to all affected employees at least
47.23 ten days before the submission of the amendment.

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

47.26 Subd. 14. Successor employer. A private plan in effect at the time a successor acquires
47.27 the employer organization, trade, or business, or substantially all the assets thereof, or a
47.28 distinct and severable portion of the organization, trade, or business, and continues its
47.29 operation without substantial reduction of personnel resulting from the acquisition, must
47.30 continue the approved private plan and must not withdraw the plan without a specific request
47.31 for withdrawal in a manner and at a time specified by the commissioner. A successor may
47.32 terminate a private plan with notice to the commissioner and within 90 days from the date
47.33 of the acquisition.

48.1 Subd. 15. **Revocation of approval by commissioner.** (a) The commissioner may
48.2 terminate any private plan if the commissioner determines the employer:

48.3 (1) failed to pay benefits;

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

48.6 (3) failed to submit reports as required by this chapter or rule adopted under this chapter;
48.7 or

48.8 (4) otherwise failed to comply with this chapter or rule adopted under this chapter.

48.9 (b) The commissioner must give notice of the intention to terminate a plan to the employer
48.10 at least ten days before taking any final action. The notice must state the effective date and
48.11 the reason for the termination.

48.12 (c) The employer may, within ten days from mailing or personal service of the notice,
48.13 file an appeal to the commissioner in the time, manner, method, and procedure provided by
48.14 the commissioner under subdivision 7.

48.15 (d) The payment of benefits must not be delayed during an employer's appeal of the
48.16 revocation of approval of a private plan.

48.17 (e) If the commissioner revokes approval of an employer's private plan, that employer
48.18 is ineligible to apply for approval of another private plan for a period of three years, beginning
48.19 on the date of revocation.

48.20 Subd. 16. **Employer penalties.** (a) The commissioner may assess the following monetary
48.21 penalties against an employer with an approved private plan found to have violated this
48.22 chapter:

48.23 (1) \$1,000 for the first violation; and

48.24 (2) \$2,000 for the second, and each successive violation.

48.25 (b) The commissioner must waive collection of any penalty if the employer corrects the
48.26 violation within 30 days of receiving a notice of the violation and the notice is for a first
48.27 violation.

48.28 (c) The commissioner may waive collection of any penalty if the commissioner determines
48.29 the violation to be an inadvertent error by the employer.

48.30 (d) Monetary penalties collected under this section shall be deposited in the family and
48.31 medical benefit insurance account.

49.1 (e) Assessment of penalties under this subdivision may be appealed as provided by the
49.2 commissioner under subdivision 7.

49.3 Subd. 17. **Reports, information, and records.** Employers with an approved private
49.4 plan must maintain all reports, information, and records as relating to the private plan and
49.5 claims for a period of six years from creation and provide to the commissioner upon request.

49.6 Subd. 18. **Audit and investigation.** The commissioner may investigate and audit plans
49.7 approved under this section both before and after the plans are approved.

49.8 **EFFECTIVE DATE.** This section is effective January 1, 2024.

49.9 Sec. 20. **[268B.11] SELF-EMPLOYED AND INDEPENDENT CONTRACTOR**
49.10 **ELECTION OF COVERAGE.**

49.11 Subdivision 1. **Election of coverage.** (a) A self-employed individual or independent
49.12 contractor may file with the commissioner by electronic transmission in a format prescribed
49.13 by the commissioner an application to be entitled to benefits under this chapter for a period
49.14 not less than 104 consecutive calendar weeks. Upon the approval of the commissioner, sent
49.15 by United States mail or electronic transmission, the individual is entitled to benefits under
49.16 this chapter beginning the calendar quarter after the date of approval or beginning in a later
49.17 calendar quarter if requested by the self-employed individual or independent contractor.
49.18 The individual ceases to be entitled to benefits as of the first day of January of any calendar
49.19 year only if, at least 30 calendar days before the first day of January, the individual has filed
49.20 with the commissioner by electronic transmission in a format prescribed by the commissioner
49.21 a notice to that effect.

49.22 (b) The commissioner may terminate any application approved under this section with
49.23 30 calendar days' notice sent by United States mail or electronic transmission if the
49.24 self-employed individual is delinquent on any premiums due under this chapter. If an
49.25 approved application is terminated in this manner during the first 104 consecutive calendar
49.26 weeks of election, the self-employed individual remains obligated to pay the premium under
49.27 subdivision 3 for the remainder of that 104-week period.

49.28 Subd. 2. **Application.** A self-employed individual who applies for coverage under this
49.29 section must provide the commissioner with (1) the amount of the individual's net earnings
49.30 from self-employment, if any, from the two most recent taxable years and all tax documents
49.31 necessary to prove the accuracy of the amounts reported, and (2) any other documentation
49.32 the commissioner requires. A self-employed individual who is covered under this chapter

50.1 must annually provide the commissioner with the amount of the individual's net earnings
50.2 from self-employment within 30 days of filing a federal income tax return.

50.3 Subd. 3. **Premium.** A self-employed individual who elects to receive coverage under
50.4 this chapter must annually pay a premium equal to one-half the percentage in section
50.5 268B.14, subdivision 5, clause (1), times the lesser of:

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

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

50.9 Subd. 4. **Benefits.** Notwithstanding anything to the contrary, a self-employed individual
50.10 who has applied to and been approved for coverage by the commissioner under this section
50.11 is entitled to benefits on the same basis as an employee under this chapter, except that a
50.12 self-employed individual's weekly benefit amount under section 268B.04, subdivision 1,
50.13 must be calculated as a percentage of the self-employed individual's self-employment
50.14 premium base, rather than wages.

50.15 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
50.16 2025.

50.17 **Sec. 21. [268B.12] WAGE REPORTING.**

50.18 Subdivision 1. **Wage detail report.** (a) Each employer must submit, under the employer
50.19 premium account described in section 268B.13, a quarterly wage detail report by electronic
50.20 transmission, in a format prescribed by the commissioner. The report must include for each
50.21 employee in covered employment during the calendar quarter, the employee's name, the
50.22 total wages paid to the employee, and total number of paid hours worked. For employees
50.23 exempt from the definition of employee in section 177.23, subdivision 7, clause (6), the
50.24 employer must report 40 hours worked for each week any duties were performed by a
50.25 full-time employee and must report a reasonable estimate of the hours worked for each
50.26 week duties were performed by a part-time employee. In addition, the wage detail report
50.27 must include the number of employees employed during the payroll period that includes
50.28 the 12th day of each calendar month and, if required by the commissioner, the report must
50.29 be broken down by business location and separate business unit. The report is due and must
50.30 be received by the commissioner on or before the last day of the month following the end
50.31 of the calendar quarter. The commissioner may delay the due date on a specific calendar
50.32 quarter in the event the department is unable to accept wage detail reports electronically.

50.33 (b) The employer may report the wages paid to the next lower whole dollar amount.

51.1 (c) An employer need not include the name of the employee or other required information
51.2 on the wage detail report if disclosure is specifically exempted from being reported by
51.3 federal law.

51.4 (d) A wage detail report must be submitted for each calendar quarter even though no
51.5 wages were paid, unless the business has been terminated.

51.6 Subd. 2. **Electronic transmission of report required.** Each employer must submit the
51.7 quarterly wage detail report by electronic transmission in a format prescribed by the
51.8 commissioner. The commissioner has the discretion to accept wage detail reports that are
51.9 submitted by any other means or the commissioner may return the report submitted by other
51.10 than electronic transmission to the employer, and reports returned are considered as not
51.11 submitted and the late fees under subdivision 3 may be imposed.

51.12 Subd. 3. **Failure to timely file report; late fees.** (a) Any employer that fails to submit
51.13 the quarterly wage detail report when due must pay a late fee of \$10 per employee, computed
51.14 based upon the highest of:

51.15 (1) the number of employees reported on the last wage detail report submitted;

51.16 (2) the number of employees reported in the corresponding quarter of the prior calendar
51.17 year; or

51.18 (3) if no wage detail report has ever been submitted, the number of employees listed at
51.19 the time of employer registration.

51.20 The late fee is canceled if the wage detail report is received within 30 calendar days after
51.21 a demand for the report is sent to the employer by mail or electronic transmission. A late
51.22 fee assessed an employer may not be canceled more than twice each 12 months. The amount
51.23 of the late fee assessed may not be less than \$250.

51.24 (b) If the wage detail report is not received in a manner and format prescribed by the
51.25 commissioner within 30 calendar days after demand is sent under paragraph (a), the late
51.26 fee assessed under paragraph (a) doubles and a renewed demand notice and notice of the
51.27 increased late fee will be sent to the employer by mail or electronic transmission.

51.28 (c) Late fees due under this subdivision may be canceled, in whole or in part, under
51.29 section 268B.16.

51.30 Subd. 4. **Missing or erroneous information.** (a) Any employer that submits the wage
51.31 detail report, but fails to include all required employee information or enters erroneous
51.32 information, may be subject to an administrative service fee of \$25 for each employee for
51.33 whom the information is partially missing or erroneous.

52.1 (b) Any employer that submits the wage detail report, but fails to include an employee,
52.2 may be subject to an administrative service fee equal to two percent of the total wages for
52.3 each employee for whom the information is completely missing.

52.4 (c) An employer shall not be subject to any penalty under this section upon a reasonable
52.5 showing that the employer's act or omission that violated this section was in good faith or
52.6 that the employer had reasonable grounds for believing that the act was not a violation of
52.7 this section.

52.8 Subd. 5. Fees. The fees provided for in subdivisions 3 and 4 are in addition to interest
52.9 and other penalties imposed by this chapter and are collected in the same manner as
52.10 delinquent taxes and credited to the family and medical benefit insurance account.

52.11 EFFECTIVE DATE. Except as provided in section 42, this section is effective July 1,
52.12 2025.

52.13 Sec. 22. [268B.13] EMPLOYER PREMIUM ACCOUNTS.

52.14 The commissioner must maintain a premium account for each employer, except for an
52.15 employer with an approved private plan under section 268B.10. The commissioner must
52.16 assess the premium account for all the premiums due under section 268B.14, and credit the
52.17 family and medical benefit insurance account with all premiums paid.

52.18 EFFECTIVE DATE. Except as provided in section 42, this section is effective July 1,
52.19 2025.

52.20 Sec. 23. [268B.14] PREMIUMS.

52.21 Subdivision 1. Payments. (a) Family and medical leave premiums accrue and become
52.22 payable by each employer, except for an employer with an approved private plan under
52.23 section 268B.10, for each calendar year on the taxable wages that the employer paid to
52.24 employees in covered employment.

52.25 Each employer must pay premiums quarterly, at the premium rate defined under this
52.26 section, on the taxable wages paid to each employee. The commissioner must compute the
52.27 premium due from the wage detail report required under section 268B.12 and notify the
52.28 employer of the premium due. The premiums must be paid to the family and medical benefit
52.29 insurance account and must be received by the department on or before the last day of the
52.30 month following the end of the calendar quarter.

53.1 (b) If for any reason the wages on the wage detail report under section 268B.12 are
53.2 adjusted for any quarter, the commissioner must recompute the premiums due for that quarter
53.3 and assess the employer for any amount due or credit the employer as appropriate.

53.4 Subd. 2. **Payments by electronic payment required.** (a) Every employer must make
53.5 any payments due under this chapter by electronic payment.

53.6 (b) All third-party processors, paying on behalf of a client company, must make any
53.7 payments due under this chapter by electronic payment.

53.8 (c) Regardless of paragraph (a) or (b), the commissioner has the discretion to accept
53.9 payment by other means.

53.10 Subd. 3. **Employee charge back.** Notwithstanding section 177.24, subdivision 4, or
53.11 181.06, subdivision 1, employers must pay a minimum of 50 percent of the annual premiums
53.12 paid under this section. Employees, through a deduction in their wages to the employer,
53.13 must pay the remaining portion, if any, of the premium not paid by the employer. Such
53.14 deductions for any given employee must be in equal proportion to the premiums paid based
53.15 on the wages of that employee, and all employees of an employer must be subject to the
53.16 same percentage deduction. Deductions under this section must not cause an employee's
53.17 wage, after the deduction, to fall below the rate required to be paid to the worker by law,
53.18 including any applicable statute, regulation, rule, ordinance, government resolution or policy,
53.19 contract, or other legal authority, whichever rate of pay is greater.

53.20 Subd. 4. **Wages and payments subject to premium.** The maximum wages subject to
53.21 premium in a calendar year is equal to the maximum earnings in that year subject to the
53.22 FICA Old-Age, Survivors, and Disability Insurance tax.

53.23 Subd. 5. **Annual premium rates.** The premium rates beginning July 1, 2025, shall be
53.24 as follows:

53.25 (1) for both family and medical benefit programs, 0.7 percent;

53.26 (2) for only the medical benefit program and with an approved private plan for the family
53.27 benefit program, 0.57 percent; and

53.28 (3) for only the family benefit program and with an approved private plan for the medical
53.29 benefit program, 0.13 percent.

53.30 Subd. 6. **Premium rate adjustments.** (a) Beginning July 1, 2026, and by July 31 of
53.31 each year thereafter, the commissioner must adjust the annual premium rates using the
53.32 formula in paragraph (b).

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

54.2 (1) multiply 1.45 times the amount disbursed from the family and medical benefit
54.3 insurance account for the 52-week period ending September 30 of the prior year;

54.4 (2) subtract the amount in the family and medical benefit insurance account on that
54.5 September 30 from the resulting figure;

54.6 (3) divide the resulting figure by the total wages in covered employment of employees
54.7 of employers without approved private plans under section 268B.10 for either the family
54.8 or medical benefit program. For employers with an approved private plan for either the
54.9 medical benefit program or the family benefit program, but not both, count only the
54.10 proportion of wages in covered employment associated with the program for which the
54.11 employer does not have an approved private plan; and

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

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

54.16 Subd. 7. **Deposit of premiums.** All premiums collected under this section must be
54.17 deposited into the family and medical benefit insurance account.

54.18 Subd. 8. **Nonpayment of premiums by employer.** The failure of an employer to pay
54.19 premiums does not impact the right of an employee to benefits, or any other right, under
54.20 this chapter.

54.21 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
54.22 2025.

54.23 Sec. 24. **[268B.145] INCOME TAX WITHHOLDING.**

54.24 If the Internal Revenue Service determines that benefits are subject to federal income
54.25 tax, and an applicant elects to have federal income tax deducted and withheld from the
54.26 applicant's benefits, the commissioner must deduct and withhold the amount specified in
54.27 the Internal Revenue Code in a manner consistent with state law.

54.28 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
54.29 2025.

55.1 Sec. 25. **[268B.15] COLLECTION OF PREMIUMS.**

55.2 **Subdivision 1. Amount computed presumed correct.** Any amount due from an
55.3 employer, as computed by the commissioner, is presumed to be correctly determined and
55.4 assessed, and the burden is upon the employer to show its incorrectness. A statement by the
55.5 commissioner of the amount due is admissible in evidence in any court or administrative
55.6 proceeding and is prima facie evidence of the facts in the statement.

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

55.9 (1) family and medical leave premiums under this chapter; then

55.10 (2) interest on past due premiums; then

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

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

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

55.16 (2) the payment is specifically designated by the employer to be applied to an outstanding
55.17 overpayment of benefits of an applicant;

55.18 (3) a court or administrative order directs that the payment be applied to a specific
55.19 obligation;

55.20 (4) a preexisting payment plan provides for the application of payment; or

55.21 (5) the commissioner, under the compromise authority of section 268B.16, agrees to
55.22 apply the payment to a different priority.

55.23 **Subd. 3. Estimating the premium due.** Only if an employer fails to make all necessary
55.24 records available for an audit under section 268B.21 and the commissioner has reason to
55.25 believe the employer has not reported all the required wages on the quarterly wage detail
55.26 reports, may the commissioner then estimate the amount of premium due and assess the
55.27 employer the estimated amount due.

55.28 **Subd. 4. Costs.** (a) Any employer and any applicant subject to section 268B.185,
55.29 subdivision 2, that fails to pay any amount when due under this chapter is liable for any
55.30 filing fees, recording fees, sheriff fees, costs incurred by referral to any public or private
55.31 collection agency, or litigation costs, including attorney fees, incurred in the collection of
55.32 the amounts due.

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

56.4 (c) Costs and fees collected under this subdivision are credited to the enforcement account
56.5 under section 268B.185, subdivision 3.

56.6 Subd. 5. **Interest on amounts past due.** If any amounts due from an employer under
56.7 this chapter are not received on the date due, the commissioner must assess interest on any
56.8 amount that remains unpaid. Interest is assessed at the rate of one percent per month or any
56.9 part of a month. Interest is not assessed on unpaid interest. Interest collected under this
56.10 subdivision is credited to the account.

56.11 Subd. 6. **Interest on judgments.** Regardless of section 549.09, if a judgment is entered
56.12 upon any past due amounts from an employer under this chapter, the unpaid judgment bears
56.13 interest at the rate specified in subdivision 5 until the date of payment.

56.14 Subd. 7. **Credit adjustments; refunds.** (a) If an employer makes an application for a
56.15 credit adjustment of any amount paid under this chapter within four years of the date that
56.16 the payment was due, in a manner and format prescribed by the commissioner, and the
56.17 commissioner determines that the payment or any portion thereof was erroneous, the
56.18 commissioner must make an adjustment and issue a credit without interest. If a credit cannot
56.19 be used, the commissioner must refund, without interest, the amount erroneously paid. The
56.20 commissioner, on the commissioner's own motion, may make a credit adjustment or refund
56.21 under this subdivision.

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

56.24 (c) If a credit adjustment or refund is denied in whole or in part, a determination of denial
56.25 must be sent to the employer by mail or electronic transmission. The determination of denial
56.26 is final unless an employer files an appeal within 20 calendar days after sending. Proceedings
56.27 on the appeal are conducted in accordance with section 268B.08.

56.28 (d) If an employer receives a credit adjustment or refund under this section, the employer
56.29 must determine the amount of any overpayment attributable to a deduction from employee
56.30 wages under section 268B.14, subdivision 3, and return any amount erroneously deducted
56.31 to each affected employee.

56.32 Subd. 8. **Priorities under legal dissolutions or distributions.** In the event of any
56.33 distribution of an employer's assets according to an order of any court, including any

57.1 receivership, assignment for benefit of creditors, adjudicated insolvency, or similar
57.2 proceeding, premiums then or thereafter due must be paid in full before all other claims
57.3 except claims for wages of not more than \$1,000 per former employee, earned within six
57.4 months of the commencement of the proceedings. In the event of an employer's adjudication
57.5 in bankruptcy under federal law, premiums then or thereafter due are entitled to the priority
57.6 provided in that law for taxes due in any state.

57.7 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
57.8 2025.

57.9 **Sec. 26. [268B.155] CHILD SUPPORT DEDUCTION FROM BENEFITS.**

57.10 Subdivision 1. **Definitions.** As used in this section:

57.11 (1) "child support agency" means the public agency responsible for child support
57.12 enforcement, including federally approved comprehensive Tribal IV-D programs; and

57.13 (2) "child support obligations" means obligations that are being enforced by a child
57.14 support agency in accordance with a plan described in United States Code, title 42, sections
57.15 454 and 455 of the Social Security Act that has been approved by the secretary of health
57.16 and human services under part D of title IV of the Social Security Act. This does not include
57.17 any type of spousal maintenance or foster care payments.

57.18 Subd. 2. **Notice upon application.** In an application for family or medical leave benefits,
57.19 the applicant must disclose if child support obligations are owed and, if so, in what state
57.20 and county. If child support obligations are owed, the commissioner must, if the applicant
57.21 establishes a benefit account, notify the child support agency.

57.22 Subd. 3. **Withholding of benefit.** The commissioner must deduct and withhold from
57.23 any family or medical leave benefits payable to an applicant who owes child support
57.24 obligations:

57.25 (1) the amount required under a proper order of a court or administrative agency; or

57.26 (2) if clause (1) is not applicable, the amount determined under an agreement under
57.27 United States Code, title 42, section 454 (20)(B)(i), of the Social Security Act; or

57.28 (3) if clause (1) or (2) is not applicable, the amount specified by the applicant.

57.29 Subd. 4. **Payment.** Any amount deducted and withheld must be paid to the child support
57.30 agency, must for all purposes be treated as if it were paid to the applicant as family or
57.31 medical leave benefits and paid by the applicant to the child support agency in satisfaction
57.32 of the applicant's child support obligations.

58.1 Subd. 5. **Payment of costs.** The child support agency must pay the costs incurred by
58.2 the commissioner in the implementation and administration of this section and sections
58.3 518A.50 and 518A.53.

58.4 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
58.5 2025.

58.6 **Sec. 27. [268B.16] COMPROMISE.**

58.7 (a) The commissioner may compromise in whole or in part any action, determination,
58.8 or decision that affects only an employer and not an applicant. This paragraph applies if it
58.9 is determined by a court of law, or a confession of judgment, that an applicant, while
58.10 employed, wrongfully took from the employer \$500 or more in money or property.

58.11 (b) The commissioner may at any time compromise any premium or reimbursement due
58.12 from an employer under this chapter.

58.13 (c) Any compromise involving an amount over \$10,000 must be authorized by an attorney
58.14 licensed to practice law in Minnesota who is an employee of the department designated by
58.15 the commissioner for that purpose.

58.16 (d) Any compromise must be in the best interest of the state of Minnesota.

58.17 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
58.18 2025.

58.19 **Sec. 28. [268B.17] ADMINISTRATIVE COSTS.**

58.20 From July 1, 2025, through December 31, 2025, the commissioner may spend up to
58.21 seven percent of projected benefit payments during the period for the administration of this
58.22 chapter. Beginning January 1, 2026, and each calendar year thereafter, the commissioner
58.23 may spend up to seven percent of projected benefit payments for that calendar year for the
58.24 administration of this chapter. The department may enter into interagency agreements with
58.25 the Department of Labor and Industry, including agreements to transfer funds, subject to
58.26 the limit in this section, for the Department of Labor and Industry to fulfill its enforcement
58.27 authority of this chapter.

58.28 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
58.29 2025.

59.1 Sec. 29. **[268B.18] PUBLIC OUTREACH.**

59.2 Beginning in fiscal year 2025, the commissioner must use at least 0.5 percent of projected
59.3 benefit payments under section 268B.17 for the purpose of outreach, education, and technical
59.4 assistance for employees, employers, and self-employed individuals eligible to elect coverage
59.5 under section 268B.11. The department may enter into interagency agreements with the
59.6 Department of Labor and Industry, including agreements to transfer funds, subject to the
59.7 limit in section 268B.17, to accomplish the requirements of this section. At least one-half
59.8 of the amount spent under this section must be used for grants to community-based groups.

59.9 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
59.10 2025.

59.11 Sec. 30. **[268B.185] BENEFIT OVERPAYMENTS.**

59.12 **Subdivision 1. Repaying an overpayment.** (a) Any applicant who (1) because of a
59.13 determination or amended determination issued under this chapter, or (2) because of a
59.14 benefit law judge's decision under section 268B.08, has received any family or medical
59.15 leave benefits that the applicant was held not entitled to, is overpaid the benefits and must
59.16 promptly repay the benefits to the family and medical benefit insurance account.

59.17 (b) If the applicant fails to repay the benefits overpaid, including any penalty and interest
59.18 assessed under subdivisions 2 and 4, the total due may be collected by the methods allowed
59.19 under state and federal law.

59.20 **Subd. 2. Overpayment because of misrepresentation.** (a) An applicant has committed
59.21 misrepresentation if the applicant is overpaid benefits by making an intentional false
59.22 statement or representation in an effort to fraudulently collect benefits. Overpayment because
59.23 of misrepresentation does not occur where there is unintentional mistake with a good faith
59.24 belief as to the eligibility or correctness of the statement or representation.

59.25 (b) A determination of overpayment penalty must state the methods of collection the
59.26 commissioner may use to recover the overpayment, penalty, and interest assessed. Money
59.27 received in repayment of overpaid benefits, penalties, and interest is first applied to the
59.28 benefits overpaid, second to the penalty amount due, and third to any interest due.

59.29 (c) The department is authorized to issue a determination of overpayment penalty under
59.30 this subdivision within 12 months of the establishment of the benefit account upon which
59.31 the benefits were obtained through misrepresentation.

59.32 **Subd. 3. Family and medical benefit insurance enforcement account created.** The
59.33 family and medical benefit insurance enforcement account is created in the state treasury.

60.1 Any penalties and interest collected under this section shall be deposited into the account
60.2 under this subdivision and shall be used only for the purposes of administering and enforcing
60.3 this chapter. Only the commissioner may authorize expenditures from the account under
60.4 this subdivision.

60.5 Subd. 4. **Interest.** For any family and medical leave benefits obtained by
60.6 misrepresentation, and any penalty amounts assessed under subdivision 2, the commissioner
60.7 must assess interest on any amount that remains unpaid beginning 30 calendar days after
60.8 the date of a determination of overpayment penalty. Interest is assessed at the rate of six
60.9 percent per year. A determination of overpayment penalty must state that interest will be
60.10 assessed. Interest is not assessed on unpaid interest. Interest collected under this subdivision
60.11 is credited to the family and medical benefit insurance enforcement account.

60.12 Subd. 5. **Offset of benefits.** An employee may offset from any future family and medical
60.13 leave benefits otherwise payable the amount of an overpayment. No single offset may exceed
60.14 20 percent of the amount of the payment from which the offset is made.

60.15 Subd. 6. **Cancellation of overpayments.** (a) If family and medical leave benefits
60.16 overpayments are not repaid or offset from subsequent benefits within three years after the
60.17 date of the determination or decision holding the applicant overpaid, the commissioner must
60.18 cancel the overpayment balance, and no administrative or legal proceedings may be used
60.19 to enforce collection of those amounts.

60.20 (b) The commissioner may cancel at any time any overpayment, including penalties and
60.21 interest that the commissioner determines is uncollectible because of death or bankruptcy.

60.22 Subd. 7. **Collection of overpayments.** (a) The commissioner has discretion regarding
60.23 the recovery of any overpayment for reasons other than misrepresentation. Regardless of
60.24 any law to the contrary, the commissioner is not required to refer any overpayment for
60.25 reasons other than misrepresentation to a public or private collection agency, including
60.26 agencies of this state.

60.27 (b) Amounts overpaid for reasons other than misrepresentation are not considered a
60.28 "debt" to the state of Minnesota for purposes of any reporting requirements to the
60.29 commissioner of management and budget.

60.30 (c) A pending appeal under section 268B.08 does not suspend the assessment of interest,
60.31 penalties, or collection of an overpayment.

60.32 (d) Section 16A.626 applies to the repayment by an applicant of any overpayment,
60.33 penalty, or interest.

61.1 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
61.2 2025.

61.3 Sec. 31. **[268B.19] EMPLOYER MISCONDUCT; PENALTY.**

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

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

61.10 (1) made a false statement or representation knowing it to be false;

61.11 (2) made a false statement or representation without a good-faith belief as to the
61.12 correctness of the statement or representation; or

61.13 (3) knowingly failed to disclose a material fact.

61.14 (c) The penalty is the greater of \$500 or 50 percent of the following resulting from the
61.15 employer's action:

61.16 (1) the amount of any overpaid benefits to an applicant;

61.17 (2) the amount of benefits not paid to an applicant that would otherwise have been paid;
61.18 or

61.19 (3) the amount of any payment required from the employer under this chapter that was
61.20 not paid.

61.21 (d) Penalties must be paid within 30 calendar days of issuance of the determination of
61.22 penalty and credited to the family and medical benefit insurance account.

61.23 (e) The determination of penalty is final unless the employer files an appeal within 30
61.24 calendar days after the sending of the determination of penalty to the employer by United
61.25 States mail or electronic transmission.

61.26 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
61.27 2025.

61.28 Sec. 32. **[268B.21] RECORDS; AUDITS.**

61.29 Subdivision 1. **Employer records; audits.** (a) Each employer must keep true and accurate
61.30 records on individuals performing services for the employer, containing the information

62.1 the commissioner may require under this chapter. The records must be kept for a period of
62.2 not less than four years in addition to the current calendar year.

62.3 (b) For the purpose of administering this chapter, the commissioner has the power to
62.4 audit, examine, or cause to be supplied or copied, any books, correspondence, papers,
62.5 records, or memoranda that are the property of, or in the possession of, an employer or any
62.6 other person at any reasonable time and as often as may be necessary. Subpoenas may be
62.7 issued under section 268B.22 as necessary, for an audit.

62.8 (c) An employer or other person that refuses to allow an audit of its records by the
62.9 department or that fails to make all necessary records available for audit in the state upon
62.10 request of the commissioner may be assessed an administrative penalty of \$500. The penalty
62.11 collected is credited to the family and medical benefit insurance account.

62.12 (d) An employer, or other person, that fails to provide a weekly breakdown of money
62.13 earned by an applicant upon request of the commissioner, information necessary for the
62.14 detection of applicant misrepresentation under section 268B.185, subdivision 2, may be
62.15 assessed an administrative penalty of \$100. Any notice requesting a weekly breakdown
62.16 must clearly state that a \$100 penalty may be assessed for failure to provide the information.
62.17 The penalty collected is credited to the family and medical benefit insurance account.

62.18 Subd. 2. **Department records; destruction.** (a) The commissioner may make summaries,
62.19 compilations, duplications, or reproductions of any records pertaining to this chapter that
62.20 the commissioner considers advisable for the preservation of the information.

62.21 (b) Regardless of any law to the contrary, the commissioner may destroy any records
62.22 that are no longer necessary for the administration of this chapter. In addition, the
62.23 commissioner may destroy any record from which the information has been electronically
62.24 captured and stored.

62.25 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
62.26 2025.

62.27 Sec. 33. **[268B.22] SUBPOENAS; OATHS.**

62.28 (a) The commissioner or benefit judge has authority to administer oaths and affirmations,
62.29 take depositions, certify to official acts, and issue subpoenas to compel the attendance of
62.30 individuals and the production of documents and other personal property necessary in
62.31 connection with the administration of this chapter.

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

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

63.5 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
63.6 2025.

63.7 Sec. 34. **[268B.23] LIEN; LEVY; SETOFF; AND CIVIL ACTION.**

63.8 Subdivision 1. **Lien.** (a) Any amount due under this chapter, from an applicant or an
63.9 employer, becomes a lien upon all the property, within this state, both real and personal, of
63.10 the person liable, from the date of assessment. For the purposes of this section, "date of
63.11 assessment" means the date the obligation was due.

63.12 (b) The lien is not enforceable against any purchaser, mortgagee, pledgee, holder of a
63.13 Uniform Commercial Code security interest, mechanic's lien, or judgment lien creditor,
63.14 until a notice of lien has been filed with the county recorder of the county where the property
63.15 is situated, or in the case of personal property belonging to a nonresident person in the Office
63.16 of the Secretary of State. When the notice of lien is filed with the county recorder, the fee
63.17 for filing and indexing is as provided in sections 272.483 and 272.484.

63.18 (c) Notices of liens, lien renewals, and lien releases, in a form prescribed by the
63.19 commissioner, may be filed with the county recorder or the secretary of state by mail,
63.20 personal delivery, or electronic transmission into the computerized filing system of the
63.21 secretary of state. The secretary of state must, on any notice filed with that office, transmit
63.22 the notice electronically to the appropriate county recorder. The filing officer, whether the
63.23 county recorder or the secretary of state, must endorse and index a printout of the notice as
63.24 if the notice had been mailed or delivered.

63.25 (d) County recorders and the secretary of state must enter information on lien notices,
63.26 renewals, and releases into the central database of the secretary of state. For notices filed
63.27 electronically with the county recorders, the date and time of receipt of the notice and county
63.28 recorder's file number, and for notices filed electronically with the secretary of state, the
63.29 secretary of state's recording information, must be entered into the central database before
63.30 the close of the working day following the day of the original data entry by the commissioner.

63.31 (e) The lien imposed on personal property, even though properly filed, is not enforceable
63.32 against a purchaser of tangible personal property purchased at retail or personal property
63.33 listed as exempt in sections 550.37, 550.38, and 550.39.

64.1 (f) A notice of lien filed has priority over any security interest arising under chapter 336,
64.2 article 9, that is perfected prior in time to the lien imposed by this subdivision, but only if:

64.3 (1) the perfected security interest secures property not in existence at the time the notice
64.4 of lien is filed; and

64.5 (2) the property comes into existence after the 45th calendar day following the day the
64.6 notice of lien is filed, or after the secured party has actual notice or knowledge of the lien
64.7 filing, whichever is earlier.

64.8 (g) The lien is enforceable from the time the lien arises and for ten years from the date
64.9 of filing the notice of lien. A notice of lien may be renewed before expiration for an additional
64.10 ten years.

64.11 (h) The lien is enforceable by levy under subdivision 2 or by judgment lien foreclosure
64.12 under chapter 550.

64.13 (i) The lien may be imposed upon property defined as homestead property in chapter
64.14 510 but may be enforced only upon the sale, transfer, or conveyance of the homestead
64.15 property.

64.16 (j) The commissioner may sell and assign to a third party the commissioner's right of
64.17 redemption in specific real property for liens filed under this subdivision. The assignee is
64.18 limited to the same rights of redemption as the commissioner, except that in a bankruptcy
64.19 proceeding, the assignee does not obtain the commissioner's priority. Any proceeds from
64.20 the sale of the right of redemption are credited to the family and medical benefit insurance
64.21 account.

64.22 Subd. 2. Levy. (a) If any amount due under this chapter, from an applicant or an employer,
64.23 is not paid when due, the amount may be collected by the commissioner by direct levy upon
64.24 all property and rights of property of the person liable for the amount due except property
64.25 exempt from execution under section 550.37. For the purposes of this section, "levy" includes
64.26 the power of distraint and seizure by any means.

64.27 (b) In addition to a direct levy, the commissioner may issue a warrant to the sheriff of
64.28 any county who must proceed within 60 calendar days to levy upon the property or rights
64.29 to property of the delinquent person within the county, except property exempt under section
64.30 550.37. The sheriff must sell that property necessary to satisfy the total amount due, together
64.31 with the commissioner's and sheriff's costs. The sales are governed by the law applicable
64.32 to sales of like property on execution of a judgment.

65.1 (c) Notice and demand for payment of the total amount due must be mailed to the
65.2 delinquent person at least ten calendar days before action being taken under paragraphs (a)
65.3 and (b).

65.4 (d) If the commissioner has reason to believe that collection of the amount due is in
65.5 jeopardy, notice and demand for immediate payment may be made. If the total amount due
65.6 is not paid, the commissioner may proceed to collect by direct levy or issue a warrant without
65.7 regard to the ten calendar day period.

65.8 (e) In executing the levy, the commissioner must have all of the powers provided in
65.9 chapter 550 or any other law that provides for execution against property in this state. The
65.10 sale of property levied upon and the time and manner of redemption is as provided in chapter
65.11 550. The seal of the court is not required. The levy may be made whether or not the
65.12 commissioner has commenced a legal action for collection.

65.13 (f) Where any assessment has been made by the commissioner, the property seized for
65.14 collection of the total amount due must not be sold until any determination of liability has
65.15 become final. No sale may be made unless a portion of the amount due remains unpaid for
65.16 a period of more than 30 calendar days after the determination of liability becomes final.
65.17 Seized property may be sold at any time if:

65.18 (1) the delinquent person consents in writing to the sale; or

65.19 (2) the commissioner determines that the property is perishable or may become greatly
65.20 reduced in price or value by keeping, or that the property cannot be kept without great
65.21 expense.

65.22 (g) Where a levy has been made to collect the amount due and the property seized is
65.23 properly included in a formal proceeding commenced under sections 524.3-401 to 524.3-505
65.24 and maintained under full supervision of the court, the property may not be sold until the
65.25 probate proceedings are completed or until the court orders.

65.26 (h) The property seized must be returned if the owner:

65.27 (1) gives a surety bond equal to the appraised value of the owner's interest in the property,
65.28 as determined by the commissioner; or

65.29 (2) deposits with the commissioner security in a form and amount the commissioner
65.30 considers necessary to insure payment of the liability.

65.31 (i) If a levy or sale would irreparably injure rights in property that the court determines
65.32 superior to rights of the state, the court may grant an injunction to prohibit the enforcement
65.33 of the levy or to prohibit the sale.

66.1 (j) Any person who fails or refuses to surrender without reasonable cause any property
66.2 or rights to property subject to levy is personally liable in an amount equal to the value of
66.3 the property or rights not so surrendered, but not exceeding the amount due.

66.4 (k) If the commissioner has seized the property of any individual, that individual may,
66.5 upon giving 48 hours notice to the commissioner and to the court, bring a claim for equitable
66.6 relief before the district court for the release of the property upon terms and conditions the
66.7 court considers equitable.

66.8 (l) Any person in control or possession of property or rights to property upon which a
66.9 levy has been made who surrenders the property or rights to property, or who pays the
66.10 amount due is discharged from any obligation or liability to the person liable for the amount
66.11 due with respect to the property or rights to property.

66.12 (m) The notice of any levy may be served personally or by mail.

66.13 (n) The commissioner may release the levy upon all or part of the property or rights to
66.14 property levied upon if the commissioner determines that the release will facilitate the
66.15 collection of the liability, but the release does not prevent any subsequent levy. If the
66.16 commissioner determines that property has been wrongfully levied upon, the commissioner
66.17 must return:

66.18 (1) the specific property levied upon, at any time; or

66.19 (2) an amount of money equal to the amount of money levied upon, at any time before
66.20 the expiration of nine months from the date of levy.

66.21 (o) Regardless of section 52.12, a levy upon a person's funds on deposit in a financial
66.22 institution located in this state, has priority over any unexercised right of setoff of the
66.23 financial institution to apply the levied funds toward the balance of an outstanding loan or
66.24 loans owed by the person to the financial institution. A claim by the financial institution
66.25 that it exercised its right to setoff before the levy must be substantiated by evidence of the
66.26 date of the setoff, and verified by an affidavit from a corporate officer of the financial
66.27 institution. For purposes of determining the priority of any levy under this subdivision, the
66.28 levy is treated as if it were an execution under chapter 550.

66.29 Subd. 3. **Right of setoff.** (a) Upon certification by the commissioner to the commissioner
66.30 of management and budget, or to any state agency that disburses its own funds, that a person,
66.31 applicant, or employer has a liability under this chapter, and that the state has purchased
66.32 personal services, supplies, contract services, or property from that person, the commissioner
66.33 of management and budget or the state agency must set off and pay to the commissioner an

67.1 amount sufficient to satisfy the unpaid liability from funds appropriated for payment of the
67.2 obligation of the state otherwise due the person. No amount may be set off from any funds
67.3 exempt under section 550.37 or funds due an individual who receives assistance under
67.4 chapter 256.

67.5 (b) All funds, whether general or dedicated, are subject to setoff.

67.6 (c) Regardless of any law to the contrary, the commissioner has first priority to setoff
67.7 from any funds otherwise due from the department to a delinquent person.

67.8 Subd. 4. **Collection by civil action.** (a) Any amount due under this chapter, from an
67.9 applicant or employer, may be collected by civil action in the name of the state of Minnesota.
67.10 Civil actions brought under this subdivision must be heard as provided under section 16D.14.
67.11 In any action, judgment must be entered in default for the relief demanded in the complaint
67.12 without proof, together with costs and disbursements, upon the filing of an affidavit of
67.13 default.

67.14 (b) Any person that is not a resident of this state and any resident person removed from
67.15 this state, is considered to appoint the secretary of state as its agent for the acceptance of
67.16 process in any civil action. The commissioner must file process with the secretary of state,
67.17 together with a payment of a fee of \$15 and that service is considered sufficient service and
67.18 has the same force and validity as if served personally within this state. Notice of the service
67.19 of process, together with a copy of the process, must be sent by certified mail to the person's
67.20 last known address. An affidavit of compliance with this subdivision, and a copy of the
67.21 notice of service must be appended to the original of the process and filed in the court.

67.22 (c) No court filing fees, docketing fees, or release of judgment fees may be assessed
67.23 against the state for actions under this subdivision.

67.24 Subd. 5. **Injunction forbidden.** No injunction or other legal action to prevent the
67.25 determination, assessment, or collection of any amounts due under this chapter, from an
67.26 applicant or employer, are allowed.

67.27 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
67.28 2025.

67.29 Sec. 35. **[268B.24] CONCILIATION SERVICES.**

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

68.1 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
68.2 2025.

68.3 Sec. 36. **[268B.25] ANNUAL REPORTS.**

68.4 (a) Beginning on or before July 1, 2026, the commissioner must annually report to the
68.5 Department of Management and Budget and the house of representatives and senate
68.6 committee chairs with jurisdiction over this chapter on program administrative expenditures
68.7 and revenue collection for the prior fiscal year, including but not limited to:

68.8 (1) total revenue raised through premium collection;

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

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

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

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

68.16 (6) grant amounts and recipients under sections 268B.18 and 268B.29;

68.17 (7) an accounting of required outreach expenditures;

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

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

68.21 (b) Beginning on or before July 1, 2026, the commissioner must annually publish a
68.22 publicly available report providing the following information for the previous fiscal year:

68.23 (1) total eligible claims;

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

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

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

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

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

69.1 (7) processing times for initial claims processing, initial determinations, and final
69.2 decisions;

69.3 (8) average duration for cases completed; and

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

69.5 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
69.6 2025.

69.7 Sec. 37. **[268B.26] NOTICE REQUIREMENTS.**

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

69.13 (b) Each employer must issue to each employee not more than 30 days from the beginning
69.14 date of the employee's employment, or 30 days before premium collection begins, whichever
69.15 is later, the following written information provided or approved by the department in the
69.16 primary language of the employee:

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

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

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

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

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

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

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

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

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

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

70.1 date of this section, the following written information provided or approved by the department
70.2 in the self-employed individual's primary language:

70.3 (1) the address and telephone number of the department;

70.4 (2) an explanation of the availability of family and medical leave benefits provided under
70.5 this chapter for independent contractors; and

70.6 (3) any other information required by the department.

70.7 (d) An employer that fails to comply with this subdivision may be issued, for a first
70.8 violation, a civil penalty of \$50 per employee and per independent contractor with whom
70.9 it has contracted, and for each subsequent violation, a civil penalty of \$300 per employee
70.10 or self-employed individual with whom it has contracted. The employer shall have the
70.11 burden of demonstrating compliance with this section.

70.12 (e) Employer notice to an employee under this section may be provided in paper or
70.13 electronic format. For notice provided in electronic format only, the employer must provide
70.14 employee access to an employer-owned computer during an employee's regular working
70.15 hours to review and print required notices.

70.16 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
70.17 2025.

70.18 Sec. 38. **[268B.27] RELATIONSHIP TO OTHER LEAVE; CONSTRUCTION.**

70.19 Subdivision 1. **Concurrent leave.** An employer may require leave taken under this
70.20 chapter to run concurrently with leave taken for the same purpose under section 181.941
70.21 or the Family and Medical Leave Act, United States Code, title 29, sections 2601 to 2654,
70.22 as amended.

70.23 Subd. 2. **Construction.** Nothing in this chapter shall be construed to:

70.24 (1) allow an employer to compel an employee to exhaust accumulated sick, vacation,
70.25 or personal time before or while taking leave under this chapter;

70.26 (2) prohibit an employer from providing additional benefits, including but not limited
70.27 to covering the portion of earnings not provided during periods of leave covered under this
70.28 chapter including through a supplemental benefit payment, as defined under section 268B.01,
70.29 subdivision 41;

70.30 (3) limit the parties to a collective bargaining agreement from bargaining and agreeing
70.31 with respect to leave benefits and related procedures and employee protections that meet

71.1 or exceed, and do not otherwise conflict with, the minimum standards and requirements in
71.2 this chapter; or

71.3 (4) applied so as to create any power or duty in conflict with federal law.

71.4 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
71.5 2025.

71.6 Sec. 39. **[268B.28] SEVERABLE.**

71.7 If the United States Department of Labor or a court of competent jurisdiction determines
71.8 that any provision of the family and medical benefit insurance program under this chapter
71.9 is not in conformity with, or is inconsistent with, the requirements of federal law, the
71.10 provision has no force or effect. If only a portion of the provision, or the application to any
71.11 person or circumstances, is determined not in conformity, or determined inconsistent, the
71.12 remainder of the provision and the application of the provision to other persons or
71.13 circumstances are not affected.

71.14 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
71.15 2025.

71.16 Sec. 40. **[268B.29] SMALL BUSINESS ASSISTANCE GRANTS.**

71.17 (a) Employers with 50 or fewer employees may apply to the department for grants under
71.18 this section.

71.19 (b) The commissioner may approve a grant of up to \$3,000 if the employer hires a
71.20 temporary worker to replace an employee on family or medical leave for a period of seven
71.21 days or more.

71.22 (c) For an employee's family or medical leave, the commissioner may approve a grant
71.23 of up to \$1,000 as reimbursement for significant additional wage-related costs due to the
71.24 employee's leave.

71.25 (d) To be eligible for consideration for a grant under this section, the employer must
71.26 provide the department written documentation showing the temporary worker hired or
71.27 significant wage-related costs incurred are due to an employee's use of leave under this
71.28 chapter.

71.29 (e) The grants under this section may be funded from the family and medical benefit
71.30 insurance account.

72.1 (f) For the purposes of this section, the commissioner shall average the number of
 72.2 employees reported by an employer over the last four completed calendar quarters to
 72.3 determine the size of the employer.

72.4 (g) An employer who has an approved private plan is not eligible to receive a grant under
 72.5 this section.

72.6 (h) The commissioner may award grants under this section only up to a maximum of
 72.7 \$5,000,000 per calendar year.

72.8 **EFFECTIVE DATE.** Except as provided in section 42, this section is effective July 1,
 72.9 2025.

72.10 Sec. 41. **APPROPRIATIONS.**

72.11 (a) \$1,700,000,000 in fiscal year 2024 is appropriated from the general fund to the
 72.12 commissioner of employment and economic development for transfer to the family and
 72.13 medical insurance benefit account for the purposes of Minnesota Statutes, chapter 268B,
 72.14 including:

72.15 (1) payment of family and medical benefits;

72.16 (2) implementation and administration of the family and medical benefit insurance
 72.17 program;

72.18 (3) staffing, outreach, information technology implementation, and related activities;
 72.19 and

72.20 (4) outreach, education, and technical assistance for employees, employers, and
 72.21 self-employed individuals regarding Minnesota Statutes, chapter 268B.

72.22 This is a onetime appropriation.

72.23 (b) \$..... in fiscal year 2027 is appropriated from the family and medical insurance
 72.24 benefit account to the commissioner of employment and economic development for the
 72.25 purposes of Minnesota Statutes, chapter 268B, including administration of the family and
 72.26 medical benefit insurance program, and outreach, education, and technical assistance for
 72.27 employees, employers, and self-employed individuals. Of the amount used for outreach,
 72.28 education, and technical assistance, at least half must be used for grants to community-based
 72.29 groups providing outreach, education, and technical assistance for employees, employers,
 72.30 and self-employed individuals regarding Minnesota Statutes, chapter 268B. Outreach must
 72.31 include efforts to notify self-employed individuals of their ability to elect coverage under

73.1 Minnesota Statutes, section 268B.11, and providing individuals with technical assistance
 73.2 to elect coverage. The base for fiscal year 2028 and beyond is \$.....

73.3 Sec. 42. APPLICATION.

73.4 Family and medical benefits under Minnesota Statutes, chapter 268B, may be applied
 73.5 for and paid starting July 1, 2025.

73.6 ARTICLE 2

73.7 FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS

73.8 Section 1. Minnesota Statutes 2022, section 256J.561, is amended by adding a subdivision
 73.9 to read:

73.10 Subd. 4. Parents receiving family and medical leave benefits. A parent who meets
 73.11 the criteria under subdivision 2 and who receives benefits under chapter 268B is not required
 73.12 to participate in employment services.

73.13 Sec. 2. Minnesota Statutes 2022, section 256J.95, subdivision 3, is amended to read:

73.14 Subd. 3. **Eligibility for diversionary work program.** (a) Except for the categories of
 73.15 family units listed in clauses (1) to ~~(8)~~ (9), all family units who apply for cash benefits and
 73.16 who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must
 73.17 participate in the diversionary work program. Family units or individuals that are not eligible
 73.18 for the diversionary work program include:

73.19 (1) child only cases;

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

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

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

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

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

73.29 (7) family units with a caregiver who received 60 or more months of TANF assistance;
 73.30 **and**

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

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

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

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

74.11 Sec. 3. Minnesota Statutes 2022, section 256J.95, subdivision 11, is amended to read:

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

74.16 (b) A caregiver who is a member of a two-parent family that is required to participate
74.17 in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed
74.18 to develop an employment plan under section 256J.521, subdivision 2, that may contain
74.19 alternate activities and reduced hours.

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

74.24 (d) One parent in a two-parent family unit ~~that has a natural born child under 12 months~~
74.25 ~~of age~~ is not required to have an employment plan ~~until the child reaches 12 months of age~~
74.26 ~~unless the family unit has already used the exclusion under section 256J.561, subdivision~~
74.27 ~~3, or the previously allowed child under age one exemption under section 256J.56, paragraph~~
74.28 ~~(a), clause (5).~~ if that parent:

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

74.30 (2) has a natural born child under 12 months of age until the child reaches 12 months
74.31 of age unless the family unit has already used the exclusion under section 256J.561,

75.1 subdivision 3, or the previously allowed child under age one exemption under section
75.2 256J.56, paragraph (a), clause (5).

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

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

75.10 Sec. 4. Minnesota Statutes 2022, section 256P.01, subdivision 3, is amended to read:

75.11 Subd. 3. **Earned income.** "Earned income" means income earned through the receipt
75.12 of wages, salary, commissions, bonuses, tips, gratuities, profit from employment activities,
75.13 net profit from self-employment activities, payments made by an employer for regularly
75.14 accrued vacation or sick leave, severance pay based on accrued leave time, benefits paid
75.15 under chapter 268B, royalties, honoraria, or other profit from activity that results from the
75.16 client's work, effort, or labor for purposes other than student financial assistance,
75.17 rehabilitation programs, student training programs, or service programs such as AmeriCorps.
75.18 The income must be in return for, or as a result of, legal activity.

75.19 Sec. 5. **EFFECTIVE DATES.**

75.20 Sections 1 to 4 are effective July 1, 2025.

75.21 **ARTICLE 3**

75.22 **FAMILY AND MEDICAL LEAVE ACTUARIAL STUDY**

75.23 Section 1. **ACTUARIAL STUDY REQUIREMENT.**

75.24 (a) The commissioner of employment and economic development must contract with a
75.25 qualified independent actuarial consultant to conduct an actuarial study of the family and
75.26 medical leave premium rate, premium structure, weekly benefit formula, duration of benefit
75.27 weeks, fund reserve, and other components as necessary to determine the financial soundness
75.28 of the family and medical benefit insurance program created in this act. A qualified
75.29 independent actuarial consultant is one who is a Fellow of the Society of Actuaries, Member
75.30 of the American Academy of Actuaries (FSA MAAA), and who has experience directly
75.31 relevant to the analysis required under this paragraph. The commissioner must issue a request

76.1 for proposal to satisfy the requirements of this section no later than 30 days following
76.2 enactment.

76.3 (b) A copy of the actuarial study must be provided to the majority and minority leaders
76.4 in the senate and house of representatives no later than October 31, 2023.