CHAPTER 59--H.F.No. 2

An act relating to state government; providing for paid family, bonding, and applicant's serious medical condition benefits; regulating and requiring certain employment leaves; authorizing income tax withholdings and imposing taxes; authorizing penalties; classifying data; authorizing rulemaking; requiring an actuarial report; appropriating money; amending Minnesota Statutes 2022, sections 13.719, by adding a subdivision; 62A.01, subdivision 1; 177.27, subdivision 4; 181.032; 256B.057, subdivision 9; 256B.0659, subdivision 18; 256B.85, subdivisions 13, 13a; 256J.561, by adding a subdivision; 256J.95, subdivisions 3, 11; 256P.01, subdivision 3; 268.19, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 268B.

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

ARTICLE 1

FAMILY AND MEDICAL BENEFITS

Section 1. Minnesota Statutes 2022, section 13.719, is amended by adding a subdivision to read:

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

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

(c) The data classified under paragraph (b) may be exchanged between the department and the Department of Labor and Industry and the Department of Commerce to the extent necessary to meet the requirements of chapter 268B or the Department of Labor and Industry's enforcement authority over chapter 268B, as provided in section 177.27, or to the extent necessary for the Department of Commerce to review or verify compliance for a private plan under section 268B.10.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 2. Minnesota Statutes 2022, section 62A.01, subdivision 1, is amended to read:

Subdivision 1. **Definition.** The term "policy of accident and sickness insurance" as used herein includes any policy covering the kind of insurance described in section 60A.06, subdivision 1, clause (5)(a), or the paid family and medical leave benefits as described in section 268B.10.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 3. Minnesota Statutes 2022, section 177.27, subdivision 4, is amended to read:

Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032, 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275, subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, 268B.09, subdivisions 1 to 6, and 268B.14, subdivision 3, or with any rule promulgated under section 177.28.

The commissioner shall issue an order requiring an employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes of this subdivision only, a violation is repeated if at any time during the two years that preceded the date of violation, the commissioner issued an order to the employer for violation of sections 177.41 to 177.435 and the order is final or the commissioner and the employer have entered into a settlement agreement that required the employer to pay back wages that were required by sections 177.41 to 177.435. The department shall serve the order upon the employer or the employer's authorized representative in person or by certified mail at the employer's place of business. An employer who wishes to contest the order must file written notice of objection to the order with the commissioner within 15 calendar days after being served with the order. A contested case proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the employer fails to file a written notice of objection with the commissioner, the order becomes a final order of the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 4. Minnesota Statutes 2022, section 181.032, is amended to read:

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

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

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

(1) the name of the employee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) paid vacation, sick time, or other paid time-off accruals and terms of use;

(4) the employee's employment status and whether the employee is exempt from minimum wage, overtime, and other provisions of chapter 177, and on what basis;

(5) a list of deductions that may be made from the employee's pay;

(6) the number of days in the pay period, the regularly scheduled pay day, and the pay day on which the employee will receive the first payment of wages earned;

(7) the legal name of the employer and the operating name of the employer if different from the legal name;

(8) the physical address of the employer's main office or principal place of business, and a mailing address if different; and

(9) the telephone number of the employer.

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

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

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 5. Minnesota Statutes 2022, section 256B.0659, subdivision 18, is amended to read:

Subd. 18. **Personal care assistance choice option; generally.** (a) The commissioner may allow a recipient of personal care assistance services to use a fiscal intermediary to assist the recipient in paying and accounting for medically necessary covered personal care assistance services. Unless otherwise provided in this section, all other statutory and regulatory provisions relating to personal care assistance services apply to a recipient using the personal care assistance choice option.

(b) Personal care assistance choice is an option of the personal care assistance program that allows the recipient who receives personal care assistance services to be responsible for the hiring, training, scheduling, and firing of personal care assistants according to the terms of the written agreement with the personal care assistance choice agency required under subdivision 20, paragraph (a). This program offers greater control and choice for the recipient in who provides the personal care assistance service and when the service is scheduled. The recipient or the recipient's responsible party must choose a personal care assistance choice provider agency as a fiscal intermediary. This personal care assistance choice provider agency manages payroll, invoices the state, is responsible for all payroll-related taxes and insurance, including premiums for family and medical benefit insurance, and is responsible for providing the consumer training and support in managing the recipient's personal care assistance services.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 6. Minnesota Statutes 2022, section 256B.85, subdivision 13, is amended to read:

Subd. 13. **Budget model.** (a) Under the budget model participants exercise responsibility and control over the services and supports described and budgeted within the CFSS service delivery plan. Participants must use services specified in subdivision 13a provided by an FMS provider. Under this model, participants may use their approved service budget allocation to:

(1) directly employ support workers, and pay wages, federal and state payroll taxes, and premiums for workers' compensation, liability, family and medical benefit insurance, and health insurance coverage; and

(2) obtain supports and goods as defined in subdivision 7.

(b) Participants who are unable to fulfill any of the functions listed in paragraph (a) may authorize a legal representative or participant's representative to do so on their behalf.

(c) If two or more participants using the budget model live in the same household and have the same support worker, the participants must use the same FMS provider.

(d) If the FMS provider advises that there is a joint employer in the budget model, all participants associated with that joint employer must use the same FMS provider.

(e) The commissioner shall disenroll or exclude participants from the budget model and transfer them to the agency-provider model under, but not limited to, the following circumstances:

(1) when a participant has been restricted by the Minnesota restricted recipient program, in which case the participant may be excluded for a specified time period under Minnesota Rules, parts 9505.2160 to 9505.2245;

(2) when a participant exits the budget model during the participant's service plan year. Upon transfer, the participant shall not access the budget model for the remainder of that service plan year; or

(3) when the department determines that the participant or participant's representative or legal representative is unable to fulfill the responsibilities under the budget model, as specified in subdivision 14.

(f) A participant may appeal in writing to the department under section 256.045, subdivision 3, to contest the department's decision under paragraph (e), clause (3), to disenroll or exclude the participant from the budget model.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 7. Minnesota Statutes 2022, section 256B.85, subdivision 13a, is amended to read:

Subd. 13a. **Financial management services.** (a) Services provided by an FMS provider include but are not limited to: filing and payment of federal and state payroll taxes and premiums on behalf of the participant; initiating and complying with background study requirements under chapter 245C and maintaining documentation of background study requests and results; billing for approved CFSS services with authorized funds; monitoring expenditures; accounting for and disbursing CFSS funds; providing assistance in obtaining and filing for liability, workers' compensation, family and medical benefit insurance, and unemployment coverage; and providing participant instruction and technical assistance to the participant in fulfilling employer-related requirements in accordance with section 3504 of the Internal Revenue Code and related regulations and interpretations, including Code of Federal Regulations, title 26, section 31.3504-1.

(b) Agency-provider services shall not be provided by the FMS provider.

(c) The FMS provider shall provide service functions as determined by the commissioner for budget model participants that include but are not limited to:

(1) assistance with the development of the detailed budget for expenditures portion of the CFSS service delivery plan as requested by the consultation services provider or participant;

(2) data recording and reporting of participant spending;

(3) other duties established by the department, including with respect to providing assistance to the participant, participant's representative, or legal representative in performing employer responsibilities regarding support workers. The support worker shall not be considered the employee of the FMS provider; and

(4) billing, payment, and accounting of approved expenditures for goods.

(d) The FMS provider shall obtain an assurance statement from the participant employer agreeing to follow state and federal regulations and CFSS policies regarding employment of support workers.

(e) The FMS provider shall:

(1) not limit or restrict the participant's choice of service or support providers or service delivery models consistent with any applicable state and federal requirements;

(2) provide the participant, consultation services provider, and case manager or care coordinator, if applicable, with a monthly written summary of the spending for services and supports that were billed against the spending budget;

(3) be knowledgeable of state and federal employment regulations, including those under the Fair Labor Standards Act of 1938, and comply with the requirements under chapter 268B and section 3504 of the Internal Revenue Code and related regulations and interpretations, including Code of Federal Regulations, title 26, section 31.3504-1, regarding agency employer tax liability for vendor fiscal/employer agent, and any requirements necessary to process employer and employee deductions, provide appropriate and timely submission of employer tax liabilities, and maintain documentation to support medical assistance claims;

(4) have current and adequate liability insurance and bonding and sufficient cash flow as determined by the commissioner and have on staff or under contract a certified public accountant or an individual with a baccalaureate degree in accounting;

(5) assume fiscal accountability for state funds designated for the program and be held liable for any overpayments or violations of applicable statutes or rules, including but not limited to the Minnesota False Claims Act, chapter 15C;

(6) maintain documentation of receipts, invoices, and bills to track all services and supports expenditures for any goods purchased and maintain time records of support workers. The documentation and time records must be maintained for a minimum of five years from the claim date and be available for audit or review upon request by the commissioner. Claims submitted by the FMS provider to the commissioner for payment must correspond with services, amounts, and time periods as authorized in the participant's service budget and service plan and must contain specific identifying information as determined by the commissioner; and

(7) provide written notice to the participant or the participant's representative at least 30 calendar days before a proposed service termination becomes effective.

(f) The commissioner shall:

(1) establish rates and payment methodology for the FMS provider;

(2) identify a process to ensure quality and performance standards for the FMS provider and ensure statewide access to FMS providers; and

(3) establish a uniform protocol for delivering and administering CFSS services to be used by eligible FMS providers.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 8. Minnesota Statutes 2022, section 268.19, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

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

(10) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program and other cash assistance programs, the Supplemental Nutrition Assistance Program, and the Supplemental Nutrition Assistance Program Employment and Training program by providing data on recipients and former recipients of Supplemental Nutrition Assistance Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B or 256L or formerly codified under chapter 256D;

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 9. **[268B.01] DEFINITIONS.**

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

Subd. 2. **Active duty.** "Active duty" has the meaning given in United States Code, title 29, section 2611(14), and includes domestic deployment.

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

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

Subd. 5. **Base period.** (a) "Base period," unless otherwise provided in this subdivision, means the most recent four completed calendar quarters before the effective date of an applicant's application for family or medical leave benefits if the application has an effective date occurring after the month following the most recent completed calendar quarter. The base period under this paragraph is as follows:

If the application for family or medical leave benefits is effective on or between these dates:	The base period is the prior:
February 1 to March 31	January 1 to December 31
May 1 to June 30	April 1 to March 31
August 1 to September 30	July 1 to June 30
November 1 to December 31	October 1 to September 30

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

If the application for family or medical leave benefits is effective on or between these dates:	The base period is the prior:
January 1 to January 31	October 1 to September 30
April 1 to April 30	January 1 to December 31
July 1 to July 31	April 1 to March 31
October 1 to October 31	July 1 to June 30

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

(d) If the applicant has insufficient wage credits to establish a benefit account under a base period of the four most recent completed calendar quarters, or a base period of the first four of the most recent five completed calendar quarters, but during either base period the applicant received workers' compensation for temporary disability under chapter 176 or a similar federal law or similar law of another state, or if the

applicant whose own serious illness caused a loss of work for which the applicant received compensation for loss of wages from some other source, the applicant may request a base period as follows:

(1) if an applicant was compensated for a loss of work of seven to 13 weeks during a base period referred to in paragraph (a) or (b), then the base period is the first four of the most recent six completed calendar quarters before the effective date of the application for family or medical leave benefits;

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

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

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

(e) For an applicant under a private plan as provided in section 268B.10, the base period is those most recent four quarters in which wage credits were earned with the current employer as provided by the current employer. If an employer does not have four quarters of wage detail information, the employer must accept an employee's certification of wage credits, based on the employee's records. If the employee does not provide certification of additional wage credits, the employer may use a base period that consists of all available quarters.

Subd. 6. **Benefit.** "Benefit" or "benefits" means monetary payments under this chapter associated with qualifying bonding, family care, medical care related to pregnancy, serious health condition, qualifying exigency, or safety leave events, unless otherwise indicated by context.

Subd. 7. **Benefit account.** "Benefit account" means a benefit account established under section 268B.04.

Subd. 8. **Benefit year.** (a) Except as provided in paragraph (b), "benefit year" means the period of 52 calendar weeks beginning the date a benefit account under section 268B.04 is effective. For a benefit account established effective any January 1, April 1, July 1, or October 1, the benefit year will be a period of 53 calendar weeks.

(b) For a private plan under section 268B.10, "benefit year" means:

(1) a calendar year;

(2) any fixed 12-month period, such as a fiscal year or a 12-month period measured forward from an employee's first date of employment;

(3) a 12-month period measured forward from an employee's first day of leave taken; or

(4) a rolling 12-month period measured backward from an employee's first day of leave taken.

Employers are required to notify employees of their benefit year within 30 days of the private plan approval and first day of employment.

Subd. 9. **Bonding.** "Bonding" means time spent by an applicant who is a biological, adoptive, or foster parent with a biological, adopted, or foster child in conjunction with the child's birth, adoption, or placement.

Subd. 10. **Calendar day.** "Calendar day" or "day" means a fixed 24-hour period corresponding to a single calendar date.

Subd. 11. **Calendar quarter.** "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31.

Subd. 12. **Calendar week.** "Calendar week" has the same meaning as "week" under subdivision 49.

Subd. 13. **Commissioner.** "Commissioner" means the commissioner of employment and economic development, unless otherwise indicated by context.

Subd. 14. **Construction industry.** "Construction industry" means any construction, reconstruction, building erection, alteration, remodel, repair, renovation, rehabilitation, excavation, or demolition of any building, structure, facility utility, power plant, sewer, dam, highway, road, street, airport, bridge, or other improvement.

Subd. 15. **Covered employment.** (a) "Covered employment" means performing services of whatever nature, unlimited by the relationship of master and servant as known to the common law, or any other legal relationship performed for wages or under any contract calling for the performance of services, written or oral, express or implied.

(b) For the purposes of this chapter, covered employment means an employee's entire employment during a calendar year if:

(1) 50 percent or more of the employment during the calendar year is performed in Minnesota;

(2) 50 percent or more of the employment during the calendar year is not performed in Minnesota or any other state, or Canada, but some of the employment is performed in Minnesota and the employee's residence is in Minnesota during 50 percent or more of the calendar year; or

(3) 50 percent or more of the employment during the calendar year is not performed in Minnesota or any other state, or Canada, but the place from where the employee's employment is controlled and directed is based in Minnesota.

(c) "Covered employment" does not include:

(1) a self-employed individual;

(2) an independent contractor; or

(3) employment by a seasonal employee, as defined in subdivision 35.

Subd. 16. **Department.** "Department" means the Department of Employment and Economic Development, unless otherwise indicated by context.

Subd. 17. **Employee.** (a) "Employee" means an individual who performs services of whatever nature for an employer.

(b) Employee does not include employees of the United States of America, self-employed individuals, or independent contractors.

(c) Employee does not include seasonal employees as defined in subdivision 35.

Subd. 18. **Employer.** (a) "Employer" means:

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

(2) the state, state agencies, Minnesota State Colleges and Universities, University of Minnesota, and other statewide public systems;

(3) any municipality or local government entity, including but not limited to a county, city, town, school district, Metropolitan Council, Metropolitan Airports Commission, housing and redevelopment authority, port authority, economic development authority, sports facilities authority, board or commission, joint powers board or organization created under section 471.59, destination medical center corporation, municipal corporation, quasimunicipal corporation, or other political subdivision. An employer also includes charter schools; and

(4) the taxpaying employer as described in section 268.046, subdivision 1.

(b) Employer does not include:

(1) the United States of America; or

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

Subd. 19. **Estimated self-employment income.** "Estimated self-employment income" means a self-employed individual's net earnings from self-employment in the most recent taxable year.

Subd. 20. **Family and medical benefit insurance account.** "Family and medical benefit insurance account" means the family and medical benefit insurance account in the special revenue fund in the state treasury under section 268B.02.

Subd. 21. **Family benefit program.** "Family benefit program" means the program administered under this chapter for the collection of premiums and payment of benefits related to family care, bonding, safety leave, and leave related to a qualifying exigency.

Subd. 22. **Family care.** "Family care" means an applicant caring for a family member with a serious health condition or caring for a family member who is a military member.

Subd. 23. **Family member.** (a) "Family member" means, with respect to an applicant:

(1) a spouse or domestic partner;

(2) a child, including a biological, adopted, or foster child, a stepchild, or a child to whom the applicant stands in loco parentis, is a legal guardian, or is a de facto parent;

(3) a parent or legal guardian of the applicant;

(4) a sibling;

(5) a grandchild;

(6) a grandparent or spouse's grandparent;

(7) a son-in-law or daughter-in-law; and

(8) an individual who has a relationship with the applicant that creates an expectation and reliance that the applicant care for the individual, whether or not the applicant and the individual reside together.

(b) For the purposes of this chapter, "grandchild" means a child of the applicant's child.

(c) For the purposes of this chapter, "grandparent" means a parent of the applicant's parent.

(d) For the purposes of this chapter, "parent" means the biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an applicant or the applicant's spouse, or an individual who stood in loco parentis to an applicant when the applicant was a child.

Subd. 24. **Health care provider.** "Health care provider" means:

(1) an individual who is licensed, certified, or otherwise authorized under law to practice in the individual's scope of practice as a physician; physician assistant; podiatrist; osteopath; surgeon; advanced practice registered nurse; an alcohol and drug counselor as defined in section 148F.01, subdivision 5; or a mental health professional as defined in section 245I.02, subdivision 27; or

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

Subd. 25. **High quarter.** "High quarter" means the calendar quarter in an applicant's base period with the highest amount of wage credits.

Subd. 26. **Incapacity.** "Incapacity" means inability to perform regular work, attend school, or perform regular daily activities due to a serious health condition, treatment therefore, or recovery therefrom.

Subd. 27. **Independent contractor.** If there is an existing specific test or definition for independent contractor in Minnesota statute or rule applicable to an occupation or sector as of the date of enactment of this chapter, that test or definition shall apply to that occupation or sector for purposes of this chapter. If there is not an existing test or definition as described, the definition for independent contractor shall be as provided in Minnesota Rules, part 5200.0221.

Subd. 28. **Inpatient care.** "Inpatient care" means an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care.

Subd. 29. **Maximum weekly benefit amount.** "Maximum weekly benefit amount" means the state's average weekly wage as calculated under section 268.035, subdivision 23.

Subd. 30. **Medical benefit program.** "Medical benefit program" means the program administered under this chapter for the collection of premiums and payment of benefits related to an applicant's serious health condition or medical care related to pregnancy.

Subd. 31. **Medical care related to pregnancy.** "Medical care related to pregnancy" includes prenatal care or incapacity due to pregnancy or recovery from childbirth, stillbirth, miscarriage, or related health conditions.

Subd. 32. **Net earnings from self-employment.** "Net earnings from self-employment" has the meaning given in section 1402 of the Internal Revenue Code, as defined in section 290.01, subdivision 31.

Subd. 33. **Qualifying exigency.** (a) "Qualifying exigency" means a need arising out of a military member's active duty service or notice of an impending call or order to active duty in the United States

armed forces, including providing for the care or other needs of the family member's child or other dependent, making financial or legal arrangements for the family member, attending counseling, attending military events or ceremonies, spending time with the family member during a rest and recuperation leave or following return from deployment, or making arrangements following the death of the military member.

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

Subd. 34. **Safety leave.** "Safety leave" means leave from work because of domestic abuse, sexual assault, or stalking of the applicant or applicant's family member, provided the leave is to:

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

(2) obtain services from a victim services organization;

(3) obtain psychological or other counseling;

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

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

Subd. 35. **Seasonal employee.** (a) A seasonal employee is an individual who is employed for no more than 150 days during any consecutive 52-week period in hospitality by an employer whose average receipts during any six months of the preceding calendar year were not more than 33 percent of its average receipts for the other six months of such year.

(b) For the purposes of this section, "hospitality" has the meaning given under the collective definitions in section 157.15, subdivisions 4 to 9 and 11 to 14.

(c) For an individual to be classified as a seasonal employee, an employer must apply to the department in a format and manner prescribed by the commissioner and certify that:

(1) the employee meets or will meet the 150-day maximum employment duration under this subdivision;

(2) the employee's primary line of work is hospitality;

(3) the employer meets the receipts threshold under this subdivision; and

(4) the employer has provided the required employee notice required under section 268B.26.

(d) An employer must notify the department, in a format and manner prescribed by the commissioner, within five business days if a previously classified seasonal employee no longer meets the criteria above and is no longer a seasonal employee.

Subd. 36. **Self-employed individual.** "Self-employed individual" means a resident of the state who, in one taxable year preceding the current calendar year, derived at least 5.3 percent of the state's average annual wage in net earnings from self-employment.

Subd. 37. **Self-employment premium base.** "Self-employment premium base" means the lesser of:

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

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

Subd. 38. **Self-employment wages.** "Self-employment wages" means the amount of wages that a self-employed individual earned in the calendar year from an entity from which the individual also received net earnings from self-employment.

Subd. 39. **Serious health condition.** (a) "Serious health condition" means a physical or mental illness, injury, impairment, condition, or substance use disorder that involves:

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

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

(i) a period of incapacity of seven or more days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances beyond the individual's control prevent a follow-up visit from occurring as planned, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider; or

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

(ii) a period of incapacity due to medical care related to pregnancy;

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

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

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

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

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

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

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

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

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

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

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

Subd. 40. **State's average weekly wage.** "State's average weekly wage" means the weekly wage calculated under section 268.035, subdivision 23.

Subd. 41. **Supplemental benefit payment.** (a) "Supplemental benefit payment" means:

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

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

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

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

(d) At no time shall a supplemental benefit payment combined with any leave benefit received under this chapter exceed the regular wage or salary of the applicant.

Subd. 42. **Taxable year.** "Taxable year" has the meaning given in section 290.01, subdivision 9.

Subd. 43. **Taxable wages.** "Taxable wages" means those wages paid to an employee in covered employment each calendar year up to an amount equal to the maximum wages subject to premium in a calendar year, which is equal to the maximum earnings in that year subject to the FICA Old-Age, Survivors, and Disability Insurance tax rounded to the nearest $1,000.

Subd. 44. **Typical workweek.** "Typical workweek" means:

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

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

Subd. 45. **Wage credits.** "Wage credits" means the amount of wages paid within an applicant's base period for covered employment, as defined in subdivision 15.

Subd. 46. **Wage detail report.** "Wage detail report" means the report on each employee and all seasonal employees in covered employment required from an employer on a calendar quarter basis under section 268B.12.

Subd. 47. **Wages.** "Wages" has the meaning given in section 268.035, subdivision 29.

Subd. 48. **Wages paid.** (a) "Wages paid" means the amount of wages:

(1) that have been actually paid; or

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

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

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

Subd. 49. **Week.** "Week" means calendar week ending at midnight Saturday.

Subd. 50. **Weekly benefit amount.** "Weekly benefit amount" means the amount of family and medical leave benefits computed under section 268B.04.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 10. **[268B.02] FAMILY AND MEDICAL BENEFIT INSURANCE PROGRAM CREATION.**

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

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

Subd. 3. **Rulemaking.** The commissioner shall adopt rules to implement the provisions of this chapter. For the purposes of this chapter, the commissioner may use the expedited rulemaking process under section 14.389.

Subd. 4. **Account creation; appropriation.** The family and medical benefit insurance account is created in the special revenue fund in the state treasury. Unless otherwise appropriated, money in this account is appropriated to the commissioner to pay benefits under and to administer this chapter, including outreach required under section 268B.18. Appropriations and transfers to the account are credited to the account. Earnings, such as interest, dividends, and any other earnings arising from assets of the account, are credited to the account. Money remaining in the account at the end of a fiscal year is not canceled to the general fund but remains in the account until expended.

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

Subd. 6. **Procurement.** For purposes of administering this chapter, until July 1, 2026, the department is exempt from the requirements of section 16A.15, subdivision 3; 16C.06; 16C.08 to 16C.09; and any other applicable state procurement laws and procedures.

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

Sec. 11. **[268B.03] PAYMENT OF BENEFITS.**

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

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

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

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

(4) the applicant has not been held ineligible for benefits under section 268B.07, subdivision 2; and

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

Subd. 2. **Benefits paid from state funds.** Benefits are paid from state funds and are not considered paid from any special insurance plan, nor as paid by an employer. An application for family or medical leave benefits is not considered a claim against an employer but is considered a request for benefits from the family and medical benefit insurance account. The commissioner has the responsibility for the proper payment of benefits regardless of the level of interest or participation by an applicant or an employer in any determination or appeal. An applicant's entitlement to benefits must be determined based upon that information available without regard to a burden of proof. Any agreement between an applicant and an employer is not binding on the commissioner in determining an applicant's entitlement. There is no presumption of entitlement or nonentitlement to benefits.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 12. **[268B.04] BENEFIT ACCOUNT; BENEFITS.**

Subdivision 1. **Application for benefits; determination of benefit account.** (a) An application for benefits may be filed up to 60 days before leave taken under chapter 268B in person, by mail, or by electronic transmission as the commissioner may require. The applicant must include certification supporting a request for leave under this chapter. The applicant must meet eligibility requirements and must provide all requested information in the manner required. If the applicant fails to provide all requested information, the communication is not an application for family and medical leave benefits.

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

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

(d) The commissioner may, at any time within 12 months from the establishment of a benefit account, reconsider any determination of benefit account and make an amended determination if the commissioner finds that the wage credits listed in the determination were incorrect for any reason. An amended determination of benefit account must be promptly sent to the applicant and all base period employers, by mail or electronic transmission. This paragraph does not apply to documents titled determinations of eligibility or determinations of ineligibility issued.

(e) If an amended determination of benefit account reduces the weekly benefit amount or maximum amount of benefits available, any benefits that have been paid greater than the applicant was entitled is an overpayment of benefits. A determination or amended determination issued under this section that results in an overpayment of benefits must set out the amount of the overpayment and the requirement that the overpaid benefits must be repaid according to section 268B.185.

Subd. 2. **Benefit account requirements.** To establish a benefit account, an applicant must have wage credits of at least 5.3 percent of the state's average annual wage rounded down to the next lower $100.

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

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

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

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

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

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

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

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

(1) the employee works hours for wages;

(2) the employee uses paid sick leave, paid vacation leave, or other paid time off that is not considered a supplemental benefit payment as defined in section 268B.01, subdivision 41; or

(3) leave is taken intermittently.

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

Subd. 5. **Maximum length of benefits.** (a) The total number of weeks that an applicant may take benefits in a single benefit year for a serious health condition is the lesser of 12 weeks, or 12 weeks minus

the number of weeks within the same benefit year that the applicant received benefits for bonding, safety leave, family care, or qualifying exigency plus eight weeks.

(b) The total number of weeks that an applicant may take benefits in a single benefit year for bonding, safety leave, family care, or qualifying exigency is the lesser of 12 weeks, or 12 weeks minus the number of weeks within the same benefit year that the applicant received benefits for a serious health condition plus eight weeks.

Subd. 6. **Minimum period for which benefits payable.** Except for a claim for benefits for bonding leave, any claim for benefits must be based on a single qualifying event of at least seven calendar days. The minimum duration to receive benefits under this chapter is one work day in a work week.

Subd. 7. **Right of appeal.** (a) A determination or amended determination of benefit account is final unless an appeal is filed by the applicant within 60 calendar days after the sending of the determination or amended determination.

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

Subd. 8. **Limitations on applications and benefit accounts.** An application for family or medical leave benefits is effective the Sunday of the calendar week that the application was filed. An application for benefits may be backdated one calendar week before the Sunday of the week the application was actually filed if the applicant requests the backdating within seven calendar days of the date the application is filed. An application may be backdated only if the applicant was eligible for the benefit during the period of the backdating. If an individual attempted to file an application for benefits, but was prevented from filing an application by the department, the application is effective the Sunday of the calendar week the individual first attempted to file an application.

EFFECTIVE DATE. This section is effective November 1, 2025.

Sec. 13. **[268B.05] NOTIFICATION OF CHANGED CIRCUMSTANCES.**

An applicant shall promptly notify the department of changes that may affect eligibility under section 268B.06.

EFFECTIVE DATE. This section is effective November 1, 2025.

Sec. 14. **[268B.06] ELIGIBILITY REQUIREMENTS; PAYMENTS THAT AFFECT BENEFITS.**

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

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

(2) the applicant was unable to perform regular work due to a serious health condition, a qualifying exigency, safety leave, family care, bonding, or medical care related to pregnancy. For bonding leave, eligibility ends 12 months after birth or placement;

(3) the applicant has sufficient wage credits from an employer or employers as defined in section 268B.01, subdivision 45, to establish a benefit account under section 268B.04; and

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

(b) A self-employed individual or independent contractor who has elected and been approved for coverage under section 268B.11 need not fulfill the requirement of paragraph (a), clause (3) or (4).

Subd. 2. **Seven-day qualifying event.** (a) The period for which an applicant is seeking benefits must be or have been based on a single event of at least seven calendar days' duration related to medical care related to pregnancy, family care, a qualifying exigency, safety leave, or the applicant's serious health condition. The days must be consecutive, unless the leave is intermittent.

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

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

Subd. 3. **Certification.** (a) Certification for an applicant taking leave related to the applicant's serious health condition shall be sufficient if the certification states the date on which the serious health condition began, the probable duration of the condition, and the appropriate medical facts within the knowledge of the health care provider as required by the commissioner. If the applicant requests intermittent leave, the certification must include the health care provider's reasonable estimate of the frequency and duration and estimated treatment schedule, if applicable.

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

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

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

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

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

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

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

(3) other documentation permitted by the commissioner.

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

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

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

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

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

(2) that the applicant fails or refuses to provide information on an issue of ineligibility required under section 268B.07, subdivision 2; or

(3) for which the applicant worked for pay.

Subd. 5. **Vacation, sick leave, paid time off, and disability insurance payments.** (a) An employee may use vacation pay, sick pay, paid time off pay, or disability insurance payments, in lieu of family or medical leave program benefits under this chapter, provided the employee is concurrently eligible. Subject to the limitations of section 268B.09, subdivision 1, an employee is entitled to the employment protections under section 268B.09 for those workdays during which this option is exercised. This subdivision applies to private plans under section 268B.10.

(b) An employer may offer supplemental benefit payments, as defined in section 268B.01, subdivision 41, to an employee taking leave under this chapter. The choice to receive supplemental benefits lies with the employee. Nothing in this section shall be construed as requiring an employee to receive or an employer to provide supplemental benefits payments. The total amount of paid benefits under this chapter and the supplemental benefits paid must not exceed the employee's usual salary.

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

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

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

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

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

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

(1) considered wages under section 268B.01, subdivision 47; or

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

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

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

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

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

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

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

(2) the applicant provides a statement from an appropriate health care professional who is aware of the applicant's Social Security disability claim and the basis for that claim, certifying that the applicant is able to perform the essential functions of their employment with or without a reasonable accommodation.

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

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

Subd. 9. **Seasonal employment denial.** (a) An applicant is not eligible to receive benefits or take protected leave under the provisions of this chapter for any week the applicant is a seasonal employee as defined in section 268B.01, subdivision 35.

(b) If benefits are denied to any applicant under paragraph (a) who remains employed more than 150 days, the applicant is only entitled to benefits beginning the Sunday following the completion of the 150-day period.

EFFECTIVE DATE. This section is effective November 1, 2025.

Sec. 15. **[268B.07] DETERMINATION ON ISSUES OF ELIGIBILITY.**

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

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

(1) the name of the applicant;

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

(3) the week the benefits commence;

(4) the weekly benefit amount payable; and

(5) the maximum duration of benefits.

Subd. 2. **Determination.** (a) The commissioner must determine any issue of ineligibility raised by information required from an applicant and send to the applicant and any current base period employer, by mail or electronic transmission, a document titled a determination of eligibility or a determination of ineligibility, as is appropriate, within two weeks, unless the application is incomplete due to outstanding requests for information including clerical or other errors. Nothing prohibits the commissioner from requesting additional information or the applicant from supplementing their initial application before a determination of eligibility. The commissioner may extend the deadline for a determination under this subdivision due to extenuating circumstances.

(b) If an applicant obtained benefits through misrepresentation, the department is authorized to issue a determination of ineligibility within 12 months of the establishment of the benefit account.

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

(d) A determination of eligibility or determination of ineligibility is final unless an appeal is filed by the applicant within 60 calendar days after sending. The determination must contain a prominent statement indicating the consequences of not appealing. Proceedings on the appeal are conducted in accordance with section 268B.08.

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

Subd. 3. **Amended determination.** Unless an appeal has been filed, the commissioner, on the commissioner's own motion, may reconsider a determination of eligibility or determination of ineligibility that has not become final and issue an amended determination. Any amended determination must be sent to the applicant and any employer in the current base period by mail or electronic transmission. Any amended determination is final unless an appeal is filed by the applicant within 60 calendar days after sending.

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

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

EFFECTIVE DATE. This section is effective November 1, 2025.

Sec. 16. **[268B.08] APPEAL PROCESS.**

Subdivision 1. **Hearing.** (a) The commissioner shall designate a chief hearing officer.

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

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

(d) The chief hearing officer has discretion regarding the method by which the hearing is conducted.

(e) The chief hearing officer must assign a hearing officer to conduct a hearing and may transfer to another hearing officer any proceedings pending before another hearing officer.

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

(b) Decisions of a hearing officer are not precedential.

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

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

EFFECTIVE DATE. This section is effective November 1, 2025.

Sec. 17. **[268B.085] NOTICE TO EMPLOYER; SCHEDULES.**

Subdivision 1. **Notice to employer.** (a) If the need for leave is foreseeable, an employee must provide the employer at least 30 days' advance notice before leave under this chapter is to begin. If 30 days' notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. Whether leave is to be continuous or is to be taken intermittently, notice need only be given one time, but the employee must advise the employer as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. In those cases where the employee is required to provide at least 30 days' notice of foreseeable leave and does not do so, the employee must explain the reasons why notice was not practicable upon request from the employer.

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

(c) An employee shall provide at least oral, telephone, or text message notice sufficient to make the employer aware that the employee needs leave allowed under this chapter and the anticipated timing and duration of the leave.

(d) In addition to any other prohibition imposed under this chapter, an employer must not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for providing this certification.

(e) An employer may require an employee to comply with the employer's usual and customary notice and procedural requirements for requesting leave, including the employer's attendance or call-out policies and procedures, absent unusual circumstances or other circumstances caused by the reason for the employee's need for leave. An employee may be required by an employer's or covered business entity's policy to contact a specific individual or designated phone number to report this information. Leave under this chapter must not be delayed or denied where an employer's usual and customary notice or procedural requirements require notice to be given sooner than set forth in this subdivision.

(f) An employer may require that an employee taking leave under this chapter provide a copy of the certification under section 268B.06, subdivision 3. Upon written request from the employer, the employee shall provide a copy of the certification as soon as practicable and possible given all of the facts and circumstances in the individual case. Providing certification at or around the time the employee provides a certification to the department shall be considered practicable.

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

(h) An employer may not require, as a condition of an employee taking leave under this chapter, that the employee seek or find a replacement worker to cover the hours the employee uses under this chapter.

Subd. 2. **Bonding leave.** Bonding leave taken under this chapter begins at a time requested by the employee. Bonding leave must end within 12 months of the birth, adoption, or placement of a foster child, except that, in the case where the child must remain in the hospital longer than the mother, the leave must end within 12 months after the child leaves the hospital. Employees may also use bonding leave before the actual placement or adoption of a child in situations that include but are not limited to where the employee may be required to:

(1) attend counseling sessions;

(2) appear in court;

(3) consult with the attorney or doctors representing the birth parent;

(4) submit to a physical examination; or

(5) travel to another country to complete an adoption.

Subd. 3. **Intermittent schedule.** (a) Leave under this chapter, based on a serious health condition, may be taken intermittently if such leave is reasonable and appropriate to the needs of the individual with the serious health condition. For all other leaves under this chapter, leave may be taken intermittently. Intermittent leave is leave taken in separate blocks of time due to a single, seven-day qualifying event.

(b) For an applicant who takes leave on an intermittent schedule, the weekly benefit amount shall be prorated.

(c) An employee requesting leave taken intermittently shall provide the employer with a schedule of needed workdays off as soon as practicable and must make a reasonable effort to schedule the intermittent leave so as not to disrupt unduly the operations of the employer. If this cannot be done to the satisfaction of both employer and employee, the employer cannot require the employee to change their leave schedule in order to accommodate the employer.

(d) Notwithstanding the allowance for intermittent leave under this subdivision, an employer shall not be required under this chapter to provide, but may elect to provide, more than 480 hours of intermittent leave in any 12-month period. If an employer limits hours of intermittent leave pursuant to this paragraph, an employee is entitled to take their remaining leave continuously, subject to the total amount of leave available under section 268B.04, subdivision 5. An employer may run intermittent leave available under the Family and Medical Leave Act, United States Code, title 29, sections 2601 to 2654, as amended, concurrent with an employee's entitlement to intermittent leave under this chapter.

EFFECTIVE DATE. This section is effective January 1, 2026, except subdivision 1 is effective November 1, 2025.

Sec. 18. **[268B.09] EMPLOYMENT PROTECTIONS.**

Subdivision 1. **Retaliation prohibited.** (a) An employer must not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for requesting or obtaining benefits or leave, or for exercising any other right under this chapter.

(b) For the purposes of this section, the term "leave" includes but is not limited to:

(1) leave taken for any day for which the employee has been deemed eligible for benefits under this chapter; or

(2) any day for which the employee meets the eligibility criteria under section 268B.06, subdivision 1, clause (2) or (3), and the employee has applied for benefits in good faith under this chapter. For the purposes of this subdivision, "good faith" is defined as anything that is not knowingly false or in reckless disregard of the truth.

(c) In addition to the remedies provided in subdivision 8, the commissioner of labor and industry may also issue a penalty to the employer of not less than $1,000 and not more than $10,000 per violation, payable to the employee aggrieved. In determining the amount of the penalty under this subdivision, the appropriateness of the penalty to the size of the employer's business and the gravity of the violation shall be considered.

Subd. 2. **Interference prohibited.** An employer must not obstruct or impede an application for leave or benefits or the exercise of any other right under this chapter. In addition to the remedies provided in subdivision 8, the commissioner of labor and industry may also issue a penalty to the employer of not less than $1,000 and not more than $10,000 per violation, payable to the employee aggrieved. In determining

the amount of the penalty under this subdivision, the appropriateness of the penalty to the size of the employer's business and the gravity of the violation shall be considered.

Subd. 3. **Waiver of rights void.** (a) Any agreement to waive, release, or commute rights to benefits or any other right under this chapter is void, except for a voluntary settlement agreement resolving disputed claims or a valid separation agreement releasing putative claims.

(b) Any provision, whether oral or written, of a lease, contract, or other agreement or instrument that purports to be a waiver by an individual of any right or remedy provided in this chapter is contrary to public policy and void if the waiver or release purports to waive claims arising out of acts or practices that occur after the execution of the waiver or release.

(c) A waiver or release of rights or remedies secured by this chapter that purports to apply to claims arising out of acts or practices prior to, or concurrent with, the execution of the waiver or release may be rescinded within 15 calendar days of its execution, except that a waiver or release given in settlement of a claim filed with the department or with another administrative agency or judicial body is valid and final upon execution. A waiving or releasing party must be informed in writing of the right to rescind the waiver or release. To be effective, the rescission must be in writing and delivered to the waived or released party by hand, electronically with the receiving party's consent, or by mail within the 15-day period. If delivered by mail, the rescission must be:

(1) postmarked within the 15-day period;

(2) properly addressed to the waived or released party; and

(3) sent by certified mail, return receipt requested.

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

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

(b) This subdivision may be waived for employees who are working in the construction industry under a bona fide collective bargaining agreement that requires employer contributions to a multiemployer health plan pursuant to United States Code, title 29, section 186(c)(5), but only if the waiver is set forth in clear and unambiguous terms in the collective bargaining agreement and explicitly cites this subdivision.

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

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

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

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

(2) Equivalent pay includes any bonus or payment, whether it is discretionary or nondiscretionary, made to employees consistent with clause (1). If a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to leave under this chapter, the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify for leave under this chapter.

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

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

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

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

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

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

(1) The employee must be reinstated to the same or a geographically proximate worksite from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed.

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

(3) The employee must have the same or an equivalent opportunity for bonuses, profit-sharing, and other similar discretionary and nondiscretionary payments, excluding any bonus paid to another employee or employees for covering the work of the employee while the employee was on leave.

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

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

(g) Nothing in this section shall be deemed to affect the Americans with Disabilities Act, United States Code, title 42, chapter 126.

(h) Ninety calendar days from the date of hire, an employee has a right and is entitled to reinstatement as provided under this subdivision for any day for which:

(1) the employee has been deemed eligible for benefits under this chapter; or

(2) the employee meets the eligibility criteria under section 268B.06, subdivision 1, clause (2) or (3), and the employee has applied for benefits in good faith under this chapter. For the purposes of this paragraph, good faith is defined as anything that is not knowingly false or in reckless disregard of the truth.

(i) This subdivision and subdivision 7 may be waived for employees who are working in the construction industry under a bona fide collective bargaining agreement with a construction trade union that maintains a referral-to-work procedure for employees to obtain employment with multiple signatory employers, but only if the waiver is set forth in clear and unambiguous terms in the collective bargaining agreement and explicitly cites this subdivision and subdivision 7.

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

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

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

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

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

(1) damages equal to the amount of:

(i) any and all damages recoverable by law;

(ii) reasonable interest on the amount of damages awarded; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in item (i) and the interest described in item (ii), except that if an employer who has violated the provisions of this section proves to the satisfaction of the court that the act or omission which violated the provisions of this section was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of the provisions of this section, the court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under items (i) and (ii), respectively; and

(2) such injunctive and other equitable relief as determined by a court or jury, including employment, reinstatement, and promotion.

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

(1) the employees; or

(2) the employees and other employees similarly situated.

(c) Rule 23 of the Rules of Civil Procedure applies to this section.

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

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

(f) An employee bringing a civil action under this section is entitled to a jury trial. An employee cannot waive their right to a jury trial under this section including, but not limited to, by signing an agreement to submit claims to arbitration.

EFFECTIVE DATE. This section is effective January 1, 2026, except subdivisions 1 to 4 are effective November 1, 2025.

Sec. 19. **[268B.10] SUBSTITUTION OF A PRIVATE PLAN.**

Subdivision 1. **Application for substitution.** Employers may apply to the commissioner for approval to meet their obligations under this chapter through the substitution of a private plan that provides paid family, paid medical, or paid family and medical benefits. In order to be approved as meeting an employer's obligations under this chapter, a private plan must confer all of the same rights, protections, and benefits provided to employees under this chapter, including but not limited to benefits under section 268B.04 and employment protections under section 268B.09. Employers may apply for approval of private plans that exceed the benefits provided to employees under this chapter. An employee covered by a private plan under this section retains all applicable rights and remedies under section 268B.09.

Subd. 2. **Private plan requirements; medical benefit program.** The commissioner, in consultation with the commissioner of commerce, must approve an application for private provision of the medical benefit program if the commissioner determines:

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

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

(3) the weekly benefits payable under the private plan for any week are at least equal to the weekly benefit amount payable under this chapter;

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

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

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

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

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

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

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

Subd. 3. **Private plan requirements; family benefit program.** The commissioner, in consultation with the commissioner of commerce, must approve an application for private provision of the family benefit program if the commissioner determines:

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

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

(3) the weekly benefits payable under the private plan for any week are at least equal to the weekly benefit amount payable under this chapter;

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

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

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

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

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

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

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

Subd. 4. **Surety bond requirement.** If the private plan is in the form of self-insurance, the employer shall file with its application for private provision of the medical benefit or family benefit program a surety bond in an amount equal to the employer's annual premium that it would otherwise be required to pay to the family and medical benefit insurance account. The surety bond must be in a form approved by the commissioner and issued by a surety company authorized to transact business in Minnesota.

Subd. 5. **Private plan requirements; timing of payment.** Private plan benefits may be paid to align with the employer's payroll cycle or according to the terms of the approved private plan.

Subd. 6. **Private plan requirements; weekly benefit determination.** For purposes of determining the family and medical benefit amount and duration under a private plan, the weekly benefit amount and duration shall be based on the employee's typical work week and wages earned with the employer at the time of an application for benefits. If an employer does not have complete base period wage detail information, the employer may accept an employee's certification of wage credits, based on the employee's records.

Subd. 7. **Use of private insurance products.** Nothing in this section prohibits an employer from meeting the requirements of a private plan through a private insurance product. If the employer plan involves a private insurance product, that insurance product must be approved by the commissioner of commerce and be issued by an insurance company authorized to transact insurance in this state.

Subd. 8. **Private plan approval and oversight fee.** An employer with an approved private plan is not required to pay premiums established under section 268B.14. An employer with an approved private plan is responsible for a private plan approval and oversight fee equal to $250 for employers with fewer than 50 employees, $500 for employers with 50 to 499 employees, and $1,000 for employers with 500 or more employees. The employer must pay this fee (1) upon initial application for private plan approval, and (2) any time the employer applies to amend the private plan. The commissioner must review and report on the adequacy of this fee to cover private plan administrative costs annually beginning January 1, 2027, as part of the annual report established in section 268B.25.

Subd. 9. **Plan duration.** A private plan under this section must be in effect for a period of at least one year and, thereafter, continuously unless the commissioner finds that the employer has given notice of withdrawal from the plan in a manner specified by the commissioner in this section or rule. The plan may

be withdrawn by the employer within 30 days of the effective date of any law increasing the benefit amounts or within 30 days of the date of any change in the rate of premiums. If the plan is not withdrawn, it must be administered to provide the increased benefit amount or change in the rate of the employee's premium on the date of the increase or change.

Subd. 10. **Employer reimbursement.** If an employer meeting the requirements of a private plan through an insurance product under subdivision 6 has made advance payments of benefits due under this chapter or has made payments to an employee in like manner as wages during any period of family or medical leave for which the employee is entitled to the benefits provided by this chapter, the employer is entitled to be reimbursed by the carrier or third party administrator out of any benefits due or to become due for the family or medical leave, if the claim for reimbursement is filed with the carrier prior to payment of the benefits by the carrier.

Subd. 11. **Appeals.** (a) An employer may appeal any adverse action regarding that employer's application for private provision of the medical benefit or family benefit program, in a manner specified by the commissioner.

(b) An employee covered under a private plan has the same right to appeal to the state under section 268B.04, subdivision 7, as any other employee. An employee covered under a private plan has the right to request reconsideration of a decision under a private plan made by an insurer, private plan administrator, or employer prior to exercising appeal rights under section 268B.04.

Subd. 12. **Employees no longer covered.** (a) An employee is no longer covered by an approved private plan if a leave under this chapter occurs after the employment relationship with the private plan employer ends, or if the commissioner revokes the approval of the private plan.

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

Subd. 13. **Posting of notice regarding private plan.** An employer with a private plan must provide a notice prepared by or approved by the commissioner regarding the private plan consistent with section 268B.26.

Subd. 14. **Amendment.** (a) The commissioner must approve any amendment, other than those required by this chapter, to a private plan adjusting the provisions thereof, if the commissioner determines:

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

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

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

Subd. 15. **Successor employer.** A private plan in effect at the time a successor acquires the employer organization, trade, or business, or substantially all the assets thereof, or a distinct and severable portion of the organization, trade, or business, and continues its operation without substantial reduction of personnel resulting from the acquisition, must continue the approved private plan and must not withdraw the plan without a specific request for withdrawal in a manner and at a time specified by the commissioner. A successor may terminate a private plan with notice to the commissioner and within 90 days from the date of the acquisition.

Subd. 16. **Revocation of approval by commissioner.** (a) The commissioner may terminate any private plan if the commissioner determines the employer:

(1) failed to pay benefits;

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

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

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

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

(c) The employer may, within ten days from mailing or personal service of the notice, file an appeal to the commissioner in the time, manner, method, and procedure provided by the commissioner under subdivision 11.

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

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

Subd. 17. **Employer penalties.** (a) The commissioner may assess the following monetary penalties against an employer with an approved private plan found to have violated this chapter:

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

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

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

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

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

(e) Assessment of penalties under this subdivision may be appealed as provided by the commissioner under subdivision 11.

Subd. 18. **Reports, information, and records.** Employers with an approved private plan must maintain all reports, information, and records as relating to the private plan and claims for a period of six years from creation and provide to the commissioner upon request.

Subd. 19. **Audit and investigation.** The commissioner may investigate and audit plans approved under this section both before and after the plans are approved.

Subd. 20. **Voluntary termination of an approved private plan by an employer.** (a) An employer may terminate its approved private plan by notifying the commissioner in writing at least 30 days before the voluntary termination's effective date.

(b) The employer must notify employees of the voluntary termination no later than 30 days before the termination's effective date.

(c) An employer must continue the approved private plan's coverage through the termination's effective date. If an employer does not continue the approved private plan's coverage through the termination's effective date, the commissioner shall assess against the employer a fine per employee per day the employee was not covered through the termination's effective date. The fine per employee per day will equal the employer's and employee's total premium amount for a year, divided by 365.

Subd. 21. **Employer obligations after termination of private plan approval.** (a) Within seven days of the effective date of a voluntary or involuntary termination of private plan approval, the employer must notify all employees of the termination and notify all employees that they are under the state plan as a result of the termination.

(b) If an employer's workforce becomes covered by the state plan because the employer's private plan approval was voluntarily or involuntarily terminated, the employer must remain covered by the state plan and pay premiums to the state for a period of at least three years.

EFFECTIVE DATE. This section is effective July 1, 2025.

Sec. 20. **[268B.11] SELF-EMPLOYED AND INDEPENDENT CONTRACTOR ELECTION OF COVERAGE.**

Subdivision 1. **Election of coverage.** (a) A self-employed individual or independent contractor may file with the commissioner by electronic transmission in a format prescribed by the commissioner an application to be entitled to benefits under this chapter for a period not less than 104 consecutive calendar weeks. Upon the approval of the commissioner, sent by United States mail or electronic transmission, the individual is entitled to benefits under this chapter beginning the calendar quarter after the date of approval or beginning in a later calendar quarter if requested by the self-employed individual or independent contractor. The individual ceases to be entitled to benefits as of the first day of January of any calendar year only if, at least 30 calendar days before the first day of January, the individual has filed with the commissioner by electronic transmission in a format prescribed by the commissioner a notice to that effect.

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

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

Subd. 3. **Premium.** A self-employed individual who elects to receive coverage under this chapter must annually pay a premium as provided in section 268B.14, subdivision 6, clause (1), times the lesser of:

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2025.

Sec. 21. **[268B.12] WAGE REPORTING.**

Subdivision 1. **Wage detail report.** (a) Each employer must submit, under the employer premium account described in section 268B.13, a quarterly wage detail report by electronic transmission, in a format prescribed by the commissioner. The report must include for each employee in covered employment and for each seasonal employee during the calendar quarter, the employee's name, the total wages paid to the employee, and total number of paid hours worked. For employees exempt from the definition of employee in section 177.23, subdivision 7, clause (6), the employer must report 40 hours worked for each week any duties were performed by a full-time employee and must report a reasonable estimate of the hours worked for each week duties were performed by a part-time employee. In addition, the wage detail report must include the number of employees employed during the payroll period that includes the 12th day of each calendar month and, if required by the commissioner, the report must be broken down by business location and separate business unit. The report is due and must be received by the commissioner on or before the last day of the month following the end of the calendar quarter. The commissioner may delay the due date on a specific calendar quarter in the event the department is unable to accept wage detail reports electronically.

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

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

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

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

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

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

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

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

The late fee is canceled if the wage detail report is received within 30 calendar days after a demand for the report is sent to the employer by mail or electronic transmission. A late fee assessed to an employer may

not be canceled more than twice each 12 months. The amount of the late fee assessed may not be less than $250.

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

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

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

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

(c) An employer shall not be subject to any penalty under this section upon a reasonable showing that the employer's act or omission which violated the provisions of this section was in good faith or that the employer had reasonable grounds for believing that the act or omission was not a violation of the provisions of this section.

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

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 22. **[268B.13] EMPLOYER PREMIUM ACCOUNTS.**

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

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 23. **[268B.14] PREMIUMS.**

Subdivision 1. **Payments.** (a) Family and medical leave premiums accrue and become payable by each employer, except for an employer with an approved private plan under section 268B.10, for each calendar year on the taxable wages that the employer paid to employees in covered employment.

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

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

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

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

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

Subd. 3. **Employee charge back.** Notwithstanding section 177.24, subdivision 4, or 181.06, subdivision 1, employers must pay a minimum of 50 percent of the annual premiums paid under this section. Employees, through a deduction in their wages to the employer, must pay the remaining portion, if any, of the premium not paid by the employer. Such deductions for any given employee must be in equal proportion to the premiums paid based on the wages of that employee. Deductions under this section must not cause an employee's wage, after the deduction, to fall below the rate required to be paid to the worker by law, including any applicable statute, regulation, rule, ordinance, government resolution or policy, or other legal authority, whichever rate of pay is greater.

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

Subd. 5. **Small business wage exclusion.** (a) For employers with fewer than 30 employees, the amount of wages upon which quarterly employer premium is required is reduced by the premium rate to be paid by the employer multiplied by the lesser of:

(1) $12,500 multiplied by the number of employees; or

(2) $120,000.

(b) For each employee over 20 employees, the exclusion is reduced by $12,000.

(c) The premium paid by the employer as a result of the reduction allowed under this subdivision must not be less than zero.

(d) The reduction in premiums paid by the employer is for the sole benefit of the employer and does not relieve the employer from deducting the employee portion of the premium.

Subd. 6. **Annual employer premium rates.** The employer premium rates beginning January 1, 2026, shall be as follows:

(1) for an employer participating in both family and medical benefit programs, 0.7 percent;

(2) for an employer participating in only the medical benefit program and with an approved private plan for the family benefit program, 0.4 percent; and

(3) for an employer participating in only the family benefit program and with an approved private plan for the medical benefit program, 0.3 percent.

Subd. 7. **Premium rate adjustments.** (a) Beginning January 1, 2027, and by July 31 of each year thereafter, the commissioner must adjust the annual premium rates using the formula in paragraph (b). In no year shall the annual premium rate exceed 1.2 percent of taxable wages paid to each employee.

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

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

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

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

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

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

Subd. 8. **Deposit of premiums.** All premiums collected under this section must be deposited into the family and medical benefit insurance account.

Subd. 9. **Nonpayment of premiums by employer.** The failure of an employer to pay premiums does not impact the right of an employee to benefits, or any other right, under this chapter.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 24. **[268B.145] INCOME TAX WITHHOLDING AND STATE TAXATION.**

Subdivision 1. **Federal income tax.** If the Internal Revenue Service determines that benefits received under this chapter are subject to federal income tax, the applicant may elect to have federal income tax deducted and withheld from the applicant's benefits.

Subd. 2. **State income tax.** Benefits received under this chapter are subject to state income tax. If the applicant elects to have federal income tax withheld, the applicant may, in addition, elect to have Minnesota state income tax withheld.

Subd. 3. **Notification.** Upon filing an application for benefits, the applicant must be informed that:

(1) benefits are subject to federal and state income tax;

(2) there are requirements for filing estimated tax payments;

(3) the applicant may elect to have federal income tax withheld from benefits;

(4) if the applicant elects to have federal income tax withheld, the applicant may, in addition, elect to have Minnesota state income tax withheld; and

(5) at any time during the benefit year the applicant may change a prior election.

Subd. 4. **Withholding.** If an applicant elects to have federal income tax withheld, the commissioner must deduct ten percent for federal income tax. If an applicant also elects to have Minnesota state income tax withheld, the commissioner must make an additional five percent deduction for state income tax. Any amount deducted under section 268B.06 has priority over any amounts deducted under this section. Federal income tax withholding has priority over state income tax withholding. An election to have income tax withheld may not be retroactive and only applies to benefits paid after the election.

Subd. 5. **Transfer of funds.** The amount of any benefits deducted under this section remains in the family and medical benefit insurance account until transferred to the Internal Revenue Service, or the Department of Revenue, as an income tax payment on behalf of the applicant.

Subd. 6. **Correction of errors.** Any error that resulted in underwithholding or overwithholding under this section must not be corrected retroactively.

Subd. 7. **Effect of payments.** Any amount deducted under this section is considered as benefits paid to the applicant.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 25. **[268B.15] COLLECTION OF PREMIUMS.**

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

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

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

(2) interest on past due premiums; then

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

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

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

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

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

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

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

Subd. 3. **Estimating the premium due.** Only if an employer fails to make all necessary records available for an audit under section 268B.21 and the commissioner has reason to believe the employer has not reported

all the required wages on the quarterly wage detail reports, may the commissioner then estimate the amount of premium due and assess the employer the estimated amount due.

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

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

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

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

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

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

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

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

Subd. 8. **Priorities under legal dissolutions or distributions.** In the event of any distribution of an employer's assets according to an order of any court, including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceeding, premiums then or thereafter due must be paid in full before all other claims except claims for wages of not more than $1,000 per former employee, earned within six months of the commencement of the proceedings. In the event of an employer's adjudication in bankruptcy under federal law, premiums then or thereafter due are entitled to the priority provided in that law for taxes due in any state.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 26. **[268B.155] CHILD SUPPORT DEDUCTION FROM BENEFITS.**

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 27. **[268B.16] COMPROMISE.**

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

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

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

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

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 28. **[268B.17] ADMINISTRATIVE COSTS.**

Beginning January 1, 2026, and each calendar year thereafter, the commissioner may spend up to seven percent of projected benefit payments for that calendar year for the administration of this chapter. The department may enter into interagency agreements with the Department of Labor and Industry and the Department of Commerce, including agreements to transfer funds, subject to the limit in this section, for the Department of Labor and Industry to fulfill its enforcement authority of this chapter and for the Department of Commerce to fulfill the requirements of this chapter.

EFFECTIVE DATE. This section is effective July 1, 2025.

Sec. 29. **[268B.18] PUBLIC OUTREACH.**

Beginning in fiscal year 2026, the commissioner must use at least 0.5 percent of projected benefit payments under section 268B.17 for the purpose of outreach, education, and technical assistance for employees, employers, and self-employed individuals eligible to elect coverage under section 268B.11. The department may enter into interagency agreements with the Department of Labor and Industry and the Department of Commerce, including agreements to transfer funds, subject to the limit in section 268B.17, to accomplish the requirements of this section. At least one-half of the amount spent under this section must be used for grants to community-based groups.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 30. **[268B.185] BENEFIT OVERPAYMENTS.**

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

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

Subd. 2. **Overpayment because of misrepresentation.** (a) An applicant has committed misrepresentation if the applicant is overpaid benefits by making an intentional false statement or representation in an effort to fraudulently collect benefits. Overpayment because of misrepresentation does not occur where there is an unintentional mistake or a good faith belief as to the eligibility or correctness of the statement or representation.

(b) After the discovery of facts indicating misrepresentation, the commissioner must issue a determination of overpayment penalty assessing a penalty equal to 15 percent of the amount overpaid.

(c) Unless the applicant files an appeal within 30 calendar days after the sending of a determination of overpayment penalty to the applicant by mail or electronic transmission, the determination is final. Proceedings on the appeal are conducted in accordance with section 268B.08.

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

(e) The department is authorized to issue a determination of overpayment penalty under this subdivision within 24 months of the establishment of the benefit account upon which the benefits were obtained through misrepresentation.

Subd. 3. **Theft.** (a) An individual is guilty of theft and must be sentenced under section 609.52 if the individual obtains, or attempts to obtain, or aids or abets any other individual to obtain, by an intentional false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent means, benefits to which the individual is not entitled under this chapter.

(b) Any employer, or any officer or agent of an employer, or any other individual has committed fraud and is guilty of a crime, if, in order to avoid or reduce any payment required from an employer under this chapter, to improperly secure a grant under section 268B.29, or to prevent or reduce the payment of benefits to an applicant, they:

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

(2) knowingly fail to disclose a material fact; or

(3) knowingly advise or assist an employer in violating clause (1) or (2).

The individual is guilty of a gross misdemeanor if the value of the fraudulent activity is $500 or less. The individual is guilty of a felony if the value of the fraudulent activity exceeds $500.

Subd. 4. **Interest.** For any family and medical leave benefits obtained by misrepresentation, and any penalty amounts assessed under subdivision 2, the commissioner must assess interest on any amount that remains unpaid beginning 30 calendar days after the date of a determination of overpayment penalty. Interest is assessed at the rate of six percent per year. A determination of overpayment penalty must state that interest will be assessed. Interest is not assessed on unpaid interest. Interest collected under this subdivision is credited to the family and medical benefit insurance account.

Subd. 5. **Offset of benefits.** The commissioner may offset from any future family and medical leave benefits otherwise payable the amount of an overpayment. No single offset may exceed 20 percent of the amount of the payment from which the offset is made.

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

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

Subd. 7. **Collection of overpayments.** (a) The commissioner has discretion regarding the recovery of any overpayment for reasons other than misrepresentation. Regardless of any law to the contrary, the commissioner is not required to refer any overpayment for reasons other than misrepresentation to a public or private collection agency, including agencies of this state.

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

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

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

Subd. 8. **Court fees; collection fees.** (a) If the department is required to pay any court fees in an attempt to enforce collection of overpaid benefits, penalties, or interest, the amount of the court fees may be added to the total amount due.

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

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

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 31. **[268B.19] EMPLOYER MISCONDUCT; PENALTY.**

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

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

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

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

(3) knowingly failed to disclose a material fact.

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 32. **[268B.21] RECORDS; AUDITS.**

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 33. **[268B.22] SUBPOENAS; OATHS.**

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 34. **[268B.23] LIEN; LEVY; SETOFF; AND CIVIL ACTION.**

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

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

(c) Notices of liens, lien renewals, and lien releases, in a form prescribed by the commissioner, may be filed with the county recorder or the secretary of state by mail or personal delivery. The filing officer, whether the county recorder or the secretary of state, must endorse and index a printout of the notice as if the notice had been mailed or delivered.

(d) County recorders and the secretary of state must enter information on lien notices, renewals, and releases into their respective database system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 4. **Collection by civil action.** (a) Any amount due under this chapter, from an applicant or employer, may be collected by civil action in the name of the state of Minnesota. Civil actions brought under this subdivision must be heard as provided under section 16D.14. In any action, judgment must be entered in default for the relief demanded in the complaint without proof, together with costs and disbursements, upon the filing of an affidavit of default.

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 35. **[268B.24] CONCILIATION SERVICES.**

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

EFFECTIVE DATE. This section is effective November 1, 2025.

Sec. 36. **[268B.25] ANNUAL REPORTS.**

(a) Beginning on or before January 1, 2027, the commissioner must annually report to the Department of Management and Budget and the house of representatives and senate committee chairs with jurisdiction over this chapter on program administrative expenditures and revenue collection for the prior fiscal year, including but not limited to:

(1) total revenue raised through premium collection;

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

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

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

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

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

(7) an accounting of required outreach expenditures;

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

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

(b) Beginning on or before January 1, 2027, the commissioner must annually publish a publicly available report providing the following information for the previous fiscal year:

(1) total eligible claims;

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

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

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

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

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

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

(8) average duration for cases completed;

(9) the number of cases remaining open at the close of such year; and

(10) the employers who received approval by the department for seasonal employee classification and the number of seasonal employees approved for each year.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 37. **[268B.26] NOTICE REQUIREMENTS.**

(a) Each employer must post in a conspicuous place on each of its premises a workplace notice prepared by the commissioner providing notice of benefits available under this chapter. The required workplace notice must be in English and each language other than English which is the primary language of five or more employees or independent contractors of that workplace, if such notice is available from the department.

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

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

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

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

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

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

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

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

(8) any other information required by the department.

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

(c) An employer that fails to comply with this section may be issued, for a first violation, a civil penalty of $50 per employee, and for each subsequent violation, a civil penalty of $300 per employee. The employer shall have the burden of demonstrating compliance with this section.

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

(e) The department shall prepare a uniform employee notice form for employers to use that provides the notice information required under this section. The commissioner shall prepare the uniform employee notice in the five most common languages spoken in Minnesota.

(f) Each employer who employs or intends to employ seasonal employees as defined in section 268B.01, subdivision 35, must issue to each seasonal employee a notice that the employee is not eligible to receive paid family and medical leave benefits while the employee is so employed. The notice must be provided at the time an employment offer is made, or within 30 days of the effective date of this section for the employer's existing seasonal employees, and be in a form provided by the department. Delivery is made when an employee provides written or electronic acknowledgment of receipt of the information, or signs a statement indicating the employee's refusal to sign such acknowledgment.

EFFECTIVE DATE. This section is effective November 1, 2025.

Sec. 38. **[268B.27] RELATIONSHIP TO OTHER LEAVE; CONSTRUCTION.**

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

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

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

(2) prohibit an employer from providing additional benefits, including but not limited to covering the portion of earnings not provided during periods of leave covered under this chapter including through a supplemental benefit payment, as defined under section 268B.01, subdivision 41;

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

(4) be applied so as to create any power or duty in conflict with federal law.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 39. **[268B.28] SEVERABLE.**

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

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

Sec. 40. **[268B.29] SMALL BUSINESS ASSISTANCE GRANTS.**

(a) Employers with 30 or fewer employees and less than $3,000,000 in gross annual revenues may apply to the department for grants under this section.

(b) The commissioner may approve a grant of up to $3,000 if the employer hires a temporary worker, or increases another existing worker's wages, to substitute for an employee on family or medical leave for a period of seven days or more.

(c) The maximum total grant per eligible employer in a calendar year is $6,000.

(d) Grants must be used to hire temporary workers or to increase wages for current employees. To be eligible for consideration for a grant under this section, the employer must documentation attest, in a manner and format prescribed by the commissioner, that:

(1) the temporary worker hired or wage-related costs incurred are due to an employee's use of leave under this chapter;

(2) the amount of the grant requested is less than or equal to the additional costs incurred by the employer; and

(3) the employer meets the revenue requirements in paragraph (a).

(e) Applications shall be processed on a first-received, first-processed basis within each calendar year until funding is exhausted. Applications received after funding has been exhausted in a calendar year are not eligible for reimbursement.

(f) For the purposes of this section, the commissioner shall average the number of employees reported by an employer over the last four completed calendar quarters as submitted in the wage detail records required in section 268B.12 to determine the size of the employer.

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

(h) Unless additional funds are appropriated, the commissioner may award grants under this section up to a maximum of $5,000,000 per calendar year from the family and medical benefit insurance account.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 41. **ACTUARIAL STUDY.**

(a) The commissioner of employment and economic development must contract with a qualified independent actuarial consultant to conduct an actuarial study of the family and medical leave premium rate, premium rate structure, weekly benefit formula, duration of benefits, fund reserve, and other components as necessary to determine an actuarially sound rate and future rate-setting mechanism of the family and medical benefit insurance program created in this act.

(b) A qualified independent actuarial consultant is one who is a Fellow of the Society of Actuaries (FSA) and a Member of the American Academy of Actuaries (MAAA) and who has experience directly relevant to the analysis required under this paragraph. The commissioner must issue a request for proposal to satisfy the requirements of this section no later than 30 days following enactment.

(c) If the actuarial study indicates that the premium rate in Minnesota Statutes, section 268B.14, subdivision 7, is not actuarially sound, the commissioner, in consultation with the commissioner of management and budget, must adjust the premium rate to make the program actuarially sound, subject to the limitations in Minnesota Statutes, section 268B.14, subdivision 7, paragraph (b).

(d) A copy of the actuarial study must be provided to the majority and minority leaders in the senate and the house of representatives no later than October 31, 2023. The actuarial study must also be filed with the Legislative Reference Library in compliance with Minnesota Statutes, section 3.195.

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

Sec. 42. **APPLICATION.**

Family and medical benefits under Minnesota Statutes, chapter 268B, may be paid for starting January 1, 2026.

ARTICLE 2

FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS

Section 1. Minnesota Statutes 2022, section 256B.057, subdivision 9, is amended to read:

Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid for a person who is employed and who:

(1) but for excess earnings or assets, meets the definition of disabled under the Supplemental Security Income program;

(2) meets the asset limits in paragraph (d); and

(3) pays a premium and other obligations under paragraph (e).

(b) For purposes of eligibility, there is a $65 earned income disregard. To be eligible for medical assistance under this subdivision, a person must have more than $65 of earned income, be receiving an unemployment insurance benefit under chapter 268 that the person began receiving while eligible under this subdivision, or be receiving family and medical leave benefits under chapter 268B that the person began receiving while eligible under this subdivision. Earned income must have Medicare, Social Security, and applicable state and federal taxes withheld. The person must document earned income tax withholding. Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

(c) After the month of enrollment, a person enrolled in medical assistance under this subdivision who would otherwise be ineligible and be disenrolled due to one of the following circumstances may retain eligibility for up to four consecutive months after a month of job loss if the person:

(1) is temporarily unable to work and without receipt of earned income due to a medical condition, as verified by a physician, advanced practice registered nurse, or physician assistant; or

(2) loses employment for reasons not attributable to the enrollee, and is without receipt of earned income ~~may retain eligibility for up to four consecutive months after the month of job loss~~.

To receive a four-month extension of continued eligibility under this paragraph, enrollees must verify the medical condition or provide notification of job loss~~.~~, continue to meet all other eligibility requirements ~~must be met~~, and ~~the enrollee must~~ continue to pay all calculated premium costs ~~for continued eligibility~~.

(d) For purposes of determining eligibility under this subdivision, a person's assets must not exceed $20,000, excluding:

(1) all assets excluded under section 256B.056;

(2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans;

(3) medical expense accounts set up through the person's employer; and

(4) spousal assets, including spouse's share of jointly held assets.

(e) All enrollees must pay a premium to be eligible for medical assistance under this subdivision, except as provided under clause (5).

(1) An enrollee must pay the greater of a $35 premium or the premium calculated based on the person's gross earned and unearned income and the applicable family size using a sliding fee scale established by the commissioner, which begins at one percent of income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines.

(2) Annual adjustments in the premium schedule based upon changes in the federal poverty guidelines shall be effective for premiums due in July of each year.

(3) All enrollees who receive unearned income must pay one-half of one percent of unearned income in addition to the premium amount, except as provided under clause (5).

(4) Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

(5) Effective July 1, 2009, American Indians are exempt from paying premiums as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is any person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

(f) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

(g) Any required premium shall be determined at application and redetermined at the enrollee's six-month income review or when a change in income or household size is reported. Enrollees must report any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

(h) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

(i) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. "Good cause" means an excuse for the enrollee's failure to pay the required premium when due because the circumstances were beyond the enrollee's control or not reasonably foreseeable. The commissioner shall determine whether good cause exists based on the weight of the supporting evidence submitted by the enrollee to demonstrate good cause. Except when an installment agreement is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must pay any past due premiums as well as current premiums due prior to being reenrolled. Nonpayment shall include

payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

(j) For enrollees whose income does not exceed 200 percent of the federal poverty guidelines and who are also enrolled in Medicare, the commissioner shall reimburse the enrollee for Medicare part B premiums under section 256B.0625, subdivision 15, paragraph (a).

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 2. Minnesota Statutes 2022, section 256J.561, is amended by adding a subdivision to read:

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

Sec. 3. Minnesota Statutes 2022, section 256J.95, subdivision 3, is amended to read:

Subd. 3. **Eligibility for diversionary work program.** (a) Except for the categories of family units listed in clauses (1) to ~~(8)~~ (9), all family units who apply for cash benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must participate in the diversionary work program. Family units or individuals that are not eligible for the diversionary work program include:

(1) child only cases;

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

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

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

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

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

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

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

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

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

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

Sec. 4. Minnesota Statutes 2022, section 256J.95, subdivision 11, is amended to read:

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

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

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

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

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

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

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

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

Sec. 5. Minnesota Statutes 2022, section 256P.01, subdivision 3, is amended to read:

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

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective January 1, 2026.

ARTICLE 3

APPROPRIATIONS

Section 1. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the family and medical benefit insurance account under Minnesota Statutes, section 268B.02, subdivision 4, and are available for the fiscal years indicated for each purpose. The figures "2024" and "2025" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2024, or June 30, 2025, respectively. "The first year" is fiscal year 2024. "The second year" is fiscal year 2025. "The biennium" is fiscal years 2024 and 2025.

	APPROPRIATIONS Available for the Year Ending June 30	
	2024	**2025**
Sec. 2. **DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT**	**$ 50,938,000**	**$ 71,357,000**
This amount is for the purposes of Minnesota Statutes, chapter 268B, including start-up and information technology costs, administration, and outreach.		
The base from the family and medical benefit insurance account for fiscal year 2026 is $40,544,000 and for fiscal year 2027 is $5,000,000.		
Sec. 3. **DEPARTMENT OF LABOR AND INDUSTRY**	**$ 601,000**	**$ 374,000**
This amount is for the purposes of Minnesota Statutes, chapter 268B.		
The base from the family and medical benefit insurance account for fiscal year 2026 is $366,000 and for fiscal year 2027 is $0.		
Sec. 4. **DEPARTMENT OF COMMERCE**	**$ 376,000**	**$ 316,000**
This amount is for the purposes of Minnesota Statutes, chapter 268B.		
The base from the family and medical benefit insurance account for fiscal year 2026 is $64,000 and for fiscal year 2027 is $0.		
Sec. 5. **MINNESOTA MANAGEMENT AND BUDGET**	**$ -0-**	**$ 118,000**

This amount is for the purposes of Minnesota Statutes, chapter 268B.

The base from the family and medical benefit insurance account for fiscal year 2026 and beyond is $45,000.

Sec. 6. **DEPARTMENT OF HUMAN SERVICES** **$ 2,649,000** **$ -0-**

This amount is for the purposes of Minnesota Statutes, chapter 268B.

The base from the family and medical benefit insurance account for fiscal year 2026 and beyond is $530,000.

Sec. 7. **SECRETARY OF STATE** **$ 384,000** **$ 4,000**

This amount is for the purposes of Minnesota Statutes, chapter 268B.

The base from the family and medical benefit insurance account for fiscal year 2026 and beyond is $77,000.

Sec. 8. **SUPREME COURT.** **$ 15,000** **$ 15,000**

This amount is for the purposes of Minnesota Statutes, chapter 268B. This is a onetime appropriation.

Sec. 9. **LEGISLATURE.** **$ -0-** **$ 18,000**

This amount is for the purposes of Minnesota Statutes, chapter 268B. This is a onetime appropriation.

Sec. 10. **UNIVERSITY OF MINNESOTA.** **$ -0-** **$ 1,372,000**

This amount is for the purposes of Minnesota Statutes, chapter 268B. This is a onetime appropriation.

Sec. 11. **DIRECT CARE PROVIDER PREMIUMS THROUGH HCBS WORKFORCE INCENTIVE FUND.**

(a) $20,000,000 in fiscal year 2026 is added to the base appropriation from the family and medical benefit account to the commissioner of human services to provide reimbursement for premiums incurred for the paid family and medical leave program under this chapter. Funds shall be administered through the home and community-based workforce incentive fund under Minnesota Statutes, section 256.4764.

(b) The commissioner of employment and economic development shall share premium payment data collected under this chapter to assist the commissioner of human services in the verification process of premiums paid under this section.

(c) This amount is for the purposes of Minnesota Statutes, section 256.4764. This is a one-time appropriation and is available until June 30, 2027.

Sec. 12. **TRANSFER.**

The commissioner of management and budget shall transfer $668,321,000 in fiscal year 2024 from the general fund to the family and medical benefit insurance account for the purposes of Minnesota Statutes, chapter 268B.

Sec. 13. **ENTERPRISE COSTS BASE ESTABLISHMENT.**

A general fund base of $3,049,000 in fiscal year 2026 and $3,049,000 in fiscal year 2027 are established. Of this amount, $35,000 each year is to fund enterprise requirements under Minnesota Statutes, chapter 268B, employee notification, and $3,014,000 each year is to fund the costs incurred by state agencies due to employer-paid premiums established under Minnesota Statutes, chapter 268B. The commissioner of management and budget shall allocate these amounts to agency base budgets based on the expected costs incurred by those agencies.

Presented to the governor May 23, 2023

Signed by the governor May 25, 2023, 2:16 p.m.