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State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 5

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

1.1 A bill for an act
1.2 relating to employment; providing for paid family, pregnancy, bonding, and
1.3 applicant's serious medical condition benefits; regulating and requiring certain
1.4 employment leaves; classifying certain data; authorizing rulemaking; appropriating
1.5 money; amending Minnesota Statutes 2018, sections 13.719, by adding a
1.6 subdivision; 177.27, subdivision 4; 181.943; 256J.561, by adding a subdivision;
1.7 256J.95, subdivisions 3, 11; 256P.01, subdivision 3; 268.047, subdivision 2; 268.19,
1.8 subdivision 1; 290.0132, by adding a subdivision; proposing coding for new law
1.9 as Minnesota Statutes, chapter 268B.

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

1.11 ARTICLE 1
1.12 FAMILY AND MEDICAL BENEFITS

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

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

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

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

1.22 Subd. 4. Compliance orders. The commissioner may issue an order requiring an
1.23 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
1.24 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,

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

2.16 Sec. 3. Minnesota Statutes 2018, section 181.943, is amended to read:

2.17 **181.943 RELATIONSHIP TO OTHER LEAVE.**

2.18 (a) The length of leave provided under section 181.941 may be reduced by ~~any period~~
 2.19 ~~of~~:

2.20 (1) paid parental, disability, personal, medical, or sick leave, or accrued vacation provided
 2.21 by the employer so that the total leave does not exceed 12 weeks, unless agreed to by the
 2.22 employer; or

2.23 (2) leave taken for the same purpose by the employee under United States Code, title
 2.24 29, chapter 28.

2.25 (b) Nothing in sections 181.940 to 181.943 prevents any employer from providing leave
 2.26 benefits in addition to those provided in sections 181.940 to 181.944 or otherwise affects
 2.27 an employee's rights with respect to any other employment benefit.

2.28 (c) A leave for which benefits are paid under chapter 268B is not paid leave provided
 2.29 by an employer for the purposes of paragraph (a), clause (1).

2.30 Sec. 4. Minnesota Statutes 2018, section 268.047, subdivision 2, is amended to read:

2.31 Subd. 2. **Exceptions for all employers.** Unemployment benefits paid will not be used
 2.32 in computing the future tax rate of a taxpaying base period employer or charged to the

3.1 reimbursable account of a base period nonprofit or government employer that has elected
3.2 to be liable for reimbursements when:

3.3 (1) the applicant was discharged from the employment because of aggravated employment
3.4 misconduct as determined under section 268.095. This exception applies only to
3.5 unemployment benefits paid for periods after the applicant's discharge from employment;

3.6 (2) an applicant's discharge from that employment occurred because a law required
3.7 removal of the applicant from the position the applicant held;

3.8 (3) the employer provided regularly scheduled part-time employment to the applicant
3.9 during the applicant's base period and continues to provide the applicant with regularly
3.10 scheduled part-time employment during the benefit year of at least 90 percent of the part-time
3.11 employment provided in the base period, and is an involved employer because of the
3.12 applicant's loss of other employment. This exception terminates effective the first week that
3.13 the employer fails to meet the benefit year employment requirements. This exception applies
3.14 to educational institutions without consideration of the period between academic years or
3.15 terms;

3.16 (4) the employer is a fire department or firefighting corporation or operator of a
3.17 life-support transportation service, and continues to provide employment for the applicant
3.18 as a volunteer firefighter or a volunteer ambulance service personnel during the benefit year
3.19 on the same basis that employment was provided in the base period. This exception terminates
3.20 effective the first week that the employer fails to meet the benefit year employment
3.21 requirements;

3.22 (5) the applicant's unemployment from this employer was a direct result of the
3.23 condemnation of property by a governmental agency, a fire, flood, or act of nature, where
3.24 25 percent or more of the employees employed at the affected location, including the
3.25 applicant, became unemployed as a result. This exception does not apply where the
3.26 unemployment was a direct result of the intentional act of the employer or a person acting
3.27 on behalf of the employer;

3.28 (6) the unemployment benefits were paid by another state as a result of the transferring
3.29 of wage credits under a combined wage arrangement provided for in section 268.131;

3.30 (7) the applicant stopped working because of a labor dispute at the applicant's primary
3.31 place of employment if the employer was not a party to the labor dispute;

3.32 (8) the unemployment benefits were determined overpaid unemployment benefits under
3.33 section 268.18;

4.1 (9) the applicant was employed as a replacement worker, for a period of six months or
 4.2 longer, for an employee who is in the military reserve and was called for active duty during
 4.3 the time the applicant worked as a replacement, and the applicant was laid off because the
 4.4 employee returned to employment after active duty; ~~or~~

4.5 (10) the trust fund was reimbursed for the unemployment benefits by the federal
 4.6 government; or

4.7 (11) the applicant was employed as a replacement worker for an employee on leave for
 4.8 which the employee is eligible for benefits under chapter 268B and the applicant was laid
 4.9 off because the employee returned to employment after the leave.

4.10 Sec. 5. Minnesota Statutes 2018, section 268.19, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.26 (15) the Department of Corrections for the purposes of case planning and internal research
5.27 for preprobation, probation, and postprobation employment tracking of offenders sentenced
5.28 to probation and preconfinement and postconfinement employment tracking of committed
5.29 offenders;

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

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

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

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

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

6.14 Sec. 6. **[268B.01] DEFINITIONS.**

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

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

6.19 Subd. 3. **Applicant.** "Applicant" means an individual applying for benefits under this
 6.20 chapter.

6.21 Subd. 4. **Benefit.** "Benefit" or "benefits" mean monetary payments under this chapter
 6.22 associated with qualifying bonding, family care, pregnancy, serious health condition,
 6.23 qualifying exigency, or safety leave events.

6.24 Subd. 5. **Bonding.** "Bonding" means time spent by an applicant who is a biological,
 6.25 adoptive, or foster parent with a biological, adopted, or foster child in conjunction with the
 6.26 child's birth, adoption, or placement.

6.27 Subd. 6. **Commissioner.** "Commissioner" means the commissioner of employment and
 6.28 economic development.

6.29 Subd. 7. **Covered business entity.** "Covered business entity" means a person or entity
 6.30 that contracts with self-employed individuals for services and is required to report the
 6.31 payment for services to those individuals on Internal Revenue Service Form 1099-MISC
 6.32 for more than 50 percent of the person's or entity's workforce.

7.1 Subd. 8. **Covered employment.** "Covered employment" has the meaning given in section
7.2 268.035, subdivision 12.

7.3 Subd. 9. **Covered service member.** "Covered service member" means either:

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

7.6 (i) has a serious health condition; and

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

7.12 (2) a former member of the United States armed forces, including a member of the
7.13 National Guard or reserves, who has a serious health condition that was incurred by the
7.14 member in the line of duty on active duty in the United States armed forces or a serious
7.15 health condition that existed before the beginning of the service member's active duty and
7.16 was aggravated by service in the line of duty on active duty in the United States armed
7.17 forces and manifested before or after the member was discharged or released from service.

7.18 Subd. 10. **Department.** "Department" means the Department of Employment and
7.19 Economic Development.

7.20 Subd. 11. **Employee.** "Employee" means an individual for whom premiums are paid on
7.21 wages under this chapter. An individual with income earned in the state from a covered
7.22 business entity, reported on an Internal Revenue Service Form 1099-MISC, is considered
7.23 an employee for the purposes of this chapter.

7.24 Subd. 12. **Employer.** "Employer" means a person or entity, other than an employee,
7.25 required to pay premiums under this chapter.

7.26 Subd. 13. **Family benefit program.** "Family benefit program" means the program
7.27 administered under this chapter for the collection of premiums and payment of benefits
7.28 related to family care, bonding, safety leave, and leave related to a qualifying exigency.

7.29 Subd. 14. **Family care.** "Family care" means an applicant caring for a family member
7.30 with a serious health condition or caring for a family member who is a covered service
7.31 member.

8.1 Subd. 15. **Family member.** "Family member" means an employee's child, adult child,
8.2 spouse, sibling, parent, foster parent, parent-in-law, grandchild, grandparent, domestic
8.3 partner, stepparent, or any individual related by blood or affinity whose close association
8.4 with the employee is the equivalent of a family relationship.

8.5 Subd. 16. **Health care provider.** "Health care provider" means an individual who is
8.6 licensed, certified, or otherwise authorized under law to practice in the individual's scope
8.7 of practice as a physician, osteopath, physician assistant, chiropractor, advanced practice
8.8 registered nurse, optometrist, licensed psychologist, licensed independent clinical social
8.9 worker, dentist, or podiatrist. "Chiropractor" means only a chiropractor who provides manual
8.10 manipulation of the spine to correct a subluxation demonstrated to exist by an x-ray.

8.11 Subd. 17. **High quarter.** "High quarter" has the meaning given in section 268.035,
8.12 subdivision 19.

8.13 Subd. 18. **ICD code.** "ICD code" means the code under the International Classification
8.14 of Diseases, Clinical Modification/Coding System, for the most recent edition commonly
8.15 used.

8.16 Subd. 19. **Maximum weekly benefit amount.** "Maximum weekly benefit amount"
8.17 means the state's average weekly wage as calculated under section 268.035, subdivision 23.

8.18 Subd. 20. **Medical benefit program.** "Medical benefit program" means the program
8.19 administered under this chapter for the collection of premiums and payment of benefits
8.20 related to an applicant's serious health condition or pregnancy.

8.21 Subd. 21. **Noncovered employment.** "Noncovered employment" has the meaning given
8.22 in section 268.035, subdivision 20.

8.23 Subd. 22. **Pregnancy.** "Pregnancy" means prenatal care or incapacity due to pregnancy,
8.24 childbirth, still birth, miscarriage, or related health conditions.

8.25 Subd. 23. **Qualified health care provider.** "Qualified health care provider" means a
8.26 health care provider who, in the judgment of the commissioner, has the qualifications
8.27 necessary to diagnose or treat a particular health condition or conditions associated with
8.28 benefits sought under this chapter.

8.29 Subd. 24. **Qualifying exigency.** "Qualifying exigency" means a need arising out of an
8.30 employee's family member's active duty service or notice of an impending call or order to
8.31 active duty in the United States armed forces, including providing for the care or other needs
8.32 of the family member's child or other dependent, making financial or legal arrangements
8.33 for the family member, attending counseling, attending military events or ceremonies,

9.1 spending time with the family member during a rest and recuperation leave or following
 9.2 return from deployment, or making arrangements following the death of the military member.

9.3 Subd. 25. **Safety leave.** "Safety leave" means leave from work because of domestic
 9.4 abuse, sexual assault, or stalking of the employee or employee's family member, provided
 9.5 the leave is to:

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

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

9.9 (3) obtain psychological or other counseling;

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

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

9.14 Subd. 26. **Serious health condition.** "Serious health condition" means an illness, injury,
 9.15 impairment, or physical or mental condition that involves:

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

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

9.18 Subd. 27. **State's average weekly wage.** "State's average weekly wage" means the
 9.19 weekly wage calculated under section 268.035, subdivision 23.

9.20 Subd. 28. **Wage credits.** "Wage credits" has the meaning given in section 268.035,
 9.21 subdivision 27.

9.22 Sec. 7. **[268B.02] FAMILY AND MEDICAL BENEFIT INSURANCE PROGRAM**
 9.23 **CREATION.**

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

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

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

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

10.4 Sec. 8. [268B.03] ELIGIBILITY.

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

10.9 Subd. 2. **Wage credits.** An applicant must have sufficient wage credits from an employer
10.10 as defined in section 268B.01, subdivision 10, to establish a benefit account under section
10.11 268.07, subdivision 2. Wage credits from an employer during a period in which the employer
10.12 has successfully opted out of the benefit program being applied for may not be used for the
10.13 purposes of this subdivision.

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

10.18 Subd. 4. **Ineligible.** An applicant is not eligible for benefits for any day, or portion of a
10.19 day, in which the applicant worked for pay.

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

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

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

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

11.1 commissioner must determine that the business was not created for the purpose of obtaining
 11.2 benefits under this chapter.

11.3 **Sec. 9. [268B.04] APPLICATIONS.**

11.4 Subdivision 1. **Application forms.** The commissioner must create application forms,
 11.5 to be available both online and on paper, for each of the following:

11.6 (1) an application for family care benefits;

11.7 (2) an application for bonding benefits;

11.8 (3) an application for pregnancy benefits;

11.9 (4) an application for benefits related to an applicant's serious health condition;

11.10 (5) an application for benefits related to the applicant's safety leave; and

11.11 (6) an application for benefits related to a qualifying exigency.

11.12 Subd. 2. **Content of applications.** (a) All six application forms under subdivision 1
 11.13 must require, at a minimum, the following:

11.14 (1) the name, birth date, home address, and mailing address of the applicant;

11.15 (2) the Social Security number, or other unique identification number, of the applicant;

11.16 (3) a description of the qualifying event underlying the requested benefit;

11.17 (4) the date for which benefits are sought began or will begin, if known;

11.18 (5) the date for which benefits are sought ended or will end, if known;

11.19 (6) whether the benefits are sought on an intermittent basis;

11.20 (7) whether the applicant has applied for or received any other paid benefits, whether
 11.21 public or private, based on the same event underlying the benefits sought or during the same
 11.22 time period for which the applicant is seeking benefits;

11.23 (8) a description of any benefits listed under clause (7); and

11.24 (9) a signed and dated certification that all the information contained in the application
 11.25 is true and correct, to the best of the applicant's knowledge.

11.26 (b) In addition to the requirements under paragraph (a), an application for family care
 11.27 benefits must contain, at a minimum, the following:

11.28 (1) the name, birth date, home address, and mailing address of the family member for
 11.29 whom the applicant has provided or will be providing care;

- 12.1 (2) the family member's relationship to the applicant;
- 12.2 (3) the Social Security number, or other unique identification number, of the family
12.3 member for whom the applicant has provided or will be providing care;
- 12.4 (4) a certification from the care recipient, or the care recipient's authorized representative,
12.5 that all the information contained in the application is true and correct, to the best of that
12.6 individual's knowledge;
- 12.7 (5) a legally effective authorization, signed and dated by the care recipient or the care
12.8 recipient's authorized representative, for disclosure of medical information needed by the
12.9 department to fulfill its duties under this chapter; and
- 12.10 (6) a signed and dated certification by a qualified health care provider treating the care
12.11 recipient:
- 12.12 (i) describing the nature of the serious medical condition or conditions of the care
12.13 recipient;
- 12.14 (ii) stating whether care by another individual is necessary in the treatment, or will aid
12.15 in the recovery, of the care recipient;
- 12.16 (iii) describing the nature of the care under item (ii);
- 12.17 (iv) stating or estimating the dates benefits are needed; and
- 12.18 (v) listing the ICD code or codes, if any, of the serious medical condition or conditions
12.19 underlying the application for benefits.
- 12.20 (c) In addition to the requirements under paragraph (a), an application for benefits for
12.21 bonding must contain, at a minimum, the following:
- 12.22 (1) proof of the birth, adoption, or placement in foster care, as appropriate, of the child
12.23 for whom bonding benefits are sought; and
- 12.24 (2) a legally effective authorization, signed and dated by the applicant or other authorized
12.25 representative of the child for whom bonding benefits are sought, for disclosure of medical
12.26 information needed by the department to fulfill its duties under this chapter.
- 12.27 (d) In addition to the requirements under paragraph (a), an application for pregnancy
12.28 benefits must contain, at a minimum, the following:
- 12.29 (1) a legally effective authorization, signed and dated by the applicant or the applicant's
12.30 authorized representative, for disclosure of medical information needed by the department
12.31 to fulfill its duties under this chapter; and

13.1 (2) a signed and dated certification by a qualified health care provider treating the
 13.2 applicant:

13.3 (i) describing the reason or reasons that pregnancy care is needed;

13.4 (ii) stating or estimating the dates care is needed; and

13.5 (iii) listing the ICD code or codes, if any, of the condition or conditions underlying the
 13.6 application for benefits.

13.7 (e) In addition to the requirements under paragraph (a), an application for benefits
 13.8 associated with an applicant's serious health condition must contain, at a minimum, the
 13.9 following:

13.10 (1) a legally effective authorization, signed and dated by the applicant or the applicant's
 13.11 authorized representative, for disclosure of medical information needed by the department
 13.12 to fulfill its duties under this chapter; and

13.13 (2) a signed and dated certification by a qualified health care provider treating the
 13.14 applicant:

13.15 (i) describing the nature of the serious health condition or conditions of the applicant;

13.16 (ii) describing any treatment needed based on the condition or conditions;

13.17 (iii) stating or estimating the dates care and treatment are needed; and

13.18 (iv) listing the ICD code or codes, if any, of the serious medical condition or conditions
 13.19 underlying the application for benefits.

13.20 Subd. 3. **Online access.** The commissioner must, to the extent possible, create a system
 13.21 allowing for all aspects of the applications under this section to be completed online. This
 13.22 includes the use of electronic signatures.

13.23 Subd. 4. **Administrative efficiencies.** To the maximum extent feasible, the commissioner
 13.24 must use the same or similar procedures for applications under this section as for applications
 13.25 for benefits under chapter 268.

13.26 Sec. 10. **[268B.05] DETERMINATION OF APPLICATION.**

13.27 Upon the filing of a complete application for benefits, the commissioner shall examine
 13.28 the application and on the basis of facts found by the commissioner and records maintained
 13.29 by the department, the application shall be determined to be valid or invalid within two
 13.30 weeks. If the application is determined to be valid, the commissioner shall promptly notify
 13.31 the applicant and any other interested party as to the week when benefits commence, the

14.1 weekly benefit amount payable, and the maximum duration of those benefits. If the
14.2 application is determined to be invalid, the commissioner shall notify the applicant and any
14.3 other interested party of that determination and the reasons for it. If the processing of the
14.4 application is delayed for any reason, the commissioner shall notify the applicant, in writing,
14.5 within two weeks of the date the application for benefits is filed of the reason for the delay.
14.6 Unless the applicant or any other interested party, within 30 days, requests a hearing before
14.7 a benefit judge, the determination is final. For good cause shown, the 30-day period may
14.8 be extended. At any time within one year from the date of a monetary determination, the
14.9 commissioner, upon request of the applicant or on the commissioner's own initiative, may
14.10 reconsider the determination if it is found that an error in computation or identity has occurred
14.11 in connection with the determination or that additional wages pertinent to the applicant's
14.12 status have become available, or if that determination has been made as a result of a
14.13 nondisclosure or misrepresentation of a material fact.

14.14 Sec. 11. **[268B.06] EMPLOYER NOTIFICATION.**

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

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

14.19 (1) the name of the applicant;

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

14.21 (3) the week the benefits commence;

14.22 (4) the weekly benefit amount payable;

14.23 (5) the maximum duration of benefits; and

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

14.26 Sec. 12. **[268B.07] APPEAL PROCESS.**

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

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

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

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

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

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

15.9 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within
 15.10 30 calendar days of the receipt of the benefit judge's decision, file a request for
 15.11 reconsideration asking the judge to reconsider that decision.

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

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

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

15.19 Sec. 13. **[268B.08] BENEFITS.**

15.20 Subdivision 1. **Weekly benefit amount.** (a) Subject to the maximum weekly benefit
 15.21 amount, an applicant's weekly benefit is calculated by adding the amounts obtained by
 15.22 applying the following percentage to an applicant's average weekly wage earned with an
 15.23 employer as defined in section 268B.01, subdivision 10:

15.24 (1) 90 percent of wages that do not exceed 50 percent of the state's average weekly wage;
 15.25 plus

15.26 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage but
 15.27 not 100 percent; plus

15.28 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.

15.29 (b) The average weekly wage of the applicant under paragraph (a) must be calculated
 15.30 by dividing the high quarter wage credits of the applicant by 13.

16.1 (c) The state's average weekly wage is the average wage as calculated under section
16.2 268.035, subdivision 23, at the time a benefit amount is first determined.

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

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

16.7 Subd. 3. **Method of payment.** The commissioner may pay benefits using any method
16.8 or methods authorized for the payment of unemployment insurance benefits under chapter
16.9 268.

16.10 Subd. 4. **Maximum length of benefits.** (a) Except as provided in paragraph (b), in a
16.11 52-week period, an applicant may receive up to 12 weeks of benefits under this chapter
16.12 related to the applicant's serious health condition or pregnancy and up to 12 weeks of benefits
16.13 under this chapter for bonding or family care.

16.14 (b) An applicant may receive up to 26 weeks of benefits in a 52-week period for family
16.15 care of a covered service member or for one or more qualifying exigencies.

16.16 Subd. 5. **Minimum period for which benefits payable.** Any claim for benefits must
16.17 be based on a single-qualifying benefit period of at least seven days. Thereafter, benefits
16.18 may be paid for a minimum increment of one day.

16.19 Subd. 6. **Total paid benefits not to exceed average weekly wage.** An applicant's
16.20 combined weekly employer paid wage replacement benefits and benefits under this chapter
16.21 must not exceed an applicant's average weekly wage. Benefits under this chapter must be
16.22 reduced so those combined benefits do not exceed that amount.

16.23 Subd. 7. **Withholding of federal tax.** If the Internal Revenue Service determines that
16.24 benefits are subject to federal income tax, and an applicant elects to have federal income
16.25 tax deducted and withheld from the applicant's benefits, the commissioner must deduct and
16.26 withhold the amount specified in the Internal Revenue Code in a manner consistent with
16.27 state law.

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

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

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

17.1 Subd. 2. **Interference prohibited.** An employer must not obstruct or impede an
 17.2 application for benefits under this chapter.

17.3 Subd. 3. **Waiver of rights void.** Any agreement to waive, release, or commute rights
 17.4 to benefits under this chapter is void.

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

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

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

17.19 Subd. 7. **Remedies.** In addition to any other remedies available by law, an individual
 17.20 injured by a violation of this section may bring a civil action seeking any damages
 17.21 recoverable by law, together with costs and disbursements, including reasonable attorney
 17.22 fees, and may receive injunctive and other equitable relief as determined by a court.

17.23 Sec. 15. **[268B.095] BONDING LEAVE.**

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

17.28 Sec. 16. **[268B.10] SUBSTITUTION OF OTHER PLAN; EMPLOYER EXCLUSION.**

17.29 Subdivision 1. **Application for exclusion.** If a majority of affected employees agree in
 17.30 writing to the application, an employer may apply to the commissioner to be excluded from
 17.31 either or both the family or medical benefit programs under this chapter. An employer

18.1 excluded under this subdivision from either or both benefit programs is liable for the
18.2 premiums for excluded employers specified under section 268B.12.

18.3 Subd. 2. **Employer plan requirements; medical benefit program.** The commissioner
18.4 must approve an application for exclusion from the medical benefit program if the
18.5 commissioner finds that:

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

18.8 (2) eligibility requirements for benefits are no more restrictive than as provided for
18.9 benefits payable under this chapter;

18.10 (3) the weekly benefits payable under the employer plan for any week are at least equal
18.11 to the weekly benefit amount payable under this chapter, taking into consideration any
18.12 coverage with respect to concurrent employment by another employer, and the total number
18.13 of weeks for which benefits are payable under the employer plan is at least equal to the total
18.14 number of weeks for which benefits would have been payable under this chapter;

18.15 (4) no greater amount is required to be paid by employees toward the cost of benefits
18.16 under the employer plan than by this chapter; and

18.17 (5) coverage will be continued under the employer plan while an employee remains
18.18 employed by the employer.

18.19 Subd. 3. **Employer plan; family benefit program.** The commissioner must approve
18.20 an application for exclusion from the family benefit program if the commissioner finds that:

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

18.23 (2) eligibility requirements for benefits are no more restrictive than as provided for
18.24 benefits payable under this chapter;

18.25 (3) the weekly benefits payable under the employer plan is at least equal to the weekly
18.26 benefit amount payable under this chapter, and the total number of weeks of leave for which
18.27 benefits are payable under the employer plan is at least equal to the total number of weeks
18.28 for which benefits would have been payable under this chapter;

18.29 (4) no greater amount is required to be paid by employees toward the cost of benefits
18.30 under the employer plan than by this chapter; and

18.31 (5) coverage will be continued under the employer plan while an employee remains
18.32 employed by the employer.

19.1 Subd. 4. **Audit and investigation.** The commissioner may investigate and audit plans
19.2 approved under this section both before and after the plans are approved.

19.3 **EFFECTIVE DATE.** This section is effective July 1, 2019, for exclusions commencing
19.4 January 1, 2021, and thereafter.

19.5 **Sec. 17. [268B.11] SELF-EMPLOYED ELECTION OF COVERAGE.**

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

19.15 (b) The commissioner must terminate any election agreement under this section upon
19.16 30 calendar days' notice sent by United States mail or electronic transmission if the individual
19.17 is delinquent on any premiums due under this chapter.

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

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

19.23 **Sec. 18. [268B.12] PREMIUMS.**

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

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

20.1 (c) For each calendar year, each covered business entity must pay a premium on payments
20.2 to self-employed individuals, required to be reported on Internal Revenue Service Form
20.3 1099-MISC, for work performed in the state.

20.4 Subd. 2. **Employee.** Each employee on whose wages a premium is paid under this section
20.5 must pay a premium equal to that of the employer under this section. The employer shall
20.6 withhold employee premiums from the wages of an employee and make payment to the
20.7 commissioner on behalf of an employee.

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

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

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

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

20.17 (2) for an employer participating in only the medical benefit program and opting out of
20.18 the family benefit program, ... percent;

20.19 (3) for an employer participating in only the family benefit program and opting out of
20.20 the medical benefit program, ... percent; and

20.21 (4) for an employer opting out of both the medical and family benefit programs, ...
20.22 percent.

20.23 Subd. 5. **Premium rate adjustments.** (a) Each calendar year following the calendar
20.24 year beginning January 1, 2023, except calendar year 2024, the commissioner must adjust
20.25 the annual premium rates using the formula in paragraph (b).

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

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

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

20.30 (3) divide the resulting figure by twice the total wages in covered employment of
20.31 employees of employers that have not opted out of both the family and medical benefit
20.32 programs. For employees of employers that have opted out of one of the two programs,

21.1 count only the proportion of wages in covered employment associated with the program of
 21.2 which the employer did not opt out; and

21.3 (4) round the resulting figure down to the nearest one-tenth of one percent.

21.4 (c) For calendar year 2024, the calculation shall be as provided in paragraph (b), except
 21.5 that the disbursements in clause (1) shall be those for the 39 weeks ending September 30,
 21.6 and projected disbursements for the next 13 weeks.

21.7 (d) The commissioner must not increase or decrease the employer premium rate by more
 21.8 than 0.1 percent each year.

21.9 (e) The commissioner must apportion the premium rate between the family and medical
 21.10 benefit programs based on the relative proportion of expenditures for each program during
 21.11 the preceding year.

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

21.14 Subd. 7. **Collection of premiums; efficiencies.** For collection of premiums under this
 21.15 section, the commissioner must, to the maximum extent possible, use the same collection
 21.16 process as that used for collection of unemployment insurance taxes.

21.17 Subd. 8. **Deposit of premiums.** All premiums collected under this section must be
 21.18 deposited into the account.

21.19 **Sec. 19. [268B.13] COLLECTION OF PREMIUMS.**

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

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

21.27 (1) premiums due under this chapter; then

21.28 (2) interest on past due premiums; then

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23.13 **Sec. 20. [268B.14] ADMINISTRATIVE COSTS.**

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

23.17 **Sec. 21. [268B.15] PUBLIC OUTREACH.**

23.18 The commissioner must use at least 0.5 percent of revenue collected under this chapter
 23.19 for the purpose of outreach, education and technical assistance for employees and employers.
 23.20 At least one-half of the amount spent under this section must be used for grants to
 23.21 community-based groups.

23.22 **Sec. 22. [268B.16] APPLICANT'S FALSE REPRESENTATIONS; CONCEALMENT**
 23.23 **OF FACTS; PENALTY.**

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

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

24.1 Sec. 23. [268B.17] EMPLOYER MISCONDUCT; PENALTY.

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

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

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

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

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

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

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

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

24.16 or

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

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

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

24.24 Sec. 24. [268B.18] RECORDS; AUDITS.

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

24.29 (b) For the purpose of administering this chapter, the commissioner has the power to
24.30 investigate, audit, examine, or cause to be supplied or copied, any books, correspondence,

25.1 papers, records, or memoranda that are the property of, or in the possession of, an employer
25.2 or any other person at any reasonable time and as often as may be necessary.

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

25.7 **Sec. 25. [268B.19] SUBPOENAS; OATHS.**

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

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

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

25.16 **Sec. 26. [268B.20] MEDIATION AND CONCILIATION.**

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

25.21 **Sec. 27. Minnesota Statutes 2018, section 290.0132, is amended by adding a subdivision**
25.22 **to read:**

25.23 Subd. 23. **Benefits under chapter 268B.** The amount received in benefits under chapter
25.24 268B is a subtraction.

25.25 **Sec. 28. EFFECTIVE DATE.**

25.26 Benefits under Minnesota Statutes, chapter 268B, shall not be applied for nor paid until
25.27 January 1, 2021, and thereafter. This article is effective August 1, 2019, unless specifically
25.28 provided otherwise.

26.1 **ARTICLE 2**

26.2 **TEMPORARY PROVISIONS AND APPROPRIATIONS**

26.3 Section 1. **FAMILY AND MEDICAL BENEFIT PROGRAM; APPROPRIATION.**

26.4 \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the general
 26.5 fund to the commissioner of employment and economic development for the purposes of
 26.6 Minnesota Statutes, chapter 268B. The base for fiscal year 2022 is \$....., and the base for
 26.7 fiscal years 2023 and later is zero.

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

26.9 Sec. 2. **CHILD CARE LOSS BENEFITS PILOT PROGRAM; APPROPRIATION.**

26.10 The commissioner of employment and economic development must administer a pilot
 26.11 program in which benefits and workplace protections under Minnesota Statutes, chapter
 26.12 268B, are available to employees, located in areas of the state with extreme child care
 26.13 shortages as defined by the commissioner of employment and economic development,
 26.14 requiring leave from employment based on loss of, or interruption to, child care services
 26.15 for dependent children.

26.16 \$..... in fiscal year 2020 is appropriated from the general fund to the commissioner of
 26.17 employment and economic development for the purposes of this section.

26.18 **EFFECTIVE DATE.** This section is effective the day following final enactment. The
 26.19 commissioner must have the pilot program operational by January 1, 2021. This section
 26.20 expires on June 30, 2022.

26.21 **ARTICLE 3**

26.22 **FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS**

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

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

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

26.29 **Subd. 3. Eligibility for diversionary work program.** (a) Except for the categories of
 26.30 family units listed in clauses (1) to (8), all family units who apply for cash benefits and who

27.1 meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must
27.2 participate in the diversionary work program. Family units or individuals that are not eligible
27.3 for the diversionary work program include:

27.4 (1) child only cases;

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

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

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

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

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

27.14 (7) family units with a caregiver who received 60 or more months of TANF assistance;

27.15 ~~and~~

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

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

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

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

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

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

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

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

28.9 (d) One parent in a two-parent family unit ~~that has a natural born child under 12 months~~
 28.10 ~~of age~~ is not required to have an employment plan ~~until the child reaches 12 months of age~~
 28.11 ~~unless the family unit has already used the exclusion under section 256J.561, subdivision~~
 28.12 ~~3, or the previously allowed child under age one exemption under section 256J.56, paragraph~~
 28.13 ~~(a), clause (5).~~ if that parent:

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

28.15 (2) has a natural born child under 12 months of age until the child reaches 12 months
 28.16 of age unless the family unit has already used the exclusion under section 256J.561,
 28.17 subdivision 3, or the previously allowed child under age one exemption under section
 28.18 256J.56, paragraph (a), clause (5).

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

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

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

28.27 Subd. 3. **Earned income.** "Earned income" means cash or in-kind income earned through
 28.28 the receipt of wages, salary, commissions, bonuses, tips, gratuities, profit from employment
 28.29 activities, net profit from self-employment activities, payments made by an employer for
 28.30 regularly accrued vacation or sick leave, severance pay based on accrued leave time, benefits
 28.31 paid under chapter 268B, payments from training programs at a rate at or greater than the
 28.32 state's minimum wage, royalties, honoraria, or other profit from activity that results from

29.1 the client's work, service, effort, or labor. The income must be in return for, or as a result
29.2 of, legal activity.