

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 1098

(SENATE AUTHORS: PRATT)

DATE
02/17/2021

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OFFICIAL STATUS
Introduction and first reading
Referred to Jobs and Economic Growth Finance and Policy

1.1 A bill for an act
1.2 relating to state government; establishing the governor's budget for jobs and
1.3 economic development; appropriating money for the Departments of Employment
1.4 and Economic Development and Labor and Industry, Bureau of Mediation Services,
1.5 and Workers' Compensation Court of Appeals; making policy changes; authorizing
1.6 rulemaking; modifying fees; requiring reports; amending Minnesota Statutes 2020,
1.7 sections 13.719, by adding a subdivision; 116J.035, subdivision 6; 116L.02;
1.8 116L.03, subdivisions 1, 2, 3; 116L.05, subdivision 5; 116L.17, subdivisions 1,
1.9 4; 116L.20, subdivision 2; 116L.40, subdivisions 5, 6, 9, 10, by adding a
1.10 subdivision; 116L.41, subdivisions 1, 2, by adding subdivisions; 116L.42,
1.11 subdivisions 1, 2; 116L.98, subdivisions 1, 2, 3; 177.27, subdivision 4; 181.032;
1.12 181.939; 181.940, subdivisions 2, 3; 181.9414, by adding a subdivision; 182.666,
1.13 subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 256J.561, by adding a
1.14 subdivision; 256J.95, subdivisions 3, 11; 256P.01, subdivision 3; 268.035,
1.15 subdivision 21c; 268.085, subdivision 2; 268.133; 268.19, subdivision 1; 326B.092,
1.16 subdivision 7; 326B.106, subdivision 1; 326B.89, subdivisions 1, 5, 9; proposing
1.17 coding for new law in Minnesota Statutes, chapter 116L; proposing coding for
1.18 new law as Minnesota Statutes, chapter 268B; repealing Minnesota Statutes 2020,
1.19 section 116L.18.

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

1.21 **ARTICLE 1**
1.22 **APPROPRIATIONS**

1.23 **Section 1. JOBS, ECONOMIC DEVELOPMENT, LABOR AND INDUSTRY, AND**
1.24 **BUREAU OF MEDIATION SERVICES APPROPRIATIONS.**

1.25 (a) The sums shown in the columns marked "Appropriations" are appropriated to the
1.26 agencies and for the purposes specified in this article. The appropriations are from the
1.27 general fund, or another named fund, and are available for the fiscal years indicated for
1.28 each purpose. The figures "2022" and "2023" used in this article mean that the appropriations
1.29 listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023,

3.1 development competitive grant program. All
3.2 grant awards shall be for two consecutive
3.3 years. Grants shall be awarded in the first year.

3.4 (c) \$1,772,000 each year is for contaminated
3.5 site cleanup and development grants under
3.6 Minnesota Statutes, sections 116J.551 to
3.7 116J.558. This appropriation is available until
3.8 June 30, 2025.

3.9 (d) \$700,000 each year is from the remediation
3.10 fund for contaminated site cleanup and
3.11 development grants under Minnesota Statutes,
3.12 sections 116J.551 to 116J.558. This
3.13 appropriation is available until June 30, 2025.

3.14 (e) \$139,000 each year is for the Center for
3.15 Rural Policy and Development.

3.16 (f) \$25,000 each year is for the administration
3.17 of state aid for the Destination Medical Center
3.18 under Minnesota Statutes, sections 469.40 to
3.19 469.47.

3.20 (g) \$875,000 each year is for the host
3.21 community economic development program
3.22 established in Minnesota Statutes, section
3.23 116J.548.

3.24 (h) \$500,000 each year is for the small
3.25 business development center program for
3.26 grants to the regional small business
3.27 development center offices and the lead center.
3.28 This is a onetime appropriation.

3.29 (i) \$3,000,000 each year is for technical
3.30 assistance to small businesses. Of this amount:

3.31 (1) \$1,500,000 is for grants to nonprofit
3.32 lenders to provide additional equity support
3.33 to leverage other capitol sources;

- 4.1 (2) \$750,000 is for the business development
4.2 competitive grant program; and
- 4.3 (3) \$750,000 is for grants to small business
4.4 incubators that serve minority-, veteran-, and
4.5 women-owned businesses to provide
4.6 commercial space, technical assistance, and
4.7 education services.
- 4.8 This is a onetime appropriation.
- 4.9 (j) \$750,000 in fiscal year 2022 is for grants
4.10 to local communities to increase the number
4.11 of quality child care providers to support
4.12 economic development. At least 60 percent of
4.13 grant funds must go to communities located
4.14 outside of the seven-county metropolitan area
4.15 as defined under Minnesota Statutes, section
4.16 473.121, subdivision 2. Grant recipients must
4.17 obtain a 50 percent nonstate match to grant
4.18 funds in either cash or in-kind contributions.
4.19 Grant funds available under this section must
4.20 be used to implement projects to reduce the
4.21 child care shortage in the state, including but
4.22 not limited to funding for child care business
4.23 start-ups or expansion, training, facility
4.24 modifications or improvements required for
4.25 licensing, and assistance with licensing and
4.26 other regulatory requirements. In awarding
4.27 grants, the commissioner must give priority
4.28 to communities that have demonstrated a
4.29 shortage of child care providers in the area.
- 4.30 This is a onetime appropriation. Within one
4.31 year of receiving grant funds, grant recipients
4.32 must report to the commissioner on the
4.33 outcomes of the grant program, including but
4.34 not limited to the number of new providers,
4.35 the number of additional child care provider

5.1 jobs created, the number of additional child
5.2 care slots, and the amount of cash and in-kind
5.3 local funds invested.

5.4 (k) \$7,500,000 each year is for the Minnesota
5.5 job creation fund under Minnesota Statutes,
5.6 section 116J.8748. Of this amount, the
5.7 commissioner of employment and economic
5.8 development may use up to three percent for
5.9 administrative expenses. This appropriation
5.10 is available until expended. The base amount
5.11 for this purpose in fiscal year 2024 and beyond
5.12 is \$8,000,000.

5.13 (l) \$7,750,000 each year is for the Minnesota
5.14 investment fund under Minnesota Statutes,
5.15 section 116J.8731. Of this amount, the
5.16 commissioner of employment and economic
5.17 development may use up to three percent for
5.18 administration and monitoring of the program.
5.19 In fiscal year 2024 and beyond, the base
5.20 amount is \$12,370,000. This appropriation is
5.21 available until expended. Notwithstanding
5.22 Minnesota Statutes, section 116.8731, money
5.23 appropriated to the commissioner for the
5.24 Minnesota investment fund may be used for
5.25 the redevelopment program under Minnesota
5.26 Statutes, sections 116J.575 and 116J.5761, at
5.27 the discretion of the commissioner. Grants
5.28 under this paragraph are not subject to the
5.29 grant amount limitation under Minnesota
5.30 Statutes, section 116J.8731.

5.31 (m) \$1,000,000 each year is for the Minnesota
5.32 emerging entrepreneur loan program under
5.33 Minnesota Statutes, section 116M.18. Funds
5.34 available under this paragraph are for transfer
5.35 into the emerging entrepreneur program

6.1 special revenue fund account created under
6.2 Minnesota Statutes, chapter 116M, and are
6.3 available until expended. Of this amount, up
6.4 to four percent is for administration and
6.5 monitoring of the program.

6.6 (n) \$325,000 each year is for the Minnesota
6.7 Film and TV Board. The appropriation in each
6.8 year is available only upon receipt by the
6.9 board of \$1 in matching contributions of
6.10 money or in-kind contributions from nonstate
6.11 sources for every \$3 provided by this
6.12 appropriation, except that each year up to
6.13 \$50,000 is available on July 1 even if the
6.14 required matching contribution has not been
6.15 received by that date.

6.16 (o) \$12,000 each year is for a grant to the
6.17 Upper Minnesota Film Office.

6.18 (p) \$500,000 each year is from the general
6.19 fund for a grant to the Minnesota Film and TV
6.20 Board for the film production jobs program
6.21 under Minnesota Statutes, section 116U.26.
6.22 This appropriation is available until June 30,
6.23 2025.

6.24 (q) \$4,195,000 each year is for the Minnesota
6.25 job skills partnership program under
6.26 Minnesota Statutes, sections 116L.01 to
6.27 116L.17. If the appropriation for either year
6.28 is insufficient, the appropriation for the other
6.29 year is available. This appropriation is
6.30 available until expended.

6.31 (r) \$1,350,000 each year from the workforce
6.32 development fund and \$250,000 each year
6.33 from the general fund are for jobs training

8.1 prosperity competitive grant program. Of this
8.2 amount, up to four percent is for
8.3 administration and monitoring of the program.
8.4 (d) \$500,000 each year is from the workforce
8.5 development fund for a grant to the American
8.6 Indian Opportunities and Industrialization
8.7 Center, in collaboration with the Northwest
8.8 Indian Community Development Center, to
8.9 reduce academic disparities for American
8.10 Indian students and adults. This is a onetime
8.11 appropriation. The grant funds may be used
8.12 to provide:
8.13 (1) student tutoring and testing support
8.14 services;
8.15 (2) training and employment placement in
8.16 information technology;
8.17 (3) training and employment placement within
8.18 trades;
8.19 (4) assistance in obtaining a GED;
8.20 (5) remedial training leading to enrollment
8.21 and to sustain enrollment in a postsecondary
8.22 higher education institution;
8.23 (6) real-time work experience in information
8.24 technology fields and in the trades;
8.25 (7) contextualized adult basic education;
8.26 (8) career and educational counseling for
8.27 clients with significant and multiple barriers;
8.28 and;
8.29 (9) reentry services and counseling for adults
8.30 and youth.
8.31 After notification to the chairs and minority
8.32 leads of the legislative committees with

9.1 jurisdiction over jobs and economic
9.2 development, the commissioner may transfer
9.3 this appropriation to the commissioner of
9.4 education.

9.5 (e) \$500,000 each year is from the workforce
9.6 development fund for the Opportunities
9.7 Industrialization Center programs. This
9.8 appropriation shall be divided equally among
9.9 the eligible centers.

9.10 (f) \$1,000,000 each year is for competitive
9.11 grants to organizations providing services to
9.12 relieve economic disparities in the Southeast
9.13 Asian community through workforce
9.14 recruitment, development, job creation,
9.15 assistance of smaller organizations to increase
9.16 capacity, and outreach. Of this amount, up to
9.17 five percent is for administration and
9.18 monitoring of the program.

9.19 (g) \$1,000,000 each year is for a competitive
9.20 grant program to provide grants to
9.21 organizations that provide support services for
9.22 individuals, such as job training, employment
9.23 preparation, internships, job assistance to
9.24 parents, financial literacy, academic and
9.25 behavioral interventions for low-performing
9.26 students, and youth intervention. Grants made
9.27 under this section must focus on low-income
9.28 communities, young adults from families with
9.29 a history of intergenerational poverty, and
9.30 communities of color. Of this amount, up to
9.31 four percent is for administration and
9.32 monitoring of the program.

9.33 (h) \$750,000 each year from the general fund
9.34 and \$3,348,000 each year from the workforce
9.35 development fund are for the youth-at-work

10.1 competitive grant program under Minnesota
 10.2 Statutes, section 116L.562. Of this amount,
 10.3 up to five percent is for administration and
 10.4 monitoring of the youth workforce
 10.5 development competitive grant program. All
 10.6 grant awards shall be for two consecutive
 10.7 years. Grants shall be awarded in the first year.

10.8 (i) \$1,000,000 each year is from the workforce
 10.9 development fund for the youthbuild program
 10.10 under Minnesota Statutes, sections 116L.361
 10.11 to 116L.366.

10.12 (j) \$4,050,000 each year is from the workforce
 10.13 development fund for the Minnesota youth
 10.14 program under Minnesota Statutes, sections
 10.15 116L.56 and 116L.561.

10.16 **Subd. 4. General Support Services** 4,957,000 5,270,000

	<u>Appropriations by Fund</u>	
10.17		
10.18	<u>General Fund</u>	<u>4,902,000</u> <u>5,215,000</u>
10.19	<u>Workforce</u>	
10.20	<u>Development</u>	<u>55,000</u> <u>55,000</u>

10.21 (a) On the day following final enactment, the
 10.22 commissioner of employment and economic
 10.23 development must cancel to the general fund
 10.24 \$1,022,000 from the fiscal year 2021 general
 10.25 fund appropriation for the general support
 10.26 services program.

10.27 (b) \$375,000 each year is for the publication,
 10.28 dissemination, and use of labor market
 10.29 information under Minnesota Statutes, section
 10.30 116J.401.

10.31 (c) \$1,269,000 each year is for transfer to the
 10.32 Minnesota Housing Finance Agency for
 10.33 operating the Olmstead Compliance Office.

10.34 **Subd. 5. Minnesota Trade Office** 2,142,000 2,142,000

11.1 (a) \$200,000 each year is for the STEP grants
 11.2 in Minnesota Statutes, section 116J.979. The
 11.3 base for this purpose in fiscal year 2024 and
 11.4 beyond is \$300,000.

11.5 (b) \$180,000 each year is for the Invest
 11.6 Minnesota marketing initiative in Minnesota
 11.7 Statutes, section 116J.9781.

11.8 (c) \$270,000 each year is for the Minnesota
 11.9 Trade Offices under Minnesota Statutes,
 11.10 section 116J.978.

11.11 Subd. 6. Vocational Rehabilitation 36,691,000 36,691,000

11.12	<u>Appropriations by Fund</u>		
11.13	<u>General</u>	<u>23,861,000</u>	<u>23,861,000</u>
11.14	<u>Workforce</u>		
11.15	<u>Development</u>	<u>12,830,000</u>	<u>12,830,000</u>

11.16 (a) \$14,300,000 each year is for the state's
 11.17 vocational rehabilitation program under
 11.18 Minnesota Statutes, chapter 268A.

11.19 (b) \$3,995,000 each year from the general fund
 11.20 and \$11,830,000 each year from the workforce
 11.21 development fund are for extended
 11.22 employment services for persons with severe
 11.23 disabilities under Minnesota Statutes, section
 11.24 268A.15. Of the amounts appropriated from
 11.25 the general fund, \$2,000,000 each year is for
 11.26 rate increases to providers of extended
 11.27 employment services for persons with severe
 11.28 disabilities under Minnesota Statutes, section
 11.29 268A.15. In fiscal year 2024 and beyond, the
 11.30 base is \$8,995,000 each year from the general
 11.31 fund and \$6,830,000 from the workforce
 11.32 development fund.

11.33 (c) \$2,555,000 each year from the general fund
 11.34 is for grants to programs that provide

12.1 employment support services to persons with
 12.2 mental illness under Minnesota Statutes,
 12.3 sections 268A.13 and 268A.14.

12.4 (d) \$3,011,000 each year is from the general
 12.5 fund for grants to centers for independent
 12.6 living under Minnesota Statutes, section
 12.7 268A.11.

12.8 (e) \$1,000,000 each year is from the workforce
 12.9 development fund for grants under Minnesota
 12.10 Statutes, section 268A.16, for employment
 12.11 services for persons, including transition-age
 12.12 youth, who are deaf, deafblind, or
 12.13 hard-of-hearing. If the amount in the first year
 12.14 is insufficient, the amount in the second year
 12.15 is available in the first year.

12.16	<u>Subd. 7. Services for the Blind</u>	<u>6,425,000</u>	<u>6,425,000</u>
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12.17 Of this amount, \$500,000 each year is for
 12.18 senior citizens who are becoming blind. At
 12.19 least one-half of the funds for this purpose
 12.20 must be used to provide training services for
 12.21 seniors who are becoming blind. Training
 12.22 services must provide independent living skills
 12.23 to seniors who are becoming blind to allow
 12.24 them to continue to live independently in their
 12.25 homes.

12.26 **Sec. 3. DEPARTMENT OF LABOR AND**
 12.27 **INDUSTRY**

12.28	<u>Subdivision 1. Total Appropriation</u>	<u>\$ 30,014,000</u>	<u>\$ 29,964,000</u>
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12.29	<u>Appropriations by Fund</u>	
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12.30	<u>2022</u>	<u>2023</u>
12.31	<u>4,239,000</u>	<u>4,189,000</u>
12.32	<u>Workers'</u>	
12.33	<u>22,991,000</u>	<u>22,991,000</u>
12.34	<u>Workforce</u>	
12.35	<u>2,784,000</u>	<u>2,784,000</u>

13.1 The amounts that may be spent for each
 13.2 purpose are specified in the following
 13.3 subdivisions.

13.4 **Subd. 2. General Support** 6,515,000 6,515,000

13.5 Appropriations by Fund

13.6 General 476,000 476,000

13.7 Workers'

13.8 Compensation 6,039,000 6,039,000

13.9 (a) On the day following final enactment, the
 13.10 commissioner of labor and industry shall
 13.11 cancel to the general fund \$203,000 from the
 13.12 fiscal year 2021 general fund appropriations
 13.13 for the general support services program.

13.14 (b) \$476,000 each year is from the general
 13.15 fund for system upgrades. This appropriation
 13.16 is available until June 30, 2023. The base
 13.17 amount in fiscal year 2024 is zero. This
 13.18 appropriation includes funds for information
 13.19 technology project services and support
 13.20 subject to Minnesota Statutes, section
 13.21 16E.0466. Any ongoing information
 13.22 technology costs must be incorporated into
 13.23 the service level agreement and must be paid
 13.24 to the Office of MN.IT Services by the
 13.25 commissioner of labor and industry under the
 13.26 rates and mechanism specified in that
 13.27 agreement.

13.28 **Subd. 3. Labor Standards and Apprenticeship** 4,947,000 4,897,000

13.29 Appropriations by Fund

13.30 General 3,563,000 3,513,000

13.31 Workforce

13.32 Development 1,384,000 1,384,000

13.33 (a) \$2,046,000 each year is for wage theft
 13.34 prevention.

14.1 (b) \$151,000 each year is from the workforce
 14.2 development fund for prevailing wage
 14.3 enforcement.

14.4 (c) \$1,133,000 each year is from the workforce
 14.5 development fund for the apprenticeship
 14.6 program under Minnesota Statutes, chapter
 14.7 178.

14.8 (d) \$100,000 each year is from the workforce
 14.9 development fund for labor education and
 14.10 advancement program grants under Minnesota
 14.11 Statutes, section 178.11, to expand and
 14.12 promote registered apprenticeship training for
 14.13 minorities and women.

14.14 (e) \$84,000 the first year and \$34,000 the
 14.15 second year are for outreach and enforcement
 14.16 efforts related to changes to the parenting
 14.17 leave and accommodation law.

14.18 (f) \$84,000 the first year and \$34,000 the
 14.19 second year are for outreach and enforcement
 14.20 efforts related to changes to the Women's
 14.21 Economic Security Act.

14.22 **Subd. 4. Workers' Compensation** 11,882,000 11,882,000

14.23 **Subd. 5. Workplace Safety** 5,070,000 5,070,000

14.24 This appropriation is from the workers'
 14.25 compensation fund.

14.26 **Subd. 6. Workforce Development Initiatives** 1,600,000 1,600,000

14.27 Appropriations by Fund

14.28 General 200,000 200,000

14.29 Workforce

14.30 Development 1,400,000 1,400,000

14.31 (a) \$200,000 each year is for identification of
 14.32 competency standards under Minnesota
 14.33 Statutes, section 175.46.

15.1 (b) \$1,100,000 each year is from the
 15.2 workforce development fund for the youth
 15.3 skills training grants under Minnesota Statutes,
 15.4 section 175.46. Of this amount, \$100,000 each
 15.5 year is for administration of the program.

15.6 (c) \$300,000 each year is from the workforce
 15.7 development fund for the pipeline program.

15.8 **Sec. 4. WORKERS' COMPENSATION COURT**
 15.9 **OF APPEALS**

\$ 2,283,000 \$ 2,283,000

15.10 This appropriation is from the workers'
 15.11 compensation fund.

15.12 **Sec. 5. BUREAU OF MEDIATION SERVICES**

\$ 2,805,000 \$ 2,850,000

15.13 (a) On the day following final enactment, the
 15.14 commissioner of the Bureau of Mediation
 15.15 Services shall cancel to the general fund
 15.16 \$102,000 from the fiscal year 2021 general
 15.17 fund appropriations for the mediation services
 15.18 program.

15.19 (b) \$68,000 each year is for grants to area
 15.20 labor management committees. Grants may
 15.21 be awarded for a 12-month period beginning
 15.22 July 1 each year. Any unencumbered balance
 15.23 remaining at the end of the first year does not
 15.24 cancel but is available for the second year.

15.25 (c) \$560,000 each year is for purposes of the
 15.26 Public Employment Relations Board under
 15.27 Minnesota Statutes, section 179A.041.

15.28 (d) \$47,000 each year is for rulemaking,
 15.29 staffing, and other costs associated with peace
 15.30 officer grievance procedures.

16.1 **ARTICLE 2**

16.2 **DEPARTMENT OF LABOR AND INDUSTRY**

16.3 Section 1. Minnesota Statutes 2020, section 181.939, is amended to read:

16.4 **181.939 NURSING MOTHERS AND LACTATING EMPLOYEES.**

16.5 (a) An employer must provide reasonable ~~unpaid~~ break ~~time~~ times each day to an
 16.6 employee who needs to express breast milk ~~for her infant child~~. The break ~~time must, if~~
 16.7 ~~possible, times may~~ run concurrently with any break time times already provided to the
 16.8 employee. ~~An employer is not required to provide break time under this section if to do so~~
 16.9 ~~would unduly disrupt the operations of the employer.~~ An employer shall not reduce an
 16.10 employee's compensation for time used for the purpose of expressing milk.

16.11 (b) The employer must make reasonable efforts to provide a room or other location, in
 16.12 close proximity to the work area, other than a bathroom or a toilet stall, that is shielded from
 16.13 view and free from intrusion from coworkers and the public and that includes access to an
 16.14 electrical outlet, where the employee can express ~~her~~ milk in privacy. The employer would
 16.15 be held harmless if reasonable effort has been made.

16.16 (c) For the purposes of this section, "employer" means a person or entity that employs
 16.17 one or more employees and includes the state and its political subdivisions.

16.18 (d) An employer may not retaliate against an employee for asserting rights or remedies
 16.19 under this section.

16.20 Sec. 2. Minnesota Statutes 2020, section 181.940, subdivision 2, is amended to read:

16.21 Subd. 2. **Employee.** "Employee" means a person who performs services for hire for an
 16.22 employer from whom a leave is requested under sections 181.940 to 181.944 for:

16.23 (1) at least ~~12 months~~ 90 days preceding the request; and

16.24 (2) for an average number of hours per week equal to one-half the full-time equivalent
 16.25 position in the employee's job classification as defined by the employer's personnel policies
 16.26 or practices or pursuant to the provisions of a collective bargaining agreement, during the
 16.27 ~~12-month~~ 90-day period immediately preceding the leave.

16.28 Employee includes all individuals employed at any site owned or operated by the
 16.29 employer but does not include an independent contractor.

17.1 Sec. 3. Minnesota Statutes 2020, section 181.940, subdivision 3, is amended to read:

17.2 Subd. 3. **Employer.** "Employer" means a person or entity that employs ~~21~~ one or more
17.3 employees ~~at at least one site, except that, for purposes of the school leave allowed under~~
17.4 ~~section 181.9412, employer means a person or entity that employs one or more employees~~
17.5 ~~in Minnesota. The term~~ and includes an individual, corporation, partnership, association,
17.6 nonprofit organization, group of persons, state, county, town, city, school district, or other
17.7 governmental subdivision.

17.8 Sec. 4. Minnesota Statutes 2020, section 181.9414, is amended by adding a subdivision
17.9 to read:

17.10 Subd. 5. **Eligibility.** Notwithstanding section 181.940, subdivision 2, clause (1) or (2),
17.11 an employee is eligible for pregnancy accommodations under this section from the date of
17.12 hire.

17.13 Sec. 5. Minnesota Statutes 2020, section 182.666, subdivision 1, is amended to read:

17.14 Subdivision 1. **Willful or repeated violations.** Any employer who willfully or repeatedly
17.15 violates the requirements of section 182.653, or any standard, rule, or order adopted under
17.16 the authority of the commissioner as provided in this chapter, may be assessed a fine not to
17.17 exceed ~~\$70,000~~ \$136,532 for each violation. The minimum fine for a willful violation is
17.18 ~~\$5,000~~ \$9,753.

17.19 Sec. 6. Minnesota Statutes 2020, section 182.666, subdivision 2, is amended to read:

17.20 Subd. 2. **Serious violations.** Any employer who has received a citation for a serious
17.21 violation of its duties under section 182.653, or any standard, rule, or order adopted under
17.22 the authority of the commissioner as provided in this chapter, shall be assessed a fine not
17.23 to exceed ~~\$7,000~~ \$13,653 for each violation. If a serious violation under section 182.653,
17.24 subdivision 2, causes or contributes to the death of an employee, the employer shall be
17.25 assessed a fine of up to \$25,000 for each violation.

17.26 Sec. 7. Minnesota Statutes 2020, section 182.666, subdivision 3, is amended to read:

17.27 Subd. 3. **Nonserious violations.** Any employer who has received a citation for a violation
17.28 of its duties under section 182.653, subdivisions 2 to 4, where the violation is specifically
17.29 determined not to be of a serious nature as provided in section 182.651, subdivision 12,
17.30 may be assessed a fine of up to ~~\$7,000~~ \$13,653 for each violation.

18.1 Sec. 8. Minnesota Statutes 2020, section 182.666, subdivision 4, is amended to read:

18.2 Subd. 4. **Failure to correct a violation.** Any employer who fails to correct a violation
18.3 for which a citation has been issued under section 182.66 within the period permitted for
18.4 its correction, which period shall not begin to run until the date of the final order of the
18.5 commissioner in the case of any review proceedings under this chapter initiated by the
18.6 employer in good faith and not solely for delay or avoidance of penalties, may be assessed
18.7 a fine of not more than ~~\$7,000~~ \$13,653 for each day during which the failure or violation
18.8 continues.

18.9 Sec. 9. Minnesota Statutes 2020, section 182.666, subdivision 5, is amended to read:

18.10 Subd. 5. **Posting violations.** Any employer who violates any of the posting requirements,
18.11 as prescribed under this chapter, except those prescribed under section 182.661, subdivision
18.12 3a, shall be assessed a fine of up to ~~\$7,000~~ \$13,653 for each violation.

18.13 Sec. 10. Minnesota Statutes 2020, section 182.666, is amended by adding a subdivision
18.14 to read:

18.15 Subd. 6a. **Increases for inflation.** (a) Each year, beginning in 2022, the commissioner
18.16 shall determine the percentage change in the Minneapolis-St. Paul-Bloomington, MN-WI,
18.17 Consumer Price Index for All Urban Consumers (CPI-U) from the month of October in the
18.18 preceding calendar year to the month of October in the current calendar year.

18.19 (b) The commissioner shall increase the fines in subdivisions 1, 2, 3, 4, and 5, except
18.20 for the fine for a serious violation under section 182.653, subdivision 2, that causes or
18.21 contributes to the death of an employee, by the percentage change determined by the
18.22 commissioner under paragraph (a), if the percentage change is greater than zero. The fines
18.23 shall be increased to the nearest one dollar.

18.24 (c) If the percentage change determined by the commissioner under paragraph (a) is not
18.25 greater than zero, the commissioner shall not change any of the fines in subdivisions 1, 2,
18.26 3, 4, and 5.

18.27 (d) A fine increase under this subdivision takes effect on the next January 1 after the
18.28 commissioner determines the percentage change under paragraph (a) and the increase applies
18.29 to all fines assessed on or after the next January 1.

18.30 (e) No later than December 1 of each year, the commissioner shall give notice in the
18.31 State Register of any increase to the fines in subdivisions 1, 2, 3, 4, and 5.

19.1 Sec. 11. Minnesota Statutes 2020, section 326B.092, subdivision 7, is amended to read:

19.2 Subd. 7. **License fees and license renewal fees.** (a) The license fee for each license is
19.3 the base license fee plus any applicable board fee, continuing education fee, and contractor
19.4 recovery fund fee and additional assessment, as set forth in this subdivision.

19.5 (b) For purposes of this section, "license duration" means the number of years for which
19.6 the license is issued except that if the initial license is not issued for a whole number of
19.7 years, the license duration shall be rounded up to the next whole number.

19.8 (c) If there is a continuing education requirement for renewal of the license, then a
19.9 continuing education fee must be included in the renewal license fee. The continuing
19.10 education fee for all license classifications shall be \$5.

19.11 ~~(e)~~ (d) The base license fee shall depend on whether the license is classified as an entry
19.12 level, master, journeyworker, or business license, and on the license duration. The base
19.13 license fee shall be:

19.14	License Classification	License Duration	
19.15		1 year	2 years
19.16	Entry level	\$10	\$20
19.17	Journeyworker	\$20	\$40
19.18	Master	\$40	\$80
19.19	Business		\$180

19.20 ~~(d) If there is a continuing education requirement for renewal of the license, then a~~
19.21 ~~continuing education fee must be included in the renewal license fee. The continuing~~
19.22 ~~education fee for all license classifications shall be: \$10 if the renewal license duration is~~
19.23 ~~one year; and \$20 if the renewal license duration is two years.~~

19.24 (e) If the license is issued under sections 326B.31 to 326B.59 or 326B.90 to 326B.925,
19.25 then a board fee must be included in the license fee and the renewal license fee. The board
19.26 fee for all license classifications shall be: \$4 if the license duration is one year; and \$8 if
19.27 the license duration is two years.

19.28 (f) If the application is for the renewal of a license issued under sections 326B.802 to
19.29 326B.885, then the contractor recovery fund fee required under section 326B.89, subdivision
19.30 3, and any additional assessment required under section 326B.89, subdivision 16, must be
19.31 included in the license renewal fee.

19.32 (g) Notwithstanding the fee amounts described in paragraphs ~~(e)~~ (d) to (f), for the period
19.33 ~~July 1, 2017~~ October 1, 2021, through September 30, ~~2021~~ 2023, the following fees apply:

	License Classification	License Duration	
20.1			
20.2		1 year	2 years
20.3	Entry level	\$10	\$20
20.4	Journeyworker	\$15	\$30
20.5	Master	\$30	\$60
20.6	Business		\$120

20.7 ~~If there is a continuing education requirement for renewal of the license, then a continuing~~
 20.8 ~~education fee must be included in the renewal license fee. The continuing education fee for~~
 20.9 ~~all license classifications shall be \$5.~~

20.10 Sec. 12. Minnesota Statutes 2020, section 326B.106, subdivision 1, is amended to read:

20.11 Subdivision 1. **Adoption of code.** (a) Subject to paragraphs (c) and (d) and sections
 20.12 326B.101 to 326B.194, the commissioner shall by rule and in consultation with the
 20.13 Construction Codes Advisory Council establish a code of standards for the construction,
 20.14 reconstruction, alteration, and repair of buildings, governing matters of structural materials,
 20.15 design and construction, fire protection, health, sanitation, and safety, including design and
 20.16 construction standards regarding heat loss control, illumination, and climate control. The
 20.17 code must also include duties and responsibilities for code administration, including
 20.18 procedures for administrative action, penalties, and suspension and revocation of certification.
 20.19 The code must conform insofar as practicable to model building codes generally accepted
 20.20 and in use throughout the United States, including a code for building conservation. In the
 20.21 preparation of the code, consideration must be given to the existing statewide specialty
 20.22 codes presently in use in the state. Model codes with necessary modifications and statewide
 20.23 specialty codes may be adopted by reference. The code must be based on the application
 20.24 of scientific principles, approved tests, and professional judgment. To the extent possible,
 20.25 the code must be adopted in terms of desired results instead of the means of achieving those
 20.26 results, avoiding wherever possible the incorporation of specifications of particular methods
 20.27 or materials. To that end the code must encourage the use of new methods and new materials.
 20.28 Except as otherwise provided in sections 326B.101 to 326B.194, the commissioner shall
 20.29 administer and enforce the provisions of those sections.

20.30 (b) The commissioner shall develop rules addressing the plan review fee assessed to
 20.31 similar buildings without significant modifications including provisions for use of building
 20.32 systems as specified in the industrial/modular program specified in section 326B.194.
 20.33 Additional plan review fees associated with similar plans must be based on costs
 20.34 commensurate with the direct and indirect costs of the service.

21.1 (c) Beginning with the 2018 edition of the model building codes and every six years
21.2 thereafter, the commissioner shall review the new model building codes and adopt the model
21.3 codes as amended for use in Minnesota, within two years of the published edition date. The
21.4 commissioner may adopt amendments to the building codes prior to the adoption of the
21.5 new building codes to advance construction methods, technology, or materials, or, where
21.6 necessary to protect the health, safety, and welfare of the public, or to improve the efficiency
21.7 or the use of a building.

21.8 (d) Notwithstanding paragraph (c), the commissioner shall act on each new model
21.9 residential energy code and the new model commercial energy code in accordance with
21.10 federal law for which the United States Department of Energy has issued an affirmative
21.11 determination in compliance with United States Code, title 42, section 6833. Beginning in
21.12 2022, the commissioner shall act on the new model commercial energy code by adopting
21.13 each new published edition of ASHRAE 90.1 or a more efficient standard, and amending
21.14 it as necessary to achieve a minimum of eight percent energy efficiency with each edition,
21.15 as measured against energy consumption by an average building in each applicable building
21.16 sector in 2003. These amendments must achieve a net zero energy standard for new
21.17 commercial buildings by 2036 and thereafter. The commissioner may adopt amendments
21.18 prior to adoption of the new energy codes, as amended for use in Minnesota, to advance
21.19 construction methods, technology, or materials, or, where necessary to protect the health,
21.20 safety, and welfare of the public, or to improve the efficiency or use of a building.

21.21 Sec. 13. Minnesota Statutes 2020, section 326B.89, subdivision 1, is amended to read:

21.22 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
21.23 the meanings given them.

21.24 (b) "Gross annual receipts" means the total amount derived from residential contracting
21.25 or residential remodeling activities, regardless of where the activities are performed, and
21.26 must not be reduced by costs of goods sold, expenses, losses, or any other amount.

21.27 (c) "Licensee" means a person licensed as a residential contractor or residential remodeler.

21.28 (d) "Residential real estate" means a new or existing building constructed for habitation
21.29 by one to four families, and includes detached garages intended for storage of vehicles
21.30 associated with the residential real estate.

21.31 (e) "Fund" means the contractor recovery fund.

21.32 (f) "Owner" when used in connection with real property, means a person who has any
21.33 legal or equitable interest in real property and includes a condominium or townhome

22.1 association that owns common property located in a condominium building or townhome
 22.2 building or an associated detached garage. Owner does not include any real estate developer
 22.3 or any owner using, or intending to use, the property for a business purpose and not as
 22.4 owner-occupied residential real estate.

22.5 (g) "Cycle One" means the time period between July 1 and December 31.

22.6 (h) "Cycle Two" means the time period between January 1 and June 30.

22.7 Sec. 14. Minnesota Statutes 2020, section 326B.89, subdivision 5, is amended to read:

22.8 Subd. 5. **Payment limitations.** The commissioner shall not pay compensation from the
 22.9 fund to an owner or a lessee in an amount greater than \$75,000 per licensee. The
 22.10 commissioner shall not pay compensation from the fund to owners and lessees in an amount
 22.11 that totals more than ~~\$300,000~~ \$800,000 per licensee. The commissioner shall only pay
 22.12 compensation from the fund for a final judgment that is based on a contract directly between
 22.13 the licensee and the homeowner or lessee that was entered into prior to the cause of action
 22.14 and that requires licensure as a residential building contractor or residential remodeler.

22.15 Sec. 15. Minnesota Statutes 2020, section 326B.89, subdivision 9, is amended to read:

22.16 Subd. 9. **Satisfaction of applications for compensation.** The commissioner shall pay
 22.17 compensation from the fund to an owner or a lessee pursuant to the terms of an agreement
 22.18 that has been entered into under subdivision 7, clause (1), or pursuant to a final order that
 22.19 has been issued under subdivision 7, clause (2), or subdivision 8 by December 1 of the fiscal
 22.20 year following the fiscal year during which the agreement was entered into or during which
 22.21 the order became final, subject to the limitations of this section. ~~At the end of each fiscal~~
 22.22 ~~year the commissioner shall calculate the amount of compensation to be paid from the fund~~
 22.23 ~~pursuant to agreements that have been entered into under subdivision 7, clause (1), and final~~
 22.24 ~~orders that have been issued under subdivision 7, clause (2), or subdivision 8. If the calculated~~
 22.25 ~~amount exceeds the amount available for payment, then the commissioner shall allocate the~~
 22.26 ~~amount available among the owners and the lessees in the ratio that the amount agreed to~~
 22.27 ~~or ordered to be paid to each owner or lessee bears to the amount calculated. The~~
 22.28 ~~commissioner shall mail notice of the allocation to all owners and lessees not less than 45~~
 22.29 ~~days following the end of the fiscal year. 31 for applications submitted by July 1 or June~~
 22.30 30 for applications submitted by January 1 of the fiscal year. The commissioner shall not
 22.31 pay compensation to owners or lessees that totals more than \$400,000 per licensee during
 22.32 Cycle One of a fiscal year nor shall the commissioner pay out during Cycle One if the payout
 22.33 will result in the exhaustion of a licensee's fund. If compensation paid to owners or lessees

23.1 in Cycle One would total more than \$400,000 or would result in exhaustion of a licensee's
23.2 fund in Cycle One, the commissioner shall not make a final determination of compensation
23.3 for claims against the licensee until the completion of Cycle Two. If the claims against a
23.4 licensee for the fiscal year result in the exhaustion of a licensee's fund or the fund as a whole,
23.5 the commissioner must prorate the amount available among the owners and lessees based
23.6 on the amount agreed to or ordered to be paid to each owner or lessee. The commissioner
23.7 shall mail notice of the proration to all owners and lessees no later than March 31 of the
23.8 current fiscal year. Any compensation paid by the commissioner in accordance with this
23.9 subdivision shall be deemed to satisfy and extinguish any right to compensation from the
23.10 fund based upon the verified application of the owner or lessee.

23.11 **Sec. 16. HEALTH CARE PROVIDERS EMERGENCY LEAVE.**

23.12 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
23.13 the meanings given them.

23.14 (b) "Emergency paid sick leave" means paid leave time provided under this section for
23.15 a reason provided in subdivision 2.

23.16 (c) "Employer" means a person who employs one or more workers, including but not
23.17 limited to a corporation, partnership, business trust, limited liability company, association,
23.18 group of persons, hospital, county, town, city, school district, charter school, or other political
23.19 subdivision.

23.20 (d) "Health care provider" has the meaning given in Code of Federal Regulations, title
23.21 29, section 826.30(c).

23.22 (e) "Retaliatory personnel action" means any form of intimidation, threat, reprisal,
23.23 harassment, discrimination, or adverse employment action, including discipline, discharge,
23.24 suspension, transfer, or reassignment to a lesser position in terms of job classification, job
23.25 security, or other condition of employment; reduction in pay or hours or denial of additional
23.26 hours; the accumulation of points under an attendance point system; informing another
23.27 employer that the person has engaged in activities protected by this section; or reporting or
23.28 threatening to report the actual or suspected citizenship or immigration status of an employee,
23.29 former employee, or family member of an employee to a federal, state, or local agency.

23.30 Subd. 2. **Emergency paid sick leave.** An employer shall provide emergency paid sick
23.31 leave to an employee employed as a health care provider who is unable to work or telework
23.32 due to any of the following reasons:

24.1 (1) the employee is subject to a federal, state, or local quarantine or isolation order related
24.2 to COVID-19;

24.3 (2) the employee has been advised by a health care provider or the Department of Health
24.4 to self-quarantine due to concerns related to COVID-19;

24.5 (3) the employee is experiencing symptoms of COVID-19 and seeking a medical
24.6 diagnosis; or

24.7 (4) the employee is caring for an individual who is subject to an order as described in
24.8 clause (1) or has been advised as described in clause (2).

24.9 Subd. 3. **Amount of hours and use of leave.** (a) The amount of hours of emergency
24.10 paid sick leave to which an employee employed as a health care provider is entitled shall
24.11 be as follows:

24.12 (1) for full-time employees, 80 hours; and

24.13 (2) for part-time employees, a number of hours equal to the number of hours that the
24.14 employee works, on average, over a two-week period.

24.15 (b) Leave under this section shall be available for use by an employee employed as a
24.16 health care provider for a reason listed in subdivision 2 beginning the day following final
24.17 enactment and may be used intermittently, provided that any amount of leave taken under
24.18 this section shall end with the employee's next scheduled work shift immediately following
24.19 the termination of the employee's need for leave under a reason provided in subdivision 2.

24.20 (c) Leave under this section shall be available for immediate use by the employee
24.21 employed as a health care provider for the purposes described in this section, regardless of
24.22 how long the employee has been employed by an employer.

24.23 (d) After the first work day or portion thereof that an employee receives leave under this
24.24 section, an employer may require the employee to follow reasonable notice procedures to
24.25 continue receiving leave.

24.26 (e) Leave under this section expires 30 days after a peacetime emergency declared by
24.27 the governor in an executive order that relates to the infectious disease known as COVID-19
24.28 is terminated or rescinded or June 30, 2021, whichever occurs first.

24.29 Subd. 4. **Amount of compensation.** (a) An employee shall receive compensation for
24.30 each hour of emergency paid sick leave received under this section in an amount that shall
24.31 be the greater of:

25.1 (1) the employee's regular rate of pay for the employee's last pay period, including
25.2 pursuant to any applicable collective bargaining agreement;

25.3 (2) the state minimum wage in effect under Minnesota Statutes, section 177.24; or

25.4 (3) the local minimum wage to which the employee is entitled.

25.5 (b) Unused or remaining leave under this section shall not carry over past the expiration
25.6 of this section.

25.7 (c) Nothing in this section shall be construed to require financial or other reimbursement
25.8 to an employee from an employer upon the employee's termination, resignation, retirement,
25.9 or other separation from employment for emergency paid sick leave under this section that
25.10 has not been used by the employee.

25.11 **Subd. 5. Relationship to other leave.** (a) Except as provided in paragraph (c), emergency
25.12 paid sick leave under this section shall be in addition to any paid or unpaid leave provided
25.13 to an employee by an employer under a collective bargaining agreement, negotiated
25.14 agreement, contract, or any other employment policy.

25.15 (b) An employee may use leave provided under this section first, and except as provided
25.16 in paragraph (c), an employer shall not require an employee to use other accrued or earned
25.17 leave, paid or unpaid, provided by the employer before the employee uses the leave provided
25.18 under this section or in lieu of the leave provided under this section.

25.19 (c) Notwithstanding paragraphs (a) and (b), if an employer has already provided an
25.20 employee with additional paid leave for any reason provided in subdivision 2, and the leave
25.21 is in addition to the regular amount of paid leave provided by the employer and would
25.22 compensate the employee in an amount equal to or greater than the amount of compensation
25.23 provided under this section, the employer may count the hours of other additional paid leave
25.24 toward the total number of hours of emergency paid sick leave required under this section.

25.25 (d) Nothing in this section shall be deemed:

25.26 (1) to limit the rights of a public employee or employer under any law, rule, regulation,
25.27 or collectively negotiated agreement, or the rights and benefits that accrue to employees
25.28 through collective bargaining agreements, or the rights of employees with respect to any
25.29 other employment benefits; or

25.30 (2) to prohibit any personnel action that otherwise would have been taken regardless of
25.31 a request to use, or make use of, any leave provided by this section.

26.1 (e) Nothing in this section shall prevent an employer from providing, or the parties to a
26.2 collective bargaining agreement from agreeing to, leave benefits that meet or exceed and
26.3 do not otherwise conflict with the requirements for emergency paid sick leave under this
26.4 section.

26.5 Subd. 6. **Prohibited acts.** It shall be unlawful for any employer to discharge, discipline,
26.6 or take any retaliatory personnel action against any employee who:

26.7 (1) takes or requests leave under this section; or

26.8 (2) has filed any complaint or instituted or caused to be instituted a proceeding that seeks
26.9 enforcement of this section.

26.10 Subd. 7. **Requirements and enforcement.** (a) An employer shall provide notice to
26.11 eligible employees of the requirements for emergency paid sick leave provided under this
26.12 section.

26.13 (b) The commissioner of labor and industry has the authority provided under Minnesota
26.14 Statutes, section 177.27, subdivision 4, including the authority to issue an order requiring
26.15 an employer to comply with this section. The commissioner may investigate complaints of
26.16 violations of this section as necessary to determine whether a violation has occurred. If the
26.17 employer is found by the commissioner to have violated this section and issues an order to
26.18 comply, the commissioner shall order the employer to cease and desist from engaging in
26.19 the violative practice and to take such affirmative steps that in the judgment of the
26.20 commissioner will effectuate the purposes of this section. If the commissioner finds that an
26.21 employer has violated this section, the commissioner may fine the employer up to \$1,000
26.22 for each willful violation for each employee.

26.23 (c) In addition to any remedies otherwise provided by law, an employee seeking redress
26.24 for a violation of this section may bring a civil action in district court to recover any damages
26.25 recoverable at law, together with costs and disbursements, including reasonable attorney
26.26 fees. An employer who violates this section may be liable for compensatory damages,
26.27 injunctive relief, or other equitable relief as determined by the district court.

26.28 **EFFECTIVE DATE.** This section is effective the day following final enactment and
26.29 sunsets 30 days after a peacetime emergency declared by the governor in an executive order
26.30 that relates to the infectious disease known as COVID-19 is terminated or rescinded or June
26.31 30, 2021, whichever occurs first.

ARTICLE 3

FAMILY AND MEDICAL BENEFITS

27.1
27.2
27.3 Section 1. Minnesota Statutes 2020, section 13.719, is amended by adding a subdivision
27.4 to read:

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

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

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

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

27.16 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
27.17 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
27.18 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
27.19 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, 268B.09, subdivisions 1 to 6, and
27.20 268B.14, subdivision 3, or with any rule promulgated under section 177.28. The
27.21 commissioner shall issue an order requiring an employer to comply with sections 177.41
27.22 to 177.435 if the violation is repeated. For purposes of this subdivision only, a violation is
27.23 repeated if at any time during the two years that preceded the date of violation, the
27.24 commissioner issued an order to the employer for violation of sections 177.41 to 177.435
27.25 and the order is final or the commissioner and the employer have entered into a settlement
27.26 agreement that required the employer to pay back wages that were required by sections
27.27 177.41 to 177.435. The department shall serve the order upon the employer or the employer's
27.28 authorized representative in person or by certified mail at the employer's place of business.
27.29 An employer who wishes to contest the order must file written notice of objection to the
27.30 order with the commissioner within 15 calendar days after being served with the order. A
27.31 contested case proceeding must then be held in accordance with sections 14.57 to 14.69.
27.32 If, within 15 calendar days after being served with the order, the employer fails to file a

28.1 written notice of objection with the commissioner, the order becomes a final order of the
28.2 commissioner.

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

28.4 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER; NOTICE**
28.5 **TO EMPLOYEE.**

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

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

28.14 (1) the name of the employee;

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

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

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

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

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

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

28.24 ~~(7)~~ (8) the net amount of pay after all deductions are made;

28.25 ~~(8)~~ (9) the date on which the pay period ends;

28.26 ~~(9)~~ (10) the legal name of the employer and the operating name of the employer if
28.27 different from the legal name;

28.28 ~~(10)~~ (11) the physical address of the employer's main office or principal place of business,
28.29 and a mailing address if different; and

28.30 ~~(11)~~ (12) the telephone number of the employer.

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

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

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

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

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

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

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

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

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

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

29.23 (9) the telephone number of the employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

30.31 (10) local and state welfare agencies for monitoring the eligibility of the data subject
30.32 for assistance programs, or for any employment or training program administered by those

31.1 agencies, whether alone, in combination with another welfare agency, or in conjunction
31.2 with the department or to monitor and evaluate the statewide Minnesota family investment
31.3 program by providing data on recipients and former recipients of Supplemental Nutrition
31.4 Assistance Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or
31.5 256K, child care assistance under chapter 119B, or medical programs under chapter 256B
31.6 or 256L or formerly codified under chapter 256D;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32.18 <u>If the application for family or medical leave</u>	
32.19 <u>benefits is effective on or between these</u>	
32.20 <u>dates:</u>	<u>The base period is the prior:</u>
32.21 <u>February 1 to March 31</u>	<u>January 1 to December 31</u>
32.22 <u>May 1 to June 30</u>	<u>April 1 to March 31</u>
32.23 <u>August 1 to September 30</u>	<u>July 1 to June 30</u>
32.24 <u>November 1 to December 31</u>	<u>October 1 to September 30</u>

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

32.30 <u>If the application for family or medical leave</u>	
32.31 <u>benefits is effective on or between these</u>	
32.32 <u>dates:</u>	<u>The base period is the prior:</u>
32.33 <u>January 1 to January 31</u>	<u>October 1 to September 30</u>
32.34 <u>April 1 to April 30</u>	<u>January 1 to December 31</u>

33.1 July 1 to July 31 April 1 to March 31

33.2 October 1 to October 31 July 1 to June 30

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

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

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

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

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

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

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

34.1 Subd. 7. **Benefit year.** "Benefit year" means the period of 52 calendar weeks beginning
34.2 the date a benefit account under section 268B.04 is effective. For a benefit account established
34.3 effective any January 1, April 1, July 1, or October 1, the benefit year will be a period of
34.4 53 calendar weeks.

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

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

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

34.12 Subd. 11. **Calendar week.** "Calendar week" has the same meaning as "week" under
34.13 subdivision 46.

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

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

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

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

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

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

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

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

34.32 (1) a self-employed individual; or

35.1 (2) an independent contractor.

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

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

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

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

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

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

35.13 (3) any local government entity, including but not limited to a county, city, town,
35.14 municipal corporation, quasimunicipal corporation, or political subdivision.

35.15 (b) Employer does not include:

35.16 (1) the United States of America; or

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

35.19 Subd. 17. **Estimated self-employment income.** "Estimated self-employment income"
35.20 means a self-employed individual's average net earnings from self-employment in the two
35.21 most recent taxable years. For a self-employed individual who had net earnings from
35.22 self-employment in only one of the years, the individual's estimated self-employment income
35.23 equals the individual's net earnings from self-employment in the year in which the individual
35.24 had net earnings from self-employment.

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

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

36.1 Subd. 20. **Family member.** (a) "Family member" means an employee's child, adult
36.2 child, spouse, sibling, parent, parent-in-law, grandchild, grandparent, stepparent, member
36.3 of the employee's household, or domestic partner.

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

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

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

36.11 Subd. 21. **Health care provider.** "Health care provider" means:

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

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

36.18 Subd. 22. **High quarter.** "High quarter" means the calendar quarter in an applicant's
36.19 base period with the highest amount of wage credits.

36.20 Subd. 23. **Incapacity.** "Incapacity" means inability to perform regular work, attend
36.21 school, or perform other regular daily activities due to a serious health condition, treatment
36.22 therefore, or recovery therefrom.

36.23 Subd. 24. **Independent contractor.** (a) If there is an existing specific test or definition
36.24 for independent contractor in Minnesota statute or rule applicable to an occupation or sector
36.25 as of the date of enactment of this chapter, that test or definition shall apply to that occupation
36.26 or sector for purposes of this chapter. If there is not an existing test or definition as described,
36.27 the definition for independent contractor shall be as provided in this subdivision.

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

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

- 37.1 (2) the individual:
- 37.2 (i) holds or has applied for a federal employer identification number; or
- 37.3 (ii) has filed business or self-employment income tax returns with the federal Internal
- 37.4 Revenue Service if the individual has performed services in the previous year;
- 37.5 (3) the individual is operating under contract to perform the specific services for the
- 37.6 person for specific amounts of money and under which the individual controls the means
- 37.7 of performing the services;
- 37.8 (4) the individual is incurring the main expenses related to the services that the individual
- 37.9 is performing for the person under the contract;
- 37.10 (5) the individual is responsible for the satisfactory completion of the services that the
- 37.11 individual has contracted to perform for the person and is liable for a failure to complete
- 37.12 the services;
- 37.13 (6) the individual receives compensation from the person for the services performed
- 37.14 under the contract on a commission or per-job or competitive bid basis and not on any other
- 37.15 basis;
- 37.16 (7) the individual may realize a profit or suffer a loss under the contract to perform
- 37.17 services for the person;
- 37.18 (8) the individual has continuing or recurring business liabilities or obligations; and
- 37.19 (9) the success or failure of the individual's business depends on the relationship of
- 37.20 business receipts to expenditures.
- 37.21 (c) For the purposes of this chapter, an insurance producer, as defined in section 60K.31,
- 37.22 subdivision 6, is an independent contractor of an insurance company, as defined in section
- 37.23 60A.02, subdivision 4, unless the insurance producer and insurance company agree otherwise.
- 37.24 Subd. 25. **Inpatient care.** "Inpatient care" means an overnight stay in a hospital, hospice,
- 37.25 or residential medical care facility, including any period of incapacity, or any subsequent
- 37.26 treatment in connection with such inpatient care.
- 37.27 Subd. 26. **Maximum weekly benefit amount.** "Maximum weekly benefit amount"
- 37.28 means the state's average weekly wage as calculated under section 268.035, subdivision 23.
- 37.29 Subd. 27. **Medical benefit program.** "Medical benefit program" means the program
- 37.30 administered under this chapter for the collection of premiums and payment of benefits
- 37.31 related to an applicant's serious health condition or pregnancy.

38.1 Subd. 28. **Net earnings from self-employment.** "Net earnings from self-employment"
38.2 has the meaning given in section 1402 of the Internal Revenue Code, as defined in section
38.3 290.01, subdivision 31.

38.4 Subd. 29. **Pregnancy.** "Pregnancy" means prenatal care or incapacity due to pregnancy
38.5 or recovery from childbirth, still birth, miscarriage, or related health conditions.

38.6 Subd. 30. **Qualifying exigency.** (a) "Qualifying exigency" means a need arising out of
38.7 a military member's active duty service or notice of an impending call or order to active
38.8 duty in the United States armed forces, including providing for the care or other needs of
38.9 the family member's child or other dependent, making financial or legal arrangements for
38.10 the family member, attending counseling, attending military events or ceremonies, spending
38.11 time with the family member during a rest and recuperation leave or following return from
38.12 deployment, or making arrangements following the death of the military member.

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

38.17 Subd. 31. **Safety leave.** "Safety leave" means leave from work because of domestic
38.18 abuse, sexual assault, or stalking of the employee or employee's family member, provided
38.19 the leave is to:

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

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

38.23 (3) obtain psychological or other counseling;

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

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

38.28 Subd. 32. **Self-employed individual.** "Self-employed individual" means a resident of
38.29 the state who, in one of the two taxable years preceding the current calendar year, derived
38.30 at least \$10,000 in net earnings from self-employment from an entity other than an S
38.31 corporation for the performance of services in this state.

39.1 Subd. 33. **Self-employment premium base.** "Self-employment premium base" means
39.2 the lesser of:

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

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

39.7 Subd. 34. **Self-employment wages.** "Self-employment wages" means the amount of
39.8 wages that a self-employed individual earned in the calendar year from an entity from which
39.9 the individual also received net earnings from self-employment.

39.10 Subd. 35. **Serious health condition.** (a) "Serious health condition" means a physical or
39.11 mental illness, injury, impairment, condition, or substance use disorder that involves:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40.16 Subd. 36. **State's average weekly wage.** "State's average weekly wage" means the
40.17 weekly wage calculated under section 268.035, subdivision 23.

40.18 Subd. 37. **Supplemental benefit payment.** (a) "Supplemental benefit payment" means:

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

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

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

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

40.29 Subd. 38. **Taxable year.** "Taxable year" has the meaning given in section 290.01,
40.30 subdivision 9.

40.31 Subd. 39. **Taxable wages.** "Taxable wages" means those wages paid to an employee in
40.32 covered employment each calendar year up to an amount equal to the maximum wages

41.1 subject to premium in a calendar year, which is equal to the maximum earnings in that year
41.2 subject to the FICA Old-Age, Survivors, and Disability Insurance tax rounded to the nearest
41.3 \$1,000.

41.4 Subd. 40. **Typical workweek hours.** "Typical workweek hours" means:

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

41.7 (2) 40 hours for a salaried employee, regardless of the number of hours the salaried
41.8 employee typically works.

41.9 Subd. 41. **Wage credits.** "Wage credits" means the amount of wages paid within an
41.10 applicant's base period for covered employment, as defined in subdivision 13.

41.11 Subd. 42. **Wage detail report.** "Wage detail report" means the report on each employee
41.12 in covered employment required from an employer on a calendar quarter basis under section
41.13 268B.12.

41.14 Subd. 43. **Wages.** (a) "Wages" means all compensation for employment, including
41.15 commissions; bonuses, awards, and prizes; severance payments; standby pay; vacation and
41.16 holiday pay; back pay as of the date of payment; tips and gratuities paid to an employee by
41.17 a customer of an employer and accounted for by the employee to the employer; sickness
41.18 and accident disability payments, except as otherwise provided in this subdivision; and the
41.19 cash value of housing, utilities, meals, exchanges of services, and any other goods and
41.20 services provided to compensate an employee, except:

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

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

41.30 (3) any payment made to, or on behalf of, an employee or beneficiary (i) from or to a
41.31 trust described in United States Code, title 26, section 401(a) of the federal Internal Revenue
41.32 Code, that is exempt from tax under section 501(a) at the time of the payment unless the
41.33 payment is made to an employee of the trust as compensation for services as an employee

42.1 and not as a beneficiary of the trust, or (ii) under or to an annuity plan that, at the time of
42.2 the payment, is a plan described in section 403(a);

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

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

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

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

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

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

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

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

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

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

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

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

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

43.7 (17) payments made into a trust fund, or for the purchase of insurance or an annuity, to
43.8 provide for sickness or accident disability payments to employees under a plan or system
43.9 established by the employer that provides for the employer's employees generally or for a
43.10 class or classes of employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

44.18 Subd. 44. **Wages paid.** (a) "Wages paid" means the amount of wages:

44.19 (1) that have been actually paid; or

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

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

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

44.28 Subd. 45. **Week.** "Week" means calendar week ending at midnight Saturday.

44.29 Subd. 46. **Weekly benefit amount.** "Weekly benefit amount" means the amount of
44.30 family and medical leave benefits computed under section 268B.04.

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

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

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

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

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

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

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

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

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

45.23 (2) the applicant has met all of the ongoing eligibility requirements under section
45.24 268B.06;

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

45.27 (4) the applicant has not been held ineligible for benefits under section 268.07, subdivision
45.28 2; and

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

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

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

46.12 Subdivision 1. **Application for benefits; determination of benefit account.** (a) An
46.13 application for benefits may be filed in person, by mail, or by electronic transmission as the
46.14 commissioner may require. The applicant must meet eligibility requirements at the time the
46.15 application is filed and must provide all requested information in the manner required. If
46.16 the applicant does not meet eligibility at the time of the application or fails to provide all
46.17 requested information, the communication is not an application for family and medical leave
46.18 benefits.

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

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

46.30 (d) The commissioner may, at any time within 24 months from the establishment of a
46.31 benefit account, reconsider any determination of benefit account and make an amended
46.32 determination if the commissioner finds that the wage credits listed in the determination
46.33 were incorrect for any reason. An amended determination of benefit account must be
46.34 promptly sent to the applicant and all base period employers, by mail or electronic

47.1 transmission. This paragraph does not apply to documents titled determinations of eligibility
47.2 or determinations of ineligibility issued.

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

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

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

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

47.26 (1) 90 percent of wages that do not exceed 50 percent of the state's average weekly wage;
47.27 plus

47.28 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage but
47.29 not 100 percent; plus

47.30 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.

47.31 (b) The state's average weekly wage is the average wage as calculated under section
47.32 268.035, subdivision 23, at the time a benefit amount is first determined.

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

48.3 (d) The state's maximum weekly benefit amount, computed in accordance with section
48.4 268.035, subdivision 23, applies to a benefit account established effective on or after the
48.5 last Sunday in October. Once established, an applicant's weekly benefit amount is not
48.6 affected by the last Sunday in October change in the state's maximum weekly benefit amount.

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

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

48.10 (2) the employee uses paid sick leave, paid vacation leave, or other paid time off that is
48.11 not considered a supplemental benefit payment as defined in section 268B.01, subdivision
48.12 37.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50.5 (1) the applicant has filed a continued request for benefits for that week under section
50.6;

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

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

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

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

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

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

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

50.24 Subd. 3. Not eligible. An applicant is ineligible for family or medical leave benefits for
50.25 any portion of a typical workweek:

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

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

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

50.31 (4) for which the applicant worked for pay.

51.1 Subd. 4. **Vacation, sick leave, and supplemental benefit payments.** (a) An applicant
51.2 is not eligible to receive benefits for any portion of a typical workweek the applicant is
51.3 receiving, has received, or will receive vacation pay, sick pay, or personal time off pay, also
51.4 known as "PTO."

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

51.6 (1) upon a permanent separation from employment;

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

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

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

51.15 Subd. 5. **Workers' compensation and disability insurance offset.** (a) An applicant is
51.16 not eligible to receive benefits for any portion of a week in which the applicant is receiving
51.17 or has received compensation for loss of wages equal to or in excess of the applicant's
51.18 weekly family or medical leave benefit amount under:

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

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

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

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

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

51.29 Subd. 6. **Separation, severance, or bonus payments.** (a) An applicant is not eligible
51.30 to receive benefits for any week the applicant is receiving, has received, or will receive
51.31 separation pay, severance pay, bonus pay, or any other payments paid by an employer

52.1 because of, upon, or after separation from employment. This subdivision applies if the
52.2 payment is:

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

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

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

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

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

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

52.18 Subd. 7. **Social Security disability benefits.** (a) An applicant who is receiving, has
52.19 received, or has filed for primary Social Security disability benefits for any week is ineligible
52.20 for benefits for that week, unless:

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

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

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

52.29 (c) If an applicant meets the requirements of paragraph (a), clause (2), there must be
52.30 deducted from the applicant's weekly benefit amount 50 percent of the weekly equivalent
52.31 of the primary Social Security disability benefits the applicant is receiving, has received,
52.32 or has filed for, with respect to that week.

53.1 If the Social Security Administration determines that the applicant is not entitled to receive
53.2 primary Social Security disability benefits for any week the applicant has applied for those
53.3 benefits, this paragraph does not apply to that week.

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

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

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

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

53.11 (1) the name of the applicant;

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

53.13 (3) the week the benefits commence;

53.14 (4) the weekly benefit amount payable; and

53.15 (5) the maximum duration of benefits.

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

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

53.23 (c) If the department has filed an intervention in a worker's compensation matter under
53.24 section 176.361, the department is authorized to issue a determination of ineligibility within
53.25 48 months of the establishment of the benefit account.

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

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

54.1 Subd. 3. **Amended determination.** Unless an appeal has been filed, the commissioner,
54.2 on the commissioner's own motion, may reconsider a determination of eligibility or
54.3 determination of ineligibility that has not become final and issue an amended determination.
54.4 Any amended determination must be sent to the applicant and any employer in the current
54.5 base period by mail or electronic transmission. Any amended determination is final unless
54.6 an appeal is filed by the applicant within 20 calendar days after sending. Proceedings on
54.7 the appeal are conducted in accordance with section 268B.08.

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

54.11 Subd. 5. **Overpayment.** A determination or amended determination that holds an
54.12 applicant ineligible for benefits for periods an applicant has been paid benefits is an
54.13 overpayment of those family or medical leave benefits. A determination or amended
54.14 determination issued under this section that results in an overpayment of benefits must set
54.15 out the amount of the overpayment and the requirement under section that the overpaid
54.16 benefits must be repaid.

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

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

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

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

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

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

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

55.1 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within
55.2 30 calendar days after service of the benefit judge's decision, file a request for reconsideration
55.3 asking the judge to reconsider that decision.

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

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

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

55.11 Sec. 13. [268B.085] LEAVE.

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

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

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

56.1 however, the determination of when an employee could practicably provide notice must
56.2 take into account the individual facts and circumstances.

56.3 (c) An employee shall provide at least verbal notice sufficient to make the employer
56.4 aware that the employee needs leave allowed under this chapter and the anticipated timing
56.5 and duration of the leave. An employer may require an employee giving notice of leave to
56.6 include a certification for the leave as described in subdivision 5. Such certification, if
56.7 required by an employer, is timely when the employee delivers it as soon as practicable
56.8 given the circumstances requiring the need for leave, and the required contents of the
56.9 certification.

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

56.16 (e) If an employer has failed to provide notice to the employee as required under section
56.17 268B.26, paragraph (a), (b), or (c), the employee is not required to comply with the notice
56.18 requirements of this subdivision.

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

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

56.31 (b) Leave taken intermittently or on a reduced-schedule basis counts toward the
56.32 maximums described in section

56.33 Subd. 5. **Certification.** (a) Certification for an applicant taking leave related to the
56.34 applicant's serious health condition shall be sufficient if the certification states the date on

57.1 which the serious health condition began, the probable duration of the condition, and the
57.2 appropriate medical facts within the knowledge of the health care provider as required by
57.3 the commissioner.

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

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

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

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

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

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

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

57.29 (3) other documentation permitted by the commissioner.

57.30 (g) Certification for an applicant taking safety leave is sufficient if the certification
57.31 includes a court record or documentation signed by a volunteer or employee of a victim's
57.32 services organization, an attorney, a police officer, or an antiviolence counselor. The

58.1 commissioner must not require disclosure of details relating to an applicant's or applicant's
58.2 family member's domestic abuse, sexual assault, or stalking.

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

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

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

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

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

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

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

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

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

58.31 (b)(1) An equivalent position is one that is virtually identical to the employee's former
58.32 position in terms of pay, benefits, and working conditions, including privileges, prerequisites,

59.1 and status. It must involve the same or substantially similar duties and responsibilities,
59.2 which must entail substantially equivalent skill, effort, responsibility, and authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

61.25 (1) damages equal to the amount of:

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

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

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

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

62.4 (1) the employees; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

63.18 (b) Notwithstanding paragraph (a), a private plan may provide shorter durations of leave
63.19 and benefit eligibility if the total dollar value of wage replacement benefits under the private
63.20 plan for an employee for any particular qualifying event meets or exceeds what the total
63.21 dollar value would be under the public family and medical benefit program.

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

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

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

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

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

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

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

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

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

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

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

64.19 (b) Notwithstanding paragraph (a), a private plan may provide shorter durations of leave
64.20 and benefit eligibility if the total dollar value of wage replacement benefits under the private
64.21 plan for an employee for any particular qualifying event meets or exceeds what the total
64.22 dollar value would be under the public family and medical benefit program.

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

64.27 Subd. 5. **Private plan approval and oversight fee.** An employer with an approved
64.28 private plan is not required to pay premiums established under section An employer
64.29 with an approved private plan is responsible for a private plan approval and oversight fee
64.30 equal to \$250 for employers with fewer than 50 employees, \$500 for employers with 50 to
64.31 499 employees, and \$1,000 for employers with 500 or more employees. The employer must
64.32 pay this fee (1) upon initial application for private plan approval, and (2) any time the
64.33 employer applies to amend the private plan. The commissioner must review and report on

65.1 the adequacy of this fee to cover private plan administrative costs annually beginning October
65.2 1, 2022, as part of the annual report established in section 268B.21.

65.3 Subd. 6. **Plan duration.** A private plan under this section must be in effect for a period
65.4 of at least one year and, thereafter, continuously unless the commissioner finds that the
65.5 employer has given notice of withdrawal from the plan in a manner specified by the
65.6 commissioner in this section or rule. The plan may be withdrawn by the employer within
65.7 30 days of the effective date of any law increasing the benefit amounts or within 30 days
65.8 of the date of any change in the rate of premiums. If the plan is not withdrawn, it must be
65.9 amended to conform to provide the increased benefit amount or change in the rate of the
65.10 employee's premium on the date of the increase or change.

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

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

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

65.20 Subd. 9. **Posting of notice regarding private plan.** An employer with a private plan
65.21 must provide a notice prepared by or approved by the commissioner regarding the private
65.22 plan consistent with section

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

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

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

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

65.30 Subd. 11. **Successor employer.** A private plan in effect at the time a successor acquires
65.31 the employer organization, trade, or business, or substantially all the assets thereof, or a
65.32 distinct and severable portion of the organization, trade, or business, and continues its
65.33 operation without substantial reduction of personnel resulting from the acquisition, must

66.1 continue the approved private plan and must not withdraw the plan without a specific request
66.2 for withdrawal in a manner and at a time specified by the commissioner. A successor may
66.3 terminate a private plan with notice to the commissioner and within 90 days from the date
66.4 of the acquisition.

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

66.7 (1) failed to pay benefits;

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

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

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

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

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

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

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

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

66.27 (1) \$1,000 for the first violation; and

66.28 (2) \$2,000 for the second, and each successive violation.

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

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

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

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

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

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

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

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

67.24 (b) The commissioner may terminate any application approved under this section with
67.25 30 calendar days' notice sent by United States mail or electronic transmission if the
67.26 self-employed individual is delinquent on any premiums due under this chapter. If an
67.27 approved application is terminated in this manner during the first 104 consecutive calendar
67.28 weeks of election, the self-employed individual remains obligated to pay the premium under
67.29 subdivision 3 for the remainder of that 104-week period.

67.30 Subd. 2. **Application.** A self-employed individual who applies for coverage under this
67.31 section must provide the commissioner with (1) the amount of the individual's net earnings
67.32 from self-employment, if any, from the two most recent taxable years and all tax documents
67.33 necessary to prove the accuracy of the amounts reported, and (2) any other documentation

68.1 the commissioner requires. A self-employed individual who is covered under this chapter
68.2 must annually provide the commissioner with the amount of the individual's net earnings
68.3 from self-employment within 30 days of filing a federal income tax return.

68.4 Subd. 3. **Premium.** A self-employed individual who elects to receive coverage under
68.5 this chapter must annually pay a premium equal to one-half the percentage in section
68.6 268B.14, subdivision 5, clause (1), times the lesser of:

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

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

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

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

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

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

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

69.4 (d) A wage detail report must be submitted for each calendar quarter even though no
69.5 wages were paid, unless the employer has notified the commissioner, under section, of
69.6 termination of business.

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

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

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

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

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

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

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

69.29 (c) Late fees due under this subdivision may be canceled, in whole or in part, under
69.30 section

69.31 Subd. 4. **Missing or erroneous information.** (a) Any employer that submits the wage
69.32 detail report, but fails to include all required employee information or enters erroneous

70.1 information, is subject to an administrative service fee of \$25 for each employee for whom
70.2 the information is partially missing or erroneous.

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

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

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

70.10 The commissioner must maintain a premium account for each employer. The
70.11 commissioner must assess the premium account for all the premiums due under section
70.12 268B.14, and credit the account with all premiums paid.

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

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

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

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

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

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

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

71.1 Subd. 3. **Employee charge back.** Notwithstanding section 177.24, subdivision 4, or
 71.2 181.06, subdivision 1, employers and covered business entities may deduct up to 50 percent
 71.3 of annual premiums paid under this section from employee wages. Such deductions for any
 71.4 given employee must be in equal proportion to the premiums paid based on the wages of
 71.5 that employee, and all employees of an employer must be subject to the same percentage
 71.6 deduction. Deductions under this section must not cause an employee's wage, after the
 71.7 deduction, to fall below the rate required to be paid to the worker by law, including any
 71.8 applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or
 71.9 other legal authority, whichever rate of pay is greater.

71.10 Subd. 4. **Wages and payments subject to premium.** (a) The maximum wages subject
 71.11 to premium in a calendar year is equal to the maximum earnings in that year subject to the
 71.12 FICA Old-Age, Survivors, and Disability Insurance tax rounded to the nearest \$1,000.

71.13 (b) The maximum payment amount subject to premium in a calendar year, under
 71.14 subdivision is equal to the maximum earnings in that year subject to the FICA Old-Age,
 71.15 Survivors, and Disability Insurance tax.

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

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

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

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

71.23 Subd. 6. **Premium rate adjustments.** (a) Each calendar year following the calendar
 71.24 year beginning January 1, 2025, the commissioner must adjust the annual premium rates
 71.25 using the formula in paragraph (b).

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

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

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

71.30 (3) divide the resulting figure by twice the total wages in covered employment of
 71.31 employees of employers without approved private plans under section 268B.10 for either
 71.32 the family or medical benefit program. For employers with an approved private plan for

72.1 either the medical benefit program or the family benefit program, but not both, count only
 72.2 the proportion of wages in covered employment associated with the program for which the
 72.3 employer does not have an approved private plan; and

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

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

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

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

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

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

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

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

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

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

72.27 (2) interest on past due premiums; then

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

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

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

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

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

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

73.8 (5) the commissioner, under the compromise authority of section, agrees to apply
 73.9 the payment to a different priority.

73.10 Subd. 3. **Estimating the premium due.** Only if an employer fails to make all necessary
 73.11 records available for an audit under section and the commissioner has reason to believe
 73.12 the employer has not reported all the required wages on the quarterly wage detail reports,
 73.13 may the commissioner then estimate the amount of premium due and assess the employer
 73.14 the estimated amount due.

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

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

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

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

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

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

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

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

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

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

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

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

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

74.31 (2) "child support obligations" means obligations that are being enforced by a child
 74.32 support agency in accordance with a plan described in United States Code, title 42, sections
 74.33 454 and 455 of the Social Security Act that has been approved by the secretary of health

75.1 and human services under part D of title IV of the Social Security Act. This does not include
75.2 any type of spousal maintenance or foster care payments.

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

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

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

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

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

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

75.18 Subd. 5. **Payment of costs.** The child support agency must pay the costs incurred by
75.19 the commissioner in the implementation and administration of this section and sections
75.20 518A.50 and 518A.53.

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

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

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

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

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

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

76.2 From July 1, 2023, through December 31, 2023, the commissioner may spend up to
 76.3 seven percent of premiums collected under section for administration of this chapter.
 76.4 Beginning January 1, 2024, and each calendar year thereafter, the commissioner may spend
 76.5 up to seven percent of projected benefit payments for that calendar year for the administration
 76.6 of this chapter. The department may enter into interagency agreements with the Department
 76.7 of Labor and Industry, including agreements to transfer funds, subject to the limit in this
 76.8 section, for the Department of Labor and Industry to fulfill its enforcement authority of this
 76.9 chapter.

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

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

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

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

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

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

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

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

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

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

77.15 Subd. 3. **Family and medical leave enforcement account created.** The family and
77.16 medical leave enforcement account is created in the state treasury. Any penalties and interest
77.17 collected under this section shall be deposited into the account and shall be used only for
77.18 the purposes of administering and enforcing this title. Only the commissioner may authorize
77.19 expenditures from the account.

77.20 Subd. 4. **Interest.** For any family and medical leave benefits obtained by
77.21 misrepresentation, and any penalty amounts assessed under subdivision 2, the commissioner
77.22 must assess interest on any amount that remains unpaid beginning 30 calendar days after
77.23 the date of a determination of overpayment penalty. Interest is assessed at the rate of one
77.24 percent per month or any part of a month. A determination of overpayment penalty must
77.25 state that interest will be assessed. Interest is not assessed on unpaid interest. Interest collected
77.26 under this subdivision is credited to the family and medical leave enforcement account.

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

77.32 Subd. 6. **Cancellation of overpayments.** (a) If family and medical leave benefits overpaid
77.33 for reasons other than misrepresentation are not repaid or offset from subsequent benefits
77.34 within six years after the date of the determination or decision holding the applicant overpaid,

78.1 the commissioner must cancel the overpayment balance, and no administrative or legal
78.2 proceedings may be used to enforce collection of those amounts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

82.16 (i) The lien may be imposed upon property defined as homestead property in chapter
82.17 510 but may be enforced only upon the sale, transfer, or conveyance of the homestead
82.18 property.

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

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

82.29 (b) In addition to a direct levy, the commissioner may issue a warrant to the sheriff of
82.30 any county who must proceed within 60 calendar days to levy upon the property or rights
82.31 to property of the delinquent person within the county, except property exempt under section
82.32 550.37. The sheriff must sell that property necessary to satisfy the total amount due, together

83.1 with the commissioner's and sheriff's costs. The sales are governed by the law applicable
83.2 to sales of like property on execution of a judgment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

84.32 Subd. 3. **Right of setoff.** (a) Upon certification by the commissioner to the commissioner
84.33 of management and budget, or to any state agency that disburses its own funds, that a person,

85.1 applicant, or employer has a liability under this chapter, and that the state has purchased
85.2 personal services, supplies, contract services, or property from that person, the commissioner
85.3 of management and budget or the state agency must set off and pay to the commissioner an
85.4 amount sufficient to satisfy the unpaid liability from funds appropriated for payment of the
85.5 obligation of the state otherwise due the person. No amount may be set off from any funds
85.6 exempt under section 550.37 or funds due an individual who receives assistance under
85.7 chapter 256.

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

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

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

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

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

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

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

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

86.1 Sec. 33. [268B.25] ANNUAL REPORTS.

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

86.6 (1) total revenue raised through premium collection;

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

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

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

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

86.14 (6) grant amounts and recipients under section;

86.15 (7) an accounting of required outreach expenditures;

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

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

86.19 (b) Beginning on or before December 1, 2023, the commissioner must annually publish
86.20 a publicly available report providing the following information for the previous fiscal year:

86.21 (1) total eligible claims;

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

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

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

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

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

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

87.1 (8) average duration for cases completed; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88.18 (2) prohibit an employer from providing additional benefits, including but not limited
88.19 to covering the portion of earnings not provided under this chapter during periods of leave
88.20 covered under this chapter; or

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

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

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

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

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

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

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

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

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

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

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

89.20 (h) The commissioner may award grants under this section only up to a maximum of
89.21 \$5,000,000 per calendar year.

89.22 Sec. 38. REVISOR INSTRUCTION.

89.23 The revisor of statutes shall make necessary changes in statutory cross-references to
89.24 accommodate the changes made in this act. If necessary, the revisor shall prepare a bill for
89.25 introduction in the 2022 legislative session to make other necessary conforming changes
89.26 that are beyond the scope of the revisor's authority to make editorial changes under this
89.27 section or other law.

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

89.29 Sec. 39. EFFECTIVE DATES.

89.30 (a) Benefits under Minnesota Statutes, chapter 268B, shall not be applied for or paid
89.31 until January 1, 2024, and thereafter.

90.1 (b) Sections 1, 2, 4, 5, and 6 are effective July 1, 2021.

90.2 (c) Section 15 is effective July 1, 2022.

90.3 (d) Sections 3, 17, 18, 22, 23, 24, and 26 are effective January 1, 2023.

90.4 (e) Sections 19, 21, 25, and 29 are effective January 1, 2023.

90.5 (f) Sections 7, 8, 9, 10, 11, 12, 13, 14, 16, 27, and 28 are effective January 1, 2024.

90.6

ARTICLE 4

90.7

FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS

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

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

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

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

90.19 (1) child only cases;

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

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

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

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

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

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

90.30 ~~and~~

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

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

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

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

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

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

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

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

91.24 (d) One parent in a two-parent family unit ~~that has a natural born child under 12 months~~
91.25 ~~of age~~ is not required to have an employment plan ~~until the child reaches 12 months of age~~
91.26 ~~unless the family unit has already used the exclusion under section 256J.561, subdivision~~
91.27 ~~3, or the previously allowed child under age one exemption under section 256J.56, paragraph~~
91.28 ~~(a), clause (5).~~ if that parent:

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

91.30 (2) has a natural born child under 12 months of age until the child reaches 12 months
91.31 of age unless the family unit has already used the exclusion under section 256J.561,

92.1 subdivision 3, or the previously allowed child under age one exemption under section
 92.2 256J.56, paragraph (a), clause (5).

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

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

92.10 Sec. 4. Minnesota Statutes 2020, section 256P.01, subdivision 3, is amended to read:

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

92.19 Sec. 5. **EFFECTIVE DATES.**

92.20 Sections 1 to 4 are effective July 1, 2024.

92.21 **ARTICLE 5**

92.22 **APPROPRIATIONS**

92.23 Section 1. **FAMILY AND MEDICAL BENEFITS; APPROPRIATIONS.**

92.24 (a) \$10,828,000 in fiscal year 2022 is appropriated from the general fund to the
 92.25 commissioner of employment and economic development for the purposes of Minnesota
 92.26 Statutes, chapter 268B. This is a onetime appropriation. In fiscal year 2023, \$23,250,000
 92.27 is appropriated from the paid family medical leave account to the commissioner of
 92.28 employment and economic development for the purposes of Minnesota Statutes, chapter
 92.29 268B. The base for this appropriation is \$51,041,000 in fiscal year 2024 and \$50,125,000
 92.30 in fiscal year 2025. Starting in fiscal year 2026, the base for this appropriation is \$46,465,000.

93.1 (b) In fiscal year 2023, \$630,000 is appropriated from the general fund to the
93.2 commissioner of employment and economic development for the purpose of outreach,
93.3 education, and technical assistance for employees and employers regarding Minnesota
93.4 Statutes, chapter 268B. This appropriation is onetime. In fiscal year 2024, \$630,000 is
93.5 appropriated from the paid family medical leave account to the commissioner of employment
93.6 and economic development for the purpose of outreach, education, and technical assistance
93.7 for employees and employers regarding Minnesota Statutes, chapter 268B. Of the amount
93.8 appropriated, at least half must be used for grants to community-based groups providing
93.9 outreach, education, and technical assistance for employees, employers, and self-employed
93.10 individuals regarding Minnesota Statutes, chapter 268B. Outreach must include efforts to
93.11 notify self-employed individuals of their ability to elect coverage under Minnesota Statutes,
93.12 section 268B.11, and provide them with technical assistance in doing so.

93.13 (c) \$528,000 in fiscal year 2022 is appropriated from the general fund to the commissioner
93.14 of labor and industry for the purposes of Minnesota Statutes, chapter 268B. This appropriation
93.15 is onetime. From the paid family medical leave account, \$518,000 is appropriated in fiscal
93.16 year 2023, \$468,000 is appropriated in fiscal year 2024, and \$618,000 is appropriated in
93.17 fiscal year 2025 to the commissioner of labor and industry for the purposes of Minnesota
93.18 Statutes, chapter 268B.

93.19 (d) \$574,000 in fiscal year 2023 is appropriated from the paid family medical leave
93.20 account to the commissioner of human services for information technology system costs
93.21 associated with Minnesota Statutes, chapter 268B. This appropriation is onetime.

93.22 (e) \$28,000 in fiscal year 2022 is appropriated from the general fund to the commissioner
93.23 of management and budget for information technology systems upgrades necessary to
93.24 comply with Minnesota Statutes, chapter 268B. This appropriation is onetime. From the
93.25 paid family medical leave account, \$23,000 is appropriated in fiscal year 2023 for ongoing
93.26 maintenance of these systems. The base for this appropriation is \$13,000.

93.27 (f) \$1,930,000 in fiscal year 2023 is appropriated from the general fund to the
93.28 commissioner of management and budget for the premiums and notice acknowledgement
93.29 required of employers under Minnesota Statutes, chapter 268B. The base for this
93.30 appropriation is \$3,727,000.

93.31 (g) \$11,000 in fiscal year 2022 is appropriated from the general fund to the legislative
93.32 coordinating commission for systems upgrades necessary to comply with Minnesota Statutes,
93.33 chapter 268B. This appropriation is onetime.

94.1 (h) \$20,000 in fiscal year 2022 is appropriated from the general fund to the supreme
 94.2 court for judicial responsibilities associated with Minnesota Statutes, chapter 268B. This is
 94.3 a onetime appropriation.

94.4 (i) \$5,600,000 in fiscal year 2025 is appropriated from the paid family medical leave
 94.5 account to the court of appeals for judicial responsibilities associated with Minnesota Statutes,
 94.6 chapter 268B.

94.7 **EFFECTIVE DATE.** This section is effective July 1, 2021.

94.8 Sec. 2. **FAMILY AND MEDICAL BENEFITS; TRANSFER.**

94.9 In fiscal year 2023 only, \$11,416,000 shall be transferred from the paid family medical
 94.10 leave account to the general fund.

94.11 **EFFECTIVE DATE.** This section is effective July 1, 2021.

94.12 **ARTICLE 6**

94.13 **DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT**

94.14 Section 1. Minnesota Statutes 2020, section 116J.035, subdivision 6, is amended to read:

94.15 Subd. 6. **Receipt of gifts, money; appropriation.** (a) The commissioner may:

94.16 (1) apply for, accept, and disburse gifts, bequests, grants, payments for services, loans,
 94.17 or other property from the United States, the state, private foundations, or any other source;

94.18 (2) enter into an agreement required for the gifts, grants, or loans; and

94.19 (3) hold, use, and dispose of its assets according to the terms of the gift, grant, loan, or
 94.20 agreement.

94.21 (b) Money received by the commissioner under this subdivision must be deposited in a
 94.22 separate account in the state treasury and invested by the State Board of Investment. The
 94.23 amount deposited, including investment earnings, is appropriated to the commissioner to
 94.24 carry out duties under this section.

94.25 (c) Money received by the commissioner under this subdivision for State Services for
 94.26 the Blind is exempt from depositing gifts, bequests, charitable contributions, and similar
 94.27 contributions made solely into the state treasury.

95.1 Sec. 2. Minnesota Statutes 2020, section 116L.02, is amended to read:

95.2 **116L.02 JOB SKILLS PARTNERSHIP PROGRAM.**

95.3 ~~(a)~~ The Minnesota Job Skills Partnership program is created to act as a catalyst to bring
 95.4 together employers with specific training needs with educational or other nonprofit
 95.5 institutions which can design programs to fill those needs. The partnership shall work closely
 95.6 with employers to prepare, train and place prospective or incumbent workers in identifiable
 95.7 positions as well as assisting educational or other nonprofit institutions in developing training
 95.8 programs that coincide with current and future employer requirements. The partnership
 95.9 shall provide grants to educational or other nonprofit institutions for the purpose of training
 95.10 workers. A participating business must match the grant-in-aid made by the Minnesota Job
 95.11 Skills Partnership. The match may be in the form of funding, equipment, or faculty.

95.12 ~~(b) The partnership program is authorized to use funds to pay for training for individuals~~
 95.13 ~~who have incomes at or below 200 percent of the federal poverty line. The board may grant~~
 95.14 ~~funds to eligible recipients to pay for board-certified training. Eligible recipients of grants~~
 95.15 ~~may include public, private, or nonprofit entities that provide employment services to~~
 95.16 ~~low-income individuals.~~

95.17 Sec. 3. Minnesota Statutes 2020, section 116L.03, subdivision 1, is amended to read:

95.18 Subdivision 1. **Members.** The partnership shall be governed by a board of ~~12~~ 13 directors.

95.19 Sec. 4. Minnesota Statutes 2020, section 116L.03, subdivision 2, is amended to read:

95.20 Subd. 2. **Appointment.** The Minnesota Job Skills Partnership Board consists of: ~~seven~~
 95.21 eight members appointed by the governor, the commissioner of employment and economic
 95.22 development, the chancellor, or the chancellor's designee, of the Minnesota State Colleges
 95.23 and Universities, the president, or the president's designee, of the University of Minnesota,
 95.24 and two nonlegislator members, one appointed by the Subcommittee on Committees of the
 95.25 senate Committee on Rules and Administration and one appointed by the speaker of the
 95.26 house. If the chancellor or the president of the university makes a designation under this
 95.27 subdivision, the designee must have experience in technical education. Four of the appointed
 95.28 members must be members of the governor's Workforce Development Board, of whom two
 95.29 must represent organized labor and two must represent business and industry. ~~One of the~~
 95.30 ~~appointed members must be a representative of a nonprofit organization that provides~~
 95.31 ~~workforce development or job training services. Two of the members must be from~~
 95.32 community-based organizations that have demonstrated experience and expertise in

96.1 addressing the employment, training, or education needs of individuals or communities
96.2 facing barriers to employment.

96.3 Sec. 5. Minnesota Statutes 2020, section 116L.03, subdivision 3, is amended to read:

96.4 Subd. 3. **Qualifications.** Members must have expertise in, and be representative of one
96.5 of the following fields of: education, job skills training, labor, business, ~~and~~ or government.

96.6 Sec. 6. Minnesota Statutes 2020, section 116L.05, subdivision 5, is amended to read:

96.7 Subd. 5. **Use of workforce development funds.** (a) After March 1 of any fiscal year,
96.8 the board ~~may~~ shall use workforce development funds for the purposes outlined in sections
96.9 116L.02 and 116L.04, or to provide incumbent worker training services under section
96.10 116L.18 or for opportunity response fund training programs in section 116L.051 if the
96.11 following conditions have been met:

96.12 (1) the board examines relevant economic indicators, including the projected number
96.13 of layoffs for the remainder of the fiscal year and the next fiscal year, evidence of declining
96.14 and expanding industries, the number of initial applications for and the number of exhaustions
96.15 of unemployment benefits disaggregated by race and ethnicity, job vacancy data, and any
96.16 additional relevant information brought to the board's attention;

96.17 (2) the board accounts for all allocations made in section 116L.17, subdivision 2;

96.18 (3) based on the past expenditures and projected revenue, the board estimates future
96.19 funding needs for services under section 116L.17 for the remainder of the current fiscal
96.20 year and the next fiscal year;

96.21 (4) the board determines there will be unspent funds after meeting the needs of dislocated
96.22 workers in the current fiscal year and there will be sufficient revenue to meet the needs of
96.23 dislocated workers in the next fiscal year; and

96.24 (5) the board reports its findings in clauses (1) to (4) to the chairs of legislative
96.25 committees with jurisdiction over the workforce development fund, to the commissioners
96.26 of revenue and management and budget, and to the public.

96.27 (b) The board shall transfer a minimum of 50 percent and up to a maximum of 70 percent
96.28 of the unspent funds for the purposes outlined in sections 116L.02 and 116L.04, to provide
96.29 incumbent worker training services under section 116L.18, or for opportunity response fund
96.30 training programs in section 116L.051.

97.1 **Sec. 7. [116L.051] OPPORTUNITY RESPONSE FUND.**

97.2 **Subdivision 1. Fund created.** Of the money deposited in the workforce development
97.3 fund, five percent is for the opportunity response fund for administration of a competitive
97.4 grant program for employment and training services to ethnic populations experiencing
97.5 high unemployment rates. Of this amount, up to five percent is available for administration
97.6 and monitoring of the services.

97.7 **Subd. 2. Purpose.** The purpose of the opportunity response fund is to provide training
97.8 grants targeted toward an identified gap in the workforce, including supportive services.
97.9 The job skills partnership board shall establish criteria for opportunity response fund grants
97.10 under this section and may encourage creative training models, innovative partnerships,
97.11 and the expansion or replication of promising practices. Preference shall be given to
97.12 organizations with a demonstrated history with successful outcomes for individuals who
97.13 are Black, Indigenous, or People of Color.

97.14 **Subd. 3. Definitions.** (a) For the purposes of this section, the following terms have the
97.15 meanings given them.

97.16 (b) "Demonstrated successful outcomes for individuals who are Black, Indigenous, or
97.17 People of Color" means the organization provides evidence of quantitative program outcomes
97.18 of training completion and job placement outcomes for individuals who are Black,
97.19 Indigenous, or People of Color that are more successful compared to other organizations
97.20 who serve similar populations.

97.21 (c) "Eligible organization" means a state or local government unit, nonprofit organization,
97.22 community action agency, business organization or association, or labor organization.

97.23 (d) "Identified gap" means a population defined by age, race, ethnicity, gender, education
97.24 level, geography, or other identifying characteristic, which is experiencing high
97.25 unemployment and significant structural barriers to employment.

97.26 **Subd. 4. Amount of grants.** A grant to an eligible organization must not exceed \$500,000.

97.27 **Subd. 5. Use of funds.** Eligible organizations shall use funds granted under this section
97.28 for direct training and support services to provide career-related skills to populations with
97.29 high unemployment rates and facing significant barriers to employment.

97.30 **Subd. 6. Performance outcome measures.** Reporting and performance outcomes for
97.31 this program must comply with the requirements under section 116L.98.

98.1 Sec. 8. Minnesota Statutes 2020, section 116L.17, subdivision 1, is amended to read:

98.2 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
98.3 the meanings given them in this subdivision.

98.4 (b) "Commissioner" means the commissioner of employment and economic development.

98.5 (c) "Dislocated worker" means an individual who is a resident of Minnesota at the time
98.6 employment ceased or was working in the state at the time employment ceased and:

98.7 (1) has been temporarily or permanently separated or has received a notice of temporary
98.8 or permanent separation from public or private sector employment and is eligible for or has
98.9 exhausted entitlement to unemployment benefits, ~~and is unlikely to return to the previous~~
98.10 ~~industry or occupation;~~

98.11 ~~(2) has been long-term unemployed and has limited opportunities for employment or~~
98.12 ~~reemployment in the same or a similar occupation in the area in which the individual resides,~~
98.13 ~~including older individuals who may have substantial barriers to employment by reason of~~
98.14 ~~age;~~

98.15 ~~(3)~~ (2) has been terminated or has received a notice of termination of employment as a
98.16 result of a plant closing or a substantial layoff at a plant, facility, or enterprise;

98.17 ~~(4)~~ (3) has been self-employed, including farmers and ranchers, and is unemployed as
98.18 a result of general economic conditions in the community in which the individual resides
98.19 or because of natural disasters;

98.20 ~~(5)~~ (4) is a veteran as defined by section 197.447, has been discharged or released from
98.21 active duty under honorable conditions within the last 36 months, and (i) is unemployed or
98.22 (ii) is employed in a job verified to be below the skill level and earning capacity of the
98.23 veteran;

98.24 ~~(6)~~ (5) is an individual determined by the United States Department of Labor to be
98.25 covered by trade adjustment assistance under United States Code, title 19, sections 2271 to
98.26 2331, as amended; or

98.27 ~~(7)~~ (6) is a displaced homemaker. A "displaced homemaker" is an individual who has
98.28 spent a substantial number of years in the home providing homemaking service and (i) has
98.29 been dependent upon the financial support of another; and now due to divorce, separation,
98.30 death, or disability of that person, must find employment to self support; or (ii) derived the
98.31 substantial share of support from public assistance on account of dependents in the home
98.32 and no longer receives such support. To be eligible under this clause, the support must have
98.33 ceased while the worker resided in Minnesota.

99.1 For the purposes of this section, "dislocated worker" does not include an individual who
99.2 was an employee, at the time employment ceased, of a political committee, political fund,
99.3 principal campaign committee, or party unit, as those terms are used in chapter 10A, or an
99.4 organization required to file with the federal elections commission.

99.5 (d) "Eligible organization" means a state or local government unit, nonprofit organization,
99.6 community action agency, business organization or association, or labor organization.

99.7 (e) "Plant closing" means the announced or actual permanent shutdown of a single site
99.8 of employment, or one or more facilities or operating units within a single site of
99.9 employment.

99.10 (f) "Substantial layoff" means a permanent reduction in the workforce, which is not a
99.11 result of a plant closing, and which results in an employment loss at a single site of
99.12 employment during any 30-day period for at least 50 employees excluding those employees
99.13 that work less than 20 hours per week.

99.14 Sec. 9. Minnesota Statutes 2020, section 116L.17, subdivision 4, is amended to read:

99.15 Subd. 4. **Use of funds.** Funds granted by the board under this section may be used for
99.16 any combination of the following, except as otherwise provided in this section:

99.17 (1) employment transition services such as developing readjustment plans for individuals;
99.18 outreach and intake; early readjustment; job or career counseling; testing; orientation;
99.19 assessment of skills and aptitudes; provision of occupational and labor market information;
99.20 job placement assistance; job search; job development; prelayoff assistance; relocation
99.21 assistance; programs provided in cooperation with employers or labor organizations to
99.22 provide early intervention in the event of plant closings or substantial layoffs; and
99.23 entrepreneurial training and business consulting;

99.24 (2) support services, including assistance to help the participant relocate to employ
99.25 existing skills; out-of-area job search assistance; family care assistance, including child
99.26 care; ~~commuting~~ transportation assistance; emergency housing and rental assistance;
99.27 counseling assistance, including personal and financial; health care; emergency health
99.28 assistance; emergency financial assistance; work-related tools and clothing; and other
99.29 appropriate support services that enable a person to participate in an employment and training
99.30 program with the goal of reemployment;

99.31 (3) specific, short-term training to help the participant enhance current skills in a similar
99.32 occupation or industry; entrepreneurial training, customized training, or on-the-job training;

100.1 basic and remedial education to enhance current skills; and literacy and work-related English
100.2 training for non-English speakers;

100.3 (4) long-term training in a new occupation or industry, including occupational skills
100.4 training or customized training in an accredited program recognized by one or more relevant
100.5 industries. Long-term training shall only be provided to dislocated workers whose skills are
100.6 obsolete and who have no other transferable skills likely to result in employment at a
100.7 comparable wage rate. Training shall only be provided for occupations or industries with
100.8 reasonable expectations of job availability based on the service provider's thorough
100.9 assessment of local labor market information where the individual currently resides or is
100.10 willing to relocate. This clause shall not restrict training in personal services or other such
100.11 industries; and

100.12 (5) direct training services to provide a measurable increase in the job-related skills of
100.13 participating incumbent workers, including basic assessment, counseling, and preemployment
100.14 training services requested by the qualifying employer.

100.15 Sec. 10. Minnesota Statutes 2020, section 116L.20, subdivision 2, is amended to read:

100.16 Subd. 2. **Disbursement of special assessment funds.** (a) The money collected under
100.17 this section shall be deposited in the state treasury and credited to the workforce development
100.18 fund to provide for employment and training programs. The workforce development fund
100.19 is created as a special account in the state treasury.

100.20 (b) ~~All money in the fund not otherwise appropriated or transferred is appropriated to~~
100.21 ~~the Job Skills Partnership Board for the purposes of section 116L.17 and as provided for in~~
100.22 ~~paragraph (d).~~ Of the money not otherwise appropriated or transferred, 65 percent of the
100.23 amount deposited shall be appropriated to the commissioner for workforce development
100.24 grants in paragraphs (c) to (i). 30 percent of the amount deposited shall be appropriated to
100.25 the Job Skills Partnership Board for the purposes of section 116L.17. Five percent shall be
100.26 appropriated to the Job Skills Partnership Board for the purposes of section 116L.02, 116L.04,
100.27 or the opportunity response fund in section 116L.051. The board must act as the fiscal agent
100.28 for the money and must disburse that money for the purposes of section 116L.17, not
100.29 allowing the money to be used for any other obligation of the state. All money in the
100.30 workforce development fund shall be deposited, administered, and disbursed in the same
100.31 manner and under the same conditions and requirements as are provided by law for the
100.32 other special accounts in the state treasury, except that all interest or net income resulting
100.33 from the investment or deposit of money in the fund shall accrue to the fund for the purposes
100.34 of the fund.

101.1 (c) Of the money appropriated to the commissioner under paragraph (b), the commissioner
101.2 shall retain 65 percent for workforce development grants. Of this amount, up to five percent
101.3 is for administration and monitoring of the program. The grants must be allocated to
101.4 maximize delivery to organizations with strong relationships with individuals who are Black,
101.5 Indigenous, or People of Color. Funding allocations must be spent consistent with the overall
101.6 geographic population distribution of the state. Preference or priority for funding awards
101.7 must be given to organizations with experience serving Black, Indigenous, and People of
101.8 Color communities with the greatest needs.

101.9 (d) Of the amount retained for workforce development grants, up to 80 percent of the
101.10 funds are for competitive grants for workforce development. Grants made from this paragraph
101.11 must fund workforce models that include full access, case management, career readiness,
101.12 hard skills development, support services, and placement. Grants must be made for the
101.13 following programs from this fund: sections 116L.362, 116L.561, 116L.562, 116L.96,
101.14 116L.981, and 116L.99.

101.15 (e)(1) When making competitive grants in paragraph (d) for adult grantees, the
101.16 commissioner shall benchmark outcomes against similar populations with similar barriers
101.17 to employment. The commissioner shall maximize leveraging funds from supportive services
101.18 grants so adult grantees can prioritize serving individuals with multiple barriers to
101.19 employment that may need additional assistance to sustain participation and completion in
101.20 training and transition into employment.

101.21 (2) The commissioner must consider the following outcomes for competitive grant
101.22 awards focused on adults:

101.23 (i) job placement and retention;

101.24 (ii) wage levels; and

101.25 (iii) credentials attainment.

101.26 (3) The commissioner must consider the following outcomes for competitive grant
101.27 awards focused on youth:

101.28 (i) work readiness;

101.29 (ii) credentials; and

101.30 (iii) placement.

101.31 (f) Of the amounts retained for workforce development grants, up to 30 percent of the
101.32 funds are for workforce development innovation grants. This funding must be used to try

102.1 new ideas and approaches and work with new and existing organizations with no previous
102.2 record of accomplishments with the department.

102.3 (g) Of the amount retained for workforce development grants, up to 20 percent of the
102.4 funds are for workforce development support services grants. This funding must be used
102.5 to provide nominal support services adjacent to employment and training services. Areas
102.6 for supportive services include but are not limited to: bridging the digital divide, child care,
102.7 capacity building, and driver's license assistance. A portion of these funds shall also be
102.8 allocated for capacity building competitive grants. Capacity building grants shall be awarded
102.9 to grantees to provide nonprofit capacity building grants to small, culturally specific
102.10 organizations that serve historically underserved cultural communities and have an annual
102.11 organizational budget of less than \$500,000. Capacity building grants may be used for the
102.12 following purposes: organizational infrastructure improvement, organizational workforce
102.13 development, and the creation or expansion of partnerships.

102.14 ~~(e)~~ (h) Reimbursement for costs related to collection of the special assessment shall be
102.15 in an amount negotiated between the commissioner and the United States Department of
102.16 Labor.

102.17 ~~(d)~~ (i) If the board determines that the conditions of section 116L.05, subdivision 5, have
102.18 been met, the board may use funds for the purposes outlined in section 116L.04, or to provide
102.19 incumbent worker training services under section 116L.18.

102.20 Sec. 11. Minnesota Statutes 2020, section 116L.40, is amended by adding a subdivision
102.21 to read:

102.22 Subd. 2a. **Automation technology.** "Automation technology" means a process or
102.23 procedure performed with minimal human assistance. Automation or automatic control is
102.24 the use of various control systems for operating equipment such as machinery, processes
102.25 in factories, or other applications with minimal or reduced human intervention. Adoption,
102.26 implementation, and utilization of any one of three types of automation in production are
102.27 acceptable for consideration of this program, including fixed automation, programmable
102.28 automation, and flexible automation.

102.29 Sec. 12. Minnesota Statutes 2020, section 116L.40, subdivision 5, is amended to read:

102.30 Subd. 5. **Employee.** "Employee" means the individual employed in a new or existing
102.31 job.

103.1 Sec. 13. Minnesota Statutes 2020, section 116L.40, subdivision 6, is amended to read:

103.2 Subd. 6. **Employer.** "Employer" means the individual, corporation, partnership, limited
 103.3 liability company, or association providing new jobs or investing in new automation
 103.4 technology and entering into an agreement.

103.5 Sec. 14. Minnesota Statutes 2020, section 116L.40, subdivision 9, is amended to read:

103.6 Subd. 9. **Program costs.** "Program costs" means all necessary and incidental costs of
 103.7 providing program services, ~~except that program costs are increased by \$1,000 per employee~~
 103.8 ~~for an individual with a disability.~~ The term does not include the cost of purchasing equipment
 103.9 to be owned or used by the training or educational institution or service.

103.10 Sec. 15. Minnesota Statutes 2020, section 116L.40, subdivision 10, is amended to read:

103.11 Subd. 10. **Program services.** "Program services" means training and education
 103.12 specifically directed to new or existing jobs that are determined to be appropriate by the
 103.13 commissioner, including in-house training; services provided by institutions of higher
 103.14 education and federal, state, or local agencies; or private training or educational services.
 103.15 Administrative services and assessment and testing costs are included.

103.16 Sec. 16. Minnesota Statutes 2020, section 116L.41, subdivision 1, is amended to read:

103.17 Subdivision 1. **Service provision.** Upon request, the commissioner shall provide or
 103.18 coordinate the provision of program services under sections 116L.40 to 116L.42 to a business
 103.19 eligible for grants under this section ~~116L.42~~. The commissioner shall specify the form of
 103.20 and required information to be provided with applications for projects to be funded with
 103.21 grants under this section ~~116L.42~~.

103.22 Sec. 17. Minnesota Statutes 2020, section 116L.41, is amended by adding a subdivision
 103.23 to read:

103.24 Subd. 1a. **Job training incentive program.** (a) The commissioner may provide grants
 103.25 in aid of up to \$200,000 to new or expanding employers at a location in Minnesota and
 103.26 outside of the metropolitan area, as defined in section 473.121, subdivision 2, for the
 103.27 provision of program services using the guidelines in this subdivision.

103.28 (b) The program must involve training and education specifically directed to new jobs
 103.29 that are determined to be appropriate by the commissioner.

104.1 (c) The program must give preference to projects that provide training for economically
104.2 disadvantaged people, people of color, or people with disabilities and to employers located
104.3 in economically distressed areas.

104.4 (d) Employers are eligible for reimbursement of program costs of up to \$10,000 per new
104.5 job for which training is provided, with an additional \$1,000 available per new job for an
104.6 individual with a disability.

104.7 Sec. 18. Minnesota Statutes 2020, section 116L.41, is amended by adding a subdivision
104.8 to read:

104.9 Subd. 1b. **Automation incentive program.** (a) The commissioner may provide grants
104.10 in aid of up to \$35,000 to employers at a location in Minnesota outside of the metropolitan
104.11 area, as defined in section 473.121, subdivision 2, for the provision of program services
104.12 using the guidelines in this subdivision.

104.13 (b) The employer must be an existing business located in Minnesota that is in the
104.14 manufacturing or skilled assembly production industry and has 150 or fewer full-time
104.15 employees companywide.

104.16 (c) The employer must be invested in new automation technology within the past year
104.17 or plan to invest in new automation technology within the project time frame specified in
104.18 the agreement under subdivision 3.

104.19 (d) The program must involve training and education for full-time, permanent employees
104.20 that is directly related to the new automation technology.

104.21 (e) The program must give preference to projects that provide training for economically
104.22 disadvantaged people, people of color, or people with disabilities and to employers located
104.23 in economically distressed areas.

104.24 (f) Employers are eligible for program cost reimbursement of up to \$5,000 per employee
104.25 trained on new automation technology and retained.

104.26 Sec. 19. Minnesota Statutes 2020, section 116L.41, subdivision 2, is amended to read:

104.27 **Subd. 2. Agreements; required terms.** (a) The commissioner may enter into an
104.28 agreement to establish a project with an employer that:

104.29 (1) identifies program costs to be paid from sources under the program;

104.30 (2) identifies program costs to be paid by the employer;

105.1 (3) provides that on-the-job training costs for employees may not exceed 50 percent of
105.2 the annual gross wages and salaries of the new jobs in the first full year after execution of
105.3 the agreement up to a maximum of \$10,000 per eligible employee;

105.4 (4) provides that each employee ~~must be paid wages at least equal to the median hourly~~
105.5 ~~wage for the county in which the job is located, as reported in the most recently available~~
105.6 ~~data from the United States Bureau of the Census, plus benefits, by the earlier of the end~~
105.7 ~~of the training period or 18 months of employment under the project~~ receiving training
105.8 through the project must be paid wages of at least 120 percent of the federal poverty
105.9 guidelines for a family of four, plus benefits; and

105.10 (5) provides that job training will be provided and the length of time of training.

105.11 (b) Before entering into a final agreement, the commissioner shall:

105.12 (1) determine that sufficient funds for the project are available ~~under section 116L.42;~~
105.13 and

105.14 (2) investigate the applicability of other training programs and determine whether the
105.15 job skills partnership grant program is a more suitable source of funding for the training
105.16 and whether the training can be completed in a timely manner that meets the needs of the
105.17 business.

105.18 The investigation under clause (2) must be completed within 15 days or as soon as
105.19 reasonably possible after the employer has provided the commissioner with all the requested
105.20 information.

105.21 Sec. 20. Minnesota Statutes 2020, section 116L.42, subdivision 1, is amended to read:

105.22 Subdivision 1. **Recovery of program costs.** Amounts paid by employers for program
105.23 costs are repaid by a job training grant equal to the lesser of the following:

105.24 (1) the amount of program costs specified in the agreement for the project; or

105.25 (2) the amount of program costs paid by the employer for ~~new~~ training employees under
105.26 a project.

105.27 Sec. 21. Minnesota Statutes 2020, section 116L.42, subdivision 2, is amended to read:

105.28 Subd. 2. **Reports.** (a) By February 1, ~~2018~~ 2024, the commissioner shall report to the
105.29 governor and the legislature on the program. The report must include at least:

105.30 (1) the amount of grants issued under the program;

106.1 (2) the number of individuals receiving training under the program, including the number
106.2 of new hires who are individuals with disabilities;

106.3 (3) the number of new hires attributable to the program, including the number of new
106.4 hires who are individuals with disabilities;

106.5 (4) an analysis of the effectiveness of the grant in encouraging employment or investments
106.6 in automation technology; and

106.7 (5) any other information the commissioner determines appropriate.

106.8 (b) The report to the legislature must be distributed as provided in section 3.195.

106.9 Sec. 22. Minnesota Statutes 2020, section 116L.98, subdivision 1, is amended to read:

106.10 Subdivision 1. **Requirements.** The commissioner shall develop and implement a uniform
106.11 outcome measurement and reporting system for adult workforce-related programs funded
106.12 in whole or in part by state funds as well as for youth workforce-related programs funded
106.13 in whole or in part by state funds. Innovation grants and supportive service grants are exempt
106.14 from this reporting requirement. For the purpose of this section, "workforce-related programs"
106.15 means all education and training programs administered by the commissioner and includes
106.16 programs and services administered by the commissioner and provided to individuals
106.17 enrolled in adult basic education under section 124D.52 and the Minnesota family investment
106.18 program under chapter 256J.

106.19 Sec. 23. Minnesota Statutes 2020, section 116L.98, subdivision 2, is amended to read:

106.20 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this
106.21 subdivision have the meanings given.

106.22 (b) "Credential" means postsecondary degrees, diplomas, licenses, and certificates
106.23 awarded in recognition of an individual's attainment of measurable technical or occupational
106.24 skills necessary to obtain employment or advance with an occupation. ~~This definition does~~
106.25 ~~not include certificates awarded by workforce investment boards or work-readiness~~
106.26 ~~certificates.~~

106.27 (c) "Exit" means to have not received service under a workforce program for 90
106.28 consecutive calendar days. The exit date is the last date of service.

106.29 (d) "Net impact" means the use of matched control groups and regression analysis to
106.30 estimate the impacts attributable to program participation net of other factors, including
106.31 observable personal characteristics and economic conditions.

107.1 (e) "Placement" means when a participant exits into unsubsidized employment,
 107.2 postsecondary education, vocational or occupational skills training, a registered
 107.3 apprenticeship, or the military.

107.4 ~~(e)~~ (f) "Pre-enrollment" means the period of time before an individual was enrolled in
 107.5 a workforce program.

107.6 Sec. 24. Minnesota Statutes 2020, section 116L.98, subdivision 3, is amended to read:

107.7 Subd. 3. **Uniform outcome report card; reporting by commissioner.** (a) By December
 107.8 31 of each even-numbered year, the commissioner must report to the chairs and ranking
 107.9 minority members of the committees of the house of representatives and the senate having
 107.10 jurisdiction over economic development and workforce policy and finance the following
 107.11 information separately for each of the previous two fiscal or calendar years, for each program
 107.12 subject to the requirements of subdivision 1:

107.13 (1) the total number of participants enrolled;

107.14 (2) the median pre-enrollment wages based on participant wages for the second through
 107.15 the fifth calendar quarters immediately preceding the quarter of enrollment excluding those
 107.16 with zero income;

107.17 (3) the total number of participants with zero income in the second through fifth calendar
 107.18 quarters immediately preceding the quarter of enrollment;

107.19 (4) the total number of participants enrolled in training;

107.20 (5) the total number of participants enrolled in training by occupational group;

107.21 (6) the total number of participants that exited the program and the average enrollment
 107.22 duration of participants that have exited the program during the year;

107.23 (7) the total number of exited participants who completed training;

107.24 (8) the total number of exited participants who attained a credential;

107.25 (9) the total number of participants employed during three consecutive quarters
 107.26 immediately following the quarter of exit, by industry;

107.27 (10) the median wages of participants employed during three consecutive quarters
 107.28 immediately following the quarter of exit;

107.29 (11) the total number of participants employed during eight consecutive quarters
 107.30 immediately following the quarter of exit, by industry; and

108.1 (12) the median wages of participants employed during eight consecutive quarters
108.2 immediately following the quarter of exit;

108.3 ~~(13) the total cost of the program;~~

108.4 ~~(14) the total cost of the program per participant;~~

108.5 ~~(15) the cost per credential received by a participant; and~~

108.6 ~~(16) the administrative cost of the program.~~

108.7 ~~(b)~~ The report to the legislature must contain participant information by education level,
108.8 race and ethnicity, gender, and geography, and a comparison of exited participants who
108.9 completed training and those who did not. The report to the legislature shall include a
108.10 summary of current program trends in the state that are relevant to workforce development
108.11 and employment outcomes.

108.12 ~~(e)~~ The requirements of this section apply to programs administered directly by the
108.13 commissioner or administered by other organizations under a grant made by the department.

108.14 (b) For youth workforce-related programs funded in whole or in part by state funds the
108.15 following shall be reported:

108.16 (1) the total number of participants enrolled in training;

108.17 (2) the total number of participants who completed training;

108.18 (3) the total number of exited participants who have a placement in employment;

108.19 (4) the total number of exited participants who have a placement in post-secondary
108.20 education;

108.21 (5) the total number of exited participants with a placement in occupational or vocational
108.22 skills training, apprenticeship training, or military training;

108.23 (6) the total number of exited participants who have returned to school;

108.24 (7) the total number of exited participants who earned academic credit or service learning
108.25 credit for work-based learning or participation in work experience;

108.26 (8) the total number of exited participants who have earned their high school diploma
108.27 or GED;

108.28 (9) the total number of exited participants who have earned a certificate or
108.29 industry-recognized credential; and

109.1 (10) the total number of exited participants who have completed and attained a work
109.2 readiness skills training. "Work readiness" means a participant has the knowledge the
109.3 participant needs in order to seek out employment. Activities, programs, or services must
109.4 be designed to help an individual acquire a combination of basic academic skills, critical
109.5 thinking skills, digital literacy skills, and self-management skills, including competencies
109.6 in: (i) utilizing resources; (ii) using information; (iii) working with others; (iv) understanding
109.7 systems; (v) skills necessary for successful transition into and completion of postsecondary
109.8 education or training, or employment; and (vi) other employability skills. Competencies
109.9 are measured through a pre- and post-training checklist completed and evaluated by
109.10 employers.

109.11 **Sec. 25. [116L.981] PATHWAYS TO PROSPERITY PROGRAM.**

109.12 Subdivision 1. **Pathways to prosperity.** (a) The commissioner shall establish a pathways
109.13 to prosperity grant program to award grants to organizations to train low-skill, low-income
109.14 adults, and adults facing the greatest employment disparities, and to assist them in finding
109.15 employment in high-demand industries with long-term employment opportunities.

109.16 (b) "Pathways to prosperity" means a combination of rigorous and high-quality education,
109.17 training, and other services that:

109.18 (1) aligns with the skill needs of high-growth industries in the state, regional, or local
109.19 economy;

109.20 (2) prepares individuals to enter in demand careers;

109.21 (3) includes counseling and to support an individual in achieving the individual's
109.22 education and career goals;

109.23 (4) includes, as appropriate, education offered concurrently with and in the same context
109.24 as workforce preparation activities and training for a specific occupation or occupational
109.25 cluster;

109.26 (5) organizes education, training, and other services to meet the particular needs of an
109.27 individual in a manner that accelerates the educational and career advancement of the
109.28 individual to the extent practicable;

109.29 (6) enables an individual to attain a secondary school diploma or its recognized equivalent
109.30 and at least one industry-recognized credential; and

109.31 (7) helps an individual enter or advance within a specific occupation or occupational
109.32 cluster.

110.1 Subd. 2. **Definitions.** (a) For the purposes of this section, the following terms have the
110.2 meanings given.

110.3 (b) "Career pathway" means a career-readiness program that combines vocational skills
110.4 training, education, and support services and results in either industry-specific training or
110.5 an industry-recognized credential. Career pathway includes sector specific vocational skills
110.6 training that leads to employment in high-demand occupations.

110.7 (c) "Pathways to prosperity grant program" or "grant program" means the competitive
110.8 grant program created in this section.

110.9 Subd. 3. **Competitive grant process.** (a) The commissioner shall award grants to
110.10 applicants through a competitive grant process. This process shall include an expedited
110.11 application process for previous grant recipients that operate career pathway programs that
110.12 are aligned with current labor market needs and that are meeting or exceeding their
110.13 performance goals related to training and placement for individuals facing multiple barriers
110.14 to employment.

110.15 (b) The commissioner shall develop criteria for making grants in consultation with
110.16 workforce development service providers. These criteria shall include guidelines for multiple
110.17 types of career pathways. These criteria shall also consider a program's alignment with the
110.18 labor market in the community where the program operates and, where applicable, a
110.19 program's previous grant performance.

110.20 (c) All reporting requirements for grant recipients shall be outlined in plain language in
110.21 both the request for proposal and the grant contract.

110.22 (d) The commissioner shall provide applicants with technical assistance with
110.23 understanding application procedures and program guidelines.

110.24 (e) All grants shall be two years in length.

110.25 Subd. 4. **Performance metrics.** Reporting and performance outcomes for the grant
110.26 program under this section shall comply with the requirements under section 116L.98.

110.27 Sec. 26. Minnesota Statutes 2020, section 268.035, subdivision 21c, is amended to read:

110.28 Subd. 21c. **Reemployment assistance training.** (a) An applicant is in "reemployment
110.29 assistance training" when:

110.30 (1)(i) a reasonable opportunity for suitable employment for the applicant does not exist
110.31 in the labor market area and additional training will assist the applicant in obtaining suitable
110.32 employment;

111.1 ~~(2)~~ (ii) the curriculum, facilities, staff, and other essentials are adequate to achieve the
111.2 training objective;

111.3 ~~(3)~~ (iii) the training is vocational or short term academic training directed to an occupation
111.4 or skill that will substantially enhance the employment opportunities available to the applicant
111.5 in the applicant's labor market area;

111.6 ~~(4)~~ (iv) the training course is full time by the training provider; and

111.7 ~~(5)~~ (v) the applicant is making satisfactory progress in the training;

111.8 (2) the applicant can provide proof of enrollment in one or more programs offered by
111.9 an adult basic education consortium under section 124D.518. Programs may include but
111.10 are not limited to:

111.11 (i) General Educational Development Diploma preparation;

111.12 (ii) Local Credit Completion Adult High School Diploma preparation;

111.13 (iii) State Competency-Based Adult High School Diploma preparation;

111.14 (iv) basic skills enhancement training focused on math, functional literacy, reading, or
111.15 writing;

111.16 (v) computer skills training; or

111.17 (vi) English as a Second Language instruction; or

111.18 (3) the applicant can provide proof of enrollment in an English as a Second Language
111.19 program taught by a licensed instructor.

111.20 (b) Full-time training provided through the dislocated worker program, the Trade Act
111.21 of 1974, as amended, or the North American Free Trade Agreement is "reemployment
111.22 assistance training," if that training course is in accordance with the requirements of that
111.23 program.

111.24 (c) Apprenticeship training provided in order to meet the requirements of an
111.25 apprenticeship program under chapter 178 is "reemployment assistance training."

111.26 (d) An applicant is in reemployment assistance training only if the training course has
111.27 actually started or is scheduled to start within 30 calendar days.

111.28 Sec. 27. Minnesota Statutes 2020, section 268.085, subdivision 2, is amended to read:

111.29 Subd. 2. **Not eligible.** An applicant is ineligible for unemployment benefits for any week:

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

112.1 (2) that the applicant, at any time during the week, has an outstanding misrepresentation
 112.2 overpayment balance under section 268.18, subdivision 2, including any penalties and
 112.3 interest;

112.4 ~~(3) that occurs in a period when the applicant is a student in attendance at, or on vacation~~
 112.5 ~~from a secondary school including the period between academic years or terms;~~

112.6 ~~(4)~~ (3) that the applicant is incarcerated or performing court-ordered community service.
 112.7 The applicant's weekly unemployment benefit amount is reduced by one-fifth for each day
 112.8 the applicant is incarcerated or performing court-ordered community service;

112.9 ~~(5)~~ (4) that the applicant fails or refuses to provide information on an issue of ineligibility
 112.10 required under section 268.101;

112.11 ~~(6)~~ (5) that the applicant is performing services 32 hours or more, in employment, covered
 112.12 employment, noncovered employment, volunteer work, or self-employment regardless of
 112.13 the amount of any earnings; or

112.14 ~~(7)~~ (6) with respect to which the applicant has filed an application for unemployment
 112.15 benefits under any federal law or the law of any other state. If the appropriate agency finally
 112.16 determines that the applicant is not entitled to establish a benefit account under federal law
 112.17 or the law of any other state, this clause does not apply.

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

112.19 Sec. 28. Minnesota Statutes 2020, section 268.133, is amended to read:

112.20 **268.133 UNEMPLOYMENT BENEFITS WHILE IN ENTREPRENEURIAL**
 112.21 **TRAINING.**

112.22 Unemployment benefits are available to dislocated workers participating in the converting
 112.23 layoffs into Minnesota businesses (CLIMB) program under section 116L.17, subdivision
 112.24 11. Applicants participating in CLIMB are considered in reemployment assistance training
 112.25 under section 268.035, subdivision 21c. All requirements under section 268.069, subdivision
 112.26 1, must be met, except the commissioner may waive:

112.27 (1) the deductible earnings provisions in section 268.085, subdivision 5; and

112.28 (2) the 32 hours of work limitation in section 268.085, subdivision 2, clause ~~(6)~~ (5). A
 112.29 maximum of 500 applicants may receive a waiver at any given time.

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

113.1 **Sec. 29. LAUNCH MINNESOTA.**

113.2 **Subdivision 1. Establishment.** Launch Minnesota is established within the Business
113.3 and Community Development Division of the Department of Employment and Economic
113.4 Development to encourage and support the development of new private sector technologies
113.5 and support the science and technology policies under Minnesota Statutes, section 3.222.
113.6 Launch Minnesota must provide entrepreneurs and emerging technology-based companies
113.7 business development assistance and financial assistance to spur growth.

113.8 **Subd. 2. Definitions.** (a) For purposes of this section, the terms defined in this subdivision
113.9 have the meanings given.

113.10 (b) "Advisory board" means the board established under subdivision 9.

113.11 (c) "Commissioner" means the commissioner of employment and economic development.

113.12 (d) "Department" means the Department of Employment and Economic Development.

113.13 (e) "Entrepreneur" means a Minnesota resident who is involved in establishing a business
113.14 entity and secures resources directed to its growth while bearing the risk of loss.

113.15 (f) "Greater Minnesota" means the area of Minnesota located outside of the metropolitan
113.16 area as defined in Minnesota Statutes, section 473.121, subdivision 2.

113.17 (g) "Innovative technology" or "business" means a new novel business model or product;
113.18 a derivative product incorporating new elements into an existing product; a new use for a
113.19 product; a new process or method for the manufacture, use, or assessment of any product
113.20 or activity, patentability, and scalability. Innovative technology or business model does not
113.21 include locally based retail, lifestyle, or business services. The business must not be engaged
113.22 in real estate development; insurance; banking; lending; lobbying; political consulting;
113.23 information technology consulting; wholesale or retail trade; leisure; hospitality;
113.24 transportation; construction; ethanol production from corn; or professional services provided
113.25 by attorneys, accountants, business consultants, physicians, or health care consultants.

113.26 (h) "Institution of higher education" has the meaning given in Minnesota Statutes, section
113.27 136A.28, subdivision 6.

113.28 (i) "Minority group member" means a United States citizen who is Asian, Pacific Islander,
113.29 Black, Hispanic, or Native American.

113.30 (j) "Minority-owned business" means a business for which at least one minority group
113.31 member:

114.1 (1) owns at least 50 percent of the business or, in the case of a publicly owned business,
114.2 owns at least 51 percent of the stock; and

114.3 (2) manages the business and control the daily business operations.

114.4 (k) "Research and development" means any activity that is:

114.5 (1) a systematic, intensive study directed toward greater knowledge or understanding
114.6 of the subject studies;

114.7 (2) a systematic study directed specifically toward applying new knowledge to meet a
114.8 recognized need; or

114.9 (3) a systematic application of knowledge toward the production of useful materials,
114.10 devices, systems, and methods, including design, development, and improvement of
114.11 prototypes and new processes to meet specific requirements.

114.12 (l) "Start-up" means a business entity that has been in operation for less than ten years,
114.13 has operations in Minnesota, and is in the development stage defined as devoting substantially
114.14 all of its efforts to establishing a new business and either of the following conditions exists:

114.15 (1) planned principal operations have not commenced; or

114.16 (2) planned principal operations have commenced, but have generated less than
114.17 \$1,000,000 in revenue.

114.18 (m) "Technology-related assistance" means the application and utilization of technological
114.19 information and technologies to assist in the development and production of new
114.20 technology-related products or services or to increase the productivity or otherwise enhance
114.21 the production or delivery of existing products or services.

114.22 (n) "Trade association" means a nonprofit membership organization organized to promote
114.23 businesses and business conditions and having an election under section 501(c)(3) or
114.24 501(c)(6) of the Internal Revenue Code.

114.25 (o) "Veteran" has the meaning given in Minnesota Statutes, section 197.447.

114.26 (p) "Woman" means a person of the female gender.

114.27 (q) "Woman-owned business" means a business for which one or more women:

114.28 (1) own at least 50 percent of the business or, in the case of a publicly owned business,
114.29 own at least 51 percent of the stock; and

114.30 (2) manage the business and control the daily business operations.

114.31 Subd. 3. **Duties.** The commissioner, by and through Launch Minnesota, shall:

115.1 (1) support innovation and initiatives designed to accelerate the growth of innovative
115.2 technology and business start-ups in Minnesota;

115.3 (2) in partnership with other organizations, offer classes and instructional sessions on
115.4 how to start a high-tech and innovative start-up;

115.5 (3) promote activities for entrepreneurs and investors regarding the state's growing
115.6 innovation economy;

115.7 (4) hold events and meetings that gather key stakeholders in the state's innovation sector;

115.8 (5) conduct outreach and education on innovation activities and related financial programs
115.9 available from the department and other organizations, particularly for underserved
115.10 communities;

115.11 (6) interact and collaborate with statewide partners including but not limited to businesses,
115.12 nonprofits, trade associations, and higher education institutions;

115.13 (7) administer an advisory board to assist with direction, grant application review,
115.14 program evaluation, report development, and partnerships;

115.15 (8) accept grant applications under subdivisions 5, 6, and 7 and work with the advisory
115.16 board to review and prioritize the applications and provide recommendations to the
115.17 commissioner; and

115.18 (9) perform other duties at the commissioner's discretion.

115.19 Subd. 4. **Administration.** (a) The commissioner shall employ an executive director in
115.20 the unclassified service, one staff member to support Launch Minnesota, and one staff
115.21 member in the business and community development division to manage grants. The
115.22 executive director shall:

115.23 (1) assist the commissioner and the advisory board in performing the duties of Launch
115.24 Minnesota; and

115.25 (2) comply with all state and federal program requirements, and all state and federal
115.26 securities and tax laws and regulations.

115.27 (b) Launch Minnesota may occupy and lease physical space in a private co-working
115.28 facility that includes office space for staff and space for community engagement for training
115.29 entrepreneurs. The physical space leased under this paragraph is exempt from the
115.30 requirements in Minnesota Statutes, section 16B.24, subdivision 6.

115.31 (c) At least three times per month, Launch Minnesota staff shall communicate with
115.32 organizations in greater Minnesota that have received a grant under subdivision 7. To the

116.1 extent possible, Launch Minnesota shall form partnerships with organizations located
116.2 throughout the state.

116.3 (d) Launch Minnesota must accept grant applications under this section and provide
116.4 funding recommendations to the commissioner and the commissioner shall distribute grants
116.5 based in part on the recommendations.

116.6 Subd. 5. **Application process.** (a) The commissioner shall establish the application form
116.7 and procedures for grants.

116.8 (b) Upon receiving recommendations from Launch Minnesota, the commissioner is
116.9 responsible for evaluating all applications using evaluation criteria which shall be developed
116.10 by Launch Minnesota in consultation with the advisory board.

116.11 (c) For grants under subdivision 6, priority shall be given if the applicant is:

116.12 (1) a business or entrepreneur located in greater Minnesota; or

116.13 (2) a business owner or entrepreneur who is a woman, veteran, or minority group member.

116.14 (d) For grants under subdivision 7, priority shall be given if the applicant is planning to
116.15 serve:

116.16 (1) businesses or entrepreneurs located in greater Minnesota; or

116.17 (2) business owners or entrepreneurs who are women, veterans, or minority group
116.18 members.

116.19 (e) Department staff, and not Launch Minnesota staff, are responsible for awarding
116.20 funding, disbursing funds, and monitoring grantee performance for all grants awarded under
116.21 this section.

116.22 (f) Grantees must provide 50 percent in matching funds and grant payments must be
116.23 provided on a reimbursement basis after review of submitted receipts by the department.

116.24 (g) Grant applications must be accepted on a regular periodic basis by Launch Minnesota
116.25 and must be reviewed by Launch Minnesota and the advisory board before being submitted
116.26 to the commissioner with their recommendations.

116.27 Subd. 6. **Innovation grants.** (a) The commissioner shall distribute innovation grants
116.28 under this subdivision.

116.29 (b) The commissioner shall provide a grant of up to \$35,000 to an eligible business or
116.30 entrepreneur for research and development expenses, direct business expenses, and the
116.31 purchase of technical assistance or services from public higher education institutions and

117.1 nonprofit entities. Research and development expenditures may include but are not limited
117.2 to proof of concept activities, intellectual property protection, prototype designs and
117.3 production, and commercial feasibility. Expenditures funded under this subdivision are not
117.4 eligible for the research and development tax credit under Minnesota Statutes, section
117.5 290.068. Direct business expenses may include rent, equipment purchases, and supplier
117.6 invoices. Taxes imposed by federal, state, or local government entities may not be reimbursed
117.7 under this paragraph. Technical assistance or services must be purchased to assist in the
117.8 development or commercialization of a product or service to be eligible. Each business or
117.9 entrepreneur may receive only one grant per biennium under this paragraph.

117.10 (c) The commissioner shall provide a grant of up to \$35,000 in Phase 1 or \$50,000 in
117.11 Phase 2 to an eligible business or entrepreneur that, as a registered client of the Small
117.12 Business Innovation Research (SBIR) program, has been awarded a first time Phase 1 or
117.13 Phase 2 award pursuant to the SBIR or Small Business Technology Transfer (STTR)
117.14 programs after July 1, 2019. Each business or entrepreneur may receive only one grant per
117.15 biennium under this paragraph. Grants under this paragraph are not subject to the
117.16 requirements of subdivision 2, paragraph (l), but do require a recommendation from Launch
117.17 Minnesota advisory board.

117.18 Subd. 7. **Entrepreneur education grants.** (a) The commissioner shall make entrepreneur
117.19 education grants to institutions of higher education and other organizations to provide
117.20 educational programming to entrepreneurs and provide outreach to and collaboration with
117.21 businesses, federal and state agencies, institutions of higher education, trade associations,
117.22 and other organizations working with entrepreneurs to advance innovative, technology, and
117.23 businesses throughout Minnesota.

117.24 (b) Applications for entrepreneur education grants under this subdivision must be
117.25 submitted to the commissioner and evaluated by department staff other than Launch
117.26 Minnesota. The evaluation criteria must be developed by Launch Minnesota, in consultation
117.27 with the advisory board and the commissioner, and priority must be given to an applicant
117.28 who demonstrates activity assisting business owners or entrepreneurs residing in greater
117.29 Minnesota or who are women, veterans, or minority group members.

117.30 (c) Department staff other than Launch Minnesota staff are responsible for awarding
117.31 funding, disbursing funds, and monitoring grantee performance under this subdivision.

117.32 (d) Grantees may use the grant funds to deliver the following services:

117.33 (1) development and delivery to innovate technology businesses of industry-specific or
117.34 innovative product- or process-specific counseling on issues of business formation, market

118.1 structure, market research and strategies, securing first mover advantage or overcoming
118.2 barriers to entry, protecting intellectual property, and securing debt or equity capital. This
118.3 counseling is to be delivered in a classroom setting or using distance media presentations;

118.4 (2) outreach and education to businesses and organizations on the small business
118.5 investment tax credit program under Minnesota Statutes, section 116J.8737, the MNvest
118.6 crowd-funding program under Minnesota Statutes, section 80A.461, and other state programs
118.7 that support innovative technology business creation especially in underserved communities;

118.8 (3) collaboration with institutions of higher education, local organizations, federal and
118.9 state agencies, the Small Business Development Center, and the Small Business Assistance
118.10 Office to create and offer educational programming and ongoing counseling in greater
118.11 Minnesota that is consistent with those services offered in the metropolitan area; and

118.12 (4) events and meetings with other innovation-related organizations to inform
118.13 entrepreneurs and potential investors about Minnesota's growing information economy.

118.14 Subd. 8. **Report.** Launch Minnesota shall report by December 31, 2022, and again by
118.15 December 31, 2023, to the chairs and ranking minority members of the committees of the
118.16 house of representatives and senate having jurisdiction over economic development policy
118.17 and finance. Each report shall include information on the work completed, including awards
118.18 made by the department under this section and progress toward transferring some activities
118.19 of Launch Minnesota to an entity outside of state government.

118.20 Subd. 9. **Advisory board.** (a) The commissioner shall establish an advisory board to
118.21 advise the executive director regarding the activities of Launch Minnesota, make the
118.22 recommendations described in this section, and develop and initiate a strategic plan for
118.23 transferring some activities of Launch Minnesota to a new or existing public-private
118.24 partnership or nonprofit organization outside of state government.

118.25 (b) The advisory board shall consist of ten members and is governed by Minnesota
118.26 Statutes, section 15.059. A minimum of seven members must be from the private sector
118.27 representing business and at least two members but no more than three members must be
118.28 from government and higher education. At least three of the members of the advisory board
118.29 shall be from greater Minnesota. Appointees shall represent a range of interests, including
118.30 entrepreneurs, large businesses, industry organizations, investors, and both public and private
118.31 small business service providers.

118.32 (c) The advisory board shall select a chair from its private sector members. The executive
118.33 director shall provide administrative support to the committee.

119.1 (d) The commissioner, or a designee, shall serve as an ex-officio, nonvoting member of
119.2 the advisory board.

119.3 Subd. 10. **Expiration.** This section expires January 1, 2024.

119.4 Sec. 30. **REPEALER.**

119.5 Minnesota Statutes 2020, section 116L.18, is repealed.

116L.18 SPECIAL INCUMBENT WORKER TRAINING GRANTS.

Subdivision 1. **Purpose.** The purpose of the special incumbent worker training grants is to expand opportunities for businesses and workers to gain new skills that are in demand in the Minnesota economy. The board shall establish criteria for incumbent worker grants under this section and may encourage creative training models, innovative partnerships, and expansion or replication of promising practices.

Subd. 2. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Incumbent worker" means an individual employed by a qualifying employer.

(c) "Qualifying employer" means a for-profit business or nonprofit organization in Minnesota with at least one full-time paid employee. Public sector organizations are not considered qualifying employers.

(d) "Eligible organization" has the meaning given in section 116L.17.

Subd. 3. **Amount of grants.** A grant to an eligible organization may not exceed \$400,000.

Subd. 4. **Matching funds.** The board shall require matching funds from qualifying employers in the form of funding, equipment, or faculty.

Subd. 5. **Use of funds.** Eligible organizations shall use funds granted under this section for direct training services to provide a measurable increase in the job-related skills of participating incumbent workers. Eligible organizations may also provide basic assessment, counseling, and preemployment training services requested by the qualifying employer. No funds may be used for support services as described in section 116L.17, subdivision 4, clause (2).

Subd. 6. **Performance outcome measures.** The board and the commissioner of employment and economic development shall jointly develop performance outcome measures and standards for this program. The commissioner and board shall consult with eligible organizations in establishing standards. Measures at a minimum must include posttraining retention, promotion, and wage increase. The board and commissioner shall provide a report to the legislature by March 1 of each year on the previous fiscal year's program performance. Eligible organizations must provide performance data in a timely manner for the completion of this report.