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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3007

02/01/2022 Authored by Winkler

The bill was read for the first time and referred to the Committee on Workforce and Business Development Finance and Policy

1.1 A bill for an act

1.2 relating to economic development; providing frontline worker payments;

1.3 replenishing the unemployment insurance trust fund; freezing the base tax rate for

1.4 employers; eliminating the additional assessment for calendar years 2022 and

1.5 2023; authorizing the redetermination of the special assessment rate; providing

1.6 family and medical leave benefits; providing earned sick and safe time; requiring

1.7 reports; appropriating money; amending Minnesota Statutes 2020, sections 13.719,

1.8 by adding a subdivision; 177.27, subdivisions 2, 4, 7; 181.032; 181.942, subdivision

1.9 1; 256J.561, by adding a subdivision; 256J.95, subdivisions 3, 11; 268.19,

1.10 subdivision 1; Minnesota Statutes 2021 Supplement, section 256P.01, subdivision

1.11 3; proposing coding for new law in Minnesota Statutes, chapters 177; 181;

1.12 proposing coding for new law as Minnesota Statutes, chapter 268B; repealing

1.13 Minnesota Statutes 2020, section 181.9413.

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

1.15 **ARTICLE 1**

1.16 **FRONTLINE WORKER PAYMENTS**

1.17 Section 1. **FRONTLINE WORKER PAYMENTS; PUBLIC PURPOSE.**

1.18 This act is intended to provide payments to frontline workers whose work put them at

1.19 risk of contracting COVID-19 during the peacetime emergency declared by the governor

1.20 in Executive Order 20-01. The legislature finds that payments under this section specifically,

1.21 and under the premium pay provisions of the American Rescue Plan Act of 2021 generally,

1.22 have a public purpose and benefit the people of Minnesota by:

1.23 (1) responding to the extraordinary circumstances of the COVID-19 pandemic which

1.24 resulted in the peacetime emergency; and

2.1 (2) compensating workers for working in conditions that, in many cases, exceeded what
2.2 was originally contemplated in their employment agreement to ensure our state was able to
2.3 continue functioning during the pandemic.

2.4 Sec. 2. **FRONTLINE WORKER PAYMENTS.**

2.5 Subdivision 1. **Program established; payments authorized.** To the extent feasible, the
2.6 commissioner of revenue, in coordination with the commissioners of labor and industry and
2.7 employment and economic development, must make payments to eligible frontline workers
2.8 as provided in this section.

2.9 Subd. 2. **Frontline sector defined.** "Frontline sector" means the following sectors:

2.10 (1) long-term care and home care;

2.11 (2) health care, excluding physicians;

2.12 (3) emergency responders;

2.13 (4) public health, social service, and regulatory service;

2.14 (5) courts and corrections;

2.15 (6) child care;

2.16 (7) public schools, including charter schools, state schools, and higher education;

2.17 (8) food service, including production, processing, preparation, sale, and delivery;

2.18 (9) retail, including sales, fulfillment, distribution, and delivery;

2.19 (10) temporary shelters and hotels;

2.20 (11) building services, including maintenance, janitorial, and security;

2.21 (12) public transit;

2.22 (13) ground and air transportation services;

2.23 (14) manufacturing; and

2.24 (15) vocational rehabilitation.

2.25 Subd. 3. **Eligible frontline workers.** (a) An individual is eligible to receive a payment
2.26 under this section if the individual:

2.27 (1) was employed for at least 120 hours in Minnesota in one or more frontline sectors
2.28 during the time period beginning March 15, 2020, and ending June 30, 2021; and

3.1 (2) for the hours worked under clause (1), was not able to telework due to the nature of
3.2 the individual's work and worked in close proximity to individuals outside of the individual's
3.3 household;

3.4 (3) meets the income requirement in paragraph (b); and

3.5 (4) did not collect unemployment insurance benefits for more than 20 weeks on a
3.6 cumulative basis during the time period beginning March 15, 2020, and ending June 30,
3.7 2021.

3.8 (b) To qualify for a payment, an individual's adjusted gross income, as defined in section
3.9 62 of the Internal Revenue Code, must be less than the following amounts for at least one
3.10 of the taxable years beginning after December 31, 2019, and before January 1, 2022:

3.11 (1) for an individual who was employed in an occupation with direct COVID-19 patient
3.12 care responsibilities, \$250,000 for a married taxpayer filing a joint return and \$150,000 for
3.13 all other filers; or

3.14 (2) for all other individuals, \$185,000 for a married taxpayer filing a joint return and
3.15 \$85,000 for all other filers.

3.16 **Subd. 4. Application; verification of eligibility.** (a) To qualify for a payment under
3.17 this section, an individual must apply to the commissioner of labor and industry in the form
3.18 and manner specified by the commissioner. As part of the application, an individual must
3.19 certify to the commissioner of labor and industry that the individual meets the eligibility
3.20 requirements in subdivision 3.

3.21 (b) As soon as practicable after final enactment of this act, the commissioner of labor
3.22 and industry must establish a process for accepting applications for payments under this
3.23 section and begin accepting applications. The commissioner must not accept an application
3.24 submitted more than 45 days after opening the application period.

3.25 (c) The commissioner of labor and industry must assist applicants in submitting an
3.26 application under this section, including but not limited to:

3.27 (1) establishing a multilingual temporary help line for applicants; and

3.28 (2) offering multilingual applications and multilingual instructions.

3.29 (d) To the extent possible, the commissioners of revenue, employment and economic
3.30 development, and labor and industry must verify applicant eligibility for a payment under
3.31 this section. If the commissioners lack the information to verify an applicant's eligibility in

4.1 a timely fashion, the commissioner of labor and industry must accept the applicant's
4.2 self-certification of eligibility in the absence of contrary information.

4.3 (e) An applicant for a payment under this section may appeal a denial of eligibility under
4.4 this subdivision to the commissioner of labor and industry within 15 days of notice of denial.
4.5 The commissioner of labor and industry's decision on an appeal is final.

4.6 (f) The commissioner of labor and industry may contract with a third party to implement
4.7 part or all of the application process and assistance required under this subdivision.

4.8 Subd. 5. **Eligibility; payments.** (a) After the deadline for applications under subdivision
4.9 4 has elapsed, the commissioner of revenue must determine the payment amount based on
4.10 available appropriations and the number of applications received from eligible frontline
4.11 workers. The payment amount must be the same for each eligible frontline worker, and
4.12 must not exceed \$1,500.

4.13 (b) As soon as practicable, the commissioner of revenue must make payments of the
4.14 amount determined under paragraph (a) to all eligible frontline workers who applied in
4.15 accordance with subdivision 4.

4.16 (c) If the full appropriation for payments is not expended after the initial round of
4.17 payments under paragraphs (a) and (b), the commissioner of labor and industry must reopen
4.18 the application period and allow eligible frontline workers who have not received a payment
4.19 to apply for a payment. The commissioner of revenue must make payments of \$1,500 for
4.20 all eligible frontline workers who apply under this paragraph, until the full appropriation is
4.21 expended.

4.22 (d) The commissioner of revenue may contract with a third party to implement part or
4.23 all of the payment process required under this subdivision.

4.24 Subd. 6. **Data practices.** (a) Data collected or created by the commissioner because an
4.25 individual has sought information about, applied for, been denied, or received a payment
4.26 under this section are classified as private data on individuals or nonpublic data, as defined
4.27 in Minnesota Statutes, section 13.02, subdivisions 9 and 12.

4.28 (b) Data classified as private data on individuals or nonpublic data, including return
4.29 information, as defined in Minnesota Statutes, section 270B.01, subdivision 3, may be
4.30 shared or disclosed between the commissioners of revenue, employment and economic
4.31 development, and labor and industry, and any third-party vendor contracted with under
4.32 subdivision 4, to the extent necessary to verify eligibility and administer payments under
4.33 this section.

5.1 Subd. 7. **Notice requirement.** (a) No later than 15 days after the application period is
5.2 opened under subdivision 4, employers in a frontline sector must provide notice, in a form
5.3 approved by the commissioner of labor and industry, advising all workers who may be
5.4 eligible for payments under this section of the assistance potentially available to them and
5.5 how to apply for benefits. An employer must provide notice using the same means the
5.6 employer uses to provide other work-related notices to employees.

5.7 (b) Notice provided under paragraph (a) must be at least as conspicuous as:

5.8 (1) posting a copy of the notice at each work site where workers work and where the
5.9 notice may be readily observed and reviewed by all workers working at the site; or

5.10 (2) providing a paper or electronic copy of the notice to all workers.

5.11 (c) The commissioner of labor and industry may exercise the commissioner of labor and
5.12 industry's authority under Minnesota Statutes, section 177.27, subdivision 7, to enforce the
5.13 notice requirement in this subdivision.

5.14 Subd. 8. **Payments not to be considered income.** (a) For the purposes of this subdivision,
5.15 "subtraction" has the meaning given in Minnesota Statutes, section 290.0132, subdivision
5.16 1, and the rules in that subdivision apply for this subdivision.

5.17 (b) The amount of frontline worker payments received under this section is a subtraction.

5.18 (c) Frontline worker payments under this section are excluded from income, as defined
5.19 in Minnesota Statutes, sections 290.0674, subdivision 2a, and 290A.03, subdivision 3,
5.20 paragraph (b).

5.21 (d) Notwithstanding any law to the contrary, payments under this section must not be
5.22 considered income for purposes of determining eligibility or recertifying eligibility for:

5.23 (1) child care assistance programs under Minnesota Statutes, chapter 119B;

5.24 (2) medical assistance under Minnesota Statutes, chapter 256B;

5.25 (3) general assistance, Minnesota supplemental aid, and food support under Minnesota
5.26 Statutes, chapter 256D;

5.27 (4) housing support under Minnesota Statutes, chapter 256I;

5.28 (5) Minnesota family investment program and diversionary work program under
5.29 Minnesota Statutes, chapter 256J; and

5.30 (6) MinnesotaCare under Minnesota Statutes, chapter 256L.

6.1 Subd. 9. **Report.** No later than 45 days following the end of the application period under
6.2 subdivision 4, the commissioners of revenue and labor and industry shall report to the
6.3 legislative committees with jurisdiction over economic development policy and finance
6.4 about the program established under this section. The report must include:

6.5 (1) the number of eligible frontline workers who applied, including the number in each
6.6 sector and county, and the payment each worker received;

6.7 (2) if the initial payment to frontline workers under subdivision 5 was less than \$1,500,
6.8 the additional appropriation needed to provide an additional payment equal to the difference
6.9 between \$1,500 and the payment amount under subdivision 5; and

6.10 (3) the number of applications that were denied and the reasons for denial.

6.11 Subd. 10. **Procurement.** The commissioners of labor and industry and revenue are
6.12 exempt from the requirements of Minnesota Statutes, chapters 16A, 16B, 16C, and 16E,
6.13 and any other state procurement laws and procedures in administering the program under
6.14 this section.

6.15 Subd. 11. **Appropriations.** (a) \$1,000,000,000 in fiscal year 2022 is appropriated from
6.16 the general fund to the commissioner of revenue for payments under this section. This is a
6.17 onetime appropriation.

6.18 (b) \$2,480,000 in fiscal year 2023 is appropriated to the commissioner of labor and
6.19 industry for administrative costs to implement the payments under this section.

6.20 (c) \$2,049,000 in fiscal year 2023 is appropriated to the commissioner of revenue for
6.21 administrative costs to implement the payments under this section.

6.22 (d) \$215,000 in fiscal year 2023 is appropriated to the commissioner of employment
6.23 and economic development for administrative costs to implement the payments under this
6.24 section.

6.25 **EFFECTIVE DATE.** (a) Unless otherwise specified, this section is effective the day
6.26 following final enactment.

6.27 (b) Subdivision 8, paragraphs (a), (b), and (c), are effective for taxable years in which
6.28 a taxpayer received a frontline worker payment. Subdivision 8, paragraph (d), is effective
6.29 the day following final enactment, except for a program for which federal approval is
6.30 required, changes affecting the program are effective upon federal approval.

7.1 **ARTICLE 2**

7.2 **UNEMPLOYMENT INSURANCE TRUST FUND REPLENISHED**

7.3 Section 1. **UNEMPLOYMENT BASE TAX RATE AND ASSESSMENT FOR**
 7.4 **CALENDAR YEARS 2022 and 2023.**

7.5 Subdivision 1. Tax rate. Notwithstanding Minnesota Statutes, section 268.051,
 7.6 subdivision 2, in calendar years 2022 and 2023, the base tax rate under Minnesota Statutes,
 7.7 section 268.051, subdivision 2, paragraph (b), is one-tenth of one percent.

7.8 Subd. 2. Additional assessment. Notwithstanding Minnesota Statutes, section 268.051,
 7.9 subdivision 2, in calendar years 2022 and 2023, the additional assessment under Minnesota
 7.10 Statutes, section 268.051, subdivision 2, paragraph (c), is zero percent.

7.11 Subd. 3. Special assessment. Notwithstanding Minnesota Statutes, section 268.051,
 7.12 subdivision 8, the commissioner of employment and economic development, in consultation
 7.13 with the commissioner of management and budget, may redetermine the special assessment
 7.14 rate in calendar year 2022 so long as the redetermination occurs before April 1, 2022.

7.15 EFFECTIVE DATE. This section is effective the day following final enactment.

7.16 Sec. 2. **APPROPRIATION.**

7.17 \$2,730,000,000 in fiscal year 2022 is appropriated from the general fund to the
 7.18 commissioner of employment and economic development for transfer to Minnesota's account
 7.19 in the Unemployment Trust Fund in the United States Treasury, for the purpose of
 7.20 replenishing the Unemployment Trust Fund.

7.21 EFFECTIVE DATE. This section is effective the day following final enactment.

7.22 **ARTICLE 3**

7.23 **FAMILY AND MEDICAL BENEFITS**

7.24 Section 1. Minnesota Statutes 2020, section 13.719, is amended by adding a subdivision
 7.25 to read:

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

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

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

8.5 Sec. 2. Minnesota Statutes 2020, section 177.27, subdivision 4, is amended to read:

8.6 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
8.7 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
8.8 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
8.9 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, 268B.09, subdivisions 1 to 6, and
8.10 268B.14, subdivision 3, or with any rule promulgated under section 177.28. The
8.11 commissioner shall issue an order requiring an employer to comply with sections 177.41
8.12 to 177.435 if the violation is repeated. For purposes of this subdivision only, a violation is
8.13 repeated if at any time during the two years that preceded the date of violation, the
8.14 commissioner issued an order to the employer for violation of sections 177.41 to 177.435
8.15 and the order is final or the commissioner and the employer have entered into a settlement
8.16 agreement that required the employer to pay back wages that were required by sections
8.17 177.41 to 177.435. The department shall serve the order upon the employer or the employer's
8.18 authorized representative in person or by certified mail at the employer's place of business.
8.19 An employer who wishes to contest the order must file written notice of objection to the
8.20 order with the commissioner within 15 calendar days after being served with the order. A
8.21 contested case proceeding must then be held in accordance with sections 14.57 to 14.69.
8.22 If, within 15 calendar days after being served with the order, the employer fails to file a
8.23 written notice of objection with the commissioner, the order becomes a final order of the
8.24 commissioner.

8.25 Sec. 3. Minnesota Statutes 2020, section 181.032, is amended to read:

8.26 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER; NOTICE**
8.27 **TO EMPLOYEE.**

8.28 (a) At the end of each pay period, the employer shall provide each employee an earnings
8.29 statement, either in writing or by electronic means, covering that pay period. An employer
8.30 who chooses to provide an earnings statement by electronic means must provide employee
8.31 access to an employer-owned computer during an employee's regular working hours to
8.32 review and print earnings statements, and must make statements available for review or
8.33 printing for a period of three years.

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

9.3 (1) the name of the employee;

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

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

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

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

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

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

9.13 ~~(7)~~ (8) the net amount of pay after all deductions are made;

9.14 ~~(8)~~ (9) the date on which the pay period ends;

9.15 ~~(9)~~ (10) the legal name of the employer and the operating name of the employer if
9.16 different from the legal name;

9.17 ~~(10)~~ (11) the physical address of the employer's main office or principal place of business,
9.18 and a mailing address if different; and

9.19 ~~(11)~~ (12) the telephone number of the employer.

9.20 (c) An employer must provide earnings statements to an employee in writing, rather
9.21 than by electronic means, if the employer has received at least 24 hours notice from an
9.22 employee that the employee would like to receive earnings statements in written form. Once
9.23 an employer has received notice from an employee that the employee would like to receive
9.24 earnings statements in written form, the employer must comply with that request on an
9.25 ongoing basis.

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

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

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

- 10.1 (3) paid vacation, sick time, or other paid time-off accruals and terms of use;
- 10.2 (4) the employee's employment status and whether the employee is exempt from minimum
10.3 wage, overtime, and other provisions of chapter 177, and on what basis;
- 10.4 (5) a list of deductions that may be made from the employee's pay;
- 10.5 (6) the number of days in the pay period, the regularly scheduled pay day, and the pay
10.6 day on which the employee will receive the first payment of wages earned;
- 10.7 (7) the legal name of the employer and the operating name of the employer if different
10.8 from the legal name;
- 10.9 (8) the physical address of the employer's main office or principal place of business, and
10.10 a mailing address if different; and
- 10.11 (9) the telephone number of the employer.

10.12 (e) The employer must keep a copy of the notice under paragraph (d) signed by each
10.13 employee acknowledging receipt of the notice. The notice must be provided to each employee
10.14 in English. The English version of the notice must include text provided by the commissioner
10.15 that informs employees that they may request, by indicating on the form, the notice be
10.16 provided in a particular language. If requested, the employer shall provide the notice in the
10.17 language requested by the employee. The commissioner shall make available to employers
10.18 the text to be included in the English version of the notice required by this section and assist
10.19 employers with translation of the notice in the languages requested by their employees.

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

10.22 Sec. 4. Minnesota Statutes 2020, section 268.19, subdivision 1, is amended to read:

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

- 10.30 (1) state and federal agencies specifically authorized access to the data by state or federal
10.31 law;

- 11.1 (2) any agency of any other state or any federal agency charged with the administration
11.2 of an unemployment insurance program;
- 11.3 (3) any agency responsible for the maintenance of a system of public employment offices
11.4 for the purpose of assisting individuals in obtaining employment;
- 11.5 (4) the public authority responsible for child support in Minnesota or any other state in
11.6 accordance with section 256.978;
- 11.7 (5) human rights agencies within Minnesota that have enforcement powers;
- 11.8 (6) the Department of Revenue to the extent necessary for its duties under Minnesota
11.9 laws;
- 11.10 (7) public and private agencies responsible for administering publicly financed assistance
11.11 programs for the purpose of monitoring the eligibility of the program's recipients;
- 11.12 (8) the Department of Labor and Industry and the Commerce Fraud Bureau in the
11.13 Department of Commerce for uses consistent with the administration of their duties under
11.14 Minnesota law;
- 11.15 (9) the Department of Human Services and the Office of Inspector General and its agents
11.16 within the Department of Human Services, including county fraud investigators, for
11.17 investigations related to recipient or provider fraud and employees of providers when the
11.18 provider is suspected of committing public assistance fraud;
- 11.19 (10) local and state welfare agencies for monitoring the eligibility of the data subject
11.20 for assistance programs, or for any employment or training program administered by those
11.21 agencies, whether alone, in combination with another welfare agency, or in conjunction
11.22 with the department or to monitor and evaluate the statewide Minnesota family investment
11.23 program by providing data on recipients and former recipients of Supplemental Nutrition
11.24 Assistance Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or
11.25 256K, child care assistance under chapter 119B, or medical programs under chapter 256B
11.26 or 256L or formerly codified under chapter 256D;
- 11.27 (11) local and state welfare agencies for the purpose of identifying employment, wages,
11.28 and other information to assist in the collection of an overpayment debt in an assistance
11.29 program;
- 11.30 (12) local, state, and federal law enforcement agencies for the purpose of ascertaining
11.31 the last known address and employment location of an individual who is the subject of a
11.32 criminal investigation;

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

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

12.5 (15) the Department of Corrections for the purposes of case planning and internal research
 12.6 for preprobation, probation, and postprobation employment tracking of offenders sentenced
 12.7 to probation and preconfinement and postconfinement employment tracking of committed
 12.8 offenders;

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

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

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

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

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

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

12.25 Subdivision 1. Scope. For the purposes of this chapter, the terms defined in this section
 12.26 have the meanings given.

12.27 Subd. 2. Applicant. "Applicant" means an individual applying for leave with benefits
 12.28 under this chapter.

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

12.31 Subd. 4. Base period. (a) "Base period," unless otherwise provided in this subdivision,
 12.32 means the most recent four completed calendar quarters before the effective date of an

13.1 applicant's application for family or medical leave benefits if the application has an effective
 13.2 date occurring after the month following the most recent completed calendar quarter. The
 13.3 base period under this paragraph is as follows:

13.4 <u>If the application for family or medical leave</u>	
13.5 <u>benefits is effective on or between these</u>	
13.6 <u>dates:</u>	<u>The base period is the prior:</u>
13.7 <u>February 1 to March 31</u>	<u>January 1 to December 31</u>
13.8 <u>May 1 to June 30</u>	<u>April 1 to March 31</u>
13.9 <u>August 1 to September 30</u>	<u>July 1 to June 30</u>
13.10 <u>November 1 to December 31</u>	<u>October 1 to September 30</u>

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

13.16 <u>If the application for family or medical leave</u>	
13.17 <u>benefits is effective on or between these</u>	
13.18 <u>dates:</u>	<u>The base period is the prior:</u>
13.19 <u>January 1 to January 31</u>	<u>October 1 to September 30</u>
13.20 <u>April 1 to April 30</u>	<u>January 1 to December 31</u>
13.21 <u>July 1 to July 31</u>	<u>April 1 to March 31</u>
13.22 <u>October 1 to October 31</u>	<u>July 1 to June 30</u>

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

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

13.34 (1) if an applicant was compensated for a loss of work of seven to 13 weeks during a
 13.35 base period referred to in paragraph (a) or (b), then the base period is the first four of the

14.1 most recent six completed calendar quarters before the effective date of the application for
14.2 family or medical leave benefits;

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

14.7 (3) if an applicant was compensated for a loss of work of 27 to 39 weeks during a base
14.8 period referred to in paragraph (a) or (b), then the base period is the first four of the most
14.9 recent eight completed calendar quarters before the effective date of the application for
14.10 family or medical leave benefits; and

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

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

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

14.20 Subd. 7. **Benefit year.** "Benefit year" means the period of 52 calendar weeks beginning
14.21 the date a benefit account under section 268B.04 is effective. For a benefit account established
14.22 effective any January 1, April 1, July 1, or October 1, the benefit year will be a period of
14.23 53 calendar weeks.

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

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

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

14.31 Subd. 11. **Calendar week.** "Calendar week" has the same meaning as "week" under
14.32 subdivision 46.

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

15.3 Subd. 13. **Covered employment.** (a) "Covered employment" means performing services
 15.4 of whatever nature, unlimited by the relationship of master and servant as known to the
 15.5 common law, or any other legal relationship performed for wages or under any contract
 15.6 calling for the performance of services, written or oral, express or implied.

15.7 (b) "Employment" includes an individual's entire service performed within or without
 15.8 or both within and without this state, if:

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

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

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

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

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

15.19 (1) a self-employed individual; or

15.20 (2) an independent contractor.

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

15.23 Subd. 15. **Employee.** (a) "Employee" means an individual who is in the employment of
 15.24 an employer.

15.25 (b) Employee does not include employees of the United States of America.

15.26 Subd. 16. **Employer.** (a) "Employer" means:

15.27 (1) any person, type of organization, or entity, including any partnership, association,
 15.28 trust, estate, joint stock company, insurance company, limited liability company, or
 15.29 corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or
 15.30 the legal representative of a deceased person, having any individual in covered employment;

15.31 (2) the state, statewide system, and state agencies; and

16.1 (3) any local government entity, including but not limited to a county, city, town, school
16.2 district, municipal corporation, quasimunicipal corporation, or other political subdivision.
16.3 An employer also includes charter schools.

16.4 (b) Employer does not include:

16.5 (1) the United States of America; or

16.6 (2) a self-employed individual who has elected and been approved for coverage under
16.7 section 268B.11 with regard to the self-employed individual's own coverage and benefits.

16.8 Subd. 17. **Estimated self-employment income.** "Estimated self-employment income"
16.9 means a self-employed individual's average net earnings from self-employment in the two
16.10 most recent taxable years. For a self-employed individual who had net earnings from
16.11 self-employment in only one of the years, the individual's estimated self-employment income
16.12 equals the individual's net earnings from self-employment in the year in which the individual
16.13 had net earnings from self-employment.

16.14 Subd. 18. **Family and medical benefit insurance account.** "Family and medical benefit
16.15 insurance account" means the family and medical benefit insurance account in the special
16.16 revenue fund in the state treasury under section 268B.02.

16.17 Subd. 19. **Family and medical benefit insurance enforcement account.** "Family and
16.18 medical benefit insurance enforcement account" means the family and medical benefit
16.19 insurance enforcement account in the state treasury under section 268B.185.

16.20 Subd. 20. **Family benefit program.** "Family benefit program" means the program
16.21 administered under this chapter for the collection of premiums and payment of benefits
16.22 related to family care, bonding, safety leave, and leave related to a qualifying exigency.

16.23 Subd. 21. **Family care.** "Family care" means an applicant caring for a family member
16.24 with a serious health condition or caring for a family member who is a covered service
16.25 member.

16.26 Subd. 22. **Family member.** (a) "Family member" means an employee's child, adult
16.27 child, spouse, sibling, parent, parent-in-law, grandchild, grandparent, stepparent, member
16.28 of the employee's household, or domestic partner.

16.29 (b) For the purposes of this chapter, a child includes a stepchild, biological, adopted, or
16.30 foster child of the employee, or a child for whom the employee is standing in loco parentis.

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

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

17.4 Subd. 23. **Health care provider.** "Health care provider" means:

17.5 (1) an individual who is licensed, certified, or otherwise authorized under law to practice
17.6 in the individual's scope of practice as a physician, osteopath, surgeon, or advanced practice
17.7 registered nurse; or

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

17.11 Subd. 24. **High quarter.** "High quarter" means the calendar quarter in an applicant's
17.12 base period with the highest amount of wage credits.

17.13 Subd. 25. **Incapacity.** "Incapacity" means inability to perform regular work, attend
17.14 school, or perform other regular daily activities due to a serious health condition, treatment
17.15 therefore, or recovery therefrom.

17.16 Subd. 26. **Independent contractor.** (a) If there is an existing specific test or definition
17.17 for independent contractor in Minnesota statute or rule applicable to an occupation or sector
17.18 as of the date of enactment of this chapter, that test or definition shall apply to that occupation
17.19 or sector for purposes of this chapter. If there is not an existing test or definition as described,
17.20 the definition for independent contractor shall be as provided in this subdivision.

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

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

17.26 (2) the individual:

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

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

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

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

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

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

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

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

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

18.14 (c) For the purposes of this chapter, an insurance producer, as defined in section 60K.31,
 18.15 subdivision 6, is an independent contractor of an insurance company, as defined in section
 18.16 60A.02, subdivision 4, unless the insurance producer and insurance company agree otherwise.

18.17 Subd. 27. **Inpatient care.** "Inpatient care" means an overnight stay in a hospital, hospice,
 18.18 or residential medical care facility, including any period of incapacity, or any subsequent
 18.19 treatment in connection with such inpatient care.

18.20 Subd. 28. **Maximum weekly benefit amount.** "Maximum weekly benefit amount"
 18.21 means the state's average weekly wage as calculated under section 268.035, subdivision 23.

18.22 Subd. 29. **Medical benefit program.** "Medical benefit program" means the program
 18.23 administered under this chapter for the collection of premiums and payment of benefits
 18.24 related to an applicant's serious health condition or pregnancy.

18.25 Subd. 30. **Net earnings from self-employment.** "Net earnings from self-employment"
 18.26 has the meaning given in section 1402 of the Internal Revenue Code, as defined in section
 18.27 290.01, subdivision 31.

18.28 Subd. 31. **Pregnancy.** "Pregnancy" means prenatal care or incapacity due to pregnancy
 18.29 or recovery from childbirth, still birth, miscarriage, or related health conditions.

18.30 Subd. 32. **Qualifying exigency.** (a) "Qualifying exigency" means a need arising out of
 18.31 a military member's active duty service or notice of an impending call or order to active
 18.32 duty in the United States armed forces, including providing for the care or other needs of

19.1 the family member's child or other dependent, making financial or legal arrangements for
19.2 the family member, attending counseling, attending military events or ceremonies, spending
19.3 time with the family member during a rest and recuperation leave or following return from
19.4 deployment, or making arrangements following the death of the military member.

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

19.9 Subd. 33. **Safety leave.** "Safety leave" means leave from work because of domestic
19.10 abuse, sexual assault, or stalking of the employee or employee's family member, provided
19.11 the leave is to:

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

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

19.15 (3) obtain psychological or other counseling;

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

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

19.20 Subd. 34. **Self-employed individual.** "Self-employed individual" means a resident of
19.21 the state who, in one of the two taxable years preceding the current calendar year, derived
19.22 at least \$10,000 in net earnings from self-employment from an entity other than an S
19.23 corporation for the performance of services in this state.

19.24 Subd. 35. **Self-employment premium base.** "Self-employment premium base" means
19.25 the lesser of:

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

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

19.30 Subd. 36. **Self-employment wages.** "Self-employment wages" means the amount of
19.31 wages that a self-employed individual earned in the calendar year from an entity from which
19.32 the individual also received net earnings from self-employment.

20.1 Subd. 37. **Serious health condition.** (a) "Serious health condition" means a physical or
20.2 mental illness, injury, impairment, condition, or substance use disorder that involves:

20.3 (1) at-home care or inpatient care in a hospital, hospice, or residential medical care
20.4 facility, including any period of incapacity; or

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

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

20.9 (A) treatment two or more times by a health care provider or by a provider of health
20.10 care services under orders of, or on referral by, a health care provider; or

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

20.13 (ii) a period of incapacity due to pregnancy, or for prenatal care;

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

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

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

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

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

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

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

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

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

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

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

21.7 Subd. 38. **State's average weekly wage.** "State's average weekly wage" means the
21.8 weekly wage calculated under section 268.035, subdivision 23.

21.9 Subd. 39. **Supplemental benefit payment.** (a) "Supplemental benefit payment" means:

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

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

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

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

21.20 Subd. 40. **Taxable year.** "Taxable year" has the meaning given in section 290.01,
21.21 subdivision 9.

21.22 Subd. 41. **Taxable wages.** "Taxable wages" means those wages paid to an employee in
21.23 covered employment each calendar year up to an amount equal to the maximum wages
21.24 subject to premium in a calendar year, which is equal to the maximum earnings in that year
21.25 subject to the FICA Old-Age, Survivors, and Disability Insurance tax rounded to the nearest
21.26 \$1,000.

21.27 Subd. 42. **Typical workweek hours.** "Typical workweek hours" means:

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

21.30 (2) 40 hours for a salaried employee, regardless of the number of hours the salaried
21.31 employee typically works.

22.1 Subd. 43. **Wage credits.** "Wage credits" means the amount of wages paid within an
22.2 applicant's base period for covered employment, as defined in subdivision 13.

22.3 Subd. 44. **Wage detail report.** "Wage detail report" means the report on each employee
22.4 in covered employment required from an employer on a calendar quarter basis under section
22.5 268B.12.

22.6 Subd. 45. **Wages.** (a) "Wages" means all compensation for employment, including
22.7 commissions; bonuses, awards, and prizes; severance payments; standby pay; vacation and
22.8 holiday pay; back pay as of the date of payment; tips and gratuities paid to an employee by
22.9 a customer of an employer and accounted for by the employee to the employer; sickness
22.10 and accident disability payments, except as otherwise provided in this subdivision; and the
22.11 cash value of housing, utilities, meals, exchanges of services, and any other goods and
22.12 services provided to compensate an employee, except:

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

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

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

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

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

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

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

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

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

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

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

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

23.19 (13) supplemental unemployment benefit payments under a plan established by an
23.20 employer, if the payment is not wages under the Federal Unemployment Tax Act. The
23.21 payments are wages unless made solely for the supplementing of weekly state or federal
23.22 unemployment benefits. Supplemental unemployment benefit payments may not be assigned,
23.23 nor may any consideration be required from the applicant, other than a release of claims in
23.24 order to be excluded from wages;

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

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

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

23.31 (17) payments made into a trust fund, or for the purchase of insurance or an annuity, to
23.32 provide for sickness or accident disability payments to employees under a plan or system

24.1 established by the employer that provides for the employer's employees generally or for a
24.2 class or classes of employees.

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

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

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

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

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

24.21 (e) Wages includes payments made for services by a migrant family. Where services
24.22 are performed by a married couple or a family and an employer makes payment to only one
24.23 individual, each worker is considered as having received an equal share of the compensation
24.24 unless there is a contract or other proof to the contrary.

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

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

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

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

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

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

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

25.11 Subd. 46. **Wages paid.** (a) "Wages paid" means the amount of wages:

25.12 (1) that have been actually paid; or

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

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

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

25.21 Subd. 47. **Week.** "Week" means calendar week ending at midnight Saturday.

25.22 Subd. 48. **Weekly benefit amount.** "Weekly benefit amount" means the amount of
 25.23 family and medical leave benefits computed under section 268B.04.

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

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

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

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

26.3 Subd. 4. **Account creation; appropriation.** The family and medical benefit insurance
26.4 account is created in the special revenue fund in the state treasury. Money in this account
26.5 is appropriated to the commissioner to pay benefits under and to administer this chapter,
26.6 including outreach required under section 268B.18.

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

26.9 **Sec. 7. [268B.03] PAYMENT OF BENEFITS.**

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

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

26.15 (2) the applicant has met all of the ongoing eligibility requirements under section
26.16 268B.06;

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

26.19 (4) the applicant has not been held ineligible for benefits under section 268.07, subdivision
26.20 2; and

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

26.24 Subd. 2. **Benefits paid from state funds.** Benefits are paid from state funds and are not
26.25 considered paid from any special insurance plan, nor as paid by an employer. An application
26.26 for family or medical leave benefits is not considered a claim against an employer but is
26.27 considered a request for benefits from the family and medical benefit insurance account.
26.28 The commissioner has the responsibility for the proper payment of benefits regardless of
26.29 the level of interest or participation by an applicant or an employer in any determination or
26.30 appeal. An applicant's entitlement to benefits must be determined based upon that information
26.31 available without regard to a burden of proof. Any agreement between an applicant and an

27.1 employer is not binding on the commissioner in determining an applicant's entitlement.

27.2 There is no presumption of entitlement or nonentitlement to benefits.

27.3 **Sec. 8. [268B.04] BENEFIT ACCOUNT; BENEFITS.**

27.4 Subdivision 1. **Application for benefits; determination of benefit account.** (a) An
27.5 application for benefits may be filed in person, by mail, or by electronic transmission as the
27.6 commissioner may require. The applicant must include certification supporting a request
27.7 for leave under this chapter. The applicant must meet eligibility requirements at the time
27.8 the application is filed and must provide all requested information in the manner required.
27.9 If the applicant does not meet eligibility at the time of the application or fails to provide all
27.10 requested information, the communication is not an application for family and medical leave
27.11 benefits.

27.12 (b) The commissioner must examine each application for benefits to determine the base
27.13 period and the benefit year, and based upon all the covered employment in the base period
27.14 the commissioner must determine the weekly benefit amount available, if any, and the
27.15 maximum amount of benefits available, if any. The determination, which is a document
27.16 separate and distinct from a document titled a determination of eligibility or determination
27.17 of ineligibility, must be titled determination of benefit account. A determination of benefit
27.18 account must be sent to the applicant and all base period employers, by mail or electronic
27.19 transmission.

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

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

27.31 (e) If an amended determination of benefit account reduces the weekly benefit amount
27.32 or maximum amount of benefits available, any benefits that have been paid greater than the
27.33 applicant was entitled is an overpayment of benefits. A determination or amended
27.34 determination issued under this section that results in an overpayment of benefits must set

28.1 out the amount of the overpayment and the requirement that the overpaid benefits must be
28.2 repaid according to section 268B.185.

28.3 Subd. 2. **Benefit account requirements.** (a) Unless paragraph (b) applies, to establish
28.4 a benefit account, an applicant must have wage credits of at least 5.3 percent of the state's
28.5 average annual wage rounded down to the next lower \$100.

28.6 (b) To establish a new benefit account following the expiration of the benefit year on a
28.7 prior benefit account, an applicant must have performed actual work in subsequent covered
28.8 employment and have been paid wages in one or more completed calendar quarters that
28.9 started after the effective date of the prior benefit account. The wages paid for that
28.10 employment must be at least enough to meet the requirements of paragraph (a). A benefit
28.11 account under this paragraph must not be established effective earlier than the Sunday
28.12 following the end of the most recent completed calendar quarter in which the requirements
28.13 of paragraph (a) were met. An applicant must not establish a second benefit account as a
28.14 result of one loss of employment.

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

28.20 (1) 90 percent of wages that do not exceed 50 percent of the state's average weekly wage;
28.21 plus

28.22 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage but
28.23 not 100 percent; plus

28.24 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.

28.25 (b) The state's average weekly wage is the average wage as calculated under section
28.26 268.035, subdivision 23, at the time a benefit amount is first determined.

28.27 (c) The maximum weekly benefit amount is the state's average weekly wage as calculated
28.28 under section 268.035, subdivision 23.

28.29 (d) The state's maximum weekly benefit amount, computed in accordance with section
28.30 268.035, subdivision 23, applies to a benefit account established effective on or after the
28.31 last Sunday in October. Once established, an applicant's weekly benefit amount is not
28.32 affected by the last Sunday in October change in the state's maximum weekly benefit amount.

29.1 (e) For an employee receiving family or medical leave, a weekly benefit amount is
29.2 prorated when:

29.3 (1) the employee works hours for wages; or

29.4 (2) the employee uses paid sick leave, paid vacation leave, or other paid time off that is
29.5 not considered a supplemental benefit payment as defined in section 268B.01, subdivision
29.6 37.

29.7 Subd. 4. **Timing of payment.** Except as otherwise provided for in this chapter, benefits
29.8 must be paid weekly.

29.9 Subd. 5. **Maximum length of benefits.** (a) Except as provided in paragraph (b), in a
29.10 single benefit year, an applicant may receive up to 12 weeks of benefits under this chapter
29.11 related to the applicant's serious health condition or pregnancy and up to 12 weeks of benefits
29.12 under this chapter for bonding, safety leave, or family care.

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

29.15 Subd. 6. **Minimum period for which benefits payable.** Except for a claim for benefits
29.16 for bonding leave, any claim for benefits must be based on a single qualifying event of at
29.17 least seven calendar days. Benefits may be paid for a minimum duration of eight consecutive
29.18 hours in a week. If an employee on leave claims eight hours at any point during a week, the
29.19 minimum duration is satisfied.

29.20 Subd. 7. **Right of appeal.** (a) A determination or amended determination of benefit
29.21 account is final unless an applicant files an appeal within 20 calendar days after the sending
29.22 of the determination or amended determination. Every determination or amended
29.23 determination of benefit account must contain a prominent statement indicating in clear
29.24 language the consequences of not appealing. Proceedings on the appeal are conducted in
29.25 accordance with section 268B.08.

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

29.29 Subd. 8. **Limitations on applications and benefit accounts.** (a) An application for
29.30 family or medical leave benefits is effective the Sunday of the calendar week that the
29.31 application was filed. An application for benefits may be backdated one calendar week
29.32 before the Sunday of the week the application was actually filed if the applicant requests
29.33 the backdating within seven calendar days of the date the application is filed. An application

30.1 may be backdated only if the applicant was eligible for the benefit during the period of the
 30.2 backdating. If an individual attempted to file an application for benefits, but was prevented
 30.3 from filing an application by the department, the application is effective the Sunday of the
 30.4 calendar week the individual first attempted to file an application.

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

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

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

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

30.11 A benefit account may be withdrawn after the expiration of the benefit year, and the
 30.12 new work requirements of subdivision 2, paragraph (b), do not apply if the applicant was
 30.13 not paid any benefits on the benefit account that is being withdrawn.

30.14 A determination or amended determination of eligibility or ineligibility issued under
 30.15 section 268B.07 that was sent before the withdrawal of the benefit account, remains in effect
 30.16 and is not voided by the withdrawal of the benefit account.

30.17 Sec. 9. **[268B.05] CONTINUED REQUEST FOR BENEFITS.**

30.18 A continued request for family or medical leave benefits is a certification by an applicant,
 30.19 done on a weekly basis, that the applicant is unable to perform usual work due to a qualifying
 30.20 event and meets the ongoing eligibility requirements for benefits under section 268B.06. A
 30.21 continued request must include information on possible issues of ineligibility.

30.22 Sec. 10. **[268B.06] ELIGIBILITY REQUIREMENTS; PAYMENTS THAT AFFECT**
 30.23 **BENEFITS.**

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

30.26 (1) the applicant has filed a continued request for benefits for that week under section
 30.27 268B.05;

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

30.29 (3) the applicant was unable to perform regular work due to a serious health condition,
 30.30 a qualifying exigency, safety leave, family care, bonding, pregnancy, or recovery from
 30.31 pregnancy for the period required under subdivision 2;

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

31.4 (5) an applicant requesting benefits under this chapter must fulfill certification
31.5 requirements under subdivision 3.

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

31.9 Subd. 2. Seven-day qualifying event. (a) The period for which an applicant is seeking
31.10 benefits must be or have been based on a single event of at least seven calendar days' duration
31.11 related to pregnancy, recovery from pregnancy, family care, a qualifying exigency, safety
31.12 leave, or the applicant's serious health condition. The days need not be consecutive.

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

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

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

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

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

31.31 (d) Certification for an applicant taking bonding leave because of the birth of the
31.32 applicant's child shall be sufficient if the certification includes either the child's birth

32.1 certificate or a document issued by the health care provider of the child or the health care
 32.2 provider of the person who gave birth, stating the child's birth date.

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

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

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

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

32.15 (3) other documentation permitted by the commissioner.

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

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

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

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

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

32.30 (2) that the applicant has an outstanding misrepresentation overpayment balance under
 32.31 section 268B.185, subdivision 5, including any penalties and interest;

33.1 (3) that the applicant fails or refuses to provide information on an issue of ineligibility
 33.2 required under section 268B.07, subdivision 2; or
 33.3 (4) for which the applicant worked for pay.

33.4 **Subd. 5. Vacation, sick leave, and supplemental benefit payments.** (a) An applicant
 33.5 is not eligible to receive benefits for any portion of a typical workweek the applicant is
 33.6 receiving, has received, or will receive vacation pay, sick pay, or personal time off pay, also
 33.7 known as "PTO."

33.8 (b) Paragraph (a) does not apply:

33.9 (1) upon a permanent separation from employment;

33.10 (2) to payments from a vacation fund administered by a union or a third party not under
 33.11 the control of the employer; or

33.12 (3) to supplemental benefit payments, as defined in section 268B.01, subdivision 37.

33.13 (c) Payments under this subdivision are applied to the period immediately following the
 33.14 later of the date of separation from employment or the date the applicant first becomes
 33.15 aware that the employer will be making a payment. The date the payment is actually made
 33.16 or received, or that an applicant must agree to a release of claims, does not affect the
 33.17 application of this subdivision.

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

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

33.23 (2) the workers' compensation law of any other state or similar federal law; or

33.24 (3) any insurance or trust fund paid in whole or in part by an employer.

33.25 (b) This subdivision does not apply to an applicant who has a claim pending for loss of
 33.26 wages under paragraph (a). If the applicant later receives compensation as a result of the
 33.27 pending claim, the applicant is subject to paragraph (a) and the family or medical leave
 33.28 benefits paid are overpaid benefits under section 268B.185.

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

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

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

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

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

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

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

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

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

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

34.26 (2) the applicant provides a statement from an appropriate health care professional who
34.27 is aware of the applicant's Social Security disability claim and the basis for that claim,
34.28 certifying that the applicant is available for suitable employment.

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

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

35.3 **Sec. 11. [268B.07] DETERMINATION ON ISSUES OF ELIGIBILITY.**

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

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

35.8 (1) the name of the applicant;

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

35.10 (3) the week the benefits commence;

35.11 (4) the weekly benefit amount payable; and

35.12 (5) the maximum duration of benefits.

35.13 Subd. 2. **Determination.** (a) The commissioner must determine any issue of ineligibility
35.14 raised by information required from an applicant and send to the applicant and any current
35.15 base period employer, by mail or electronic transmission, a document titled a determination
35.16 of eligibility or a determination of ineligibility, as is appropriate, within two weeks.

35.17 (b) If an applicant obtained benefits through misrepresentation, the department is
35.18 authorized to issue a determination of ineligibility within 48 months of the establishment
35.19 of the benefit account.

35.20 (c) If the department has filed an intervention in a worker's compensation matter under
35.21 section 176.361, the department is authorized to issue a determination of ineligibility within
35.22 48 months of the establishment of the benefit account.

35.23 (d) A determination of eligibility or determination of ineligibility is final unless an appeal
35.24 is filed by the applicant within 20 calendar days after sending. The determination must
35.25 contain a prominent statement indicating the consequences of not appealing. Proceedings
35.26 on the appeal are conducted in accordance with section 268B.08.

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

35.29 Subd. 3. **Amended determination.** Unless an appeal has been filed, the commissioner,
35.30 on the commissioner's own motion, may reconsider a determination of eligibility or
35.31 determination of ineligibility that has not become final and issue an amended determination.

36.1 Any amended determination must be sent to the applicant and any employer in the current
36.2 base period by mail or electronic transmission. Any amended determination is final unless
36.3 an appeal is filed by the applicant within 20 calendar days after sending. Proceedings on
36.4 the appeal are conducted in accordance with section 268B.08.

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

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

36.14 **Sec. 12. [268B.08] APPEAL PROCESS.**

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

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

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

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

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

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

36.28 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within
36.29 30 calendar days after service of the benefit judge's decision, file a request for reconsideration
36.30 asking the judge to reconsider that decision.

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

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

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

37.6 Sec. 13. **[268B.085] LEAVE.**

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

37.12 Subd. 2. **Notice to employer.** (a) If the need for leave is foreseeable, an employee must
37.13 provide the employer at least 30 days' advance notice before leave under this chapter is to
37.14 begin. If 30 days' notice is not practicable because of a lack of knowledge of approximately
37.15 when leave will be required to begin, a change in circumstances, or a medical emergency,
37.16 notice must be given as soon as practicable. Whether leave is to be continuous or is to be
37.17 taken intermittently or on a reduced-schedule basis, notice need only be given one time, but
37.18 the employee must advise the employer as soon as practicable if dates of scheduled leave
37.19 change or are extended, or were initially unknown. In those cases where the employee is
37.20 required to provide at least 30 days' notice of foreseeable leave and does not do so, the
37.21 employee must explain the reasons why notice was not practicable upon request from the
37.22 employer.

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

37.30 (c) An employee shall provide at least verbal notice sufficient to make the employer
37.31 aware that the employee needs leave allowed under this chapter and the anticipated timing
37.32 and duration of the leave. An employer may require an employee giving notice of leave to
37.33 include a certification for the leave as described in section 268B.06, subdivision 3. Such
37.34 certification, if required by an employer, is timely when the employee delivers it as soon

38.1 as practicable given the circumstances requiring the need for leave, and the required contents
38.2 of the certification.

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

38.9 (e) If an employer has failed to provide notice to the employee as required under section
38.10 268B.26, paragraph (a), (b), or (c), the employee is not required to comply with the notice
38.11 requirements of this subdivision.

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

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

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

38.26 **Sec. 14. [268B.09] EMPLOYMENT PROTECTIONS.**

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

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

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

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

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

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

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

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

39.23 (c)(1) An employee is entitled to any unconditional pay increases which may have
39.24 occurred during the leave period, such as cost of living increases. Pay increases conditioned
39.25 upon seniority, length of service, or work performed must be granted in accordance with
39.26 the employer's policy or practice with respect to other employees on an equivalent leave
39.27 status for a reason that does not qualify for leave under this chapter. An employee is entitled
39.28 to be restored to a position with the same or equivalent pay premiums, such as a shift
39.29 differential. If an employee departed from a position averaging ten hours of overtime, and
39.30 corresponding overtime pay, each week an employee is ordinarily entitled to such a position
39.31 on return from leave under this chapter.

39.32 (2) Equivalent pay includes any bonus or payment, whether it is discretionary or
39.33 nondiscretionary, made to employees consistent with clause (1). If a bonus or other payment
39.34 is based on the achievement of a specified goal such as hours worked, products sold, or

40.1 perfect attendance, and the employee has not met the goal due to leave under this chapter,
40.2 the payment may be denied, unless otherwise paid to employees on an equivalent leave
40.3 status for a reason that does not qualify for leave under this chapter.

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

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

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

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

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

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

40.32 (1) The employee must be reinstated to the same or a geographically proximate worksite
40.33 from where the employee had previously been employed. If the employee's original worksite

41.1 has been closed, the employee is entitled to the same rights as if the employee had not been
41.2 on leave when the worksite closed.

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

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

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

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

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

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

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

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

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

42.7 (1) damages equal to the amount of:

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

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

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

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

42.18 (1) the employees; or

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

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

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

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

42.27 Subdivision 1. Application for substitution. Employers may apply to the commissioner
 42.28 for approval to meet their obligations under this chapter through the substitution of a private
 42.29 plan that provides paid family, paid medical, or paid family and medical benefits. In order
 42.30 to be approved as meeting an employer's obligations under this chapter, a private plan must
 42.31 confer all of the same rights, protections, and benefits provided to employees under this
 42.32 chapter, including but not limited to benefits under section 268B.04 and employment

43.1 protections under section 268B.09. An employee covered by a private plan under this section
43.2 retains all applicable rights and remedies under section 268B.09.

43.3 Subd. 2. **Private plan requirements; medical benefit program.** (a) The commissioner
43.4 must approve an application for private provision of the medical benefit program if the
43.5 commissioner determines:

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

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

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

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

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

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

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

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

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

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

43.30 (b) Notwithstanding paragraph (a), a private plan may provide shorter durations of leave
43.31 and benefit eligibility if the total dollar value of wage replacement benefits under the private

44.1 plan for an employee for any particular qualifying event meets or exceeds what the total
44.2 dollar value would be under the public family and medical benefit program.

44.3 Subd. 3. **Private plan requirements; family benefit program.** (a) The commissioner
44.4 must approve an application for private provision of the family benefit program if the
44.5 commissioner determines:

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

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

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

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

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

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

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

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

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

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

44.31 (b) Notwithstanding paragraph (a), a private plan may provide shorter durations of leave
44.32 and benefit eligibility if the total dollar value of wage replacement benefits under the private

45.1 plan for an employee for any particular qualifying event meets or exceeds what the total
45.2 dollar value would be under the public family and medical benefit program.

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

45.7 Subd. 5. **Private plan approval and oversight fee.** An employer with an approved
45.8 private plan is not required to pay premiums established under section 268B.14. An employer
45.9 with an approved private plan is responsible for a private plan approval and oversight fee
45.10 equal to \$250 for employers with fewer than 50 employees, \$500 for employers with 50 to
45.11 499 employees, and \$1,000 for employers with 500 or more employees. The employer must
45.12 pay this fee (1) upon initial application for private plan approval, and (2) any time the
45.13 employer applies to amend the private plan. The commissioner must review and report on
45.14 the adequacy of this fee to cover private plan administrative costs annually beginning October
45.15 1, 2023, as part of the annual report established in section 268B.21.

45.16 Subd. 6. **Plan duration.** A private plan under this section must be in effect for a period
45.17 of at least one year and, thereafter, continuously unless the commissioner finds that the
45.18 employer has given notice of withdrawal from the plan in a manner specified by the
45.19 commissioner in this section or rule. The plan may be withdrawn by the employer within
45.20 30 days of the effective date of any law increasing the benefit amounts or within 30 days
45.21 of the date of any change in the rate of premiums. If the plan is not withdrawn, it must be
45.22 amended to conform to provide the increased benefit amount or change in the rate of the
45.23 employee's premium on the date of the increase or change.

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

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

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

46.1 Subd. 9. Posting of notice regarding private plan. An employer with a private plan
46.2 must provide a notice prepared by or approved by the commissioner regarding the private
46.3 plan consistent with section 268B.26.

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

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

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

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

46.11 Subd. 11. Successor employer. A private plan in effect at the time a successor acquires
46.12 the employer organization, trade, or business, or substantially all the assets thereof, or a
46.13 distinct and severable portion of the organization, trade, or business, and continues its
46.14 operation without substantial reduction of personnel resulting from the acquisition, must
46.15 continue the approved private plan and must not withdraw the plan without a specific request
46.16 for withdrawal in a manner and at a time specified by the commissioner. A successor may
46.17 terminate a private plan with notice to the commissioner and within 90 days from the date
46.18 of the acquisition.

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

46.21 (1) failed to pay benefits;

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

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

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

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

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

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

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

47.6 Subd. 13. **Employer penalties.** (a) The commissioner may assess the following monetary
47.7 penalties against an employer with an approved private plan found to have violated this
47.8 chapter:

47.9 (1) \$1,000 for the first violation; and

47.10 (2) \$2,000 for the second, and each successive violation.

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

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

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

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

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

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

47.25 Sec. 16. **[268B.11] SELF-EMPLOYED AND INDEPENDENT CONTRACTOR**
47.26 **ELECTION OF COVERAGE.**

47.27 Subdivision 1. **Election of coverage.** (a) A self-employed individual or independent
47.28 contractor may file with the commissioner by electronic transmission in a format prescribed
47.29 by the commissioner an application to be entitled to benefits under this chapter for a period
47.30 not less than 104 consecutive calendar weeks. Upon the approval of the commissioner, sent
47.31 by United States mail or electronic transmission, the individual is entitled to benefits under
47.32 this chapter beginning the calendar quarter after the date of approval or beginning in a later

48.1 calendar quarter if requested by the self-employed individual or independent contractor.
48.2 The individual ceases to be entitled to benefits as of the first day of January of any calendar
48.3 year only if, at least 30 calendar days before the first day of January, the individual has filed
48.4 with the commissioner by electronic transmission in a format prescribed by the commissioner
48.5 a notice to that effect.

48.6 (b) The commissioner may terminate any application approved under this section with
48.7 30 calendar days' notice sent by United States mail or electronic transmission if the
48.8 self-employed individual is delinquent on any premiums due under this chapter. If an
48.9 approved application is terminated in this manner during the first 104 consecutive calendar
48.10 weeks of election, the self-employed individual remains obligated to pay the premium under
48.11 subdivision 3 for the remainder of that 104-week period.

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

48.19 Subd. 3. **Premium.** A self-employed individual who elects to receive coverage under
48.20 this chapter must annually pay a premium equal to one-half the percentage in section
48.21 268B.14, subdivision 5, clause (1), times the lesser of:

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

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

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

48.31 Sec. 17. **[268B.12] WAGE REPORTING.**

48.32 Subdivision 1. **Wage detail report.** (a) Each employer must submit, under the employer
48.33 premium account described in section 268B.13, a quarterly wage detail report by electronic

49.1 transmission, in a format prescribed by the commissioner. The report must include for each
49.2 employee in covered employment during the calendar quarter, the employee's name, Social
49.3 Security number, the total wages paid to the employee, and total number of paid hours
49.4 worked. For employees exempt from the definition of employee in section 177.23,
49.5 subdivision 7, clause (6), the employer must report 40 hours worked for each week any
49.6 duties were performed by a full-time employee and must report a reasonable estimate of
49.7 the hours worked for each week duties were performed by a part-time employee. In addition,
49.8 the wage detail report must include the number of employees employed during the payroll
49.9 period that includes the 12th day of each calendar month and, if required by the
49.10 commissioner, the report must be broken down by business location and separate business
49.11 unit. The report is due and must be received by the commissioner on or before the last day
49.12 of the month following the end of the calendar quarter. The commissioner may delay the
49.13 due date on a specific calendar quarter in the event the department is unable to accept wage
49.14 detail reports electronically.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50.23 Sec. 18. **[268B.13] EMPLOYER PREMIUM ACCOUNTS.**

50.24 The commissioner must maintain a premium account for each employer. The
50.25 commissioner must assess the premium account for all the premiums due under section
50.26 268B.14, and credit the family and medical benefit insurance account with all premiums
50.27 paid.

50.28 Sec. 19. **[268B.14] PREMIUMS.**

50.29 Subdivision 1. **Payments.** (a) Family and medical leave premiums accrue and become
50.30 payable by each employer for each calendar year on the taxable wages that the employer
50.31 paid to employees in covered employment.

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

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

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

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

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

51.16 Subd. 3. **Employee charge back.** Notwithstanding section 177.24, subdivision 4, or
51.17 181.06, subdivision 1, employers and covered business entities may deduct up to 50 percent
51.18 of annual premiums paid under this section from employee wages. Such deductions for any
51.19 given employee must be in equal proportion to the premiums paid based on the wages of
51.20 that employee, and all employees of an employer must be subject to the same percentage
51.21 deduction. Deductions under this section must not cause an employee's wage, after the
51.22 deduction, to fall below the rate required to be paid to the worker by law, including any
51.23 applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or
51.24 other legal authority, whichever rate of pay is greater.

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

51.28 Subd. 5. **Annual premium rates.** The employer premium rates for the calendar year
51.29 beginning January 1, 2023, shall be as follows:

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

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

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

52.3 Subd. 6. **Premium rate adjustments.** (a) Beginning January 1, 2026, and each calendar
52.4 year thereafter, the commissioner must adjust the annual premium rates using the formula
52.5 in paragraph (b).

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

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

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

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

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

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

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

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

52.26 Sec. 20. **[268B.145] INCOME TAX WITHHOLDING.**

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

53.1 **Sec. 21. [268B.15] COLLECTION OF PREMIUMS.**

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

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

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

53.10 (2) interest on past due premiums; then

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

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

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

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

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

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

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

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

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

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

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

54.6 Subd. 5. **Interest on amounts past due.** If any amounts due from an employer under
54.7 this chapter are not received on the date due, the commissioner must assess interest on any
54.8 amount that remains unpaid. Interest is assessed at the rate of one percent per month or any
54.9 part of a month. Interest is not assessed on unpaid interest. Interest collected under this
54.10 subdivision is credited to the enforcement account under section 268B.185, subdivision 3.

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

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

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

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

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

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

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

55.7 Sec. 22. **[268B.155] CHILD SUPPORT DEDUCTION FROM BENEFITS.**

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

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

55.11 (2) "child support obligations" means obligations that are being enforced by a child
 55.12 support agency in accordance with a plan described in United States Code, title 42, sections
 55.13 454 and 455 of the Social Security Act that has been approved by the secretary of health
 55.14 and human services under part D of title IV of the Social Security Act. This does not include
 55.15 any type of spousal maintenance or foster care payments.

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

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

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

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

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

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

56.1 Subd. 5. **Payment of costs.** The child support agency must pay the costs incurred by
 56.2 the commissioner in the implementation and administration of this section and sections
 56.3 518A.50 and 518A.53.

56.4 Sec. 23. **[268B.16] COMPROMISE.**

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

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

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

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

56.15 Sec. 24. **[268B.17] ADMINISTRATIVE COSTS.**

56.16 From July 1, 2023, through December 31, 2023, the commissioner may spend up to
 56.17 seven percent of premiums collected under section 268B.15 for administration of this chapter.
 56.18 Beginning January 1, 2024, and each calendar year thereafter, the commissioner may spend
 56.19 up to seven percent of projected benefit payments for that calendar year for the administration
 56.20 of this chapter. The department may enter into interagency agreements with the Department
 56.21 of Labor and Industry, including agreements to transfer funds, subject to the limit in this
 56.22 section, for the Department of Labor and Industry to fulfill its enforcement authority of this
 56.23 chapter.

56.24 Sec. 25. **[268B.18] PUBLIC OUTREACH.**

56.25 Beginning in fiscal year 2023, the commissioner must use at least 0.5 percent of revenue
 56.26 collected under this chapter for the purpose of outreach, education, and technical assistance
 56.27 for employees, employers, and self-employed individuals eligible to elect coverage under
 56.28 section 268B.11. The department may enter into interagency agreements with the Department
 56.29 of Labor and Industry, including agreements to transfer funds, subject to the limit in section
 56.30 268B.17, to accomplish the requirements of this section. At least one-half of the amount
 56.31 spent under this section must be used for grants to community-based groups.

57.1 Sec. 26. **[268B.185] BENEFIT OVERPAYMENTS.**

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

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

57.10 **Subd. 2. Overpayment because of misrepresentation.** (a) An applicant has committed
57.11 misrepresentation if the applicant is overpaid benefits by making a false statement or
57.12 representation without a good faith belief as to the correctness of the statement or
57.13 representation.

57.14 (b) After the discovery of facts indicating misrepresentation, the commissioner must
57.15 issue a determination of overpayment penalty assessing a penalty equal to 20 percent of the
57.16 amount overpaid. This penalty is in addition to penalties under section 268B.19.

57.17 (c) Unless the applicant files an appeal within 20 calendar days after the sending of a
57.18 determination of overpayment penalty to the applicant by mail or electronic transmission,
57.19 the determination is final. Proceedings on the appeal are conducted in accordance with
57.20 section 268B.08.

57.21 (d) A determination of overpayment penalty must state the methods of collection the
57.22 commissioner may use to recover the overpayment, penalty, and interest assessed. Money
57.23 received in repayment of overpaid benefits, penalties, and interest is first applied to the
57.24 benefits overpaid, second to the penalty amount due, and third to any interest due.

57.25 (e) The department is authorized to issue a determination of overpayment penalty under
57.26 this subdivision within 48 months of the establishment of the benefit account upon which
57.27 the benefits were obtained through misrepresentation.

57.28 **Subd. 3. Family and medical benefit insurance enforcement account created.** The
57.29 family and medical benefit insurance enforcement account is created in the state treasury.
57.30 Any penalties and interest collected under this section shall be deposited into the account
57.31 under this subdivision and shall be used only for the purposes of administering and enforcing
57.32 this chapter. Only the commissioner may authorize expenditures from the account under
57.33 this subdivision.

58.1 Subd. 4. **Interest.** For any family and medical leave benefits obtained by
58.2 misrepresentation, and any penalty amounts assessed under subdivision 2, the commissioner
58.3 must assess interest on any amount that remains unpaid beginning 30 calendar days after
58.4 the date of a determination of overpayment penalty. Interest is assessed at the rate of one
58.5 percent per month or any part of a month. A determination of overpayment penalty must
58.6 state that interest will be assessed. Interest is not assessed on unpaid interest. Interest collected
58.7 under this subdivision is credited to the family and medical benefit insurance enforcement
58.8 account.

58.9 Subd. 5. **Offset of benefits.** The commissioner may offset from any future family and
58.10 medical leave benefits otherwise payable the amount of a nonmisrepresentation overpayment.
58.11 Except when the nonmisrepresentation overpayment resulted because the applicant failed
58.12 to report deductible earnings or deductible or benefit delaying payments, no single offset
58.13 may exceed 50 percent of the amount of the payment from which the offset is made.

58.14 Subd. 6. **Cancellation of overpayments.** (a) If family and medical leave benefits overpaid
58.15 for reasons other than misrepresentation are not repaid or offset from subsequent benefits
58.16 within six years after the date of the determination or decision holding the applicant overpaid,
58.17 the commissioner must cancel the overpayment balance, and no administrative or legal
58.18 proceedings may be used to enforce collection of those amounts.

58.19 (b) If family and medical leave benefits overpaid because of misrepresentation including
58.20 penalties and interest are not repaid within ten years after the date of the determination of
58.21 overpayment penalty, the commissioner must cancel the overpayment balance and any
58.22 penalties and interest due, and no administrative or legal proceeding may be used to enforce
58.23 collection of those amounts.

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

58.26 Subd. 7. **Court fees; collection fees.** (a) If the department is required to pay any court
58.27 fees in an attempt to enforce collection of overpaid family and medical leave benefits,
58.28 penalties, or interest, the amount of the court fees may be added to the total amount due.

58.29 (b) If an applicant who has been overpaid family and medical leave benefits because of
58.30 misrepresentation seeks to have any portion of the debt discharged under the federal
58.31 bankruptcy code, and the department files an objection in bankruptcy court to the discharge,
58.32 the cost of any court fees may be added to the debt if the bankruptcy court does not discharge
58.33 the debt.

59.1 (c) If the Internal Revenue Service assesses the department a fee for offsetting from a
 59.2 federal tax refund the amount of any overpayment, including penalties and interest, the
 59.3 amount of the fee may be added to the total amount due. The offset amount must be put in
 59.4 the family and medical benefit insurance enforcement account and that amount credited to
 59.5 the total amount due from the applicant.

59.6 Subd. 8. **Collection of overpayments.** (a) The commissioner has discretion regarding
 59.7 the recovery of any overpayment for reasons other than misrepresentation. Regardless of
 59.8 any law to the contrary, the commissioner is not required to refer any overpayment for
 59.9 reasons other than misrepresentation to a public or private collection agency, including
 59.10 agencies of this state.

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

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

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

59.18 **Sec. 27. [268B.19] APPLICANT ADMINISTRATIVE PENALTIES.**

59.19 (a) Any applicant who makes a false statement or representation without a good faith
 59.20 belief as to the correctness of the statement or representation in order to obtain or in an
 59.21 attempt to obtain benefits may be assessed, in addition to any other penalties, an
 59.22 administrative penalty of being ineligible for benefits for 13 to 104 weeks.

59.23 (b) A determination of ineligibility setting out the weeks the applicant is ineligible must
 59.24 be sent to the applicant by mail or electronic transmission. The department is authorized to
 59.25 issue a determination of ineligibility under this subdivision within 48 months of the
 59.26 establishment of the benefit account upon which the benefits were obtained, or attempted
 59.27 to be obtained. Unless an appeal is filed within 20 calendar days of sending, the determination
 59.28 is final. Proceedings on the appeal are conducted in accordance with section 268B.08.

59.29 **Sec. 28. [268B.20] EMPLOYER MISCONDUCT; PENALTY.**

59.30 (a) The commissioner must penalize an employer if that employer or any employee,
 59.31 officer, or agent of that employer is in collusion with any applicant for the purpose of

60.1 assisting the applicant in receiving benefits fraudulently. The penalty is \$500 or the amount
 60.2 of benefits determined to be overpaid, whichever is greater.

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

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

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

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

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

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

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

60.13 or

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

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

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

60.21 **Sec. 29. [268B.21] RECORDS; AUDITS.**

60.22 Subdivision 1. **Employer records; audits.** (a) Each employer must keep true and accurate
 60.23 records on individuals performing services for the employer, containing the information
 60.24 the commissioner may require under this chapter. The records must be kept for a period of
 60.25 not less than four years in addition to the current calendar year.

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

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

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

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

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

61.18 Sec. 30. **[268B.22] SUBPOENAS; OATHS.**

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

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

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

61.27 Sec. 31. **[268B.23] LIEN; LEVY; SETOFF; AND CIVIL ACTION.**

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

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

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

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

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

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

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

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

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

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

63.3 (i) The lien may be imposed upon property defined as homestead property in chapter
63.4 510 but may be enforced only upon the sale, transfer, or conveyance of the homestead
63.5 property.

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

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

63.17 (b) In addition to a direct levy, the commissioner may issue a warrant to the sheriff of
63.18 any county who must proceed within 60 calendar days to levy upon the property or rights
63.19 to property of the delinquent person within the county, except property exempt under section
63.20 550.37. The sheriff must sell that property necessary to satisfy the total amount due, together
63.21 with the commissioner's and sheriff's costs. The sales are governed by the law applicable
63.22 to sales of like property on execution of a judgment.

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

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

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

64.1 (f) Where any assessment has been made by the commissioner, the property seized for
64.2 collection of the total amount due must not be sold until any determination of liability has
64.3 become final. No sale may be made unless a portion of the amount due remains unpaid for
64.4 a period of more than 30 calendar days after the determination of liability becomes final.

64.5 Seized property may be sold at any time if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65.18 Subd. 3. **Right of setoff.** (a) Upon certification by the commissioner to the commissioner
65.19 of management and budget, or to any state agency that disburses its own funds, that a person,
65.20 applicant, or employer has a liability under this chapter, and that the state has purchased
65.21 personal services, supplies, contract services, or property from that person, the commissioner
65.22 of management and budget or the state agency must set off and pay to the commissioner an
65.23 amount sufficient to satisfy the unpaid liability from funds appropriated for payment of the
65.24 obligation of the state otherwise due the person. No amount may be set off from any funds
65.25 exempt under section 550.37 or funds due an individual who receives assistance under
65.26 chapter 256.

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

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

65.30 Subd. 4. **Collection by civil action.** (a) Any amount due under this chapter, from an
65.31 applicant or employer, may be collected by civil action in the name of the state of Minnesota.
65.32 Civil actions brought under this subdivision must be heard as provided under section 16D.14.
65.33 In any action, judgment must be entered in default for the relief demanded in the complaint

66.1 without proof, together with costs and disbursements, upon the filing of an affidavit of
66.2 default.

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

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

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

66.16 Sec. 32. **[268B.24] CONCILIATION SERVICES.**

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

66.20 Sec. 33. **[268B.25] ANNUAL REPORTS.**

66.21 (a) Beginning on or before December 1, 2023, the commissioner must annually report
66.22 to the Department of Management and Budget and the house of representatives and senate
66.23 committee chairs with jurisdiction over this chapter on program administrative expenditures
66.24 and revenue collection for the prior fiscal year, including but not limited to:

66.25 (1) total revenue raised through premium collection;

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

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

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

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

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

67.3 (7) an accounting of required outreach expenditures;

67.4 (8) summary of private plan approvals including the number of employers and employees

67.5 covered under private plans; and

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

67.7 (b) Beginning on or before December 1, 2023, the commissioner must annually publish

67.8 a publicly available report providing the following information for the previous fiscal year:

67.9 (1) total eligible claims;

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

67.11 (3) claimant demographics by age, gender, average weekly wage, occupation, and the

67.12 type of leave taken;

67.13 (4) the percentage of claims denied and the reasons therefor, including but not limited

67.14 to insufficient information and ineligibility and the reason therefor;

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

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

67.17 (7) processing times for initial claims processing, initial determinations, and final

67.18 decisions;

67.19 (8) average duration for cases completed; and

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

67.21 **Sec. 34. [268B.26] NOTICE REQUIREMENTS.**

67.22 (a) Each employer must post in a conspicuous place on each of its premises a workplace

67.23 notice prepared or approved by the commissioner providing notice of benefits available

67.24 under this chapter. The required workplace notice must be in English and each language

67.25 other than English which is the primary language of five or more employees or independent

67.26 contractors of that workplace, if such notice is available from the department.

67.27 (b) Each employer must issue to each employee not more than 30 days from the beginning

67.28 date of the employee's employment, or 30 days before premium collection begins, whichever

67.29 is later, the following written information provided or approved by the department in the

67.30 primary language of the employee:

- 68.1 (1) an explanation of the availability of family and medical leave benefits provided under
68.2 this chapter, including rights to reinstatement and continuation of health insurance;
- 68.3 (2) the amount of premium deductions made by the employer under this chapter;
- 68.4 (3) the employer's premium amount and obligations under this chapter;
- 68.5 (4) the name and mailing address of the employer;
- 68.6 (5) the identification number assigned to the employer by the department;
- 68.7 (6) instructions on how to file a claim for family and medical leave benefits;
- 68.8 (7) the mailing address, e-mail address, and telephone number of the department; and
- 68.9 (8) any other information required by the department.

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

68.13 (c) Each employer shall provide to each independent contractor with whom it contracts,
68.14 at the time such contract is made or, for existing contracts, within 30 days of the effective
68.15 date of this section, the following written information provided or approved by the department
68.16 in the self-employed individual's primary language:

- 68.17 (1) the address and telephone number of the department; and
- 68.18 (2) any other information required by the department.

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

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

68.28 **Sec. 35. [268B.27] RELATIONSHIP TO OTHER LEAVE; CONSTRUCTION.**

68.29 Subdivision 1. **Concurrent leave.** An employer may require leave taken under this
68.30 chapter to run concurrently with leave taken for the same purpose under section 181.941

69.1 or the Family and Medical Leave Act, United States Code, title 29, sections 2601 to 2654,
69.2 as amended.

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

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

69.6 (2) except as provided under section 268B.01, subdivision 37, prohibit an employer
69.7 from providing additional benefits, including but not limited to covering the portion of
69.8 earnings not provided under this chapter during periods of leave covered under this chapter;
69.9 or

69.10 (3) limit the parties to a collective bargaining agreement from bargaining and agreeing
69.11 with respect to leave benefits and related procedures and employee protections that meet
69.12 or exceed, and do not otherwise conflict with, the minimum standards and requirements in
69.13 this chapter.

69.14 **Sec. 36. [268B.28] SEVERABLE.**

69.15 If the United States Department of Labor or a court of competent jurisdiction determines
69.16 that any provision of the family and medical benefit insurance program under this chapter
69.17 is not in conformity with, or is inconsistent with, the requirements of federal law, the
69.18 provision has no force or effect. If only a portion of the provision, or the application to any
69.19 person or circumstances, is determined not in conformity, or determined inconsistent, the
69.20 remainder of the provision and the application of the provision to other persons or
69.21 circumstances are not affected.

69.22 **Sec. 37. [268B.29] SMALL BUSINESS ASSISTANCE GRANTS.**

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

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

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

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

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

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

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

70.12 (h) The commissioner may award grants under this section only up to a maximum of
70.13 \$5,000,000 per calendar year.

70.14 **Sec. 38. ADMINISTRATION IN CALENDAR YEARS 2023 AND 2024;**
70.15 **APPROPRIATION.**

70.16 Subdivision 1. **2023 and 2024.** Notwithstanding Minnesota Statutes, section 268B.03,
70.17 or any other law to the contrary, for calendar years 2023 and 2024, the commissioner must
70.18 pay family and medical benefits from the money appropriated in this section.

70.19 Subd. 2. **Appropriation.** \$11,153,000 in fiscal year 2023 is appropriated from the general
70.20 fund to the commissioner of employment and economic development for transfer to the
70.21 family and medical insurance benefit account for purposes of benefits implementation and
70.22 administration of Minnesota Statutes, chapter 268B. The base amount for this purpose is
70.23 \$77,817,000 for fiscal years 2024 to 2025.

70.24 **Sec. 39. EFFECTIVE DATES.**

70.25 (a) Sections 1, 2, 4 to 6, 36, and 38 are effective July 1, 2022.

70.26 (b) Section 15 is effective July 1, 2023.

70.27 (c) Sections 3, 17 to 19, 21, 23 to 25, 29 to 31, and 33 are effective January 1, 2023.

70.28 (d) Except as provided in section 38, sections 7 to 14, 16, 20, 22, 26 to 28, 32, 34, 35,
70.29 and 37 are effective January 1, 2023.

71.1

ARTICLE 4

71.2

FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS

71.3 Section 1. Minnesota Statutes 2020, section 256J.561, is amended by adding a subdivision
71.4 to read:

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

71.8 Sec. 2. Minnesota Statutes 2020, section 256J.95, subdivision 3, is amended to read:

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

71.14 (1) child only cases;

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

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

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

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

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

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

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

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

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

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

72.7 Sec. 3. Minnesota Statutes 2020, section 256J.95, subdivision 11, is amended to read:

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

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

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

72.20 (d) One parent in a two-parent family unit ~~that has a natural born child under 12 months~~
 72.21 ~~of age is not required to have an employment plan until the child reaches 12 months of age~~
 72.22 ~~unless the family unit has already used the exclusion under section 256J.561, subdivision~~
 72.23 ~~3, or the previously allowed child under age one exemption under section 256J.56, paragraph~~
 72.24 ~~(a), clause (5).~~ if that parent:

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

72.26 (2) has a natural born child under 12 months of age until the child reaches 12 months
 72.27 of age unless the family unit has already used the exclusion under section 256J.561,
 72.28 subdivision 3, or the previously allowed child under age one exemption under Minnesota
 72.29 Statutes 2003, section 256J.56, paragraph (a), clause (5).

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

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

73.5 Sec. 4. Minnesota Statutes 2021 Supplement, section 256P.01, subdivision 3, is amended
 73.6 to read:

73.7 Subd. 3. **Earned income.** "Earned income" means income earned through the receipt
 73.8 of wages, salary, commissions, bonuses, tips, gratuities, profit from employment activities,
 73.9 net profit from self-employment activities, payments made by an employer for regularly
 73.10 accrued vacation or sick leave, severance pay based on accrued leave time, benefits paid
 73.11 under chapter 268B, royalties, honoraria, or other profit from activity that results from the
 73.12 client's work, effort, or labor for purposes other than student financial assistance,
 73.13 rehabilitation programs, student training programs, or service programs such as AmeriCorps.
 73.14 The income must be in return for, or as a result of, legal activity.

73.15 Sec. 5. **EFFECTIVE DATE.**

73.16 Sections 1 to 4 are effective January 1, 2024.

73.17 ARTICLE 5

73.18 EARNED SICK AND SAFE TIME

73.19 Section 1. Minnesota Statutes 2020, section 181.942, subdivision 1, is amended to read:

73.20 Subdivision 1. **Comparable position.** (a) An employee returning from a leave of absence
 73.21 under section 181.941 is entitled to return to employment in the employee's former position
 73.22 or in a position of comparable duties, number of hours, and pay. An employee returning
 73.23 from a leave of absence longer than one month must notify a supervisor at least two weeks
 73.24 prior to return from leave. An employee returning from a leave under section 181.9412 or
 73.25 ~~181.9413~~ sections 181.9445 to 181.9448 is entitled to return to employment in the employee's
 73.26 former position.

73.27 (b) If, during a leave under sections 181.940 to 181.944, the employer experiences a
 73.28 layoff and the employee would have lost a position had the employee not been on leave,
 73.29 pursuant to the good faith operation of a bona fide layoff and recall system, including a
 73.30 system under a collective bargaining agreement, the employee is not entitled to reinstatement
 73.31 in the former or comparable position. In such circumstances, the employee retains all rights

74.1 under the layoff and recall system, including a system under a collective bargaining
74.2 agreement, as if the employee had not taken the leave.

74.3 **Sec. 2. [181.9445] DEFINITIONS.**

74.4 **Subdivision 1. Definitions.** For the purposes of section 177.50 and sections 181.9445
74.5 to 181.9447, the terms defined in this section have the meanings given them.

74.6 **Subd. 2. Commissioner.** "Commissioner" means the commissioner of labor and industry
74.7 or authorized designee or representative.

74.8 **Subd. 3. Domestic abuse.** "Domestic abuse" has the meaning given in section 518B.01.

74.9 **Subd. 4. Earned sick and safe time.** "Earned sick and safe time" means leave, including
74.10 paid time off and other paid leave systems, that is paid at the same hourly rate as an employee
74.11 earns from employment that may be used for the same purposes and under the same
74.12 conditions as provided under section 181.9447.

74.13 **Subd. 5. Employee.** "Employee" means any person who is employed by an employer,
74.14 including temporary and part-time employees, who performs work for at least 80 hours in
74.15 a year for that employer in Minnesota. Employee does not include:

74.16 (1) an independent contractor; or

74.17 (2) an individual employed by an air carrier as a flight deck or cabin crew member who
74.18 is subject to United States Code, title 45, sections 181 to 188, and who is provided with
74.19 paid leave equal to or exceeding the amounts in section 181.9446.

74.20 **Subd. 6. Employer.** "Employer" means a person who has one or more employees.
74.21 Employer includes an individual, a corporation, a partnership, an association, a business
74.22 trust, a nonprofit organization, a group of persons, a state, county, town, city, school district,
74.23 or other governmental subdivision. In the event that a temporary employee is supplied by
74.24 a staffing agency, absent a contractual agreement stating otherwise, that individual shall be
74.25 an employee of the staffing agency for all purposes of section 177.50 and sections 181.9445
74.26 to 181.9448.

74.27 **Subd. 7. Family member.** "Family member" means:

74.28 (1) an employee's:

74.29 (i) child, foster child, adult child, legal ward, or child for whom the employee is legal
74.30 guardian;

74.31 (ii) spouse or registered domestic partner;

- 75.1 (iii) sibling, stepsibling, or foster sibling;
- 75.2 (iv) parent or stepparent;
- 75.3 (v) grandchild, foster grandchild, or stepgrandchild; or
- 75.4 (vi) grandparent or stepgrandparent;
- 75.5 (2) any of the family members listed in clause (1) of a spouse or registered domestic
- 75.6 partner;
- 75.7 (3) any individual related by blood or affinity whose close association with the employee
- 75.8 is the equivalent of a family relationship; and
- 75.9 (4) up to one individual annually designated by the employee.
- 75.10 Subd. 8. **Health care professional.** "Health care professional" means any person licensed
- 75.11 under federal or state law to provide medical or emergency services, including doctors,
- 75.12 physician assistants, nurses, and emergency room personnel.
- 75.13 Subd. 9. **Prevailing wage rate.** "Prevailing wage rate" has the meaning given in section
- 75.14 177.42 and as calculated by the Department of Labor and Industry.
- 75.15 Subd. 10. **Retaliatory personnel action.** "Retaliatory personnel action" means:
- 75.16 (1) any form of intimidation, threat, reprisal, harassment, discrimination, or adverse
- 75.17 employment action, including discipline, discharge, suspension, transfer, or reassignment
- 75.18 to a lesser position in terms of job classification, job security, or other condition of
- 75.19 employment; reduction in pay or hours or denial of additional hours; the accumulation of
- 75.20 points under an attendance point system; informing another employer that the person has
- 75.21 engaged in activities protected by this chapter; or reporting or threatening to report the actual
- 75.22 or suspected citizenship or immigration status of an employee, former employee, or family
- 75.23 member of an employee to a federal, state, or local agency; and
- 75.24 (2) interference with or punishment for participating in any manner in an investigation,
- 75.25 proceeding, or hearing under this chapter.
- 75.26 Subd. 11. **Sexual assault.** "Sexual assault" means an act that constitutes a violation
- 75.27 under sections 609.342 to 609.3453 or 609.352.
- 75.28 Subd. 12. **Stalking.** "Stalking" has the meaning given in section 609.749.
- 75.29 Subd. 13. **Year.** "Year" means a regular and consecutive 12-month period, as determined
- 75.30 by an employer and clearly communicated to each employee of that employer.

76.1 **Sec. 3. [181.9446] ACCRUAL OF EARNED SICK AND SAFE TIME.**

76.2 (a) An employee accrues a minimum of one hour of earned sick and safe time for every
76.3 30 hours worked up to a maximum of 48 hours of earned sick and safe time in a year.
76.4 Employees may not accrue more than 48 hours of earned sick and safe time in a year unless
76.5 the employer agrees to a higher amount.

76.6 (b) Employers must permit an employee to carry over accrued but unused sick and safe
76.7 time into the following year. The total amount of accrued but unused earned sick and safe
76.8 time for an employee must not exceed 80 hours at any time, unless an employer agrees to
76.9 a higher amount.

76.10 (c) Employees who are exempt from overtime requirements under United States Code,
76.11 title 29, section 213(a)(1), as amended through the effective date of this section, are deemed
76.12 to work 40 hours in each workweek for purposes of accruing earned sick and safe time,
76.13 except that an employee whose normal workweek is less than 40 hours will accrue earned
76.14 sick and safe time based on the normal workweek.

76.15 (d) Earned sick and safe time under this section begins to accrue at the commencement
76.16 of employment of the employee.

76.17 (e) Employees may use accrued earned sick and safe time beginning 90 calendar days
76.18 after the day their employment commenced. After 90 days from the day employment
76.19 commenced, employees may use earned sick and safe time as it is accrued. The
76.20 90-calendar-day period under this paragraph includes both days worked and days not worked.

76.21 **Sec. 4. [181.9447] USE OF EARNED SICK AND SAFE TIME.**

76.22 Subdivision 1. **Eligible use.** An employee may use accrued earned sick and safe time
76.23 for:

76.24 (1) an employee's:

76.25 (i) mental or physical illness, injury, or other health condition;

76.26 (ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury,
76.27 or health condition; or

76.28 (iii) need for preventive medical or health care;

76.29 (2) care of a family member:

76.30 (i) with a mental or physical illness, injury, or other health condition;

77.1 (ii) who needs medical diagnosis, care, or treatment of a mental or physical illness,
 77.2 injury, or other health condition; or

77.3 (iii) who needs preventive medical or health care;

77.4 (3) absence due to domestic abuse, sexual assault, or stalking of the employee or
 77.5 employee's family member, provided the absence is to:

77.6 (i) seek medical attention related to physical or psychological injury or disability caused
 77.7 by domestic abuse, sexual assault, or stalking;

77.8 (ii) obtain services from a victim services organization;

77.9 (iii) obtain psychological or other counseling;

77.10 (iv) seek relocation due to domestic abuse, sexual assault, or stalking; or

77.11 (v) seek legal advice or take legal action, including preparing for or participating in any
 77.12 civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault,
 77.13 or stalking;

77.14 (4) closure of the employee's place of business due to weather or other public emergency
 77.15 or an employee's need to care for a family member whose school or place of care has been
 77.16 closed due to weather or other public emergency; and

77.17 (5) when it has been determined by the health authorities having jurisdiction or by a
 77.18 health care professional that the presence of the employee or family member of the employee
 77.19 in the community would jeopardize the health of others because of the exposure of the
 77.20 employee or family member of the employee to a communicable disease, whether or not
 77.21 the employee or family member has actually contracted the communicable disease.

77.22 Subd. 2. **Notice.** An employer may require notice of the need for use of earned sick and
 77.23 safe time as provided in this paragraph. If the need for use is foreseeable, an employer may
 77.24 require advance notice of the intention to use earned sick and safe time but must not require
 77.25 more than seven days' advance notice. If the need is unforeseeable, an employer may require
 77.26 an employee to give notice of the need for earned sick and safe time as soon as practicable.

77.27 Subd. 3. **Documentation.** When an employee uses earned sick and safe time for more
 77.28 than three consecutive days, an employer may require reasonable documentation that the
 77.29 earned sick and safe time is covered by subdivision 1. For earned sick and safe time under
 77.30 subdivision 1, clauses (1) and (2), reasonable documentation may include a signed statement
 77.31 by a health care professional indicating the need for use of earned sick and safe time. For
 77.32 earned sick and safe time under subdivision 1, clause (3), an employer must accept a court

78.1 record or documentation signed by a volunteer or employee of a victims services organization,
78.2 an attorney, a police officer, or an antiviolenace counselor as reasonable documentation. An
78.3 employer must not require disclosure of details relating to domestic abuse, sexual assault,
78.4 or stalking or the details of an employee's or an employee's family member's medical
78.5 condition as related to an employee's request to use earned sick and safe time under this
78.6 section.

78.7 Subd. 4. **Replacement worker.** An employer may not require, as a condition of an
78.8 employee using earned sick and safe time, that the employee seek or find a replacement
78.9 worker to cover the hours the employee uses as earned sick and safe time.

78.10 Subd. 5. **Increment of time used.** Earned sick and safe time may be used in the smallest
78.11 increment of time tracked by the employer's payroll system, provided such increment is not
78.12 more than four hours.

78.13 Subd. 6. **Retaliation prohibited.** An employer shall not take retaliatory personnel action
78.14 against an employee because the employee has requested earned sick and safe time, used
78.15 earned sick and safe time, requested a statement of accrued sick and safe time, or made a
78.16 complaint or filed an action to enforce a right to earned sick and safe time under this section.

78.17 Subd. 7. **Reinstatement to comparable position after leave.** An employee returning
78.18 from a leave under this section is entitled to return to employment in a comparable position.
78.19 If, during a leave under this section, the employer experiences a layoff and the employee
78.20 would have lost a position had the employee not been on leave, pursuant to the good faith
78.21 operation of a bona fide layoff and recall system, including a system under a collective
78.22 bargaining agreement, the employee is not entitled to reinstatement in the former or
78.23 comparable position. In such circumstances, the employee retains all rights under the layoff
78.24 and recall system, including a system under a collective bargaining agreement, as if the
78.25 employee had not taken the leave.

78.26 Subd. 8. **Pay and benefits after leave.** An employee returning from a leave under this
78.27 section is entitled to return to employment at the same rate of pay the employee had been
78.28 receiving when the leave commenced, plus any automatic adjustments in the employee's
78.29 pay scale that occurred during leave period. The employee returning from a leave is entitled
78.30 to retain all accrued preleave benefits of employment and seniority as if there had been no
78.31 interruption in service, provided that nothing under this section prevents the accrual of
78.32 benefits or seniority during the leave pursuant to a collective bargaining or other agreement
78.33 between the employer and employees.

79.1 Subd. 9. **Part-time return from leave.** An employee, by agreement with the employer,
79.2 may return to work part time during the leave period without forfeiting the right to return
79.3 to employment at the end of the leave, as provided under this section.

79.4 Subd. 10. **Notice and posting by employer.** (a) Employers must give notice to all
79.5 employees that they are entitled to earned sick and safe time, including the amount of earned
79.6 sick and safe time, the accrual year for the employee, and the terms of its use under this
79.7 section; that retaliation against employees who request or use earned sick and safe time is
79.8 prohibited; and that each employee has the right to file a complaint or bring a civil action
79.9 if earned sick and safe time is denied by the employer or the employee is retaliated against
79.10 for requesting or using earned sick and safe time.

79.11 (b) Employers must supply employees with a notice in English and other appropriate
79.12 languages that contains the information required in paragraph (a) at commencement of
79.13 employment or the effective date of this section, whichever is later.

79.14 (c) The means used by the employer must be at least as effective as the following options
79.15 for providing notice:

79.16 (1) posting a copy of the notice at each location where employees perform work and
79.17 where the notice must be readily observed and easily reviewed by all employees performing
79.18 work; or

79.19 (2) providing a paper or electronic copy of the notice to employees.

79.20 The notice must contain all information required under paragraph (a). The commissioner
79.21 shall create and make available to employers a poster and a model notice that contains the
79.22 information required under paragraph (a) for their use in complying with this section.

79.23 (d) An employer that provides an employee handbook to its employees must include in
79.24 the handbook notice of employee rights and remedies under this section.

79.25 Subd. 11. **Required statement to employee.** (a) Upon request of the employee, the
79.26 employer must provide, in writing or electronically, current information stating the
79.27 employee's amount of:

79.28 (1) earned sick and safe time available to the employee; and

79.29 (2) used earned sick and safe time.

79.30 (b) Employers may choose a reasonable system for providing the information in paragraph
79.31 (a), including but not limited to listing information on each pay stub or developing an online
79.32 system where employees can access their own information.

80.1 Subd. 12. **Employer records.** (a) Employers shall retain accurate records documenting
 80.2 hours worked by employees and earned sick and safe time taken and comply with all
 80.3 requirements under section 177.30.

80.4 (b) An employer must allow an employee to inspect records required by this section and
 80.5 relating to that employee at a reasonable time and place.

80.6 Subd. 13. **Confidentiality and nondisclosure.** (a) If, in conjunction with this section,
 80.7 an employer possesses:

80.8 (1) health or medical information regarding an employee or an employee's family
 80.9 member;

80.10 (2) information pertaining to domestic abuse, sexual assault, or stalking;

80.11 (3) information that the employee has requested or obtained leave under this section; or

80.12 (4) any written or oral statement, documentation, record, or corroborating evidence
 80.13 provided by the employee or an employee's family member, the employer must treat such
 80.14 information as confidential.

80.15 Information given by an employee may only be disclosed by an employer if the disclosure
 80.16 is requested or consented to by the employee, when ordered by a court or administrative
 80.17 agency, or when otherwise required by federal or state law.

80.18 (b) Records and documents relating to medical certifications, recertifications, or medical
 80.19 histories of employees or family members of employees created for purposes of section
 80.20 177.50 or sections 181.9445 to 181.9448 must be maintained as confidential medical records
 80.21 separate from the usual personnel files. At the request of the employee, the employer must
 80.22 destroy or return the records required by sections 181.9445 to 181.9448 that are older than
 80.23 three years prior to the current calendar year.

80.24 (c) Employers may not discriminate against any employee based on records created for
 80.25 the purposes of section 177.50 or sections 181.9445 to 181.9448.

80.26 Sec. 5. **[181.9448] EFFECT ON OTHER LAW OR POLICY.**

80.27 Subdivision 1. **No effect on more generous sick and safe time policies.** (a) Nothing
 80.28 in sections 181.9445 to 181.9448 shall be construed to discourage employers from adopting
 80.29 or retaining earned sick and safe time policies that meet or exceed, and do not otherwise
 80.30 conflict with, the minimum standards and requirements provided in sections 181.9445 to
 80.31 181.9447.

81.1 (b) Nothing in sections 181.9445 to 181.9447 shall be construed to limit the right of
81.2 parties to a collective bargaining agreement to bargain and agree with respect to earned sick
81.3 and safe time policies or to diminish the obligation of an employer to comply with any
81.4 contract, collective bargaining agreement, or any employment benefit program or plan that
81.5 meets or exceeds, and does not otherwise conflict with, the minimum standards and
81.6 requirements provided in this section.

81.7 (c) Employers who provide earned sick and safe time to their employees under a paid
81.8 time off policy or other paid leave policy that meets or exceeds, and does not otherwise
81.9 conflict with, the minimum standards and requirements provided in sections 181.9445 to
81.10 181.9448 are not required to provide additional earned sick and safe time.

81.11 (d) An employer may opt to satisfy the requirements of sections 181.9445 to 181.9448
81.12 for construction industry employees by:

81.13 (1) paying at least the prevailing wage rate as defined by section 177.42 and as calculated
81.14 by the Department of Labor and Industry; or

81.15 (2) paying at least the required rate established in a registered apprenticeship agreement
81.16 for apprentices registered with the Department of Labor and Industry.

81.17 An employer electing this option is deemed to be in compliance with sections 181.9445 to
81.18 181.9448 for construction industry employees who receive either at least the prevailing
81.19 wage rate or the rate required in the applicable apprenticeship agreement regardless of
81.20 whether the employees are working on private or public projects.

81.21 (e) Sections 181.9445 to 181.9448 do not prohibit an employer from establishing a policy
81.22 whereby employees may donate unused accrued sick and safe time to another employee.

81.23 (f) Sections 181.9445 to 181.9448 do not prohibit an employer from advancing sick and
81.24 safe time to an employee before accrual by the employee.

81.25 Subd. 2. **Termination; separation; transfer.** Sections 181.9445 to 181.9448 do not
81.26 require financial or other reimbursement to an employee from an employer upon the
81.27 employee's termination, resignation, retirement, or other separation from employment for
81.28 accrued earned sick and safe time that has not been used. If an employee is transferred to
81.29 a separate division, entity, or location, but remains employed by the same employer, the
81.30 employee is entitled to all earned sick and safe time accrued at the prior division, entity, or
81.31 location and is entitled to use all earned sick and safe time as provided in sections 181.9445
81.32 to 181.9448. When there is a separation from employment and the employee is rehired
81.33 within 180 days of separation by the same employer, previously accrued earned sick and

82.1 safe time that had not been used must be reinstated. An employee is entitled to use accrued
 82.2 earned sick and safe time and accrue additional earned sick and safe time at the
 82.3 commencement of reemployment.

82.4 Subd. 3. **Employer succession.** (a) When a different employer succeeds or takes the
 82.5 place of an existing employer, all employees of the original employer who remain employed
 82.6 by the successor employer are entitled to all earned sick and safe time accrued but not used
 82.7 when employed by the original employer, and are entitled to use all earned sick and safe
 82.8 time previously accrued but not used.

82.9 (b) If, at the time of transfer of the business, employees are terminated by the original
 82.10 employer and hired within 30 days by the successor employer following the transfer, those
 82.11 employees are entitled to all earned sick and safe time accrued but not used when employed
 82.12 by the original employer, and are entitled to use all earned sick and safe time previously
 82.13 accrued but not used.

82.14 Sec. 6. **REPEALER.**

82.15 Minnesota Statutes 2020, section 181.9413, is repealed.

82.16 Sec. 7. **EFFECTIVE DATE.**

82.17 This article is effective 180 days following final enactment.

82.18 **ARTICLE 6**

82.19 **EARNED SICK AND SAFE TIME ENFORCEMENT**

82.20 Section 1. Minnesota Statutes 2020, section 177.27, subdivision 2, is amended to read:

82.21 Subd. 2. **Submission of records; penalty.** The commissioner may require the employer
 82.22 of employees working in the state to submit to the commissioner photocopies, certified
 82.23 copies, or, if necessary, the originals of employment records which the commissioner deems
 82.24 necessary or appropriate. The records which may be required include full and correct
 82.25 statements in writing, including sworn statements by the employer, containing information
 82.26 relating to wages, hours, names, addresses, and any other information pertaining to the
 82.27 employer's employees and the conditions of their employment as the commissioner deems
 82.28 necessary or appropriate.

82.29 The commissioner may require the records to be submitted by certified mail delivery
 82.30 or, if necessary, by personal delivery by the employer or a representative of the employer,
 82.31 as authorized by the employer in writing.

83.1 The commissioner may fine the employer up to ~~\$1,000~~ \$10,000 for each failure to submit
83.2 or deliver records as required by this section, ~~and up to \$5,000 for each repeated failure.~~
83.3 This penalty is in addition to any penalties provided under section 177.32, subdivision 1.
83.4 In determining the amount of a civil penalty under this subdivision, the appropriateness of
83.5 such penalty to the size of the employer's business and the gravity of the violation shall be
83.6 considered.

83.7 Sec. 2. Minnesota Statutes 2020, section 177.27, subdivision 4, is amended to read:

83.8 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
83.9 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
83.10 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
83.11 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, and 181.9445 to 181.9448, or
83.12 with any rule promulgated under section 177.28. The commissioner shall issue an order
83.13 requiring an employer to comply with sections 177.41 to 177.435 if the violation is repeated.
83.14 For purposes of this subdivision only, a violation is repeated if at any time during the two
83.15 years that preceded the date of violation, the commissioner issued an order to the employer
83.16 for violation of sections 177.41 to 177.435 and the order is final or the commissioner and
83.17 the employer have entered into a settlement agreement that required the employer to pay
83.18 back wages that were required by sections 177.41 to 177.435. The department shall serve
83.19 the order upon the employer or the employer's authorized representative in person or by
83.20 certified mail at the employer's place of business. An employer who wishes to contest the
83.21 order must file written notice of objection to the order with the commissioner within 15
83.22 calendar days after being served with the order. A contested case proceeding must then be
83.23 held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being
83.24 served with the order, the employer fails to file a written notice of objection with the
83.25 commissioner, the order becomes a final order of the commissioner.

83.26 Sec. 3. Minnesota Statutes 2020, section 177.27, subdivision 7, is amended to read:

83.27 Subd. 7. **Employer liability.** If an employer is found by the commissioner to have
83.28 violated a section identified in subdivision 4, or any rule adopted under section 177.28, and
83.29 the commissioner issues an order to comply, the commissioner shall order the employer to
83.30 cease and desist from engaging in the violative practice and to take such affirmative steps
83.31 that in the judgment of the commissioner will effectuate the purposes of the section or rule
83.32 violated. The commissioner shall order the employer to pay to the aggrieved parties back
83.33 pay, gratuities, and compensatory damages, less any amount actually paid to the employee
83.34 by the employer, and for an additional equal amount as liquidated damages. Any employer

84.1 who is found by the commissioner to have repeatedly or willfully violated a section or
84.2 sections identified in subdivision 4 shall be subject to a civil penalty of up to ~~\$1,000~~ \$10,000
84.3 for each violation for each employee. In determining the amount of a civil penalty under
84.4 this subdivision, the appropriateness of such penalty to the size of the employer's business
84.5 and the gravity of the violation shall be considered. In addition, the commissioner may order
84.6 the employer to reimburse the department and the attorney general for all appropriate
84.7 litigation and hearing costs expended in preparation for and in conducting the contested
84.8 case proceeding, unless payment of costs would impose extreme financial hardship on the
84.9 employer. If the employer is able to establish extreme financial hardship, then the
84.10 commissioner may order the employer to pay a percentage of the total costs that will not
84.11 cause extreme financial hardship. Costs include but are not limited to the costs of services
84.12 rendered by the attorney general, private attorneys if engaged by the department,
84.13 administrative law judges, court reporters, and expert witnesses as well as the cost of
84.14 transcripts. Interest shall accrue on, and be added to, the unpaid balance of a commissioner's
84.15 order from the date the order is signed by the commissioner until it is paid, at an annual rate
84.16 provided in section 549.09, subdivision 1, paragraph (c). The commissioner may establish
84.17 escrow accounts for purposes of distributing damages.

84.18 Sec. 4. **[177.50] EARNED SICK AND SAFE TIME ENFORCEMENT.**

84.19 Subdivision 1. **Definitions.** The definitions in section 181.9445 apply to this section.

84.20 Subd. 2. **Rulemaking authority.** The commissioner may adopt rules to carry out the
84.21 purposes of this section and sections 181.9445 to 181.9448.

84.22 Subd. 3. **Individual remedies.** In addition to any other remedies provided by law, a
84.23 person injured by a violation of sections 181.9445 to 181.9448 may bring a civil action to
84.24 recover general and special damages, along with costs, fees, and reasonable attorney fees,
84.25 and may receive injunctive and other equitable relief as determined by a court. An action
84.26 to recover damages under this subdivision must be commenced within three years of the
84.27 violation of sections 181.9445 to 181.9448 that caused the injury to the employee.

84.28 Subd. 4. **Grants to community organizations.** The commissioner may make grants to
84.29 community organizations for the purpose of outreach to and education for employees
84.30 regarding their rights under sections 181.9445 to 181.9448. The community-based
84.31 organizations must be selected based on their experience, capacity, and relationships in
84.32 high-violation industries. The work under such a grant may include the creation and
84.33 administration of a statewide worker hotline.

85.1 Subd. 5. Report to legislature. (a) The commissioner must submit an annual report to
 85.2 the legislature, including to the chairs and ranking minority members of any relevant
 85.3 legislative committee. The report must include, but is not limited to:

85.4 (1) a list of all violations of sections 181.9445 to 181.9448, including the employer
 85.5 involved, and the nature of any violations; and

85.6 (2) an analysis of noncompliance with sections 181.9445 to 181.9448, including any
 85.7 patterns by employer, industry, or county.

85.8 (b) A report under this section must not include an employee's name or other identifying
 85.9 information, any health or medical information regarding an employee or an employee's
 85.10 family member, or any information pertaining to domestic abuse, sexual assault, or stalking
 85.11 of an employee or an employee's family member.

85.12 Subd. 6. Contract for labor or services. It is the responsibility of all employers to not
 85.13 enter into any contract or agreement for labor or services where the employer has any actual
 85.14 knowledge or knowledge arising from familiarity with the normal facts and circumstances
 85.15 of the business activity engaged in, or has any additional facts or information that, taken
 85.16 together, would make a reasonably prudent person undertake to inquire whether, taken
 85.17 together, the contractor is not complying or has failed to comply with this section. For
 85.18 purposes of this subdivision, "actual knowledge" means information obtained by the employer
 85.19 that the contractor has violated this section within the past two years and has failed to present
 85.20 the employer with credible evidence that such noncompliance has been cured going forward.

85.21 **EFFECTIVE DATE.** This section is effective 180 days after final enactment.

85.22 **ARTICLE 7**

85.23 **EARNED SICK AND SAFE TIME APPROPRIATIONS**

85.24 Section 1. **EARNED SICK AND SAFE TIME APPROPRIATIONS.**

85.25 (a) \$1,306,000 in fiscal year 2023 and \$1,941,000 in fiscal year 2024 are appropriated
 85.26 from the general fund to the commissioner of labor and industry for enforcement and other
 85.27 duties regarding earned sick and safe time under Minnesota Statutes, sections 181.9445 to
 85.28 181.9448, and chapter 177. In fiscal years 2025 and 2026, the base is \$1,631,000.

85.29 (b) \$300,000 in fiscal year 2023 and \$300,000 in fiscal year 2024 are appropriated from
 85.30 the general fund to the commissioner of labor and industry for grants to community
 85.31 organizations under Minnesota Statutes, section 177.50, subdivision 4.

- 86.1 (c) \$3,000 in fiscal year 2023 is appropriated from the general fund to the commissioner
86.2 of management and budget for printing costs associated with earned sick and safe time
86.3 under Minnesota Statutes, sections 181.9445 to 181.9448. This is a onetime appropriation.

181.9413 SICK LEAVE BENEFITS; CARE OF RELATIVES.

(a) An employee may use personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's child, as defined in section 181.940, subdivision 4, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent, for reasonable periods of time as the employee's attendance may be necessary, on the same terms upon which the employee is able to use sick leave benefits for the employee's own illness or injury. This section applies only to personal sick leave benefits payable to the employee from the employer's general assets.

(b) An employee may use sick leave as allowed under this section for safety leave, whether or not the employee's employer allows use of sick leave for that purpose for such reasonable periods of time as may be necessary. Safety leave may be used for assistance to the employee or assistance to the relatives described in paragraph (a). For the purpose of this section, "safety leave" is leave for the purpose of providing or receiving assistance because of sexual assault, domestic abuse, or harassment or stalking. For the purpose of this paragraph:

(1) "domestic abuse" has the meaning given in section 518B.01;

(2) "sexual assault" means an act that constitutes a violation under sections 609.342 to 609.3453 or 609.352; and

(3) "harass" and "stalking" have the meanings given in section 609.749.

(c) An employer may limit the use of safety leave as described in paragraph (b) or personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent to no less than 160 hours in any 12-month period. This paragraph does not apply to absences due to the illness or injury of a child, as defined in section 181.940, subdivision 4.

(d) For purposes of this section, "personal sick leave benefits" means time accrued and available to an employee to be used as a result of absence from work due to personal illness or injury, but does not include short-term or long-term disability or other salary continuation benefits.

(e) For the purpose of this section, "child" includes a stepchild and a biological, adopted, and foster child.

(f) For the purpose of this section, "grandchild" includes a step-grandchild, and a biological, adopted, and foster grandchild.

(g) This section does not prevent an employer from providing greater sick leave benefits than are provided for under this section.

(h) An employer shall not retaliate against an employee for requesting or obtaining a leave of absence under this section.