

Subject Paid Family and Medical Leave Benefit Insurance Program

Bill H.F. 2

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Date February 13, 2024

Article 1: Family and Medical Benefits

Article 1 establishes the substance of the new family and medical benefit insurance program under chapter 268B.

Section Description – Article 1: Family and Medical Benefits

- 1 Family and medical insurance data. [§ 13.719, subd. 7]**
Classifies data under chapter 268B as private or nonpublic under the Minnesota Government Data Practices Act, and allows sharing of the data between the Department of Employment and Economic Development (DEED) and the Department of Labor and Industry (DLI) and the Department of Commerce (DOC) to the extent necessary.

Effective date: This section was effective July 1, 2023.
- 2 Definition; policy of accident and sickness insurance. [§ 62A.01, subd. 1]**
Allows insurance carriers to offer paid family and medical leave insurance products.

Effective date: This section was effective July 1, 2023.
- 3 Compliance orders. [§ 177.27, subd. 4]**
Gives the DLI commissioner authority to issue orders to comply over provisions in chapter 268B related to benefit accounts and employee premium chargebacks.

Effective date: This section was effective July 1, 2023.
- 4 Required statement of earnings by employer; notice to employee. [§ 181.032]**
Requires that the amount charged back to employees and deducted from their paychecks for premiums under section 268B.14, subdivision 3, and the amount paid by employers as premiums, be included on the employee’s statement of earnings required under existing law, and kept for three years by the employer.

Effective date: This section is effective January 1, 2026.

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- 5 **Personal care assistance choice option; generally. [§ 256B.0659, subd. 18]**
Makes PCA choice provider agencies responsible for payroll-related premiums for family and medical benefits insurance.

Effective date: This section is effective July 1, 2024.
- 6 **Budget model. [§ 256B.85, subd. 13]**
Clarifies how family and medical benefits insurance premium payments are managed under the Community First Services and Supports (CFSS) budget model.

Effective date: This section is effective July 1, 2024.
- 7 **Financial management services [§ 256B.85, subd. 13a]**
Requires financial management services providers to provide assistance in obtaining and filing for family and medical benefits insurance under the CFSS program.

Effective date: This section is effective July 1, 2024.
- 8 **Use of data. [§ 268.19, subd. 1]**
Allows data gathered under the administration of Minnesota’s unemployment insurance statute to be used by the Family and Benefits Division of DEED as necessary to administer chapter 268B.

Effective date: This section was effective July 1, 2023.
- 9 **Definitions. [§ 268B.01]**
Defines the terms used in chapter 268B. Terms defined include: active duty, applicant, applicant’s average weekly wage, base period, benefit, benefit account, benefit year, bonding, calendar day, calendar quarter, calendar week, commissioner, construction industry, covered employment, department, employee, employer, estimated self-employment income, family and medical benefit insurance account, family benefit program, family care, family member, health care provider, high quarter, incapacity, independent contractor, inpatient care, maximum weekly benefit amount, medical benefit program, medical care related to pregnancy, net earnings from self-employment, qualifying exigency, safety leave, seasonal employee, self-employed individual, self-employment premium base, self-employment wages, serious health condition, state’s average weekly wage, supplemental benefit payment, taxable year, taxable wages, typical workweek, wage credits, wage detail report, wages, wages paid, week, and weekly benefit amount.

Effective date: This section was effective July 1, 2023.

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- 10 **Family and Medical Benefit Insurance Program creation. [§ 268B.02]**
- Subd. 1. Creation.** Creates the program and assigns responsibility for administration to the DEED commissioner.
- Subd. 2. Creation of division.** Creates the Family and Medical Benefits Insurance Division within DEED for administration of the program and requires the commissioner to appoint a director of the division.
- Subd. 3. Rulemaking.** Requires the DEED commissioner to adopt rules to implement the provisions of the program under expedited rulemaking procedures.
- Subd. 4. Account creation; appropriation.** Creates the family and medical benefit insurance account in the special revenue fund. Unless otherwise appropriated, appropriates money in the account, including earnings, to the DEED commissioner to pay benefits and administer the program, including outreach. Does not cancel and is available until expended.
- Subd. 5. Information technology services and equipment.** Exempts the new department created under the bill from existing statutory requirements that the Office of MN.IT services be responsible for information technology and services.
- Subd. 6. Procurement.** Exempts DEED from certain procurement laws and procedures until July 1, 2026.

Effective date: This section was effective May 26, 2023.

- 11 **Payment of benefits. [§ 268B.03]**
- Subd. 1. Requirements.** Provides applicant requirements for payment of family and medical leave benefits, including: (1) file an application and establish a benefit account; (2) meet all ongoing eligibility requirements; (3) have no outstanding overpayment due to misrepresentation; (4) not otherwise ineligible; and (5) have wage credits during the base year with an employer covered by chapter 268B.
- Subd. 2. Benefits paid from state funds.** Specifies that family and medical leave benefits are paid from state funds out of the family and medical insurance account and makes the DEED commissioner responsible for payments.

Effective date: This section is effective January 1, 2026.

- 12 **Benefit account; benefits. [§ 268B.04]**
- Subd. 1. Application for benefits; determination of benefit account.** Models state's unemployment insurance benefit account determination. Requires the

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DEED commissioner to determine an eligible applicant's weekly and maximum benefit amount based on their benefit year and wage information. Requires certification supporting leave request. Provides process and timeline for amended determination within 12 months of establishing a benefit account. Allows an applicant to apply for benefits 60 days in advance of taking leave.

Subd. 2. Benefit account requirements. Requires an applicant to have earned at least \$3,600 for 2024 in covered employment in their base period to establish a benefit account, which is 5.3 percent of the state's average annual wage (so, 5.3% of \$69,524 for 2024) rounded down to the next lower \$100 increment. The base period is generally the most recent four calendar quarters, or as provided in section 268B.01, subdivision 5.

Subd. 3. Weekly benefit amount; maximum amount of benefits available; prorated amount. Sets the formula for calculating weekly benefit amount under the program. That formula works as follows:

- An applicant's weekly wage is calculated by finding the quarter, out of the prior four completed quarters, in which the applicant earned the most wages and dividing that wage amount by 13.
- An applicant is entitled to a weekly benefit amount equal to:
 - 1) 90 percent of their weekly wages that do not exceed 50 percent of the state's average weekly wage (\$1,337 for 2024, so 90 percent of \$668.50 is \$601.65);
 - 2) plus 66 percent of their weekly wages above 50 percent but below 100 percent of the state's average weekly wage (66 percent of \$668.50 for 2024, so \$441.21);
 - 3) plus 55 percent of any weekly wages that exceed 100 percent of the state's average weekly wage (wages over \$1,337 for 2024).
- The state's average weekly wage is set by statute, section 268.035, subdivision 23.
- Weekly benefits are capped at a maximum of the state's average weekly wage (\$1,337 for 2024).
- As an example, using 2024 amounts, an applicant earning \$40,000 per year (evenly divided into \$10,000 each quarter) has an average weekly wage of \$769.23 (\$10,000 divided by 13). The state's average weekly wage at the time of application is \$1,337 (with 50 percent equal to \$668.50). So, under the formula, the applicant would be entitled to \$668.13 (90 percent of \$668.50, so \$601.65) + (66 percent of \$100.73, so \$66.48).

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- Provides for prorated weekly benefit amounts for hours worked by an employee, the use of sick leave, paid vacation, or other paid time off, or intermittent leave.

Subd. 4. Timing of payment. Requires benefits be paid weekly.

Subd. 5. Maximum length of benefits. Sets maximum duration an applicant may receive benefits in their 52-week benefit year as up to 20 weeks. Allows up to 12 weeks of benefits for medical leave for an applicant’s own serious health condition, plus up to 8 weeks for bonding, safety leave, family care, or a qualifying exigency. Or, if an applicant takes 12 weeks for family leave, up to 8 weeks for medical leave in the same benefit year.

Subd. 6. Minimum period for which benefits are payable. Except for bonding leave, an applicant must accrue, at least seven days for which they are eligible for benefits before making a claim for benefits. After that, benefits may be paid out for a minimum duration of one work day in a work week.

Subd. 7. Right of appeal. Provides for appeal process for benefit account determinations or amended determinations. An applicant has 60 days to appeal.

Subd. 8. Limitations on applications and benefit accounts. Provides timing for the effective date of a benefit account. An application is effective the Sunday of the week it is filed, unless backdated.

Effective date: This section is effective November 1, 2025.

13 **Notification of changed circumstances. [§ 268B.05]**

Requires applicants to promptly notify DEED of any changes that may affect their eligibility for benefits.

Effective date: This section is effective November 1, 2025.

14 **Eligibility requirements; payments that affect benefits. [§ 268B.06]**

Subd. 1. Eligibility conditions. Specifies the criteria an applicant must meet to be eligible for benefits. An applicant must: (1) request benefits for a week in the applicant’s benefit year; (2) be unable to work for the time required under subdivision 2, due to an applicant’s own serious health condition, medical care related to pregnancy, or a family member’s serious health condition, a qualifying exigency, safety leave, or bonding leave; (3) have earned enough money through covered employment in the prior four completed quarters to establish a benefit account (\$3,600 for 2024); and (4) submit certification supporting request for

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benefits as required by subdivision 3. A self-employed individual who has elected coverage is not subject to the requirements in paragraph (a), clauses (3) and (4).

Subd. 2. Seven-day qualifying event. Sets a requirement that benefits can only be paid for a single qualifying event of at least seven days duration. The seven days must be consecutive, unless the leave is intermittent. Benefits for bonding are not subject to this requirement. Provides for rulemaking to determine what serious health conditions and events are presumed to qualify.

Subd. 3. Certification. Sets certification requirements for a request for benefits based on the type of leave, including when health care provider review and signature is required.

Subd. 4. Not eligible. Provides that an applicant is ineligible for benefits for any portion of a workweek (1) before their benefit account becomes effective, (2) that the applicant fails to provide information on ineligibility, or (3) during which the applicant worked for pay.

Subd. 5. Vacation, sick leave, paid time off, and disability insurance payments. Provides that an employee may use vacation, sick, paid time off, or disability insurance payments instead of the family and medical leave benefits under this chapter, when they are concurrently eligible for both, and affords an employee making that election the employment protections under section 268B.09. Also allows employees to receive supplemental benefit payments from their employer to supplement the wage replacement received for a period of family and medical leave benefits under this chapter, provided that the total amount does not exceed the employee's usual salary.

Subds. 6 to 9. Offsets. Provides that an applicant is ineligible for benefits for any portion of a week the applicant is receiving workers' compensation benefits or separation, severance, or bonus payments as wages or if the applicant is a seasonal employee, as defined under section 268B.01, subdivision 35. Also clarifies when there is no deduction from benefits for an applicant who has received, is receiving, or has filed for Social Security disability benefits.

Effective date: This section is effective November 1, 2025.

15 **Determination on issues of eligibility. [§ 268B.07]**

Specifies the required content of notification to employer(s) when an applicant is granted benefits under the program. Requires commissioner to provide notice within two weeks, unless the application is incomplete or the deadline is extended for extenuating circumstances. Also specifies longer notice period for certain determinations of ineligibility. A determination or amended determination is final

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unless an applicant files an appeal within 60 days. Clarifies when overpayment of benefits occurs.

Effective date: This section is effective November 1, 2025.

16 **Appeal process. [§ 268B.08]**

Subd. 1. Hearing. Requires the DEED commissioner to appoint a chief hearing officer, who, upon a filing of a timely appeal, must schedule a de novo due-process hearing and provide notice to the parties. Allows the DEED commissioner to adopt rules for appeal hearings. Provides discretion to the chief hearing officer over how those hearings are structured and to assignment of hearing officers.

Subd. 2. Decision. Requires a hearing officer to send a written decision, including reasoning and findings of fact, based upon a hearing and all of the evidence. Such decisions are not precedential.

Subd. 3. Request for reconsideration. Allows any party or the commissioner to seek reconsideration of a hearing officer's decision within 30 days of service of the decision.

Subd. 4. Appeal to court of appeals. Allows a final decision on a request for reconsideration to be appealed to the Minnesota Court of Appeals.

Effective date: This section is effective November 1, 2025.

17 **Notice to employer; schedules. [§ 268B.085]**

Subd. 1. Notice to employer. Requires employees to provide notice to their employers of the need for leave. Notice can be provided orally, by telephone, or text message. Requires 30-day notice to employer for foreseeable leave and as soon as practicable for leave with less than 30-days notice. Requires an employee to provide a copy of the certification under section 268B.06, subdivision 3, as soon as practicable upon the written request of an employer. Prohibits retaliation against an employee for providing the certification. Allows an employer to require an employee to follow the employer's usual and customary practice for requesting leave. Cannot require an employee to find a replacement worker as a condition of taking leave.

Subd. 2. Bonding leave. Provides that bonding leave begins at a time chosen by the employee, but such leave must end within 12 months of the birth, adoption, or foster care placement of a child, except for a child who must remain in the hospital longer than the child's mother. In that case, such leave must end 12 months after the child leaves the hospital. Also allows for bonding leave before the placement or adoption of a child in certain listed circumstances.

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Subd. 3. Intermittent schedule. Provides that all leaves may be taken intermittently and if it is reasonable and appropriate for an individual's serious health condition leave. Provides a prorated weekly benefit payment for intermittent leave. Requires an employee taking intermittent leave to provide a schedule of needed days off to the employer. Allows an employer to offer greater amounts of intermittent leave than required under this chapter. Clarifies that intermittent leave may run concurrently with federal Family and Medical Leave Act (FMLA) leave.

Effective date: This section is effective January 1, 2026, except subdivision 1 is effective November 1, 2025.

18 **Employment protections. [§ 268B.09]**

Subd. 1. Retaliation prohibited. Prohibits retaliation for requesting or obtaining benefits or leave or for exercising any right granted under chapter 268B. Allows the commissioner to additionally require an employer to pay the employee harmed at least \$1,000 but no more than \$10,000 per violation, with consideration given to the size of the business and the gravity of the violation.

Subd. 2. Interference prohibited. Prohibits employer interference with an employee application for benefits or with an employee exercising any right under chapter 268B. Allows the commissioner to additionally require an employer to pay the employee harmed at least \$1,000 but no more than \$10,000 per violation, with consideration given to the size of the business and the gravity of the violation.

Subd. 3. Waiver of rights void. Voids any agreement to waive, or otherwise give up the right to benefits under chapter 268B, except for a voluntary settlement agreement or valid separation agreement. Clarifies waiver rights available.

Subd. 4. No assignment of benefits. Voids any assignment, pledge, or encumbrance of benefits under chapter 268B, except as provided under section 268B.10, subdivision 7.

Subd. 5. Continued insurance. Requires employers to continue any insurance or health plan during any leave that an employee is entitled to benefits or leave under the program. Employees continue to pay any employee share. Allows this provision to be waived for construction industry employees subject to a bona fide collective bargaining agreement that includes a multiemployer health plan.

Subd. 6. Employee right to reinstatement. Entitles an employee on leave to reinstatement following the leave in a position with equivalent seniority, status, benefits, pay, duties, responsibilities, and other terms and conditions. Clarifies that this section does not affect any provision under the Americans with

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Disabilities Act. Allows this subdivision and subdivision 7 to be waived for construction industry employees subject to a bona fide collective bargaining agreement with a construction trade union that includes a referral-to-work procedure. Provides that an employee, 90 days after date of hire, has a right to reinstatement for any day of leave they are eligible for benefits or have applied for benefits in good faith under the chapter.

Subd. 7. Limitations on an employee’s right to reinstatement. An employee on leave is not entitled to better seniority, status, benefits, pay, duties, responsibilities, or other terms and conditions than if the employee had not taken leave. For example, if a continuously employed employee would have been laid off, the employee on leave is not entitled to reinstatement after leave.

Subd. 8. Remedies. Allows an employee injured by a violation of the employment protections under this section or an employee acting on behalf of themselves or a group of employees to bring a private lawsuit seeking damages available under the law, plus interest, an additional amount of liquidated damages, as well as injunctive and equitable remedies (such as reinstatement or job promotion). Also requires an award of attorney fees and costs and provides a right to a jury trial. Allows the court to reduce the liquidated damages for employers acting in good faith with reasonable grounds.

Effective date: Subdivisions 1 to 4 are effective November 1, 2025. Subdivisions 5 to 8 are effective January 1, 2026.

19 **Substitution of a private plan. [§ 268B.10]**

Subd. 1. Application for substitution. Allows an employer to apply to the DEED commissioner to substitute a private plan for either paid family benefits, or paid medical benefits, or both benefit programs under chapter 268B. A private plan must provide the same and may provide better rights, protections, and benefits as those conferred under chapter 268B.

Subd. 2. Private plan requirements; medical benefit program. Sets requirements for a private, employer-provided medical benefit program that allows the employer to substitute a private plan under subdivision 1. Generally, requires a private plan to meet the rights, protections, and benefits provided under chapter 268B, including providing a weekly benefit at least equal to the amount required under the chapter. Provides for approval by the DEED commissioner in consultation with the commissioner of commerce.

Subd. 3. Private plan requirements; family benefit program. Sets requirements for a private, employer-provided family benefit program that would allow the employer to substitute the private plan under subdivision 1. Generally, requires a private plan to meet or exceed the rights, protections, and benefits provided

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under chapter 268B, including providing a weekly benefit at least equal to the amount required under the chapter. Provides for approval by the DEED commissioner in consultation with the commissioner of commerce.

Subd. 4. Surety bond requirement. Requires a surety bond to be filed for self-insured private plans.

Subd. 5. Private plan requirements; timing of payment. Allows benefits under a private plan to be paid based on the employer's existing payroll cycle or as provided by the approved private plan.

Subd. 6. Private plan requirements; weekly benefit determination. Provides that the weekly benefit amount and duration under a private plan must be based on the employee's typical workweek and wages at the time of application. Requires an employer to accept an employee's certification of wages if there is incomplete wage information.

Subd. 7. Use of private insurance products. Clarifies that private insurance products may be used to provide a private plan. Requires an employer using a private insurance product to use an insurance product issued by a state-authorized insurance company and approved by the commissioner of commerce.

Subd. 8. Private plan approval and oversight fee. Sets an annual oversight fee for employers utilizing private plans based on the number of employees. Such employers are not required to pay premiums. Requires the DEED commissioner to review the adequacy of the fee as part of the annual report under section 268B.25, starting January 1, 2027.

Subd. 9. Plan duration. Requires that private plans must be in effect for at least one year and continuously thereafter unless the commissioner approves a withdrawal. Employers can withdraw plans within 30 days of the effective date of a law increasing benefits under chapter 268B or a change in premium rates. If the plan is not withdrawn it must be administered to meet any new requirements.

Subd. 10. Employer reimbursement. Allows for reimbursement by the insurance carrier to an employer with a private plan through an insurance product for advance payments of benefits or like payments made by the employer to an employee during a period the employee is entitled to benefits under the chapter.

Subd. 11. Appeals. Allows employers to appeal a decision by the commissioner on the application for a private plan. Also allows employees covered by a private plan to appeal or request reconsideration of a decision the same way as other employees.

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Subd. 12. Employees no longer covered. Provides the conditions under which an employee is no longer covered by a private plan (termination of the employment relationship with the private-plan employer or approval for the private plan ends), in which case the employee immediately becomes covered by the public insurance provisions of chapter 268B.

Subd. 13. Posting of notice regarding private plan. Requires an employer with a private plan to notify affected employees following the notice requirements of section 268B.26.

Subd. 14. Amendment. Provides the conditions under which the commissioner must approve an amendment to a private plan.

Subd. 15. Successor employer. Provides for private plan continuation and termination when a business acquires an employer with a private plan. Gives acquiring business a 90-day window after acquisition to terminate a private plan.

Subd. 16. Revocation of approval by commissioner. Provides that the commissioner may terminate a private plan if certain conditions are met.

Subd. 17. Employer penalties. Provides monetary penalties that DEED may assess if an employer with a private plan violates chapter 268B.

Subd. 18. Reports, information, and records. Requires employers with private plans to keep all records relating to the plan for six years and provide them to the DEED commissioner upon request.

Subd. 19. Audit and investigation. Allows the commissioner to investigate and audit opt-out plans under this section.

Subd. 20. Voluntary termination of an approved private plan by an employer. Allows an employer to voluntarily terminate a private plan with 30 days' notice to the commissioner, provided that employees are provided at least 30 days' notice prior to the termination becoming effective.

Subd. 21. Employer obligations after termination of private plan approval. Requires an employer whose private plan approval is voluntarily or involuntarily terminated to notify employees that they are now covered under the state plan within seven days of the termination's effective date. Such an employer must then remain on the state program and pay premiums for at least three years.

Effective date: This section is effective July 1, 2025.

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- 20 **Self-employed and independent contractor election of coverage. [§ 268B.11]**
Allows for self-employed and independent contractors to elect participation in the program. Requires net earnings of at least \$3,600 (for 2024) in the prior taxable year. Those electing to participate pay the full 0.7 percent employer premium for both benefit programs and must elect to participate for a minimum of two years. The premium is multiplied by the lesser of: (1) the self-employed applicant’s premium base, or (2) the FICA/Social Security wage base for the year (\$168,600 for 2024). Eligible self-employed applicants receive benefits on the same basis as other employees, with their premium base used to calculate their weekly benefit amount.

Effective date: This section is effective July 1, 2025.
- 21 **Wage reporting. [§ 268B.12]**
Requires employers to submit wage detail reports electronically each quarter listing certain information for each employee and each seasonal employee, including total wages paid and hours worked. Provides for late fees and administrative service fees if information is missing or inaccurate. Allows employer penalties to be waived upon a showing that the violation was a good faith error.

Effective date: This section is effective July 1, 2024.
- 22 **Employer premium accounts. [§ 268B.13]**
Establishes employer premium accounts with DEED to pay family and medical benefit program premiums assessed under section 268B.14.

Effective date: This section is effective January 1, 2026.
- 23 **Premiums. [§ 268B.14]**
 Subd. 1. Payments. Requires all employers to pay a yearly premium on employee taxable wages, as set in subdivision 6. Premiums are paid quarterly into the family and medical benefit insurance account and calculated based on the wage detail report submitted under section 268B.12. Does not apply to an employer with an approved private plan under section 268B.10.

 Subd. 2. Payments by electronic payment required. Requires employers to pay premiums electronically.

 Subd. 3. Employee charge back. Requires an employer to pay a minimum of 50 percent of the annual premiums under this section. Employees must pay the remainder of any premium not paid by the employer through a wage deduction.

 Subd. 4. Wages and payments subject to premium. Sets the maximum earnings or taxable wages on which premiums are assessed as the FICA/Social Security

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wage base (**\$168,600 for 2024**). Employers and employees pay the premium percentage set under this section on all earnings up to that amount. For 2024, the maximum would be 0.7 percent of **\$168,600** or up to \$1,180.20 per employee for both family and medical benefits programs under the chapter.

Subd. 5. Small business wage exclusion. Provides a slight reduction to the taxable wages that are subject to the employer's quarterly premium for employers having fewer than 30 employees. The reduction only affects the employer's premium and cannot result in a payment lower than zero for an employer. Sets formula for calculating the reduction as follows:

- For those with 1 to 9 employees, taxable wages subject to the employer premium are reduced each quarter by \$12,500 times the number of employees times the employer premium rate:
 - For 5 employees, a reduction of \$218.75 per quarter ($\$62,500 * 0.35$ percent) or \$875 per year.
 - For 9 employees, a reduction of \$393.75 per quarter ($\$112,500 * 0.35$ percent) or \$1,575 per year.
- For those with 10 to 20 employees, the taxable wages subject to premium are reduced by \$420 per quarter ($\$120,000 * 0.35$ percent) or \$1,680 per year.
- For those with 21 to 29 employees, the reduction is further reduced by \$12,000 for each employee over 20 employees times the employer premium rate:
 - For 25 employees, the reduction is \$210 per quarter ($\$60,000 * 0.35$ percent) or \$840 per year.
 - For 29 employees, the reduction is \$42 per quarter ($\$12,000 * 0.35$ percent) or \$168 per year.

Subd. 6. Annual premium rates. Sets initial annual premium percentage rates from January 1, 2026, through December 31, 2026, as: 0.7 percent for employers participating in both programs; 0.4 percent for the medical benefit program only; and 0.3 percent for the family benefit program only.

Subd. 7. Premium rate adjustments. Sets the formula by which annual premium percentage rates increase or decrease each year starting January 1, 2027. Requires the rate to be adjusted annually by July 31st going forward, provided that the premium rate cannot exceed 1.2 percent of taxable wages for each employee. Under the formula, the commissioner must calculate 1.45 times the amount disbursed under the program during the prior year, ending on September 30. The amount remaining in the program account is subtracted from the resulting sum. The resulting difference is divided by the total wages in covered employment (an amount determined by DEED). The resulting quotient is

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rounded down to the nearest one-hundredth of one percent and apportioned between the family and medical benefit programs to set the premium rate for the following year.

Subd. 8. Deposit of premiums. Requires all premiums collected be deposited in the family and medical benefit insurance account in the special revenue fund.

Subd. 9. Nonpayment of premiums by employer. Clarifies that nonpayment of premiums by an employer does not affect an employee’s right to benefits under chapter 268B.

Effective date: This section is effective January 1, 2026.

24 Income tax withholding and state taxation. [§ 268B.145]

Benefits under the program are subject to state income tax. If the IRS finds program benefits are taxable under federal law, and the applicant elects to have those federal taxes withheld, the DEED commissioner must withhold the tax, and the applicant may also elect to have state taxes withheld. Requires notice to applicant of tax implications for benefits received under the program. Provides state and federal withholding amounts and other clarifying provisions related to tax withholding, transfer of funds, correction of errors, and effect of payments.

Effective date: This section is effective January 1, 2026.

25 Collection of premiums. [§ 268B.15]

Provides for treatment of premiums under chapter 268B, with language modeled from analogous sections of the state’s unemployment insurance statute. Provides priority for how employer payments are applied. Allows for interest on past due amounts and judgments and credits or refunds for incorrect amounts assessed.

Effective date: This section is effective January 1, 2026.

26 Child support deduction from benefits. [268B.155]

Requires DEED to deduct child support owed from an applicant’s leave amount to pay the child support agency. Any related costs are paid by the child support agency.

Effective date: This section is effective January 1, 2026.

27 Compromise. [268B.16]

Allows the DEED commissioner to compromise a premium or reimbursement due from an employer at any time, if it is in the state’s best interest. Requires a compromise of more than \$10,000 to be approved by an attorney licensed in Minnesota, and employed by DEED.

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Effective date: This section is effective January 1, 2026.

28 Administrative costs. [§ 268B.17]

Starting January 1, 2026, allows the DEED commissioner to use up to seven percent of projected benefit payments for the calendar year for administration of the chapter. Also allows DEED to enter interagency agreements, including for transfer of funds, with DLI for enforcement of chapter 268B, and with the Department of Commerce for its duties under the chapter.

Effective date: This section is effective July 1, 2025.

29 Public outreach. [§ 268B.18]

Beginning in fiscal year 2026, the commissioner must use at least 0.5 percent of projected benefit payments under section 268B.17, for program outreach, education, and technical assistance for employees, employers, and self-employed individuals who elect coverage. Allows interagency agreements, including for transfer of funds, with DLI and the Department of Commerce for purposes of this section. At least half of the amount spent must be used for grants to community-based groups.

Effective date: This section is effective January 1, 2026.

30 Benefit overpayments. [§ 268B.185]

Requires an applicant to repay overpaid benefits under chapter 268B, based on a determination or amended determination or a hearing officer's decision. Overpayment due to misrepresentation occurs when an applicant makes an intentionally false statement with intent to fraudulently collect benefits. DEED must issue a penalty for a misrepresentation overpayment, plus interest. Penalties or interest collected under this section are deposited into the family and medical leave insurance account. Provides the DEED commissioner discretion to pursue recovery of nonmisrepresentation overpayments. An employee may offset a certain amount of overpayments against future benefits. Unpaid overpayment balances must be cancelled after three years.

Effective date: This section is effective January 1, 2026.

31 Employer misconduct; penalty. [§ 268B.19]

Defines circumstances and sets penalties for when an employer colludes with an ineligible employee to obtain benefits under the program and when an employer intentionally misrepresents or omits facts. Modeled on analogous language under the state's unemployment insurance statutes.

Effective date: This section is effective July 1, 2024.

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32 Records; audits. [§ 268B.21]

Requires employers to keep records related to the program as prescribed by the DEED commissioner for a period of at least four years. Also grants the commissioner power to conduct audits and investigations of employers, when necessary to administer chapter 268B, and sets penalties for failure to comply with such audits or requests for information.

Effective date: This section is effective July 1, 2024.

33 Subpoenas; oaths. [§ 268B.22]

Grants the DEED commissioner or hearing officer power to administer oaths, take depositions, certify official acts, and issue subpoenas when necessary for the administration of chapter 268B.

Effective date: This section is effective July 1, 2024.

34 Lien; levy; setoff; and civil action. [§ 268B.23]

Provides that amounts due from an employer or applicant under chapter 268B may become a lien or levy on property; clarifies when a lien is enforceable and sets notice and recording requirements. Specifies requirements for the commissioner to execute the levy. Also establishes right of setoff to the DEED commissioner for unpaid liability under the chapter. Further provides a private civil action to collect amounts due under the chapter. Prohibits an injunction preventing a determination, assessment, or collection of amounts due under the chapter.

Effective date: This section is effective July 1, 2024.

35 Conciliation services. [§ 268B.24]

Allows DLI to offer conciliation services to help settle alleged violations of employment protections arising under section 268B.09.

Effective date: This section is effective November 1, 2025.

36 Annual reports. [§ 268B.25]

Beginning on or before January 1, 2027, requires the DEED commissioner to annually report to the legislature and Minnesota Management and Budget (MMB), a number of items regarding revenue, expenditures, operation, private plan approvals, and finances of the program under chapter 268B. Also requires the commissioner to annually publish a publicly available report on other items related to benefit claims and demographics starting on or before January 1, 2027.

Effective date: This section is effective January 1, 2026.

Section Description – Article 1: Family and Medical Benefits

37 Notice requirements. [§ 268B.26]

Requires employers to post notice, prepared by the DEED commissioner, and to provide certain written notice by paper or electronically regarding rights and benefits under chapter 268B. Requires the department to prepare a uniform employee notice for the purposes of this section in the five most common languages spoken in the state. Sets employer penalties for failing to provide the required notice. Also requires employers of seasonal employees to provide notice to seasonal employees that they are ineligible for benefits under the program.

Effective date: This section is effective November 1, 2025.

38 Relationship to other leave; construction. [§ 268B.27]

Subd. 1. Concurrent leave. Provides that an employer may require leave taken under chapter 268B to run concurrently with leave taken for the same purpose under the federal Family and Medical Leave Act or section 181.941 (pregnancy and parenting leave).

Subd. 2. Construction. Clarifies that nothing in chapter 268B is intended: (1) to allow an employer to require an employee to exhaust accumulated sick, vacation, or personal leave first before taking leave under this chapter; (2) and (3) to prohibit an employer or parties to a collective bargaining agreement from bargaining for or providing more generous benefits than the minimum required under chapter 268B, including through a supplemental benefit payment; or (4) to create a power or duty that would interfere with federal law.

Effective date: This section is effective January 1, 2026.

39 Severable. [§ 268B.28]

Clarifies that if a provision or part of a provision under chapter 268B is found to be inconsistent, or not in conformity, with state or federal law by a court or the federal Department of Labor, it has no effect, but any remaining portion or application of the provision may remain in effect.

Effective date: This section was effective May 26, 2023.

40 Small business assistance grants. [§ 268B.29]

Allows the DEED commissioner to issue grants of up to \$3,000 to businesses with 30 or fewer employees and less than \$3 million in gross annual revenue. Grants may be used to help defray the cost of hiring a temporary replacement worker or to increase wages for an existing worker who substitutes for an employee on leave. Specifies documentation required for grant eligibility. Sets the total maximum grant per

Section Description – Article 1: Family and Medical Benefits

employer as \$6,000 per year, with all grants awarded under this section not to exceed \$5 million in a calendar year unless additional funds are appropriated.

Effective date: This section is effective January 1, 2026.

41 Actuarial study.

Required qualified independent actuarial consultant to conduct an actuarial study of the family and medical benefit insurance program, including: the premium rate, premium rate structure, weekly benefit formula, duration of benefits, fund reserve, and any other components necessary to determine an actuarially sound rate and future rate-setting mechanism for the program. The [Actuarial Analysis for the Minnesota Paid Family and Medical Leave Program](#) was published and submitted to the legislature on October 27, 2023. DEED and MMB must use the report findings to make the program actuarially sound, subject to the 1.2 percent premium rate cap.

42 Application.

Benefits may be paid starting January 1, 2026.

Article 2: Family and Medical Leave Benefit as Earnings

Article 2 provides for treatment of benefits under the Minnesota Family Investment Program (MFIP) and other programs.

Section Description – Article 2: Family and Medical Leave Benefit as Earnings

1 Employed persons with disabilities. [§ 256B.057, subd. 9]

Modifies the medical assistance eligibility requirements for employed people with disabilities by allowing them to maintain medical assistance eligibility during any time the person is receiving either an unemployment benefit or family and medical leave benefits.

2 Parents receiving family and medical leave benefits. [§ 256J.561, subd. 4]

Exempts a parent receiving benefits under chapter 268B and participating in MFIP from the employment services requirements of MFIP.

3 Eligibility for diversionary work program. [§ 256J.95, subd. 3]

Exempts single parents receiving benefits under chapter 268B from the diversionary work program requirements of MFIP.

Section Description – Article 2: Family and Medical Leave Benefit as Earnings

- 4 **Universal participation required. [§ 256J.95, subd. 11]**
Exempts a parent, in a two-parent household, receiving benefits under chapter 268B from the MFIP diversionary work requirement, under certain circumstances.
- 5 **Earned income. [§ 256P.01, subd. 3]**
Defines benefits received under chapter 268B as earned income for the purposes of MFIP, general assistance, housing support services, and several other programs.
- 6 **Effective dates.**
All sections in this article are effective January 1, 2026.

Article 3: Appropriations

Transfers \$668 million in fiscal year 2024 to the family and benefits insurance account for the purposes of chapter 268B and appropriates money in the account to DEED, DLI, MMB, DHS, Department of Commerce, Secretary of State, Supreme Court, House of Representatives, and University of Minnesota in fiscal years 2024 and 2025. Sets a general fund base of approximately \$3 million each year for state enterprise requirements, employee notice, and employer-paid premium costs to agencies starting in fiscal year 2026 and beyond. Also adds onetime money in fiscal year 2026 to DHS for the purposes of reimbursement of direct care provider premiums through the HCBS Workforce Incentive Fund.



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