

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 2558

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DATE	D-PG	OFFICIAL STATUS
03/10/2016		Introduction and first reading Referred to State and Local Government

A bill for an act

relating to paid family medical leave benefits; establishing a family and medical leave benefit insurance program; imposing a wage tax; authorizing rulemaking; creating an account; appropriating money; amending Minnesota Statutes 2014, sections 13.719, by adding a subdivision; 268.19, subdivision 1; 290.01, subdivision 19b; Minnesota Statutes 2015 Supplement, section 177.27, subdivision 4; proposing coding for new law as Minnesota Statutes, chapter 268B.

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

ARTICLE 1

FAMILY AND MEDICAL LEAVE BENEFITS

Section 1. Minnesota Statutes 2014, section 13.719, is amended by adding a subdivision to read:

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

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

Sec. 2. Minnesota Statutes 2015 Supplement, section 177.27, subdivision 4, is amended to read:

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

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

2.15 Sec. 3. Minnesota Statutes 2014, section 268.19, subdivision 1, is amended to read:

2.16 Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered
2.17 from any person under the administration of the Minnesota Unemployment Insurance Law
2.18 are private data on individuals or nonpublic data not on individuals as defined in section
2.19 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court
2.20 order or section 13.05. A subpoena is not considered a district court order. These data
2.21 may be disseminated to and used by the following agencies without the consent of the
2.22 subject of the data:

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

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

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

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

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

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

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

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

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

3.8 (10) local and state welfare agencies for monitoring the eligibility of the data subject
3.9 for assistance programs, or for any employment or training program administered by those
3.10 agencies, whether alone, in combination with another welfare agency, or in conjunction
3.11 with the department or to monitor and evaluate the statewide Minnesota family investment
3.12 program by providing data on recipients and former recipients of food stamps or food
3.13 support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance
3.14 under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

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

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

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

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

3.25 (15) the Department of Corrections for the purpose of case planning for preprobation
3.26 and postprobation employment tracking of offenders sentenced to probation and
3.27 preconfinement and postconfinement employment tracking of committed offenders;

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

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

3.33 (18) the family and medical leave division of the Department of Employment and
3.34 Economic Development to be used as necessary to administer chapter 268B.

3.35 (b) Data on individuals and employers that are collected, maintained, or used by
3.36 the department in an investigation under section 268.182 are confidential as to data

4.1 on individuals and protected nonpublic data not on individuals as defined in section
4.2 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district
4.3 court order or to a party named in a criminal proceeding, administrative or judicial, for
4.4 preparation of a defense.

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

4.9 Sec. 4. **[268B.01] DEFINITIONS.**

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

4.12 Subd. 2. **Account.** "Account" means the family and medical leave account in the
4.13 special revenue fund in the state treasury under section 268B.02.

4.14 Subd. 3. **Applicant.** "Applicant" means an individual applying for benefits under
4.15 this chapter.

4.16 Subd. 4. **Benefit.** "Benefit" means monetary payments under this chapter associated
4.17 with a bonding leave, family leave, medical leave, or pregnancy leave.

4.18 Subd. 5. **Commissioner.** "Commissioner" means the commissioner of employment
4.19 and economic development.

4.20 Subd. 6. **Department.** "Department" means the Department of Employment and
4.21 Economic Development.

4.22 Subd. 7. **Employee.** "Employee" means an individual who performs services for
4.23 hire for an employer, but does not include an independent contractor.

4.24 Subd. 8. **Employer.** "Employer" means a person or entity, other than an employee,
4.25 required to pay taxes under this chapter.

4.26 Subd. 9. **Health care provider.** "Health care provider" means an individual who is
4.27 licensed, certified, or otherwise authorized under law to practice in the individual's state
4.28 of practice as a physician, osteopath, physician assistant, chiropractor, advanced practice
4.29 registered nurse, optometrist, licensed psychologist, licensed independent clinical social
4.30 worker, dentist, or podiatrist. "Chiropractor" means only a chiropractor who provides
4.31 manual manipulation of the spine to correct a subluxation demonstrated to exist by an x-ray.

4.32 Subd. 10. **Qualifying event.** "Qualifying event" means any of the following:

4.33 (1) a serious health condition of an applicant that renders the applicant unable to
4.34 perform the function of an applicant's position as an employee;

5.1 (2) prenatal care or incapacity due to pregnancy, childbirth, or related health
5.2 conditions;

5.3 (3) a serious health condition of an applicant's family member; and

5.4 (4) a biological or adoptive parent in conjunction with the birth or adoption of a
5.5 child, or a foster parent in conjunction with the placement of a child in foster care.

5.6 Subd. 11. **Bonding leave.** "Bonding leave" means a nonworking period taken for
5.7 the purpose of bonding between a biological or adoptive parent in conjunction with the
5.8 birth or adoption of a child, or a foster parent in conjunction with the placement of a
5.9 child in foster care.

5.10 Subd. 12. **Family leave.** "Family leave" means a nonworking period taken for the
5.11 purpose of caring for a family member who has a serious health condition.

5.12 Subd. 13. **Medical leave.** "Medical leave" means a nonworking period taken by an
5.13 employee who is unable to perform the functions of the employee's position because of a
5.14 serious health condition.

5.15 Subd. 14. **Pregnancy leave.** "Pregnancy leave" means a nonworking period taken
5.16 by a female applicant for prenatal care, or incapacity due to pregnancy, childbirth,
5.17 recovery from childbirth, or related health conditions.

5.18 Subd. 15. **Covered employment.** "Covered employment" has the meaning given in
5.19 section 268.035, subdivision 12.

5.20 Subd. 16. **Noncovered employment.** "Noncovered employment" has the meaning
5.21 given in section 268.035, subdivision 20.

5.22 Subd. 17. **FMLA.** "FMLA" means the federal leave program under United States
5.23 Code, title 29, chapter 28.

5.24 Subd. 18. **Qualified health care provider.** "Qualified health care provider" means
5.25 a health care provider who, in the judgment of the commissioner, has the qualifications
5.26 necessary to diagnose or treat a particular health condition or conditions associated with
5.27 benefits sought under this chapter.

5.28 Subd. 19. **Serious health condition.** "Serious health condition" means an illness,
5.29 injury, impairment, or physical or mental condition that involves:

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

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

5.32 Subd. 20. **Wage credits.** "Wage credits" has the meaning given in section 268.035,
5.33 subdivision 27.

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

6.1 Subd. 22. **Maximum weekly benefit amount.** "Maximum weekly benefit amount"
6.2 means the state's average weekly wage as calculated under section 268.035, subdivision 23.

6.3 Subd. 23. **Employer plan.** "Employer plan" means any plan that provides benefits
6.4 similar to those provided under this chapter that is subsidized, offered, or otherwise
6.5 provided by an employer to an employee.

6.6 Subd. 24. **ICD code.** "ICD code" means the code under the International
6.7 Classification of Diseases, Clinical Modification/Coding System, for the most recent
6.8 edition commonly used.

6.9 Subd. 25. **Medical leave benefit program.** "Medical leave benefit program" means
6.10 the program administered under this chapter for the collection of taxes and payment of
6.11 benefits related to medical leave and pregnancy leave.

6.12 Subd. 26. **Family leave benefit program.** "Family leave benefit program" means
6.13 the program administered under this chapter for the collection of taxes and payment of
6.14 benefits related to family leave and bonding leave.

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

6.17 Subd. 28. **Family member.** "Family member" means an employee's child, adult
6.18 child, spouse, sibling, parent, foster parent, mother-in-law, father-in-law, grandchild,
6.19 grandparent, or stepparent.

6.20 Subd. 29. **Leave.** "Leave" means a period or periods in which an employee does not
6.21 perform work for the employee's employer, but the parties maintain an employer-employee
6.22 relationship.

6.23 **Sec. 5. [268B.02] FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM**
6.24 **CREATION.**

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

6.27 Subd. 2. **Creation of division.** A family and medical leave benefit division is
6.28 created within the department under the authority of the commissioner. The commissioner
6.29 shall appoint a director of the division. The division shall administer and operate the
6.30 benefit program under this chapter.

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

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

7.1 Sec. 6. **[268B.03] ELIGIBILITY.**

7.2 Subdivision 1. **Applicant.** An applicant who satisfies the conditions of this section
7.3 is eligible to receive benefits subject to the provisions of this chapter.

7.4 Subd. 2. **Wage credits.** An applicant must have sufficient wage credits to establish
7.5 a benefit account under section 268.07, subdivision 2. Wage credits from an employer
7.6 during a period in which the employer has successfully opted out of the benefit program
7.7 being applied for may not be used for the purposes of this subdivision.

7.8 Subd. 3. **Seven-day qualifying event.** The period for which an applicant is seeking
7.9 benefits must be or have been based on a single qualifying event of at least seven days.
7.10 The days need not be consecutive.

7.11 Subd. 4. **Eligible benefits.** An applicant is not entitled to benefits for any day in
7.12 which the applicant worked for pay.

7.13 Subd. 5. **Certification by health care provider.** Except for bonding leave, the
7.14 qualifying event underlying the application for benefits must be certified in writing by a
7.15 qualified health care professional.

7.16 Subd. 6. **Records release.** An individual whose medical records are necessary to
7.17 determine entitlement to benefits under this chapter must sign and date a legally effective
7.18 waiver authorizing the department to release health and other records to the limited extent
7.19 necessary to administer this chapter.

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

7.24 (b) A self-employed individual must provide documents sufficient to prove the
7.25 existence of the individual's business as well as how long that business has been in
7.26 operation. The commissioner must determine that the business was not created for the
7.27 purpose of obtaining benefits under this section.

7.28 Sec. 7. **[268B.04] APPLICATIONS.**

7.29 Subdivision 1. **Application forms.** (a) The commissioner must create application
7.30 forms, to be available both online and on paper, for each of the following:

7.31 (1) an application for family leave benefits;

7.32 (2) an application for bonding leave benefits;

7.33 (3) an application for pregnancy leave benefits; and

7.34 (4) an application for medical leave benefits.

- 8.1 Subd. 2. Content of applications. (a) All four application forms under subdivision
8.2 1 must require, at a minimum, the following:
- 8.3 (1) the name, birth date, home address, and mailing address of the applicant;
 - 8.4 (2) the Social Security number, or other unique identification number, of the applicant;
 - 8.5 (3) a description of the qualifying event underlying the leave;
 - 8.6 (4) the date the leave for which benefits are sought began or will begin, if known;
 - 8.7 (5) the date the leave for which benefits are sought ended or will end, if known;
 - 8.8 (6) whether the leave for which benefits are sought was or will be on an intermittent
8.9 basis;
 - 8.10 (7) whether the applicant has applied for or received any other paid benefits, whether
8.11 public or private, based on the same qualifying event underlying the leave or during the
8.12 same time period for which the applicant is seeking benefits;
 - 8.13 (8) a description of any benefits listed under clause (7);
 - 8.14 (9) a signed and dated certification that all the information contained in the
8.15 application is true and correct, to the best of the applicant's knowledge; and
 - 8.16 (10) a list of all the applicant's employers for the past 79 weeks.
- 8.17 (b) In addition to the requirements of paragraph (a), an application for benefits
8.18 associated with a family leave must contain, at a minimum, the following:
- 8.19 (1) the name, birth date, home address, and mailing address of the family member
8.20 for whom the applicant has provided or will be providing care;
 - 8.21 (2) the family member's relationship to the applicant;
 - 8.22 (3) the Social Security number, or other unique identification number, of the family
8.23 member for whom the applicant has provided or will be providing care;
 - 8.24 (4) a certification from the care recipient, or the care recipient's authorized
8.25 representative, that all the information contained in the application is true and correct,
8.26 to the best of that individual's knowledge;
 - 8.27 (5) a legally effective authorization, signed and dated by the care recipient or the
8.28 care recipient's authorized representative, for disclosure of medical information needed by
8.29 the department to fulfill its duties under this chapter; and
 - 8.30 (6) a signed and dated certification by a qualified health care provider treating the
8.31 care recipient:
 - 8.32 (i) describing the nature of the serious medical condition or conditions of the care
8.33 recipient;
 - 8.34 (ii) stating whether care by another individual is necessary in the treatment, or will
8.35 aid in the recovery, of the care recipient;
 - 8.36 (iii) describing the nature of the care under item (ii);

9.1 (iv) stating or estimating the dates of leave needed; and

9.2 (v) listing the ICD code or codes, if any, of the serious medical condition or
9.3 conditions underlying the application for benefits.

9.4 (c) In addition to the requirements of paragraph (a), an application for benefits
9.5 associated with a bonding leave must contain, at a minimum, the following:

9.6 (1) proof of the birth, adoption, or placement in foster care, as appropriate, of the
9.7 child for whom bonding leave is sought; and

9.8 (2) a legally effective authorization, signed and dated by the applicant or other
9.9 authorized representative of the child for whom bonding leave is sought, for disclosure of
9.10 medical information needed by the department to fulfill its duties under this chapter.

9.11 (d) In addition to the requirements of paragraph (a), an application for benefits
9.12 associated with a pregnancy leave must contain, at a minimum, the following:

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

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

9.18 (i) describing the reason or reasons that a leave is needed;

9.19 (ii) stating or estimating the dates of leave needed; and

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

9.22 (e) In addition to the requirements of paragraph (a), an application for benefits
9.23 associated with a medical leave must contain, at a minimum, the following:

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

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

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

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

9.31 (iii) stating or estimating the dates of leave needed; and

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

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

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

10.4 **Sec. 8. [268B.05] DETERMINATION OF APPLICATION.**

10.5 Upon the filing of a complete application for benefits, the commissioner shall examine
10.6 the application and on the basis of facts found by the commissioner and records maintained
10.7 by the department, the application shall be determined to be valid or invalid within two
10.8 weeks. If the application is determined to be valid, the commissioner shall promptly notify
10.9 the applicant and any other interested party as to the week when benefits commence,
10.10 the weekly benefit amount payable, and the maximum duration of those benefits. If the
10.11 application is determined to be invalid, the commissioner shall notify the applicant and
10.12 any other interested party of that determination and the reasons for it. If the processing
10.13 of the application is delayed for any reason, the commissioner shall notify the applicant,
10.14 in writing, within two weeks of the date the application for benefits is filed of the reason
10.15 for the delay. Unless the applicant or any other interested party, within 30 days, requests
10.16 a hearing before a benefit judge, the determination is final. For good cause shown, the
10.17 30-day period may be extended. At any time within one year from the date of a monetary
10.18 determination, the commissioner, upon request of the applicant or on the commissioner's
10.19 own initiative, may reconsider the determination if it is found that an error in computation
10.20 or identity has occurred in connection with the determination or that additional wages
10.21 pertinent to the applicant's status have become available, or if that determination has been
10.22 made as a result of a nondisclosure or misrepresentation of a material fact.

10.23 **Sec. 9. [268B.06] EMPLOYER NOTIFICATION.**

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

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

10.28 (1) the name of the applicant;

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

10.30 (3) that the applicant has been identified as an employee of the employer;

10.31 (4) the week the benefits commence;

10.32 (5) the weekly benefit amount payable;

10.33 (6) the maximum duration of benefits;

10.34 (7) an explanation of why the notification has been sent;

11.1 (8) a request, but not a requirement, that the employer notify the department if it has
11.2 reason to believe any of the information provided is incorrect; and

11.3 (9) descriptions of the employer's right to participate in a hearing under section
11.4 268B.05, and appeal process under section 268B.07.

11.5 Sec. 10. **[268B.07] APPEAL PROCESS.**

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

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

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

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

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

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

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

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

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

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

11.30 Sec. 11. **[268B.08] BENEFITS.**

11.31 Subdivision 1. **Weekly benefit amount.** (a) Weekly benefits must be calculated
11.32 as follows:

12.1 (1) if the average weekly wage of an applicant does not exceed 50 percent of the
12.2 state's average weekly wage, then the weekly benefit amount equals 80 percent of the
12.3 average weekly wage of the applicant;

12.4 (2) if the average weekly wage of an applicant exceeds 50 percent, but does not
12.5 exceed 100 percent, of the state's average weekly wage, then the weekly benefit amount
12.6 equals 66 percent of the average weekly wage of the applicant; and

12.7 (3) if the average weekly wage of the applicant exceeds 100 percent of the state's
12.8 average weekly wage, then the weekly benefit amount equals 55 percent of the average
12.9 weekly wage of the applicant.

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

12.12 (c) Notwithstanding any other provision in this section, benefits must not exceed the
12.13 maximum weekly benefit amount.

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

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

12.19 Subd. 4. **Maximum length of benefits.** An applicant may receive up to 12 weeks of
12.20 benefits within a 52-week period for each of the following:

12.21 (1) a qualifying event or qualifying events under section 268B.01, subdivision 10,
12.22 clauses (1) and (2); and

12.23 (2) a qualifying event or qualifying events under section 268B.01, subdivision
12.24 10, clauses (3) and (4).

12.25 Subd. 5. **Minimum period for which benefits payable.** Any claim for benefits
12.26 must be based on a single qualifying event of at least seven days. Thereafter, benefits may
12.27 be paid for a minimum increment of one day.

12.28 Subd. 6. **Total paid leave not to exceed average weekly wage.** An applicant's
12.29 combined weekly employer paid leave benefits and benefits under this chapter must not
12.30 exceed an applicant's average weekly wage.

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

13.1 Sec. 12. **[268B.09] EMPLOYMENT PROTECTIONS.**

13.2 (a) An employer must not retaliate against an employee for requesting or obtaining
13.3 benefits, or for exercising any other right under this chapter.

13.4 (b) Any applicant who exercises any right to leave or benefits under this chapter
13.5 or from an employer exempted under section 268B.10, upon the expiration of the leave,
13.6 is entitled to be restored by the employer to the position held by the employee when the
13.7 leave commenced, or to a position with equivalent seniority, status, benefits, pay, and other
13.8 terms and conditions of employment including fringe benefits and service credits that the
13.9 employee had been entitled to at the commencement of the leave.

13.10 (c) In addition to any other remedies available by law, an individual injured by a
13.11 violation of this section may bring a civil action seeking any damages recoverable by
13.12 law, together with costs and disbursements, including reasonable attorney fees, and may
13.13 receive injunctive and other equitable relief as determined by a court.

13.14 (d) During any leave taken under this chapter, the employer must maintain coverage
13.15 under any group insurance policy, group subscriber contract, or health care plan for the
13.16 employee and any dependents as if the employee was not on leave, provided, however,
13.17 that the employee must continue to pay any employee share of the cost of such benefits.

13.18 Sec. 13. **[268B.10] SUBSTITUTION OF OTHER PLAN; EMPLOYER**
13.19 **EXCLUSION.**

13.20 Subdivision 1. **Application for exclusion.** If a majority of affected employees agree
13.21 in writing to the application, an employer may apply to the commissioner to be excluded
13.22 from either or both benefit programs under this chapter. An employer excluded under
13.23 this subdivision from either or both benefit programs is liable for the appropriate tax
13.24 under section 268B.12.

13.25 Subd. 2. **Employer plan requirements; medical leave benefit program.** The
13.26 commissioner must approve an application for exclusion from the medical leave benefit
13.27 program if the commissioner finds that:

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

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

13.32 (3) the weekly benefits payable under the employer plan for any week of disability
13.33 are at least equal to the weekly benefit amount payable under this chapter, taking into
13.34 consideration any coverage with respect to concurrent employment by another employer,
13.35 and the total number of weeks of disability for which benefits are payable under the

14.1 employer plan is at least equal to the total number of weeks for which benefits would have
14.2 been payable under this chapter;

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

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

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

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

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

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

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

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

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

14.24 **EFFECTIVE DATE.** This section is effective July 1, 2019, for exclusions
14.25 commencing January 1, 2020, and thereafter.

14.26 Sec. 14. **[268B.11] SELF-EMPLOYED ELECTION OF COVERAGE.**

14.27 (a) A self-employed individual may file with the commissioner, by electronic
14.28 transmission in a format prescribed by the commissioner, an election that the individual is
14.29 covered as an employee for not less than two calendar years. Upon the approval of the
14.30 commissioner, sent by United States mail or electronic transmission, the individual is
14.31 covered as an employee under this chapter beginning the calendar quarter after the date
14.32 of approval or beginning in a later calendar quarter if requested by the employer. The
14.33 individual ceases to be covered as of the first day of January of any calendar year only if,
14.34 at least 30 calendar days before the first day of January, the individual has filed with the

15.1 commissioner, by electronic transmission in a format prescribed by the commissioner, a
15.2 notice to that effect.

15.3 (b) The commissioner must terminate any election agreement under this section
15.4 upon 30 calendar days' notice sent by mail or electronic transmission if the individual is
15.5 delinquent on any taxes due the account.

15.6 (c) The individual electing under this section must pay both the employer and
15.7 employee taxes under section 268B.12.

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

15.11 Sec. 15. **[268B.12] TAXATION.**

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

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

15.19 Subd. 2. **Employee.** Each employee on whose wages a tax is paid under this
15.20 section must pay a tax equal to that of the employer under this section, except that an
15.21 employee pays no tax under subdivision 4, paragraph (b). The employer shall withhold
15.22 those taxes from the wages of an employee and make payment to the commissioner on
15.23 behalf of the employee.

15.24 Subd. 3. **Wages subject to tax.** The maximum wages subject to tax in a calendar
15.25 year is equal to the maximum earnings in that year subject to the FICA Old-Age,
15.26 Survivors, and Disability Insurance tax.

15.27 Subd. 4. **Annual tax rates.** (a) The employer tax rates for the calendar year
15.28 beginning January 1, 2020, shall be as follows:

15.29 (1) for employers participating in both family and medical leave benefit programs,
15.30 0.27 percent;

15.31 (2) for an employer participating in only the medical leave benefit program and
15.32 opting out of the family leave benefit program, 0.24 percent, plus the alternative tax in
15.33 paragraph (b);

16.1 (3) for an employer participating in only the family leave benefit program and
16.2 opting out of the medical leave benefit program, 0.03 percent, plus the alternative tax in
16.3 paragraph (b); and

16.4 (4) for an employer who opts out of both the family and medical leave benefit
16.5 programs, the alternative tax in paragraph (b).

16.6 (b) For employers who opt out of one or both family and medical leave benefit
16.7 programs, the employer tax rate is 14 percent of the combined employer and employee tax
16.8 rate for the programs or programs of which they have opted out.

16.9 Subd. 5. **Tax rate adjustments.** (a) Each calendar year following the calendar year
16.10 beginning January 1, 2020, the commissioner must adjust the annual tax rates using the
16.11 formula in paragraph (b).

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

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

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

16.16 (3) divide the resulting figure by twice the total wages in covered employment of
16.17 employees of employers that have not opted out of both the family and medical leave
16.18 benefit programs. For employees of employers that have opted out of one of the two
16.19 programs, count only the proportion of wages in covered employment associated with
16.20 the program of which the employer did not opt out; and

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

16.22 (c) Notwithstanding any provision of law to the contrary, the commissioner must not
16.23 increase or decrease the employer tax rate by more than 0.1 percent each year.

16.24 (d) The commissioner must apportion the tax rate between the family and medical
16.25 leave benefit programs based on the relative proportion of expenditures for each program
16.26 during the preceding year.

16.27 Subd. 6. **Tax rate limits.** Notwithstanding any provision of law to the contrary, the
16.28 aggregate tax rate of employers and employees under this chapter must not be less than
16.29 0.1 percent or more than 1.5 percent annually.

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

16.33 Subd. 8. **Deposit of taxes.** All taxes collected under this section must be deposited
16.34 into the family and medical leave benefit account in the special revenue fund in the state
16.35 treasury.

17.1 Sec. 16. **[268B.13] COLLECTION OF TAXES.**

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

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

17.9 (1) taxes due under this chapter; then

17.10 (2) interest on past due taxes; then

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

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

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

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

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

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

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

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

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

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

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

17.35 **Subd. 6. Credit adjustments; refunds.** (a) If an employer makes an application for
17.36 a credit adjustment of any amount paid under this chapter within four years of the date

18.1 that the payment was due, in a manner and format prescribed by the commissioner, and
18.2 the commissioner determines that the payment or any portion thereof was erroneous,
18.3 the commissioner must make an adjustment and issue a credit without interest. If a
18.4 credit cannot be used, the commissioner must refund, without interest, the amount
18.5 erroneously paid. The commissioner, on the commissioner's own motion, may make a
18.6 credit adjustment or refund under this subdivision.

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

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

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

18.21 Sec. 17. **[268B.14] ADMINISTRATIVE COSTS.**

18.22 For the calendar year beginning January 1, 2020, and each calendar year thereafter,
18.23 the commissioner may spend up to seven percent of projected benefit payments for that
18.24 calendar year for the administration of this chapter.

18.25 Sec. 18. **[268B.15] PUBLIC OUTREACH.**

18.26 The commissioner may use administrative funds for the purpose of outreach and
18.27 education for employees regarding this chapter. This may include providing grants to
18.28 public and private persons and entities.

18.29 Sec. 19. **[268B.16] APPLICANT'S FALSE REPRESENTATIONS;**
18.30 **CONCEALMENT OF FACTS; PENALTY.**

18.31 (a) Any applicant who knowingly makes a false statement or representation,
18.32 knowingly fails to disclose a material fact, or makes a false statement or representation
18.33 without a good-faith belief as to the correctness of the statement or representation in order

19.1 to obtain or in an attempt to obtain benefits may be assessed, in addition to any other
19.2 penalties, an administrative penalty of ineligibility of benefits for 13 to 104 weeks.

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

19.7 Sec. 20. **[268B.17] EMPLOYER MISCONDUCT; PENALTY.**

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

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

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

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

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

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

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

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

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

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

19.27 (e) The determination of penalty is final unless the employer files an appeal within
19.28 30 calendar days after the sending of the determination of penalty to the employer by
19.29 United States mail or electronic transmission.

19.30 Sec. 21. **[268B.18] RECORDS; AUDITS.**

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

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

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

20.9 Sec. 22. **[268B.19] SUBPOENAS; OATHS.**

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

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

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

20.18 Sec. 23. **[268B.20] MEDIATION AND CONCILIATION.**

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

20.23 Sec. 24. **[268B.21] LEAVE.**

20.24 (a) An employee is entitled to leave under this chapter for any period the employee
20.25 is entitled to benefits under this chapter.

20.26 (b) For bonding leave, the leave begins at a time requested by the employee. The
20.27 employer may adopt reasonable policies governing the timing of requests for such leave
20.28 and may require an employee who plans to take a bonding leave to give the employer
20.29 reasonable notice of the date the leave will commence and the estimated duration of the
20.30 leave. Bonding leave must begin within 12 months of the birth, adoption, or placement of
20.31 a foster child except that, in the case where the child must remain in the hospital longer
20.32 than the mother, the leave must begin within 12 months after the child leaves the hospital.

21.1 (c) When the necessity for family, medical, or pregnancy leave is foreseeable based
 21.2 on planned medical treatment, the employee must make a reasonable effort to schedule
 21.3 the treatment so as not to disrupt unduly the operations of the employer, subject to the
 21.4 approval of the health care provider of the employee or the health care provider of the
 21.5 family member of the employee.

21.6 (d) Whether family, medical, or pregnancy leave is foreseeable or unforeseeable, an
 21.7 employee must give notice of the leave to the employer as soon as practicable.

21.8 (e) The length of leave under this chapter may be reduced by the length of any leave
 21.9 taken for the same purposes under United States Code, title 29, chapter 28.

21.10 (f) Nothing in this chapter prevents any employer from providing leave benefits in
 21.11 addition to those provided in this chapter or otherwise affects an employee's rights with
 21.12 respect to any other employment benefit.

21.13 Sec. 25. Minnesota Statutes 2014, section 290.01, subdivision 19b, is amended to read:

21.14 Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates,
 21.15 and trusts, there shall be subtracted from federal taxable income:

21.16 (1) net interest income on obligations of any authority, commission, or
 21.17 instrumentality of the United States to the extent includable in taxable income for federal
 21.18 income tax purposes but exempt from state income tax under the laws of the United States;

21.19 (2) if included in federal taxable income, the amount of any overpayment of income
 21.20 tax to Minnesota or to any other state, for any previous taxable year, whether the amount
 21.21 is received as a refund or as a credit to another taxable year's income tax liability;

21.22 (3) the amount paid to others, less the amount used to claim the credit allowed under
 21.23 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten
 21.24 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and
 21.25 transportation of each qualifying child in attending an elementary or secondary school
 21.26 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a
 21.27 resident of this state may legally fulfill the state's compulsory attendance laws, which
 21.28 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
 21.29 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
 21.30 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
 21.31 "textbooks" includes books and other instructional materials and equipment purchased
 21.32 or leased for use in elementary and secondary schools in teaching only those subjects
 21.33 legally and commonly taught in public elementary and secondary schools in this state.
 21.34 Equipment expenses qualifying for deduction includes expenses as defined and limited in
 21.35 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional

22.1 books and materials used in the teaching of religious tenets, doctrines, or worship, the
22.2 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
22.3 or materials for, or transportation to, extracurricular activities including sporting events,
22.4 musical or dramatic events, speech activities, driver's education, or similar programs. No
22.5 deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or
22.6 the qualifying child's vehicle to provide such transportation for a qualifying child. For
22.7 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
22.8 given in section 32(c)(3) of the Internal Revenue Code;

22.9 (4) income as provided under section 290.0802;

22.10 (5) to the extent included in federal adjusted gross income, income realized on
22.11 disposition of property exempt from tax under section 290.491;

22.12 (6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E)
22.13 of the Internal Revenue Code in determining federal taxable income by an individual
22.14 who does not itemize deductions for federal income tax purposes for the taxable year, an
22.15 amount equal to 50 percent of the excess of charitable contributions over \$500 allowable
22.16 as a deduction for the taxable year under section 170(a) of the Internal Revenue Code,
22.17 under the provisions of Public Law 109-1 and Public Law 111-126;

22.18 (7) for individuals who are allowed a federal foreign tax credit for taxes that do not
22.19 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
22.20 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
22.21 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
22.22 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
22.23 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
22.24 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
22.25 the extent they exceed the federal foreign tax credit;

22.26 (8) in each of the five tax years immediately following the tax year in which an
22.27 addition is required under subdivision 19a, clause (7), or 19c, clause (12), in the case of a
22.28 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
22.29 delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount
22.30 of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c,
22.31 clause (12), in the case of a shareholder of an S corporation, minus the positive value of
22.32 any net operating loss under section 172 of the Internal Revenue Code generated for the
22.33 tax year of the addition. The resulting delayed depreciation cannot be less than zero;

22.34 (9) job opportunity building zone income as provided under section 469.316;

22.35 (10) to the extent included in federal taxable income, the amount of compensation
22.36 paid to members of the Minnesota National Guard or other reserve components of the

23.1 United States military for active service, including compensation for services performed
23.2 under the Active Guard Reserve (AGR) program. For purposes of this clause, "active
23.3 service" means (i) state active service as defined in section 190.05, subdivision 5a, clause
23.4 (1); or (ii) federally funded state active service as defined in section 190.05, subdivision
23.5 5b, and "active service" includes service performed in accordance with section 190.08,
23.6 subdivision 3;

23.7 (11) to the extent included in federal taxable income, the amount of compensation
23.8 paid to Minnesota residents who are members of the armed forces of the United States
23.9 or United Nations for active duty performed under United States Code, title 10; or the
23.10 authority of the United Nations;

23.11 (12) an amount, not to exceed \$10,000, equal to qualified expenses related to a
23.12 qualified donor's donation, while living, of one or more of the qualified donor's organs
23.13 to another person for human organ transplantation. For purposes of this clause, "organ"
23.14 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;
23.15 "human organ transplantation" means the medical procedure by which transfer of a human
23.16 organ is made from the body of one person to the body of another person; "qualified
23.17 expenses" means unreimbursed expenses for both the individual and the qualified donor
23.18 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
23.19 may be subtracted under this clause only once; and "qualified donor" means the individual
23.20 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
23.21 individual may claim the subtraction in this clause for each instance of organ donation for
23.22 transplantation during the taxable year in which the qualified expenses occur;

23.23 (13) in each of the five tax years immediately following the tax year in which an
23.24 addition is required under subdivision 19a, clause (8), or 19c, clause (13), in the case of a
23.25 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
23.26 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (13), in the
23.27 case of a shareholder of a corporation that is an S corporation, minus the positive value of
23.28 any net operating loss under section 172 of the Internal Revenue Code generated for the
23.29 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
23.30 subtraction is not allowed under this clause;

23.31 (14) to the extent included in the federal taxable income of a nonresident of
23.32 Minnesota, compensation paid to a service member as defined in United States Code, title
23.33 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief
23.34 Act, Public Law 108-189, section 101(2);

23.35 (15) to the extent included in federal taxable income, the amount of national service
23.36 educational awards received from the National Service Trust under United States Code,

24.1 title 42, sections 12601 to 12604, for service in an approved Americorps National Service
24.2 program;

24.3 (16) to the extent included in federal taxable income, discharge of indebtedness
24.4 income resulting from reacquisition of business indebtedness included in federal taxable
24.5 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
24.6 to the extent that the income was included in net income in a prior year as a result of the
24.7 addition under subdivision 19a, clause (13);

24.8 (17) the amount of the net operating loss allowed under section 290.095, subdivision
24.9 11, paragraph (c);

24.10 (18) the amount of expenses not allowed for federal income tax purposes due
24.11 to claiming the railroad track maintenance credit under section 45G(a) of the Internal
24.12 Revenue Code;

24.13 (19) the amount of the limitation on itemized deductions under section 68(b) of the
24.14 Internal Revenue Code;

24.15 (20) the amount of the phaseout of personal exemptions under section 151(d) of
24.16 the Internal Revenue Code; and

24.17 (21) to the extent included in federal taxable income, the amount of qualified
24.18 transportation fringe benefits described in section 132(f)(1)(A) and (B) of the Internal
24.19 Revenue Code. The subtraction is limited to the lesser of the amount of qualified
24.20 transportation fringe benefits received in excess of the limitations under section
24.21 132(f)(2)(A) of the Internal Revenue Code for the year or the difference between the
24.22 maximum qualified parking benefits excludable under section 132(f)(2)(B) of the Internal
24.23 Revenue Code minus the amount of transit benefits excludable under section 132(f)(2)(A)
24.24 of the Internal Revenue Code; and

24.25 (22) the amount received in benefits under chapter 268B.

24.26 **ARTICLE 2**

24.27 **TEMPORARY PROVISIONS AND APPROPRIATIONS**

24.28 Section 1. **INITIAL TAX RATES FOR FAMILY AND MEDICAL LEAVE** 24.29 **BENEFIT PROGRAM.**

24.30 Notwithstanding any other law to the contrary, the tax rate for employers subject to
24.31 tax under Minnesota Statutes, section 268B.12, and employees in an equal amount, is:

24.32 (1) zero percent in calendar year 2017;

24.33 (2) 0.05 percent in calendar year 2018; and

24.34 (3) 0.1 percent in calendar year 2019.

25.1 Sec. 2. **FAMILY AND MEDICAL LEAVE BENEFIT PROGRAM;**

25.2 **APPROPRIATION.**

25.3 \$..... in fiscal year 2017 is appropriated from the general fund to the commissioner
25.4 of employment and economic development for the purposes of Minnesota Statutes,
25.5 chapter 268B.

APPENDIX
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