

This Document can be made available  
in alternative formats upon request

State of Minnesota  
**HOUSE OF REPRESENTATIVES**

NINETY-FIRST SESSION

**H. F. No. 5**

01/10/2019 Authored by Halverson, Richardson, Sauke, Olson, Moran and others  
The bill was read for the first time and referred to the Committee on Labor  
01/31/2019 Adoption of Report: Re-referred to the Committee on Commerce  
02/21/2019 Adoption of Report: Amended and re-referred to the Committee on Government Operations

1.1 A bill for an act

1.2 relating to employment; providing for paid family, pregnancy, bonding, and

1.3 applicant's serious medical condition benefits; regulating and requiring certain

1.4 employment leaves; classifying certain data; authorizing rulemaking; appropriating

1.5 money; amending Minnesota Statutes 2018, sections 13.719, by adding a

1.6 subdivision; 177.27, subdivision 4; 181.032; 256J.561, by adding a subdivision;

1.7 256J.95, subdivisions 3, 11; 256P.01, subdivision 3; 268.19, subdivision 1;

1.8 290.0132, by adding a subdivision; proposing coding for new law as Minnesota

1.9 Statutes, chapter 268B.

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

1.11 **ARTICLE 1**

1.12 **FAMILY AND MEDICAL BENEFITS**

1.13 Section 1. Minnesota Statutes 2018, section 13.719, is amended by adding a subdivision

1.14 to read:

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

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

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

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

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

1.20 of chapter 268B or other applicable law.

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

1.22 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an

1.23 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,

1.24 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,

2.1 subdivision 2a, 181.722, 181.79, and 181.939 to 181.943; chapter 268B; or with any rule  
2.2 promulgated under section 177.28. The commissioner shall issue an order requiring an  
2.3 employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes  
2.4 of this subdivision only, a violation is repeated if at any time during the two years that  
2.5 preceded the date of violation, the commissioner issued an order to the employer for violation  
2.6 of sections 177.41 to 177.435 and the order is final or the commissioner and the employer  
2.7 have entered into a settlement agreement that required the employer to pay back wages that  
2.8 were required by sections 177.41 to 177.435. The department shall serve the order upon the  
2.9 employer or the employer's authorized representative in person or by certified mail at the  
2.10 employer's place of business. An employer who wishes to contest the order must file written  
2.11 notice of objection to the order with the commissioner within 15 calendar days after being  
2.12 served with the order. A contested case proceeding must then be held in accordance with  
2.13 sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the  
2.14 employer fails to file a written notice of objection with the commissioner, the order becomes  
2.15 a final order of the commissioner.

2.16 Sec. 3. Minnesota Statutes 2018, section 181.032, is amended to read:

2.17 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER.**

2.18 (a) At the end of each pay period, the employer shall provide each employee an earnings  
2.19 statement, either in writing or by electronic means, covering that pay period. An employer  
2.20 who chooses to provide an earnings statement by electronic means must provide employee  
2.21 access to an employer-owned computer during an employee's regular working hours to  
2.22 review and print earnings statements.

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

2.25 (1) the name of the employee;

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

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

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

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

2.30 (6) any amount deducted, and the maximum allowed to be deducted, under section  
2.31 268B.12, subdivision 2;

2.32 ~~(6)~~ (7) the net amount of pay after all deductions are made;

3.1 ~~(7)~~ (8) the date on which the pay period ends; and

3.2 ~~(8)~~ (9) the legal name of the employer and the operating name of the employer if different  
3.3 from the legal name.

3.4 (c) An employer must provide earnings statements to an employee in writing, rather  
3.5 than by electronic means, if the employer has received at least 24 hours notice from an  
3.6 employee that the employee would like to receive earnings statements in written form. Once  
3.7 an employer has received notice from an employee that the employee would like to receive  
3.8 earnings statements in written form, the employer must comply with that request on an  
3.9 ongoing basis.

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

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

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

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

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

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

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

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

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

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

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

4.8 (10) local and state welfare agencies for monitoring the eligibility of the data subject  
4.9 for assistance programs, or for any employment or training program administered by those  
4.10 agencies, whether alone, in combination with another welfare agency, or in conjunction  
4.11 with the department or to monitor and evaluate the statewide Minnesota family investment  
4.12 program by providing data on recipients and former recipients of food stamps or food  
4.13 support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under  
4.14 chapter 119B, or medical programs under chapter 256B or 256L or formerly codified under  
4.15 chapter 256D;

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

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

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

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

4.26 (15) the Department of Corrections for the purposes of case planning and internal research  
4.27 for preprobation, probation, and postprobation employment tracking of offenders sentenced  
4.28 to probation and preconfinement and postconfinement employment tracking of committed  
4.29 offenders;

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

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

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

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

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

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

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

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

5.19 Subd. 3. **Applicant.** "Applicant" means an individual applying for benefits under this  
5.20 chapter.

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

5.23 Subd. 5. **Benefit.** "Benefit" or "benefits" mean monetary payments under this chapter  
5.24 associated with qualifying bonding, family care, pregnancy, serious health condition,  
5.25 qualifying exigency, or safety leave events.

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

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

5.31 Subd. 8. **Calendar day.** "Calendar day" means a fixed 24-hour period corresponding to  
5.32 a single calendar date.

6.1 Subd. 9. **Calendar week.** "Calendar week" means a period of seven consecutive calendar  
6.2 days.

6.3 Subd. 10. **Commissioner.** "Commissioner" means the commissioner of employment  
6.4 and economic development.

6.5 Subd. 11. **Covered business entity.** "Covered business entity" means a person or entity  
6.6 that contracts with self-employed individuals for services and is required to report the  
6.7 payment for services to those individuals on Internal Revenue Service Form 1099-MISC  
6.8 for more than 50 percent of the person's or entity's workforce.

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

6.11 Subd. 13. **Covered service member.** "Covered service member" means either:

6.12 (1) a current member of the United States armed forces, including a member of the  
6.13 National Guard or reserves, who:

6.14 (i) has a serious health condition; and

6.15 (ii) is otherwise on the temporary disability retired list for a serious injury or illness that  
6.16 was incurred by the service member in the line of duty on active duty in the United States  
6.17 armed forces or a serious injury or illness that existed before the beginning of the service  
6.18 member's active duty and was aggravated by service in the line of duty in the United States  
6.19 armed forces; or

6.20 (2) a former member of the United States armed forces, including a member of the  
6.21 National Guard or reserves, who has a serious health condition that was incurred by the  
6.22 member in the line of duty on active duty in the United States armed forces or a serious  
6.23 health condition that existed before the beginning of the service member's active duty and  
6.24 was aggravated by service in the line of duty on active duty in the United States armed  
6.25 forces and manifested before or after the member was discharged or released from service.

6.26 Subd. 14. **Day.** "Day" means an eight-hour period.

6.27 Subd. 15. **Department.** "Department" means the Department of Employment and  
6.28 Economic Development.

6.29 Subd. 16. **Employee.** "Employee" means an individual for whom premiums are paid on  
6.30 wages under this chapter. An individual with income earned in the state from a covered  
6.31 business entity, reported on an Internal Revenue Service Form 1099-MISC, is considered  
6.32 an employee for the purposes of this chapter.

7.1 Subd. 17. **Employer.** "Employer" means a person or entity, other than an employee,  
7.2 required to pay premiums under this chapter.

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

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

7.9 Subd. 20. **Family member.** "Family member" means an employee's child, adult child,  
7.10 spouse, sibling, parent, foster parent, parent-in-law, grandchild, grandparent, domestic  
7.11 partner, stepparent, or any individual related by blood or affinity whose close association  
7.12 with the employee is the equivalent of a family relationship.

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

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

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

7.23 Subd. 24. **Medical benefit program.** "Medical benefit program" means the program  
7.24 administered under this chapter for the collection of premiums and payment of benefits  
7.25 related to an applicant's serious health condition or pregnancy.

7.26 Subd. 25. **Noncovered employment.** "Noncovered employment" has the meaning given  
7.27 in section 268.035, subdivision 20.

7.28 Subd. 26. **Pregnancy.** "Pregnancy" means prenatal care or incapacity due to pregnancy,  
7.29 or recovery from childbirth, still birth, miscarriage, or related health conditions.

7.30 Subd. 27. **Qualified health care provider.** "Qualified health care provider" means a  
7.31 health care provider who, in the judgment of the commissioner, has the qualifications  
7.32 necessary to diagnose or treat a particular health condition or conditions associated with  
7.33 benefits sought under this chapter.

8.1 Subd. 28. **Qualifying exigency.** "Qualifying exigency" means a need arising out of an  
8.2 employee's family member's active duty service or notice of an impending call or order to  
8.3 active duty in the United States armed forces, including providing for the care or other needs  
8.4 of the family member's child or other dependent, making financial or legal arrangements  
8.5 for the family member, attending counseling, attending military events or ceremonies,  
8.6 spending time with the family member during a rest and recuperation leave or following  
8.7 return from deployment, or making arrangements following the death of the military member.

8.8 Subd. 29. **Safety leave.** "Safety leave" means leave from work because of domestic  
8.9 abuse, sexual assault, or stalking of the employee or employee's family member, provided  
8.10 the leave is to:

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

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

8.14 (3) obtain psychological or other counseling;

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

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

8.19 Subd. 30. **Self-employed individual.** "Self-employed individual" means an individual  
8.20 resident of the state who is a sole proprietor, member of a limited liability company or  
8.21 limited liability partnership, or an individual whose net profit or loss from a business is  
8.22 required to be reported to the Department of Revenue.

8.23 Subd. 31. **Serious health condition.** "Serious health condition" means an illness, injury,  
8.24 impairment, or physical or mental condition that involves:

8.25 (1) inpatient care in a hospital, hospice, or residential medical care facility; or

8.26 (2) continuing treatment by a health care provider.

8.27 Subd. 32. **State's average weekly wage.** "State's average weekly wage" means the  
8.28 weekly wage calculated under section 268.035, subdivision 23.

8.29 Subd. 33. **Wage credits.** "Wage credits" has the meaning given in section 268.035,  
8.30 subdivision 27.

9.1 Sec. 6. **[268B.02] FAMILY AND MEDICAL BENEFIT INSURANCE PROGRAM**  
9.2 **CREATION.**

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

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

9.9 Subd. 3. **Rulemaking.** The commissioner may adopt rules to implement the provisions  
9.10 of this chapter.

9.11 Subd. 4. **Account creation; appropriation.** The family and medical benefit insurance  
9.12 account is created in the special revenue fund in the state treasury. Money in this account  
9.13 is appropriated to the commissioner to pay benefits under and to administer this chapter.

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

9.16 Sec. 7. **[268B.03] ELIGIBILITY.**

9.17 Subdivision 1. **Applicant.** An applicant who has a serious health condition, has a  
9.18 qualifying exigency, is taking safety leave, is providing family care, is bonding, or is  
9.19 pregnant, and who satisfies the conditions of this section is eligible to receive benefits  
9.20 subject to the provisions of this chapter.

9.21 Subd. 2. **Wage credits.** An applicant must have sufficient wage credits from an employer  
9.22 or employers as defined in section 268B.01, subdivision 10, to establish a benefit account  
9.23 under section 268.07, subdivision 2.

9.24 Subd. 3. **Seven-day qualifying event.** The period for which an applicant is seeking  
9.25 benefits must be or have been based on a single event of at least seven calendar days duration  
9.26 related to pregnancy, family care, a qualifying exigency, safety leave, or the applicant's  
9.27 serious health condition. The days need not be consecutive. Benefits related to bonding  
9.28 need not meet the seven-day qualifying event requirement.

9.29 Subd. 4. **Ineligible.** An applicant is not eligible for benefits for any portion of a day in  
9.30 which the applicant worked for pay.

10.1 Subd. 5. **Certification by health care provider.** Except for bonding benefits, benefits  
10.2 based on a qualifying exigency, or benefits related to safety leave, the application for benefits  
10.3 must be certified in writing by a qualified health care professional.

10.4 Subd. 6. **Records release.** An individual whose medical records are necessary to  
10.5 determine eligibility for benefits under this chapter must sign and date a legally effective  
10.6 waiver authorizing release to the department of medical and other records to the limited  
10.7 extent necessary to administer this chapter.

10.8 Subd. 7. **Self-employed applicant.** (a) To be eligible for benefits, a self-employed  
10.9 individual who has elected coverage under section 268B.11 must fulfill only the requirements,  
10.10 to the extent possible, of subdivisions 3, 4, 5, and 6 in addition to the requirements under  
10.11 paragraph (b).

10.12 (b) A self-employed individual must provide documents sufficient to prove the existence  
10.13 of the individual's business as well as how long that business has been in operation.

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

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

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

10.28 (b) Certification for an applicant taking leave to care for a family member with a serious  
10.29 health condition shall be sufficient if the certification states the date on which the serious  
10.30 health condition commenced, the probable duration of the condition, the appropriate medical  
10.31 facts within the knowledge of the qualified health care provider as required by the  
10.32 commissioner, a statement that the applicant is needed to care for the family member, and  
10.33 an estimate of the amount of time that the applicant is needed to care for the family member.

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

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

11.8 (e) Certification for an applicant taking bonding leave because of the placement of a  
11.9 child with the applicant for adoption or foster care shall be sufficient if the applicant provides  
11.10 a document issued by the qualified health care provider of the child, an adoption or foster  
11.11 care agency involved in the placement, or by other individuals as determined by the  
11.12 commissioner that confirms the placement and the date of placement. To the extent that the  
11.13 status of an applicant as an adoptive or foster parent changes while an application for benefits  
11.14 is pending, or while the covered individual is receiving benefits, the applicant must notify  
11.15 the department of such change in status in writing.

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

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

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

11.20 (3) other documentation permitted by the commissioner.

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

11.26 **Sec. 9. [268B.05] DETERMINATION OF APPLICATION.**

11.27 Upon the filing of a complete application for benefits, the commissioner shall examine  
11.28 the application and on the basis of facts found by the commissioner and records maintained  
11.29 by the department, the applicant shall be determined to be eligible or ineligible within two  
11.30 weeks. If the application is determined to be valid, the commissioner shall promptly notify  
11.31 the applicant and any other interested party as to the week when benefits commence, the  
11.32 weekly benefit amount payable, and the maximum duration of those benefits. If the  
11.33 application is determined to be invalid, the commissioner shall notify the applicant and any

12.1 other interested party of that determination and the reasons for it. If the processing of the  
12.2 application is delayed for any reason, the commissioner shall notify the applicant, in writing,  
12.3 within two weeks of the date the application for benefits is filed of the reason for the delay.  
12.4 Unless the applicant or any other interested party, within 30 calendar days, requests a hearing  
12.5 before a benefit judge, the determination is final. For good cause shown, the 30-day period  
12.6 may be extended. At any time within one year from the date of a monetary determination,  
12.7 the commissioner, upon request of the applicant or on the commissioner's own initiative,  
12.8 may reconsider the determination if it is found that an error in computation or identity has  
12.9 occurred in connection with the determination or that additional wages pertinent to the  
12.10 applicant's status have become available, or if that determination has been made as a result  
12.11 of a nondisclosure or misrepresentation of a material fact.

12.12 Sec. 10. **[268B.06] EMPLOYER NOTIFICATION.**

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

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

12.17 (1) the name of the applicant;

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

12.19 (3) the week the benefits commence;

12.20 (4) the weekly benefit amount payable;

12.21 (5) the maximum duration of benefits; and

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

12.24 Sec. 11. **[268B.07] APPEAL PROCESS.**

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

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

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

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

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

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

13.7 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within  
13.8 30 calendar days of the receipt of the benefit judge's decision, file a request for  
13.9 reconsideration asking the judge to reconsider that decision.

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

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

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

13.17 Sec. 12. [268B.08] **BENEFITS.**

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

13.21 (1) 90 percent of wages that do not exceed 50 percent of the state's average weekly wage;  
13.22 plus

13.23 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage but  
13.24 not 100 percent; plus

13.25 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.

13.26 (b) The state's average weekly wage is the average wage as calculated under section  
13.27 268.035, subdivision 23, at the time a benefit amount is first determined.

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

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

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

14.5 (b) An applicant may receive up to 26 weeks of benefits in a single benefit year for  
14.6 family care of a covered service member or for one or more qualifying exigencies.

14.7 Subd. 4. **Minimum period for which benefits payable.** Any claim for benefits must  
14.8 be based on a single-qualifying event of at least seven calendar days. Benefits may be paid  
14.9 for a minimum increment of one day. The minimum increment of one day may consist of  
14.10 multiple, nonconsecutive portions of a day totaling eight hours.

14.11 Subd. 5. **Intermittent and partial day leave.** A leave under this chapter may be taken  
14.12 intermittently or on a partial day schedule. Leave taken intermittently or on a partial day  
14.13 schedule shall not result in a reduction in the total amount of leave entitled to an employee  
14.14 under this chapter.

14.15 Subd. 6. **Withholding of federal tax.** If the Internal Revenue Service determines that  
14.16 benefits are subject to federal income tax, and an applicant elects to have federal income  
14.17 tax deducted and withheld from the applicant's benefits, the commissioner must deduct and  
14.18 withhold the amount specified in the Internal Revenue Code in a manner consistent with  
14.19 state law.

14.20 Subd. 7. **Right to leave.** An applicant has the right to leave from employment for any  
14.21 day, or portion of a day, for which the applicant is entitled to benefits under this chapter.

14.22 **EFFECTIVE DATE.** This section is effective January 1, 2021.

14.23 Sec. 13. **[268B.09] EMPLOYMENT PROTECTIONS.**

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

14.27 Subd. 2. **Interference prohibited.** An employer must not obstruct or impede an  
14.28 application for benefits or the exercise of any other right under this chapter.

14.29 Subd. 3. **Waiver of rights void.** Any agreement to waive, release, or commute rights  
14.30 to benefits or any other right under this chapter is void.

15.1 Subd. 4. **No assignment of benefits.** Any assignment, pledge, or encumbrance of benefits  
15.2 is void. Benefits are exempt from levy, execution, attachment, or any other remedy provided  
15.3 for the collection of debt. Any waiver of this subdivision is void.

15.4 Subd. 5. **Continued insurance.** During any leave for which an employee is entitled to  
15.5 benefits under this chapter, the employer must maintain coverage under any group insurance  
15.6 policy, group subscriber contract, or health care plan for the employee and any dependents  
15.7 as if the employee was not on leave, provided, however, that the employee must continue  
15.8 to pay any employee share of the cost of such benefits.

15.9 Subd. 6. **Reinstatement after leave.** An employee taking leave for which the employee  
15.10 is eligible for benefits under this chapter is, upon the expiration of that leave, entitled to  
15.11 restoration by the employer to the position held by the employee when the leave commenced,  
15.12 or to a position with equivalent seniority, status, employment benefits, pay, and other terms  
15.13 and conditions of employment including fringe benefits and service credits that the employee  
15.14 had been entitled to at the commencement of that leave.

15.15 Subd. 7. **Remedies.** (a) Any employer or covered business entity who violates the  
15.16 provisions of this chapter is liable to any employee affected for:

15.17 (1) damages equal to the amount of:

15.18 (i) any wages, salary, employment benefits, or other compensation denied or lost to such  
15.19 employee by reason of the violation, or, in a cases in which wages, salary, employment  
15.20 benefits, or other compensation have not been denied or lost to the employee, any actual  
15.21 monetary losses sustained by the employee as a direct result of the violation; and

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

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

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

15.28 (1) the employees; or

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

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

16.1 Sec. 14. **[268B.095] BONDING LEAVE.**

16.2 Bonding leave taken under this chapter begins at a time requested by the employee.  
16.3 Bonding leave must begin within 12 months of the birth, adoption, or placement of a foster  
16.4 child, except that, in the case where the child must remain in the hospital longer than the  
16.5 mother, the leave must begin within 12 months after the child leaves the hospital.

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

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

16.15 Subd. 2. **Private plan requirements; medical benefit program.** The commissioner  
16.16 must approve an application for private provision of the medical benefit program if the  
16.17 commissioner determines:

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

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

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

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

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

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

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

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

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

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

17.11 Subd. 3. **Private plan requirements; family benefit program.** The commissioner must  
17.12 approve an application for private provision of the family benefit program if the  
17.13 commissioner determines:

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

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

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

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

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

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

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

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

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

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

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

18.13 Subd. 5. **Private plan approval and oversight fee.** An employer with an approved  
18.14 private plan will not be required to pay premiums established under section 268B.12. An  
18.15 employer with an approved private plan will be responsible for an annual private plan  
18.16 approval and oversight fee equal to five percent of the total premium that would have been  
18.17 paid under section 268B.12 if the employer had not gotten an approved private plan. The  
18.18 commissioner will review and report on the adequacy of this fee to cover private plan  
18.19 administrative costs annually beginning in 2020 as part of the annual report established in  
18.20 section 268B.21.

18.21 Subd. 6. **Plan duration.** A private plan under this section must be in effect for a period  
18.22 of at least one year and, thereafter, continuously unless the commissioner finds that the  
18.23 employer has given notice of withdrawal from the plan in a manner specified by the  
18.24 commissioner in this section or rule. The plan may be withdrawn by the employer within  
18.25 30 days of the effective date of any law increasing the benefit amounts or within 30 days  
18.26 of the date of any change in the rate of premiums. If the plan is not withdrawn, it must be  
18.27 amended to conform to provide the increased benefit amount or change in the rate of the  
18.28 employee's premium on the date of the increase or change.

18.29 Subd. 7. **Appeals.** (a) An employer may appeal any adverse decision by the department  
18.30 regarding that employer's private plan in the manner specified under section 268B.07.

18.31 (b) An employee working for an employer with an approved private plan may appeal  
18.32 an employer's denial of leave or benefits in the manner specified under section 268B.07.

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

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

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

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

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

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

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

19.18 Subd. 11. **Successor employer.** A private plan in effect at the time a successor acquires  
19.19 the employer organization, trade, or business, or substantially all the assets thereof, or a  
19.20 distinct and severable portion of the organization, trade, or business, and continues its  
19.21 operation without substantial reduction of personnel resulting from the acquisition, must  
19.22 continue the approved private plan and must not withdraw the plan without a specific request  
19.23 for withdrawal in a manner and at a time specified by the commissioner. A successor may  
19.24 terminate a private plan with notice to the commissioner and within 90 days from the date  
19.25 of the acquisition.

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

19.28 (1) failed to pay benefits;

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

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

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

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

20.5 (c) The employer may, within ten days from mailing or personal service of the notice,  
20.6 file an appeal in the time, manner, method, and procedure provided in section 268B.07

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

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

20.12 Subd. 13. **Employer penalties.** (a) The commissioner of labor and industry may assess  
20.13 the following monetary penalties against an employer with an approved private plan found  
20.14 to have violated this chapter:

20.15 (1) \$1,000 for the first violation; and

20.16 (2) \$2,000 for the second, and each successive violation.

20.17 (b) The commissioner of labor and industry must waive collection of any penalty if the  
20.18 employer corrects the violation within 30 days of receiving a notice of the violation and the  
20.19 notice is for a first violation.

20.20 (c) The commissioner of labor and industry may waive collection of any penalty if the  
20.21 commissioner determines the violation to be an inadvertent error by the employer.

20.22 (d) Monetary penalties collected under this section shall be deposited in the account.

20.23 (e) Assessment of penalties under this subdivision may be appealed as provided in section  
20.24 268B.07.

20.25 Subd. 14. **Reports, information, and records.** Employers with an approved private  
20.26 plan must maintain all reports, information, and records as relating to the private plan and  
20.27 claims for a period of six years from creation and provide to the commissioner upon request.

20.28 Subd. 15. **Audit and investigation.** The commissioner may investigate and audit plans  
20.29 approved under this section both before and after the plans are approved.

20.30 **EFFECTIVE DATE.** This section is effective July 1, 2020.

21.1 Sec. 16. **[268B.11] SELF-EMPLOYED ELECTION OF COVERAGE.**

21.2 (a) A self-employed individual may file with the commissioner, by electronic transmission  
21.3 in a format prescribed by the commissioner, an election that the individual is covered as an  
21.4 employee for not less than two calendar years. Upon the approval of the commissioner, sent  
21.5 by United States mail or electronic transmission, the individual is covered as an employee  
21.6 under this chapter beginning the calendar quarter after the date of approval or beginning in  
21.7 a later calendar quarter if requested by the self-employed individual. The individual ceases  
21.8 to be covered as of the first day of January of any calendar year only if, at least 30 calendar  
21.9 days before the first day of January, the individual has filed with the commissioner, by  
21.10 electronic transmission in a format prescribed by the commissioner, a notice to that effect.

21.11 (b) The commissioner must terminate any election agreement under this section upon  
21.12 30 calendar days' notice sent by United States mail or electronic transmission if the individual  
21.13 is delinquent on any premiums due under this chapter.

21.14 (c) The individual electing under this section must pay both the employer and employee  
21.15 premiums under section 268B.12.

21.16 (d) The individual must comply with the requirements imposed on employers and  
21.17 employees under this chapter except to the extent the commissioner determines requiring  
21.18 compliance is unreasonable.

21.19 Sec. 17. **[268B.12] PREMIUMS.**

21.20 Subdivision 1. **Employer.** (a) Each taxpaying employer under the state's unemployment  
21.21 insurance program must pay a premium on the wages paid to employees in covered  
21.22 employment for each calendar year. The premium must be paid on all wages up to the  
21.23 maximum specified by this section.

21.24 (b) Each reimbursing employer under the state's unemployment insurance law must pay  
21.25 a premium on the wages paid to employees in covered employment in the same amount and  
21.26 manner as provided by paragraph (a).

21.27 (c) For each calendar year, each covered business entity must pay a premium on payments  
21.28 to self-employed individuals, required to be reported on Internal Revenue Service Form  
21.29 1099-MISC, for work performed in the state.

21.30 Subd. 2. **Employee charge back.** Notwithstanding section 181.06, employers and  
21.31 covered business entities may deduct up to 50 percent of annual premiums paid under this  
21.32 section from employee wages. Such deductions for any given employee must be in equal  
21.33 proportion to the premiums paid based on the wages of that employee.

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

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

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

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

22.10 (2) for an employer participating in only the medical benefit program and with an  
22.11 approved private plan for the family benefit program, ... percent; and

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

22.14 Subd. 5. **Premium rate adjustments.** (a) Each calendar year following the calendar  
22.15 year beginning January 1, 2024, except calendar year 2025, the commissioner must adjust  
22.16 the annual premium rates using the formula in paragraph (b).

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

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

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

22.21 (3) divide the resulting figure by twice the total wages in covered employment of  
22.22 employees of employers that have not opted out of both the family and medical benefit  
22.23 programs. For employees of employers that have opted out of one of the two programs,  
22.24 count only the proportion of wages in covered employment associated with the program of  
22.25 which the employer did not opt out; and

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

22.27 (c) For calendar year 2025, the calculation shall be as provided in paragraph (b), except  
22.28 that the disbursements in paragraph (b), clause (1), shall be those for the 39 weeks ending  
22.29 September 30, and projected disbursements for the next 13 weeks.

22.30 (d) The commissioner must apportion the premium rate between the family and medical  
22.31 benefit programs based on the relative proportion of expenditures for each program during  
22.32 the preceding year.

23.1 Subd. 6. **Premium rate limits.** The aggregate premium rate of employers and employees  
23.2 under this chapter must not be less than ... percent or more than ... percent annually.

23.3 Subd. 7. **Deposit of premiums.** All premiums collected under this section must be  
23.4 deposited into the account.

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

23.8 Sec. 18. **[268B.13] COLLECTION OF PREMIUMS.**

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

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

23.16 (1) premiums due under this chapter; then

23.17 (2) interest on past due premiums; then

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24.26 Subd. 7. **Priorities under legal dissolutions or distributions.** In the event of any  
24.27 distribution of an employer's assets according to an order of any court, including any  
24.28 receivership, assignment for benefit of creditors, adjudicated insolvency, or similar  
24.29 proceeding, premiums then or thereafter due must be paid in full before all other claims  
24.30 except claims for wages of not more than \$1,000 per former employee that are earned within  
24.31 six months of the commencement of the proceedings. In the event of an employer's  
24.32 adjudication in bankruptcy under federal law, premiums then or thereafter due are entitled  
24.33 to the priority provided in that law for taxes due.

25.1 Sec. 19. **[268B.14] ADMINISTRATIVE COSTS.**

25.2 For the calendar year beginning January 1, 2023, and each calendar year thereafter, the  
25.3 commissioner may spend up to seven percent of projected benefit payments for that calendar  
25.4 year for the administration of this chapter.

25.5 Sec. 20. **[268B.15] PUBLIC OUTREACH.**

25.6 Beginning in fiscal year 2021, the commissioner must use at least 0.5 percent of revenue  
25.7 collected under this chapter for the purpose of outreach, education and technical assistance  
25.8 for employees and employers. At least one-half of the amount spent under this section must  
25.9 be used for grants to community-based groups.

25.10 Sec. 21. **[268B.16] APPLICANT'S FALSE REPRESENTATIONS; CONCEALMENT**  
25.11 **OF FACTS; PENALTY.**

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

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

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

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

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

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

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

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

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

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

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

26.5 or

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

26.8 (d) Penalties must be paid within 30 calendar days of issuance of the determination of  
26.9 penalty and credited to the account.

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

26.13 **Sec. 23. [268B.18] RECORDS; AUDITS.**

26.14 (a) Each employer must keep true and accurate records on individuals performing services  
26.15 for the employer, containing the information the commissioner may require under this  
26.16 chapter. The records must be kept for a period of not less than four years in addition to the  
26.17 current calendar year.

26.18 (b) For the purpose of administering this chapter, the commissioner has the power to  
26.19 investigate, audit, examine, or cause to be supplied or copied, any books, correspondence,  
26.20 papers, records, or memoranda that are the property of, or in the possession of, an employer  
26.21 or any other person at any reasonable time and as often as may be necessary.

26.22 (c) An employer or other person that refuses to allow an audit of its records by the  
26.23 department or that fails to make all necessary records available for audit in the state upon  
26.24 request of the commissioner may be assessed an administrative penalty of \$500. The penalty  
26.25 collected is credited to the account.

26.26 **Sec. 24. [268B.19] SUBPOENAS; OATHS.**

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

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

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

27.5 Sec. 25. **[268B.20] MEDIATION AND CONCILIATION.**

27.6 The department must offer mediation and conciliation services to employers and  
27.7 applicants to resolve disputes concerning benefits under this chapter. The commissioner  
27.8 shall notify parties of the availability of those services and may by rule extend appeal  
27.9 deadlines to accommodate conciliation and mediation.

27.10 Sec. 26. **[268B.21] ANNUAL REPORTS.**

27.11 (a) Annually, beginning on or before December 1, 2020, the commissioner must report  
27.12 to the Department of Management and Budget and the house of representatives and senate  
27.13 committee chairs with jurisdiction over this chapter on program administrative expenditures  
27.14 and revenue collection for the prior fiscal year, including but not limited to:

27.15 (1) total revenue raised through premium collection;

27.16 (2) the number of self-employed individuals electing coverage under section 268B.11  
27.17 and amount of associated revenue;

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

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

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

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

27.24 (7) an accounting of required outreach expenditures;

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

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

27.28 (b) Annually, beginning on or before December 1, 2021, the commissioner must publish  
27.29 a publicly available report providing the following information for the previous fiscal year:

27.30 (1) total eligible claims;

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

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

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

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

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

28.8 (7) processing times for initial claims processing, initial determinations, and final  
28.9 decisions;

28.10 (8) average duration for cases completed; and

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

28.12 **Sec. 27. [268B.22] NOTICE REQUIREMENTS.**

28.13 (a) Each employer and covered business entity must post in a conspicuous place on each  
28.14 of its premises a workplace notice prepared or approved by the commissioner providing  
28.15 notice of benefits available under this chapter. The required workplace notice must be in  
28.16 English and each language other than English which is the primary language of five or more  
28.17 employees or self-employed individuals of that workplace, if such notice is available from  
28.18 the department.

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

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

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

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

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

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

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

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

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

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

29.5 (c) Each covered business entity shall provide to each self-employed individual with  
29.6 whom it contracts, at the time such contract is made or, for existing contracts, within 30  
29.7 days of the effective date of this section, the following written information provided or  
29.8 approved by the department in the self-employed individual's primary language:

29.9 (1) an explanation of the availability of family and medical leave benefits provided under  
29.10 this chapter and the procedures established by the department for self-employed individuals  
29.11 to become covered individuals;

29.12 (2) the self-employed individual's contribution amount and obligations under this chapter;

29.13 (3) the covered business entity's contribution amount and obligations under this chapter;

29.14 (4) the name, mailing address, and e-mail address of the covered business entity;

29.15 (5) the identification number assigned to the covered business entity by the department;

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

29.17 (7) the address and telephone number of the department; and

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

29.19 Delivery is made when a self-employed individual provides written acknowledgment of  
29.20 receipt of the information, or signs a statement indicating the self-employed individual's  
29.21 refusal to sign such acknowledgment.

29.22 (d) An employer or covered business entity that fails to comply with this subsection may  
29.23 be issued, for a first violation, a civil penalty of \$50 per employee and per self-employed  
29.24 individual with whom it has contracted, and for each subsequent violation, a civil penalty  
29.25 of \$300 per employee or self-employed individual with whom it has contracted. The employer  
29.26 or covered business entity shall have the burden of demonstrating compliance with this  
29.27 section.

29.28 (e) An employee must give at least 30 days notice to the employer of the anticipated  
29.29 starting date of any leave under this chapter, the anticipated length of the leave, and the  
29.30 expected date of return or shall provide notice as soon as practicable if the delay is for  
29.31 reasons beyond the employee's control. If an employer fails to provide notice of this chapter  
29.32 as required under paragraph (b), the employee's notice requirement shall be waived.

30.1 Sec. 28. **[268B.23] RELATIONSHIP TO OTHER LEAVE; CONSTRUCTION.**

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

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

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

30.9 (2) prohibit an employer from providing additional benefits, including, but not limited  
30.10 to, covering the portion of earnings not provided under this chapter during periods of leave  
30.11 covered under this chapter.

30.12 Sec. 29. Minnesota Statutes 2018, section 290.0132, is amended by adding a subdivision  
30.13 to read:

30.14 Subd. 23. **Benefits under chapter 268B.** The amount received in benefits under chapter  
30.15 268B is a subtraction.

30.16 Sec. 30. **EFFECTIVE DATE.**

30.17 (a) Benefits under Minnesota Statutes, chapter 268B, shall not be applied for nor paid  
30.18 until January 1, 2022, and thereafter. This article is effective August 1, 2020, unless  
30.19 specifically provided otherwise.

30.20 (b) Sections 17 and 18 are effective on January 1, 2021.

## 30.21 **ARTICLE 2**

### 30.22 **APPROPRIATIONS**

30.23 Section 1. **FAMILY AND MEDICAL BENEFIT PROGRAM APPROPRIATIONS.**

30.24 \$..... in fiscal year 2021 is appropriated from the general fund to the commissioner of  
30.25 employment and economic development for the purposes of Minnesota Statutes, chapter  
30.26 268B. This appropriation does not cancel and unexpended amounts may be used in fiscal  
30.27 year 2022. The base amount for fiscal year 2022 is \$0. The base amount for fiscal year 2023  
30.28 is \$..... The base amounts for 2024 and beyond are \$0.

30.29 \$..... in fiscal year 2021 is appropriated from the general fund to the commissioner of  
30.30 labor and industry for the purposes of enforcement of Minnesota Statutes, chapter 268B.

31.1 This appropriation does not cancel and unexpended amounts may be used in fiscal year  
31.2 2022. The base amount for fiscal year 2022 is \$0. The base amount for fiscal year 2023 is  
31.3 \$..... The base amounts for 2024 and beyond are \$0.

31.4 \$..... in fiscal year 2020 is appropriated from the general fund to the commissioner of  
31.5 employment and economic development for the purpose of outreach, education, and technical  
31.6 assistance for employees and employers.

31.7 \$..... in fiscal year 2020 is appropriated from the general fund to the commissioner of  
31.8 labor and industry for the purpose of outreach, education, and technical assistance for  
31.9 employers and employees.

31.10 \$..... in fiscal year 2020 is appropriated from the general fund to the commissioner of  
31.11 employment and economic development for grants to community-based groups providing  
31.12 outreach, education, and technical assistance for employees and employers.

31.13 **EFFECTIVE DATE.** This section is effective July 1, 2019.

### 31.14 **ARTICLE 3**

#### 31.15 **FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS**

31.16 Section 1. Minnesota Statutes 2018, section 256J.561, is amended by adding a subdivision  
31.17 to read:

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

31.21 Sec. 2. Minnesota Statutes 2018, section 256J.95, subdivision 3, is amended to read:

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

31.27 (1) child only cases;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33.1 (d) One parent in a two-parent family unit ~~that has a natural born child under 12 months~~  
33.2 ~~of age~~ is not required to have an employment plan ~~until the child reaches 12 months of age~~  
33.3 ~~unless the family unit has already used the exclusion under section 256J.561, subdivision~~  
33.4 ~~3, or the previously allowed child under age one exemption under section 256J.56, paragraph~~  
33.5 ~~(a), clause (5).~~ if that parent:

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

33.7 (2) has a natural born child under 12 months of age until the child reaches 12 months  
33.8 of age unless the family unit has already used the exclusion under section 256J.561,  
33.9 subdivision 3, or the previously allowed child under age one exemption under section  
33.10 256J.56, paragraph (a), clause (5).

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

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

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

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