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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
- 02/21/2019 Adoption of Report: Amended and re-referred to the Committee on Government Operations
- 03/04/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act

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

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

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

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

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

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

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

1.9 Statutes, chapter 268B.

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

1.11 **ARTICLE 1**

1.12 **FAMILY AND MEDICAL BENEFITS**

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

1.14 to read:

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

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

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

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

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

1.20 of chapter 268B or other applicable law.

1.21 (c) The department and the Department of Labor and Industry may share data classified

1.22 under paragraph (b) to the extent necessary to meet the requirements of chapter 268B or

1.23 the Department of Labor and Industry's enforcement authority over chapter 268B, as provided

1.24 in section 177.27.

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

2.2 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an  
2.3 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,  
2.4 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,  
2.5 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, 268B.09, and 268B.12, subdivision  
2.6 2, or with any rule promulgated under section 177.28. The commissioner shall issue an  
2.7 order requiring an employer to comply with sections 177.41 to 177.435 if the violation is  
2.8 repeated. For purposes of this subdivision only, a violation is repeated if at any time during  
2.9 the two years that preceded the date of violation, the commissioner issued an order to the  
2.10 employer for violation of sections 177.41 to 177.435 and the order is final or the  
2.11 commissioner and the employer have entered into a settlement agreement that required the  
2.12 employer to pay back wages that were required by sections 177.41 to 177.435. The  
2.13 department shall serve the order upon the employer or the employer's authorized  
2.14 representative in person or by certified mail at the employer's place of business. An employer  
2.15 who wishes to contest the order must file written notice of objection to the order with the  
2.16 commissioner within 15 calendar days after being served with the order. A contested case  
2.17 proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15  
2.18 calendar days after being served with the order, the employer fails to file a written notice  
2.19 of objection with the commissioner, the order becomes a final order of the commissioner.

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

2.21 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER.**

2.22 (a) At the end of each pay period, the employer shall provide each employee an earnings  
2.23 statement, either in writing or by electronic means, covering that pay period. An employer  
2.24 who chooses to provide an earnings statement by electronic means must provide employee  
2.25 access to an employer-owned computer during an employee's regular working hours to  
2.26 review and print earnings statements, and must make statements available for review or  
2.27 printing for a period of at least 12 months.

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

2.30 (1) the name of the employee;

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

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

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

- 3.1 (5) a list of deductions made from the employee's pay;
- 3.2 (6) any amount deducted by the employer under section 268B.12, subdivision 2, and
- 3.3 the amount paid by the employer based on the employee's wages under section 268B.12,
- 3.4 subdivision 1;
- 3.5 ~~(6)~~ (7) the net amount of pay after all deductions are made;
- 3.6 ~~(7)~~ (8) the date on which the pay period ends; and
- 3.7 ~~(8)~~ (9) the legal name of the employer and the operating name of the employer if different
- 3.8 from the legal name.

3.9 (c) An employer must provide earnings statements to an employee in writing, rather

3.10 than by electronic means, if the employer has received at least 24 hours notice from an

3.11 employee that the employee would like to receive earnings statements in written form. Once

3.12 an employer has received notice from an employee that the employee would like to receive

3.13 earnings statements in written form, the employer must comply with that request on an

3.14 ongoing basis.

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

3.16 Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from

3.17 any person under the administration of the Minnesota Unemployment Insurance Law are

3.18 private data on individuals or nonpublic data not on individuals as defined in section 13.02,

3.19 subdivisions 9 and 12, and may not be disclosed except according to a district court order

3.20 or section 13.05. A subpoena is not considered a district court order. These data may be

3.21 disseminated to and used by the following agencies without the consent of the subject of

3.22 the data:

3.23 (1) state and federal agencies specifically authorized access to the data by state or federal

3.24 law;

3.25 (2) any agency of any other state or any federal agency charged with the administration

3.26 of an unemployment insurance program;

3.27 (3) any agency responsible for the maintenance of a system of public employment offices

3.28 for the purpose of assisting individuals in obtaining employment;

3.29 (4) the public authority responsible for child support in Minnesota or any other state in

3.30 accordance with section 256.978;

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

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

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

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

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

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

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

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

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

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

4.30 (15) the Department of Corrections for the purposes of case planning and internal research  
4.31 for preprobation, probation, and postprobation employment tracking of offenders sentenced  
4.32 to probation and preconfinement and postconfinement employment tracking of committed  
4.33 offenders;

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

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

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

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

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

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

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

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

5.21 Subd. 3. **Applicant.** "Applicant" means an individual applying for leave with benefits  
5.22 under this chapter.

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

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

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

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

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

6.3 Subd. 9. **Calendar week.** "Calendar week" means a period of seven consecutive calendar  
6.4 days.

6.5 Subd. 10. **Commissioner.** "Commissioner" means the commissioner of employment  
6.6 and economic development, unless otherwise indicated by context.

6.7 Subd. 11. **Covered employment.** "Covered employment" has the meaning given in  
6.8 section 268.035, subdivision 12.

6.9 Subd. 12. **Covered service member.** "Covered service member" means either:

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

6.12 (i) has a serious health condition; and

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

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

6.24 Subd. 13. **Day.** "Day" means an eight-hour period.

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

6.27 Subd. 15. **Employee.** "Employee" means an individual for whom premiums are paid on  
6.28 wages under this chapter. Employee does not include an independent contractor except  
6.29 when a self-employed individual has elected coverage under section 268B.11.

6.30 Subd. 16. **Employer.** "Employer" means a person or entity, other than an employee,  
6.31 required to pay premiums under this chapter.

7.1 Subd. 17. **Family benefit program.** "Family benefit program" means the program  
7.2 administered under this chapter for the collection of premiums and payment of benefits  
7.3 related to family care, bonding, safety leave, and leave related to a qualifying exigency.

7.4 Subd. 18. **Family care.** "Family care" means an applicant caring for a family member  
7.5 with a serious health condition or caring for a family member who is a covered service  
7.6 member.

7.7 Subd. 19. **Family member.** "Family member" means an employee's child, adult child,  
7.8 spouse, sibling, parent, foster parent, parent-in-law, grandchild, grandparent, domestic  
7.9 partner, stepparent, or any individual related by blood or affinity whose close association  
7.10 with the employee is the equivalent of a family relationship.

7.11 Subd. 20. **Health care provider.** "Health care provider" means an individual who is  
7.12 licensed, certified, or otherwise authorized under law to practice in the individual's scope  
7.13 of practice as a physician, osteopath, physician assistant, chiropractor, advanced practice  
7.14 registered nurse, optometrist, licensed psychologist, licensed independent clinical social  
7.15 worker, dentist, or podiatrist. "Chiropractor" means only a chiropractor who provides manual  
7.16 manipulation of the spine to correct a subluxation demonstrated to exist by an x-ray.

7.17 Subd. 21. **High quarter.** "High quarter" has the meaning given in section 268.035,  
7.18 subdivision 19.

7.19 Subd. 22. **Independent contractor.** An individual is an independent contractor and not  
7.20 an employee of the person for whom the individual is performing services in the course of  
7.21 the person's trade, business, profession, or occupation only if:

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

7.24 (2) the individual:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

9.7 (3) obtain psychological or other counseling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10.9 Subdivision 1. **Applicant.** An applicant who has a serious health condition, has a  
10.10 qualifying exigency, is taking safety leave, is providing family care, is bonding, or is pregnant  
10.11 or recovering from pregnancy, and who satisfies the conditions of this section is eligible to  
10.12 receive benefits subject to the provisions of this chapter.

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

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

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

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

10.23 Subd. 5. **Certification.** An applicant for benefits under this chapter must fulfill the  
10.24 certification requirements under section 268B.04, subdivision 2.

10.25 Subd. 6. **Records release.** An individual whose medical records are necessary to  
10.26 determine eligibility for benefits under this chapter must sign and date a legally effective  
10.27 waiver authorizing release of medical or other records, to the limited extent necessary to  
10.28 administer or enforce this chapter, to the department and the Department of Labor and  
10.29 Industry.

10.30 Subd. 7. **Self-employed applicant.** (a) To be eligible for benefits, a self-employed  
10.31 individual who has elected coverage under section 268B.11 must fulfill only the requirements,

11.1 to the extent possible, of subdivisions 3, 4, 5, and 6 in addition to the requirements under  
11.2 paragraph (b).

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

11.5 **Sec. 8. [268B.04] APPLICATIONS.**

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

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

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

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

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

11.32 (e) Certification for an applicant taking bonding leave because of the placement of a  
11.33 child with the applicant for adoption or foster care shall be sufficient if the applicant provides

12.1 a document issued by the qualified health care provider of the child, an adoption or foster  
12.2 care agency involved in the placement, or by other individuals as determined by the  
12.3 commissioner that confirms the placement and the date of placement. To the extent that the  
12.4 status of an applicant as an adoptive or foster parent changes while an application for benefits  
12.5 is pending, or while the covered individual is receiving benefits, the applicant must notify  
12.6 the department of such change in status in writing.

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

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

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

12.11 (3) other documentation permitted by the commissioner.

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

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

12.18 Upon the filing of a complete application for benefits, the commissioner shall examine  
12.19 the application and on the basis of facts found by the commissioner and records maintained  
12.20 by the department, the applicant shall be determined to be eligible or ineligible within two  
12.21 weeks. If the application is determined to be valid, the commissioner shall promptly notify  
12.22 the applicant and any other interested party as to the week when benefits commence, the  
12.23 weekly benefit amount payable, and the maximum duration of those benefits. If the  
12.24 application is determined to be invalid, the commissioner shall notify the applicant and any  
12.25 other interested party of that determination and the reasons for it. If the processing of the  
12.26 application is delayed for any reason, the commissioner shall notify the applicant, in writing,  
12.27 within two weeks of the date the application for benefits is filed of the reason for the delay.  
12.28 Unless the applicant or any other interested party, within 30 calendar days, requests a hearing  
12.29 before a benefit judge, the determination is final. For good cause shown, the 30-day period  
12.30 may be extended. At any time within one year from the date of a monetary determination,  
12.31 the commissioner, upon request of the applicant or on the commissioner's own initiative,  
12.32 may reconsider the determination if it is found that an error in computation or identity has  
12.33 occurred in connection with the determination or that additional wages pertinent to the

13.1 applicant's status have become available, or if that determination has been made as a result  
13.2 of a nondisclosure or misrepresentation of a material fact.

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

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

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

13.8 (1) the name of the applicant;

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

13.10 (3) the week the benefits commence;

13.11 (4) the weekly benefit amount payable;

13.12 (5) the maximum duration of benefits; and

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

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

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

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

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

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

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

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

14.1 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within  
14.2 30 calendar days of the receipt of the benefit judge's decision, file a request for  
14.3 reconsideration asking the judge to reconsider that decision.

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

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

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

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

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

14.15 (1) 90 percent of wages that do not exceed 50 percent of the state's average weekly wage;  
14.16 plus

14.17 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage but  
14.18 not 100 percent; plus

14.19 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.

14.20 (b) The state's average weekly wage is the average wage as calculated under section  
14.21 268.035, subdivision 23, at the time a benefit amount is first determined.

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

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

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

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

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

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

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

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

15.16 (b) An employee must give at least 30 days' notice to the employer of the anticipated  
15.17 starting date of any leave under this chapter, the anticipated length of the leave, and the  
15.18 expected date of return or must provide notice as soon as practicable if the delay is for  
15.19 reasons beyond the employee's control. If an employer fails to provide notice of this chapter  
15.20 as required under section 268B.22, the employee's notice requirement shall be waived.

15.21 (c) An employer may require an employee giving notice of leave to include a certification  
15.22 for the leave as described in section 268B.04, subdivision 2. Such certification, if required  
15.23 by an employer, is timely when the employee delivers it as soon as is practicable given the  
15.24 circumstances requiring the need for leave.

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

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

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

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

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

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

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

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

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

16.19 Subd. 7. **Remedies.** (a) In addition to any other remedies available to an employee in  
16.20 law or equity, an employer who violates the provisions of this section is liable to any  
16.21 employee affected for:

16.22 (1) damages equal to the amount of:

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

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

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

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



17.1 (1) the employees; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 and leave are no more restrictive than as provided  
18.24 under this chapter;

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

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

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

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

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

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

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

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

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

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

19.26 Subd. 6. **Plan duration.** A private plan under this section must be in effect for a period  
19.27 of at least one year and, thereafter, continuously unless the commissioner finds that the  
19.28 employer has given notice of withdrawal from the plan in a manner specified by the  
19.29 commissioner in this section or rule. The plan may be withdrawn by the employer within  
19.30 30 days of the effective date of any law increasing the benefit amounts or within 30 days  
19.31 of the date of any change in the rate of premiums. If the plan is not withdrawn, it must be  
19.32 amended to conform to provide the increased benefit amount or change in the rate of the  
19.33 employee's premium on the date of the increase or change.

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

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

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

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

20.12 Subd. 9. Posting of notice regarding private plan. An employer with a private plan  
20.13 must provide a notice prepared by or approved by the commissioner regarding the private  
20.14 plan consistent with the provisions of section 268B.22.

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

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

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

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

20.22 Subd. 11. Successor employer. A private plan in effect at the time a successor acquires  
20.23 the employer organization, trade, or business, or substantially all the assets thereof, or a  
20.24 distinct and severable portion of the organization, trade, or business, and continues its  
20.25 operation without substantial reduction of personnel resulting from the acquisition, must  
20.26 continue the approved private plan and must not withdraw the plan without a specific request  
20.27 for withdrawal in a manner and at a time specified by the commissioner. A successor may  
20.28 terminate a private plan with notice to the commissioner and within 90 days from the date  
20.29 of the acquisition.

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

20.32 (1) failed to pay benefits;

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

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

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

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

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

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

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

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

21.19 (1) \$1,000 for the first violation; and

21.20 (2) \$2,000 for the second, and each successive violation.

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

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

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

21.27 (e) Assessment of penalties under this subdivision may be appealed as provided in section  
21.28 268B.07.

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

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

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

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

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

22.14 (b) The commissioner must terminate any election agreement under this section upon  
22.15 30 calendar days' notice sent by United States mail or electronic transmission if the individual  
22.16 is delinquent on any premiums due under this chapter.

22.17 (c) The individual electing under this section must pay the employer premium under  
22.18 section 268B.12.

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

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

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

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

22.30 Subd. 2. **Employee charge back.** Notwithstanding section 181.06, employers and  
22.31 covered business entities may deduct up to 50 percent of annual premiums paid under this  
22.32 section from employee wages. Such deductions for any given employee must be in equal

23.1 proportion to the premiums paid based on the wages of that employee, and all employees  
23.2 of an employer must be subject to the same percentage deduction. Deductions under this  
23.3 section must not cause an employee's wage, after the deduction, to fall below the minimum  
23.4 wage in section 177.24.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24.22 (1) premiums due under this chapter; then

24.23 (2) interest on past due premiums; then

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

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

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

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

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



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

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

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

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

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

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

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

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

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

25.31 (d) If an employer receives a credit adjustment or refund under this section, the employer  
25.32 must determine the amount of any overpayment attributable to a deduction from employee

26.1 wages under section 268B.12, subdivision 2, and return any amount erroneously deducted  
26.2 to each affected employee.

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

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

26.12 For the calendar year beginning January 1, 2023, and each calendar year thereafter, the  
26.13 commissioner may spend up to seven percent of projected benefit payments for that calendar  
26.14 year for the administration of this chapter. The department may enter into interagency  
26.15 agreements with the Department of Labor and Industry, including agreements to transfer  
26.16 funds, subject to the limit in this section, for the Department of Labor and Industry to fulfill  
26.17 its enforcement authority of this chapter.

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

26.19 Beginning in fiscal year 2021, the commissioner must use at least 0.5 percent of revenue  
26.20 collected under this chapter for the purpose of outreach, education, and technical assistance  
26.21 for employees, employers, and self-employed individuals eligible to elect coverage under  
26.22 section 268B.11. The department may enter into interagency agreements with the Department  
26.23 of Labor and Industry, including agreements to transfer funds, subject to the limit in section  
26.24 268B.14, to accomplish the requirements of this section. At least one-half of the amount  
26.25 spent under this section must be used for grants to community-based groups.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27.28 (a) Each employer must keep true and accurate records on individuals performing services  
27.29 for the employer, containing the information the commissioner may require under this

28.1 chapter. The records must be kept for a period of not less than four years in addition to the  
28.2 current calendar year.

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

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

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

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

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

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

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

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

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

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

28.30 (1) total revenue raised through premium collection;

- 29.1 (2) the number of self-employed individuals electing coverage under section 268B.11  
29.2 and amount of associated revenue;
- 29.3 (3) the number of covered business entities paying premiums under this chapter and  
29.4 associated revenue;
- 29.5 (4) administrative expenditures including transfers to other state agencies expended in  
29.6 the administration of the chapter;
- 29.7 (5) summary of contracted services expended in the administration of this chapter;
- 29.8 (6) grant amounts and recipients under section 268B.15;
- 29.9 (7) an accounting of required outreach expenditures;
- 29.10 (8) summary of private plan approvals including the number of employers and employees  
29.11 covered under private plans; and
- 29.12 (9) adequacy and use of the private plan approval and oversight fee.
- 29.13 (b) Annually, beginning on or before December 1, 2021, the commissioner must publish  
29.14 a publicly available report providing the following information for the previous fiscal year:
- 29.15 (1) total eligible claims;
- 29.16 (2) the number and percentage of claims attributable to each category of benefit;
- 29.17 (3) claimant demographics by age, gender, average weekly wage, occupation, and the  
29.18 type of leave taken;
- 29.19 (4) the percentage of claims denied and the reasons therefor, including, but not limited  
29.20 to insufficient information and ineligibility and the reason therefor;
- 29.21 (5) average weekly benefit amount paid for all claims and by category of benefit;
- 29.22 (6) changes in the benefits paid compared to previous fiscal years;
- 29.23 (7) processing times for initial claims processing, initial determinations, and final  
29.24 decisions;
- 29.25 (8) average duration for cases completed; and
- 29.26 (9) the number of cases remaining open at the close of such year.

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

- 29.28 (a) Each employer must post in a conspicuous place on each of its premises a workplace  
29.29 notice prepared or approved by the commissioner providing notice of benefits available

30.1 under this chapter. The required workplace notice must be in English and each language  
30.2 other than English which is the primary language of five or more employees or self-employed  
30.3 individuals of that workplace, if such notice is available from the department.

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

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

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

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

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

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

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

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

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

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

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

30.24 (1) the address and telephone number of the department; and

30.25 (2) any other information required by the department.

30.26 (d) An employer that fails to comply with this subsection may be issued, for a first  
30.27 violation, a civil penalty of \$50 per employee and per self-employed individual with whom  
30.28 it has contracted, and for each subsequent violation, a civil penalty of \$300 per employee  
30.29 or self-employed individual with whom it has contracted. The employer shall have the  
30.30 burden of demonstrating compliance with this section.

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

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

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

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

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

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

31.16 Sec. 29. **[268B.24] SMALL BUSINESS ASSISTANCE GRANTS.**

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

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

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

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

31.29 (e) The grants under this section may be funded from the account.

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

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

32.6 Sec. 30. Minnesota Statutes 2018, section 290.0132, is amended by adding a subdivision  
32.7 to read:

32.8 Subd. 23. **Benefits under chapter 268B.** The amount received in benefits under chapter  
32.9 268B is a subtraction.

32.10 Sec. 31. **EFFECTIVE DATE.**

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

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

## 32.15 **ARTICLE 2**

### 32.16 **APPROPRIATIONS**

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

32.18 \$..... in fiscal year 2021 is appropriated from the general fund to the commissioner of  
32.19 employment and economic development for the purposes of Minnesota Statutes, chapter  
32.20 268B. This appropriation does not cancel and unexpended amounts may be used in fiscal  
32.21 year 2022. The base amount for fiscal year 2022 is \$0. The base amount for fiscal year 2023  
32.22 is \$..... The base amounts for 2024 and beyond are \$0.

32.23 \$..... in fiscal year 2021 is appropriated from the general fund to the commissioner of  
32.24 labor and industry for the purposes of enforcement of Minnesota Statutes, chapter 268B.  
32.25 This appropriation does not cancel and unexpended amounts may be used in fiscal year  
32.26 2022. The base amount for fiscal year 2022 is \$0. The base amount for fiscal year 2023 is  
32.27 \$..... The base amounts for 2024 and beyond are \$0.

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



33.1 \$..... in fiscal year 2020 is appropriated from the general fund to the commissioner of  
 33.2 labor and industry for the purpose of outreach, education, and technical assistance for  
 33.3 employers and employees. This outreach must include efforts to notify self-employed  
 33.4 individuals of their ability to elect coverage under Minnesota Statutes, section 268B.11,  
 33.5 and provide them with educational and technical assistance in doing so.

33.6 \$..... in fiscal year 2020 is appropriated from the general fund to the commissioner of  
 33.7 employment and economic development for grants to community-based groups providing  
 33.8 outreach, education, and technical assistance for employees and employers. This outreach  
 33.9 must include efforts to notify self-employed individuals of their ability to elect coverage  
 33.10 under Minnesota Statutes, section 268B.11, and provide them with educational and technical  
 33.11 assistance in doing so.

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

### 33.13 **ARTICLE 3**

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

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

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

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

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

33.26 (1) child only cases;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34.30 (d) One parent in a two-parent family unit ~~that has a natural born child under 12 months~~  
 34.31 ~~of age~~ is not required to have an employment plan ~~until the child reaches 12 months of age~~  
 34.32 ~~unless the family unit has already used the exclusion under section 256J.561, subdivision~~

35.1 ~~3, or the previously allowed child under age one exemption under section 256J.56, paragraph~~  
35.2 ~~(a), clause (5).~~ if that parent:

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

35.4 (2) has a natural born child under 12 months of age until the child reaches 12 months  
35.5 of age unless the family unit has already used the exclusion under section 256J.561,  
35.6 subdivision 3, or the previously allowed child under age one exemption under section  
35.7 256J.56, paragraph (a), clause (5).

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

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

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

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