

Subject Paid Family and Medical Leave Benefit Insurance Program

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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).

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

Effective date: This section is effective July 1, 2023.
- 4 Required statement of earnings by employer. [§ 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 an employee's statement of earnings, which must be kept for review for three years by the employer.

Effective date: This section is effective July 1, 2025, except as provided in section 38.
- 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.

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- 6 **Budget model. [§ 256B.85, subd. 13]**
Clarifies how family and medical benefits insurance premium payments are managed under the CFSS budget model.
- 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.
- 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 is effective July 1, 2023.
- 9 **Definitions. [§ 268B.01]**
Provides a number of definitions of terms used throughout chapter 268B. Several definitions model Minnesota’s unemployment insurance statute, chapter 268.

Effective date: This section is effective July 1, 2023.
- 10 **Family and Medical Benefit Insurance Program creation. [§ 268B.02]**
 Subd. 1. Creation. Creates the program and assigns responsibility for administration to the commissioner of DEED.

 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 commissioner of DEED 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 and appropriates all money, including earnings, in the account to the commissioner of DEED 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.

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Effective date: This section is effective July 1, 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; (4) not found to be 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 gives the commissioner of DEED responsibility for making payments.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

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 commissioner of DEED 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. Allows an applicant to apply for benefits 60 days in advance of a qualified leave event.

Subd. 2. Benefit account requirements. Requires an applicant to have earned at least \$3,500 for 2023 in covered employment in their base period, which is 5.3 percent of the state's average annual wage (so, 5.3% of \$66,924 for 2023) rounded down to the next lower \$100 increment. Their base period is the most recent four calendar quarters, or as provided in section 268B.01, subdivision 4.

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 (\$1,287 for 2023, so 90 percent of \$643.50 is \$579.15);

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- 2) plus benefits equal to 66 percent of weekly wages above 50 percent but below 100 percent of the state’s average weekly wage (66 percent of \$643.50 for 2023, so \$424.71);
 - 3) plus 55 percent of any weekly wages that exceed 100 percent of the state’s average weekly wage (wages over \$1,287 for 2023).
- 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 (\$1,287 for 2023).
 - As an example, for 2023 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 \$1,287 (with 50 percent equal to \$643.50). So, under the formula, the applicant would be entitled to \$662.13 (90 percent of \$643.50, so \$579.15) + (66 percent of \$125.73, so \$82.98).
 - Provides for prorated weekly benefit amounts for hourly workers or employees who use sick leave, paid time off, or other paid time off.

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 24 weeks. Allows up to 12 weeks of benefits for medical leave for an applicant’s own pregnancy or a serious health condition, and up to 12 weeks of benefits for family leave to care for a family member with a serious health condition, for safety leave, or for bonding, or for a qualifying exigency.

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 eight hours in a 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, withdrawal, or expiration of a benefit account. An application is effective the Sunday of the week it is filed, unless backdated.

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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 July 1, 2025, except as provided in section 38.

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 week in the applicant's benefit year; (2) be unable to work due to a family member's serious health condition, a qualifying exigency, safety leave, bonding leave, or applicant's own pregnancy, pregnancy recovery, or serious health condition for the time required under subdivision 2; (3) have earned enough money through covered employment in the prior four completed quarters to establish a benefit account (\$3,500 for 2023); and (4) submit certification supporting request for benefits under 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. Requires certification for a request for benefits. Sets certification requirements for each type of leave, including health provider review and signature for leaves other than safety or exigency leave.

Subd. 4. Not eligible. Provides that an applicant is ineligible for benefits for any portion of a week before their benefit account becomes effective, that the applicant fails to provide information on ineligibility, or during which the applicant worked for pay for the employer from whom leave is being taken.

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, which are payments an employer provides as salary continuation or as paid time off to supplement the wage replacement the employee is receiving for a period of family and medical leave benefits under this chapter.

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Subds. 6 to 8. 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. 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 July 1, 2025, except as provided in section 38.

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

Effective date: This section is effective July 1, 2025, except as provided in section 38.

16 Appeal process. [§ 268B.08]

The structure created under this section is generally similar to the structure of appeals under the state's unemployment insurance program.

Subd. 1. Hearing. Requires the commissioner of DEED to appoint a chief benefit judge, who, in turn, appoints a benefit judge to conduct a hearing each time an applicant or employer appeals a determination of benefits. This subdivision also allows the commissioner to adopt rules for appeals hearings and provides discretion for the commissioner over how those hearings are structured.

Subd. 2. Decision. Requires a benefit judge to send a written decision, including reasons and finding of facts, upon completion of an appeals hearing.

Subd. 3. Request for reconsideration. Allows any party or the commissioner to seek reconsideration of an appeals decision within 30 days of receipt 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.

Subd. 5. Benefit judges. Requires the chief benefit judge and other benefit judges to be attorneys, licensed in Minnesota, and DEED employees. Also grants the chief benefit judge power to assign and reassign hearings to benefit judges.

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Effective date: This section is effective July 1, 2025, except as provided in section 38.

17 Leave. [§ 268B.085]

Subd. 1. Right to leave. Provides that an employee, 90 days after date of hire, has a right to leave for any day, or portion of a day, in which the employee would be eligible for benefits or has applied for benefits in good faith under the chapter. There is no right to leave if benefits have been denied by a benefit judge or once the employee has received the maximum length of benefits allowed.

Subd. 2. Notice to employer. Provides for notice to employers about 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.

Subd. 3. 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 the child. There is an exception 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 circumstances.

Subd. 4. Intermittent or reduced-schedule leave. Provides that leave may be taken on an intermittent or reduced-schedule basis for all leaves and if reasonable and appropriate to the needs of the individual's serious health condition. Intermittent or reduced-schedule leave counts toward the annual maximums under the program and employees receive a prorated weekly benefit.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

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

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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 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.

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, but allows the court to reduce the damages required for employers acting in good faith with reasonable grounds.

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

Subd. 1. Application for substitution. Allows an employer to apply to the commissioner of DEED 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. Provides for approval by the commissioner of DEED 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 under chapter 268B. Provides for approval by the commissioner of DEED 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; intermittent leave increments; and weekly benefit determination. Adds requirements consistent with insurance industry practices. 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. Allows intermittent leave in a minimum increment allowed by the private plan, which must not be greater than eight hours. Provides that the benefit amount and duration under a private plan must be based on the employee's typical workweek at the time of application or over the last year, whichever results in a higher benefit. Requires an employer to accept an employee's certification of wages if there is incomplete wage information.

Subd. 6. Use of private insurance products. Clarifies that private insurance products may be used to provide a private plan. Requires a private insurance policy form issued by a state authorized insurance company and approved by the commissioner of commerce.

Subd. 7. Private plan approval and oversight fee. Employers utilizing private plans are not required to pay premiums. Sets an annual oversight fee for such employers based on the number of employees. Requires the commissioner of

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DEED to review the adequacy of the fee as part of the annual report under section 268B.25, starting July 1, 2025.

Subd. 8. 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. 9. 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. 10. 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.

Subd. 11. 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. 12. 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. 13. Amendment. Provides the conditions under which the commissioner must approve an amendment to a private plan.

Subd. 14. 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. 15. Revocation of approval by commissioner. Provides that the commissioner may terminate a private plan if certain conditions are met.

Subd. 16. Employer penalties. Provides monetary penalties that DEED may assess if an employer with a private plan violates chapter 268B.

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Subd. 17. 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 commissioner of DEED upon request.

Subd. 18. Audit and investigation. Allows the commissioner to investigate and audit opt-out plans under this section.

Effective date: This section is effective January 1, 2024, six months before benefits and premiums start.

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 \$3,500 in one of the two prior taxable years. Those electing to participate pay half of the 0.7 percent employer premium for both benefit programs and must elect to participate for a minimum of two years. The 0.35 percent premium is multiplied by the self-employed applicant's premium base, which is the lesser of: 1) their estimated self-employment income and wages for the year, or 2) the FICA/Social Security wage base for the year (\$160,200 for 2023). 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, except as provided in section 38.

21 Wage reporting. [§ 268B.12]

Requires employers to submit wage detail reports electronically each quarter listing certain information for each employee, including total wages paid and hours worked. Provides for late fees and administrative service fees if information is missing or inaccurate. Allows penalties to be waived upon a showing that the violation was a good faith error.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

22 Employer premium accounts. [§ 268B.13]

Establishes employer premium accounts with the commissioner of DEED to pay family and medical benefit program premiums assessed under section 268B.14. Does not apply to an employer with an approved private plan under section 268B.10.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

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

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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 premiums under this section. Employees must pay the remainder of the 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 wage base (\$160,200 for 2023). Employers and employees pay the premium percentage set under this section on all earnings up to that amount. For example, 0.7 percent of \$160,200 or up to \$1,121.40 per employee for both family and medical benefits programs under the chapter.

Subd. 5. Small business wage exclusion. Provides for a reduced quarterly premium amount for employers with fewer than 30 employees and sets formula for calculating the reduction.

Subd. 6. Annual premium rates. Provides initial annual percentage rates for premiums from July 1, 2025, through June 30, 2026, as: 0.7 percent for both programs; 0.57 percent for the medical benefit program only; and 0.13 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 July 1, 2026. Requires the rate to be set annually by July 31st going forward. 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 currently by DEED). The resulting quotient is rounded down to the nearest one-hundredth of one percent. The result is 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.

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- Effective date: This section is effective July 1, 2025, except as provided in section 38.
- 24 **Income tax withholding. [§ 268B.145]**
If the IRS finds benefits under the program to be taxable under federal law, and the applicant elects to have those federal taxes withheld, the commissioner of DEED must withhold the tax.

Effective date: This section is effective July 1, 2025, except as provided in section 38.
- 25 **Collection of premiums. [§ 268B.15]**
Provides for treatment of premiums under chapter 268B, with language modeled from analogous sections under 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 July 1, 2025, except as provided in section 38.
- 26 **Child support deduction from benefits. [268B.155]**
Requires the commissioner of DEED to deduct child support owed from an applicant’s leave amount to pay the child support agency. Related costs are paid by the child support agency.

Effective date: This section is effective July 1, 2025, except as provided in section 38.
- 27 **Compromise. [268B.16]**
Allows commissioner of DEED 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.

Effective date: This section is effective July 1, 2025, except as provided in section 38.
- 28 **Administrative costs. [§ 268B.17]**
Allows the commissioner of DEED to use up to seven percent of the projected benefit payments for July 1, 2025, through December 31, 2025, for administration of the program during that period. Also allows the commissioner to use seven percent of projected benefit payments for each calendar year starting January 1, 2026 to administer the program in that year. Also allows DEED to enter interagency agreements with DLI for transferring funds for enforcement of chapter 268B.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

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29 Public outreach. [§ 268B.18]

Beginning July 1, 2024, the commissioner must use at least 0.5 percent of projected benefit payments for the period(s) defined in section 268B.17, for program outreach, education, and technical assistance for employees, employers, and self-employed. Allows interagency agreements with DLI for transferring funds for this purpose. At least half of the amount spent must be used for grants to community groups that will conduct the outreach, education, and technical assistance.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

30 Benefit overpayments. [§ 268B.185]

Requires an applicant to repay overpaid benefits under chapter 268B, based on a determination or amended determination or a benefit law judge's decision. Overpayment due to misrepresentation occurs when an applicant makes an intentionally false statement with intent to fraudulently collect benefits. Allows DEED to issue a penalty for misrepresentation overpayments, plus interest. Penalties or interest collected under this section are deposited into the family and medical leave enforcement account to be used for administering and enforcing the chapter. Allows an employee to offset a certain amount of nonmisrepresentation overpayments against future benefits. Also gives the commissioner of DEED discretion in pursuing recovery of nonmisrepresentation overpayments. Requires cancellation of unpaid overpayments after three years.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

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

Sets circumstances and penalties for when an employer colludes with an ineligible employee to obtain benefits 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, 2025, except as provided in section 38.

32 Records; audits. [§ 268B.21]

Requires employers to keep records related to the program as prescribed by the commissioner of DEED 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, 2025, except as provided in section 38.

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33 Subpoenas; oaths. [§ 268B.22]

Grants the commissioner of DEED or benefit judge 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, 2025, except as provided in section 38.

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 level on property and requires setoff to the commissioner of DEED for unpaid liability. Provides for a private civil action to collect amounts due under the chapter. Modeled on analogous language under the state’s unemployment insurance statutes.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

35 Conciliation services. [§ 268B.24]

Allows DLI to offer conciliation services to help settle alleged violations of employment protections that arise under chapter 268B.09.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

36 Annual reports. [§ 268B.25]

Beginning on or before July 1, 2026, requires the commissioner of DEED to annually report to Minnesota Management and Budget and the legislature, a number of items regarding revenue, expenditures, operation, 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 July 1, 2026.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

37 Notice requirements. [§ 268B.26]

Requires employers to post notice, prepared by the commissioner of DEED, regarding rights and benefits under chapter 268B. Also requires employers to provide certain written notices about this chapter to individual employees and independent contractors, including an explanation of the benefits available to independent contractors.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

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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 employer-provided sick, vacation, or personal leave first before taking leave under this chapter; (2) to prohibit an employer or parties to a collective bargaining agreement from providing more generous benefits than those required under chapter 268B, including through a supplemental benefit payment; or (3) to create a power or duty that would interfere with federal law.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

39 Severable. [§ 268B.28]

Clarifies that if a provision or part of a provision under chapter 268B is found to be inconsistent with federal law, it has no effect, but any remaining portion of the provision may remain in effect.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

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

Allows the commissioner of DEED to make grants of up to \$1,000 to \$3,000 to businesses with 50 or fewer employees to help defray the cost of hiring a replacement worker or for significant wage-related costs due to an employee's leave.

Effective date: This section is effective July 1, 2025, except as provided in section 38.

41 Application.

Benefits may be applied for and paid starting July 1, 2025.

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 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.
- 2 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.
- 3 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.
- 4 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.
- 5 Effective dates.**
All sections in this article are effective July 1, 2025.

Article 3: Family and Medical Leave Actuarial Study

Article 3 requires an actuarial study of the family and medical leave insurance program.

Section Description – Article 3: Family and Medical Leave Actuarial Study

- 1 Actuarial study requirement.**
Requires the commissioner of DEED to contract with a qualified actuarial consultant to conduct an actuarial study of the following provisions in the family and medical benefit insurance program: the premium rate, premium structure, weekly benefit formula, duration of benefit, fund reserve, and any other components necessary to determine the financial soundness of the program established under chapter 268B. Requires a copy of the actuarial study be provided to the majority and minority leaders of both bodies no later than October 31, 2023.

Article 4: Appropriations

Appropriates money from the family and benefits insurance account for the purposes of chapter 268B in fiscal years 2024 and/or 2025 to DEED, DLI, MMB, DHS, Department of Commerce, Secretary of State, Supreme Court, House of Representatives, and University of

Minnesota. Transfers \$668 million in fiscal year 2024 from the general fund to the family and medical benefit insurance account, and 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. See spreadsheet for more details.



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