

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 2558

(SENATE AUTHORS: SIEBEN, Pappas, Franzen, Bakk and Hawj)

DATE	D-PG	OFFICIAL STATUS
03/10/2016	4961	Introduction and first reading Referred to State and Local Government
03/17/2016	5061a	Comm report: To pass as amended and re-refer to Judiciary
03/21/2016	5142a	Comm report: To pass as amended and re-refer to Jobs, Agriculture and Rural Development
04/01/2016	5437a	Comm report: To pass as amended and re-refer to Finance
04/18/2016		Comm report: To pass as amended and re-refer to Taxes

A bill for an act

1.1 relating to employment; providing for paid family, pregnancy, bonding, and
 1.2 applicant's serious medical condition benefits; regulating and requiring certain
 1.3 unpaid leaves; classifying certain data; authorizing rulemaking; appropriating
 1.4 money; amending Minnesota Statutes 2014, sections 13.719, by adding a
 1.5 subdivision; 181.940, subdivisions 2, 4; 181.941, subdivision 4; 181.942,
 1.6 subdivision 1; 181.943; 256J.561, by adding a subdivision; 256J.95, subdivisions
 1.7 3, 11; 268.19, subdivision 1; 290.01, subdivision 19b; Minnesota Statutes 2015
 1.8 Supplement, section 256P.01, subdivision 3; proposing coding for new law in
 1.9 Minnesota Statutes, chapter 181; proposing coding for new law as Minnesota
 1.10 Statutes, chapter 268B.
 1.11

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

ARTICLE 1

FAMILY AND MEDICAL BENEFITS

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

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

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

1.23 Sec. 2. Minnesota Statutes 2014, section 268.19, subdivision 1, is amended to read:

1.24 Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered
 1.25 from any person under the administration of the Minnesota Unemployment Insurance Law

2.1 are private data on individuals or nonpublic data not on individuals as defined in section
2.2 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court
2.3 order or section 13.05. A subpoena is not considered a district court order. These data
2.4 may be disseminated to and used by the following agencies without the consent of the
2.5 subject of the data:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.18 (b) Data on individuals and employers that are collected, maintained, or used by
 3.19 the department in an investigation under section 268.182 are confidential as to data
 3.20 on individuals and protected nonpublic data not on individuals as defined in section
 3.21 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district
 3.22 court order or to a party named in a criminal proceeding, administrative or judicial, for
 3.23 preparation of a defense.

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

3.28 Sec. 3. **[268B.01] DEFINITIONS.**

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

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

3.33 Subd. 3. **Applicant.** "Applicant" means an individual applying for benefits under
 3.34 this chapter.

4.1 Subd. 4. **Benefit.** "Benefit" means monetary payments under this chapter associated
4.2 with qualifying bonding, family, or pregnancy events.

4.3 Subd. 5. **Commissioner.** "Commissioner" means the commissioner of employment
4.4 and economic development.

4.5 Subd. 6. **Department.** "Department" means the Department of Employment and
4.6 Economic Development.

4.7 Subd. 7. **Employee.** "Employee" means an individual for whom taxes are paid on
4.8 wages under this chapter.

4.9 Subd. 8. **Employer.** "Employer" means a person or entity that employed 21 or
4.10 more employees within the state at any one time within the last four completed calendar
4.11 quarters, other than an employee, required to pay taxes under this chapter.

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

4.18 Subd. 10. **Pregnancy.** "Pregnancy" means prenatal care or incapacity of a woman
4.19 due to pregnancy, childbirth, or related health conditions.

4.20 Subd. 11. **Family care.** "Family care" means an applicant caring for a family
4.21 member with a serious health condition.

4.22 Subd. 12. **Bonding.** "Bonding" means a biological or adoptive parent in conjunction
4.23 with the birth or adoption of a child, or a foster parent in conjunction with the placement
4.24 of a child in foster care.

4.25 Subd. 13. **Covered employment.** "Covered employment" has the meaning given in
4.26 section 268.035, subdivision 12.

4.27 Subd. 14. **Noncovered employment.** "Noncovered employment" has the meaning
4.28 given in section 268.035, subdivision 20.

4.29 Subd. 15. **Qualified health care provider.** "Qualified health care provider" means
4.30 a health care provider who, in the judgment of the commissioner, has the qualifications
4.31 necessary to diagnose or treat a particular health condition or conditions associated with
4.32 benefits sought under this chapter.

4.33 Subd. 16. **Serious health condition.** "Serious health condition" means an illness,
4.34 injury, impairment, or physical or mental condition that involves:

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

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

5.1 Subd. 17. **Wage credits.** "Wage credits" has the meaning given in section 268.035,
5.2 subdivision 27.

5.3 Subd. 18. **High quarter.** "High quarter" has the meaning given in section 268.035,
5.4 subdivision 19.

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

5.7 Subd. 20. **ICD code.** "ICD code" means the code under the International
5.8 Classification of Diseases, Clinical Modification/Coding System, for the most recent
5.9 edition commonly used.

5.10 Subd. 21. **Medical benefit program.** "Medical benefit program" means the program
5.11 administered under this chapter for the collection of taxes and payment of benefits related
5.12 to pregnancy benefits.

5.13 Subd. 22. **Family benefit program.** "Family benefit program" means the program
5.14 administered under this chapter for the collection of taxes and payment of benefits related
5.15 to family care and bonding.

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

5.18 Subd. 24. **Family member.** "Family member" means an employee's child, adult
5.19 child, spouse, sibling, parent, foster parent, mother-in-law, father-in-law, grandchild,
5.20 grandparent, or stepparent.

5.21 Sec. 4. **[268B.02] FAMILY AND MEDICAL BENEFIT INSURANCE PROGRAM**
5.22 **CREATION.**

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

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

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

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

6.1 Sec. 5. **[268B.03] ELIGIBILITY.**

6.2 Subdivision 1. **Applicant.** An applicant who is providing family care, is bonding,
6.3 or is pregnant, who satisfies the conditions of this section is eligible to receive benefits
6.4 subject to the provisions of this chapter.

6.5 Subd. 2. **Wage credits.** An applicant must have sufficient wage credits from an
6.6 employer as defined in section 268B.01, subdivision 8, to establish a benefit account under
6.7 section 268.07, subdivision 2. Wage credits from an employer during a period in which
6.8 the employer has successfully opted out of the benefit program being applied for may not
6.9 be used for the purposes of this subdivision.

6.10 Subd. 3. **Seven-day qualifying event.** The period for which an applicant is seeking
6.11 benefits must be or have been based on a single period of at least seven days related to
6.12 pregnancy, family care, or bonding. The days need not be consecutive.

6.13 Subd. 4. **Ineligible.** An applicant is not eligible for benefits for any day in which the
6.14 applicant worked for pay.

6.15 Subd. 5. **Certification by health care provider.** Except for bonding benefits, the
6.16 application for benefits must be certified in writing by a qualified health care professional.

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

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

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

6.29 Sec. 6. **[268B.04] APPLICATIONS.**

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

- 6.32 (1) an application for family care benefits;
6.33 (2) an application for bonding benefits; and
6.34 (3) an application for pregnancy benefits.

- 7.1 Subd. 2. Content of applications. (a) All three application forms under subdivision
 7.2 1 must require, at a minimum, the following:
- 7.3 (1) the name, birth date, home address, and mailing address of the applicant;
 - 7.4 (2) the Social Security number, or other unique identification number, of the applicant;
 - 7.5 (3) a description of the qualifying event underlying the requested benefit;
 - 7.6 (4) the date for which benefits are sought began or will begin, if known;
 - 7.7 (5) the date for which benefits are sought ended or will end, if known;
 - 7.8 (6) whether the benefits are sought on an intermittent basis;
 - 7.9 (7) whether the applicant has applied for or received any other paid benefits, whether
 7.10 public or private, based on the same event underlying the benefits sought or during the
 7.11 same time period for which the applicant is seeking benefits;
 - 7.12 (8) a description of any benefits listed under clause (7);
 - 7.13 (9) a signed and dated certification that all the information contained in the
 7.14 application is true and correct, to the best of the applicant's knowledge; and
 - 7.15 (10) a list of all the applicant's employers for the past 79 weeks.
- 7.16 (b) In addition to the requirements of paragraph (a), an application for family care
 7.17 benefits must contain, at a minimum, the following:
- 7.18 (1) the name, birth date, home address, and mailing address of the family member
 7.19 for whom the applicant has provided or will be providing care;
 - 7.20 (2) the family member's relationship to the applicant;
 - 7.21 (3) the Social Security number, or other unique identification number, of the family
 7.22 member for whom the applicant has provided or will be providing care;
 - 7.23 (4) a certification from the care recipient, or the care recipient's authorized
 7.24 representative, that all the information contained in the application is true and correct,
 7.25 to the best of that individual's knowledge;
 - 7.26 (5) a legally effective authorization, signed and dated by the care recipient or the
 7.27 care recipient's authorized representative, for disclosure of medical information needed by
 7.28 the department to fulfill its duties under this chapter; and
 - 7.29 (6) a signed and dated certification by a qualified health care provider treating the
 7.30 care recipient:
 - 7.31 (i) describing the nature of the serious medical condition or conditions of the care
 7.32 recipient;
 - 7.33 (ii) stating whether care by another individual is necessary in the treatment, or will
 7.34 aid in the recovery, of the care recipient;
 - 7.35 (iii) describing the nature of the care under item (ii);
 - 7.36 (iv) stating or estimating the dates benefits are needed; and

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

8.3 (c) In addition to the requirements of paragraph (a), an application for benefits for
8.4 bonding must contain, at a minimum, the following:

8.5 (1) proof of the birth, adoption, or placement in foster care, as appropriate, of the
8.6 child for whom bonding benefits are sought; and

8.7 (2) a legally effective authorization, signed and dated by the applicant or other
8.8 authorized representative of the child for whom bonding benefits are sought, for disclosure
8.9 of medical information needed by the department to fulfill its duties under this chapter.

8.10 (d) In addition to the requirements of paragraph (a), an application for pregnancy
8.11 benefits must contain, at a minimum, the following:

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

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

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

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

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

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

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

8.27 Sec. 7. **[268B.05] DETERMINATION OF APPLICATION.**

8.28 Upon the filing of a complete application for benefits, the commissioner shall examine
8.29 the application and on the basis of facts found by the commissioner and records maintained
8.30 by the department, the application shall be determined to be valid or invalid within two
8.31 weeks. If the application is determined to be valid, the commissioner shall promptly notify
8.32 the applicant and any other interested party as to the week when benefits commence,
8.33 the weekly benefit amount payable, and the maximum duration of those benefits. If the
8.34 application is determined to be invalid, the commissioner shall notify the applicant and
8.35 any other interested party of that determination and the reasons for it. If the processing

9.1 of the application is delayed for any reason, the commissioner shall notify the applicant,
 9.2 in writing, within two weeks of the date the application for benefits is filed of the reason
 9.3 for the delay. Unless the applicant or any other interested party, within 30 days, requests
 9.4 a hearing before a benefit judge, the determination is final. For good cause shown, the
 9.5 30-day period may be extended. At any time within one year from the date of a monetary
 9.6 determination, the commissioner, upon request of the applicant or on the commissioner's
 9.7 own initiative, may reconsider the determination if it is found that an error in computation
 9.8 or identity has occurred in connection with the determination or that additional wages
 9.9 pertinent to the applicant's status have become available, or if that determination has been
 9.10 made as a result of a nondisclosure or misrepresentation of a material fact.

9.11 **Sec. 8. [268B.06] EMPLOYER NOTIFICATION.**

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

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

9.16 (1) the name of the applicant;

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

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

9.19 (4) the week the benefits commence;

9.20 (5) the weekly benefit amount payable;

9.21 (6) the maximum duration of benefits;

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

9.23 (8) descriptions of the employer's right to participate in a hearing under section
 9.24 268B.05, and appeal process under section 268B.07.

9.25 **Sec. 9. [268B.07] APPEAL PROCESS.**

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

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

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

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

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

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

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

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

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

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

10.17 Sec. 10. **[268B.08] BENEFITS.**

10.18 Subdivision 1. **Weekly benefit amount.** (a) Subject to the maximum weekly benefit
10.19 amount, an applicant's weekly benefit is calculated by adding the amounts obtained by
10.20 applying the following percentage to an applicant's average weekly wage earned with an
10.21 employer as defined in section 268B.01, subdivision 8:

10.22 (1) 80 percent of wages that do not exceed 50 percent of the state's average weekly
10.23 wage; plus

10.24 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage
10.25 but not 100 percent; plus

10.26 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.

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

10.29 (c) The state's average weekly wage is the average wage as calculated under section
10.30 268.035, subdivision 23, at the time a benefit amount is first determined.

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

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

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

11.4 Subd. 4. **Maximum length of benefits.** In a 52-week period, an applicant may
11.5 receive a total of 12 weeks of benefits under this chapter.

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

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

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

11.18 **EFFECTIVE DATE.** This section is effective January 1, 2020.

11.19 Sec. 11. **[268B.09] EMPLOYMENT PROTECTIONS.**

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

11.23 Subd. 2. **Waiver of rights void.** An agreement by an individual to waive, release,
11.24 or commute rights to benefits under this chapter is void. An employer may not obstruct or
11.25 impede an application for benefits.

11.26 Subd. 3. **No assignment of benefits.** Any assignment, pledge, or encumbrance
11.27 of benefits is void. Benefits are exempt from levy, execution, attachment, or any other
11.28 remedy provided for the collection of debt. Any waiver of this subdivision is void.

11.29 Subd. 4. **Remedies.** In addition to any other remedies available by law, an individual
11.30 injured by a violation of this section may bring a civil action seeking any damages
11.31 recoverable by law, together with costs and disbursements, including reasonable attorney
11.32 fees, and may receive injunctive and other equitable relief as determined by a court.

11.33 Subd. 5. **Leave and employment rights not created.** This chapter does not create
11.34 a right to employment leave to an individual receiving benefits under this chapter. This

12.1 chapter does not create a right to return to an employment position before, during, or after
12.2 the receipt of benefits under this chapter.

12.3 Sec. 12. **[268B.10] SUBSTITUTION OF OTHER PLAN; EMPLOYER**
12.4 **EXCLUSION.**

12.5 Subdivision 1. **Application for exclusion.** An employer may apply to the
12.6 commissioner to be excluded from either or both the family or medical benefit programs
12.7 under this chapter.

12.8 Subd. 2. **Requirements for approving exclusion.** The commissioner must approve
12.9 an application for exclusion from a program under this chapter if the commissioner finds
12.10 that the employer provides a benefit plan that:

12.11 (1) covers all of the employees that would be covered by a program under this chapter;

12.12 (2) provides an amount of employer provided wage benefits that when combined
12.13 with other employer paid and employee paid wage benefits is approximately equal to or
12.14 greater than that provided under the program; and

12.15 (3) does not require employee payments that exceed employee payments required
12.16 under this chapter.

12.17 Subd. 3. **Audit and investigation.** The commissioner may investigate and audit
12.18 plans for which an exclusion was approved under this section both before and after an
12.19 exclusion is approved.

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

12.22 Sec. 13. **[268B.11] SELF-EMPLOYED ELECTION OF COVERAGE.**

12.23 (a) A self-employed individual may file with the commissioner, by electronic
12.24 transmission in a format prescribed by the commissioner, an election that the individual is
12.25 covered as an employee for not less than two calendar years. Upon the approval of the
12.26 commissioner, sent by United States mail or electronic transmission, the individual is
12.27 covered as an employee under this chapter beginning the calendar quarter after the date
12.28 of approval or beginning in a later calendar quarter if requested by the employer. The
12.29 individual ceases to be covered as of the first day of January of any calendar year only if,
12.30 at least 30 calendar days before the first day of January, the individual has filed with the
12.31 commissioner, by electronic transmission in a format prescribed by the commissioner, a
12.32 notice to that effect.

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

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

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

13.9 Sec. 14. **[268B.111] SMALL EMPLOYER ELECTION OF COVERAGE.**

13.10 An employer of less than 21 employees may elect to be an employer subject to
 13.11 chapter 268B. An election must be filed with the commissioner by electronic transmission
 13.12 in a format prescribed by the commissioner. An election must be for not less than two
 13.13 calendar years following the year of election. The commissioner shall notify an employer
 13.14 of the effective date of an election which must be the beginning of the first quarter the
 13.15 commissioner determines is administratively practical.

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

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

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

13.24 Subd. 2. **Employee.** Each employee on whose wages a tax is paid under this
 13.25 section must pay a tax equal to that of the employer under this section. The employer
 13.26 shall withhold employee taxes from the wages of an employee and make payment to the
 13.27 commissioner on behalf of an employee.

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

13.31 Subd. 4. **Annual tax rates.** The employer tax rates for the calendar year beginning
 13.32 January 1, 2020, shall be as follows:

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

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

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

14.5 Subd. 5. **Tax rate adjustments.** (a) Each calendar year following the calendar year
 14.6 beginning January 1, 2020, except calendar year 2021, the commissioner must adjust the
 14.7 annual tax rates using the formula in paragraph (b).

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

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

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

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

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

14.18 (c) For calendar year 2021, the calculation shall be as provided in paragraph
 14.19 (b), except that the disbursements in clause (1) shall be those for the 39 weeks ending
 14.20 September 30, and projected disbursements for the next 13 weeks.

14.21 (d) The commissioner must not increase or decrease the employer tax rate by more
 14.22 than 0.1 percent each year.

14.23 (e) The commissioner must apportion the tax rate between the family and medical
 14.24 benefit programs based on the relative proportion of expenditures for each program during
 14.25 the preceding year.

14.26 Subd. 6. **Tax rate limits.** The aggregate tax rate of employers and employees under
 14.27 this chapter must not be less than percent or more than percent annually.

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

14.31 Subd. 8. **Deposit of taxes.** All taxes collected under this section must be deposited
 14.32 into the account.

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

14.34 Subdivision 1. **Amount computed presumed correct.** Any amount due from an
 14.35 employer, as computed by the commissioner, is presumed to be correctly determined and

15.1 assessed, and the burden is upon the employer to show its incorrectness. A statement
15.2 by the commissioner of the amount due is admissible in evidence in any court or
15.3 administrative proceeding and is prima facie evidence of the facts in the statement.

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

15.6 (1) taxes due under this chapter; then

15.7 (2) interest on past due taxes; then

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

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

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

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

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

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

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

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

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

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

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

15.32 Subd. 6. **Credit adjustments; refunds.** (a) If an employer makes an application for
15.33 a credit adjustment of any amount paid under this chapter within four years of the date
15.34 that the payment was due, in a manner and format prescribed by the commissioner, and
15.35 the commissioner determines that the payment or any portion thereof was erroneous,
15.36 the commissioner must make an adjustment and issue a credit without interest. If a

16.1 credit cannot be used, the commissioner must refund, without interest, the amount
16.2 erroneously paid. The commissioner, on the commissioner's own motion, may make a
16.3 credit adjustment or refund under this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17.25 (e) The determination of penalty is final unless the employer files an appeal within
17.26 30 calendar days after the sending of the determination of penalty to the employer by
17.27 United States mail or electronic transmission.

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

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

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

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

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

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

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

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

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

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

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

18.21 Sec. 24. Minnesota Statutes 2014, section 290.01, subdivision 19b, is amended to read:

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

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

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

18.30 (3) the amount paid to others, less the amount used to claim the credit allowed under
 18.31 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten
 18.32 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and
 18.33 transportation of each qualifying child in attending an elementary or secondary school

19.1 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a
19.2 resident of this state may legally fulfill the state's compulsory attendance laws, which
19.3 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
19.4 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
19.5 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
19.6 "textbooks" includes books and other instructional materials and equipment purchased
19.7 or leased for use in elementary and secondary schools in teaching only those subjects
19.8 legally and commonly taught in public elementary and secondary schools in this state.
19.9 Equipment expenses qualifying for deduction includes expenses as defined and limited in
19.10 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
19.11 books and materials used in the teaching of religious tenets, doctrines, or worship, the
19.12 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
19.13 or materials for, or transportation to, extracurricular activities including sporting events,
19.14 musical or dramatic events, speech activities, driver's education, or similar programs. No
19.15 deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or
19.16 the qualifying child's vehicle to provide such transportation for a qualifying child. For
19.17 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
19.18 given in section 32(c)(3) of the Internal Revenue Code;

19.19 (4) income as provided under section 290.0802;

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

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

19.28 (7) for individuals who are allowed a federal foreign tax credit for taxes that do not
19.29 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
19.30 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
19.31 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
19.32 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
19.33 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
19.34 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
19.35 the extent they exceed the federal foreign tax credit;

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

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

20.10 (10) to the extent included in federal taxable income, the amount of compensation
20.11 paid to members of the Minnesota National Guard or other reserve components of the
20.12 United States military for active service, including compensation for services performed
20.13 under the Active Guard Reserve (AGR) program. For purposes of this clause, "active
20.14 service" means (i) state active service as defined in section 190.05, subdivision 5a, clause
20.15 (1); or (ii) federally funded state active service as defined in section 190.05, subdivision
20.16 5b, and "active service" includes service performed in accordance with section 190.08,
20.17 subdivision 3;

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

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

20.34 (13) in each of the five tax years immediately following the tax year in which an
20.35 addition is required under subdivision 19a, clause (8), or 19c, clause (13), in the case of a
20.36 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the

21.1 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (13), in the
21.2 case of a shareholder of a corporation that is an S corporation, minus the positive value of
21.3 any net operating loss under section 172 of the Internal Revenue Code generated for the
21.4 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
21.5 subtraction is not allowed under this clause;

21.6 (14) to the extent included in the federal taxable income of a nonresident of
21.7 Minnesota, compensation paid to a service member as defined in United States Code, title
21.8 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief
21.9 Act, Public Law 108-189, section 101(2);

21.10 (15) to the extent included in federal taxable income, the amount of national service
21.11 educational awards received from the National Service Trust under United States Code,
21.12 title 42, sections 12601 to 12604, for service in an approved Americorps National Service
21.13 program;

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

21.19 (17) the amount of the net operating loss allowed under section 290.095, subdivision
21.20 11, paragraph (c);

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

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

21.26 (20) the amount of the phaseout of personal exemptions under section 151(d) of
21.27 the Internal Revenue Code; ~~and~~

21.28 (21) to the extent included in federal taxable income, the amount of qualified
21.29 transportation fringe benefits described in section 132(f)(1)(A) and (B) of the Internal
21.30 Revenue Code. The subtraction is limited to the lesser of the amount of qualified
21.31 transportation fringe benefits received in excess of the limitations under section
21.32 132(f)(2)(A) of the Internal Revenue Code for the year or the difference between the
21.33 maximum qualified parking benefits excludable under section 132(f)(2)(B) of the Internal
21.34 Revenue Code minus the amount of transit benefits excludable under section 132(f)(2)(A)
21.35 of the Internal Revenue Code; and

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

22.1 Sec. 25. **EFFECTIVE DATE INTENTION.**

22.2 The intention of the legislature is that benefits under Minnesota Statutes, chapter
 22.3 268B, shall not be applied for nor paid until January 1, 2020, and thereafter. The sections
 22.4 of this article are effective August 1, 2016, unless specifically provided otherwise in
 22.5 this article.

22.6 **ARTICLE 2**

22.7 **EMPLOYMENT LEAVE**

22.8 Section 1. Minnesota Statutes 2014, section 181.940, subdivision 2, is amended to read:

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

22.11 (1) at least ~~12~~ six months preceding the request; and

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

22.16 For leaves under sections 181.9412 and 181.9413, the periods of time required by
 22.17 clauses (1) and (2) are 12 months rather than six months.

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

22.20 Sec. 2. Minnesota Statutes 2014, section 181.940, subdivision 4, is amended to read:

22.21 Subd. 4. **Child.** "Child" means, except for the purposes of section 181.9411, an
 22.22 individual under 18 years of age or an individual under age 20 who is still attending
 22.23 secondary school.

22.24 Sec. 3. Minnesota Statutes 2014, section 181.941, subdivision 4, is amended to read:

22.25 Subd. 4. **Continued insurance.** ~~The employer must continue to make coverage~~
 22.26 ~~available to the employee while on leave of absence under any group insurance policy,~~
 22.27 ~~group subscriber contract, or health care plan for the employee and any dependents.~~
 22.28 ~~Nothing in this section requires the employer to pay the costs of the insurance or health~~
 22.29 ~~care while the employee is on leave of absence.~~ During any period that an employee
 22.30 takes leave under this section, the employer shall maintain coverage under any group
 22.31 health plan for the duration of such leave at the level and under the conditions coverage
 22.32 would have been provided if the employee had continued in employment continuously
 22.33 for the duration of leave.

23.1 Sec. 4. [181.9411] FAMILY CARE LEAVE.

23.2 Subdivision 1. **Definition; family member.** For the purpose of this section, "family
23.3 member" means an employee's child, adult child, spouse, sibling, parent, foster parent,
23.4 mother-in-law, father-in-law, grandchild, grandparent, or stepparent. "Child" means a
23.5 child under the age of 18 and includes a biological child, adopted child, or foster child.

23.6 Subd. 2. **Definition; health care provider.** For the purpose of this section, "health
23.7 care provider" means an individual who is licensed, certified, or otherwise authorized
23.8 under law to practice in the individual's state of practice as a physician, osteopath,
23.9 physician assistant, chiropractor, advanced practice registered nurse, optometrist,
23.10 licensed psychologist, licensed independent clinical social worker, dentist, or podiatrist.
23.11 "Chiropractor" means only a chiropractor who provides manual manipulation of the spine
23.12 to correct a subluxation demonstrated to exist by an x-ray.

23.13 Subd. 3. **Definition; serious health condition.** For the purpose of this section,
23.14 "serious health condition" means an illness, injury, impairment, or physical or mental
23.15 condition that involves:

- 23.16 (1) inpatient care in a hospital, hospice, or residential medical care facility; or
23.17 (2) continuing treatment by a health care provider.

23.18 Subd. 4. **Twelve-week leave.** An employer must grant an unpaid leave of absence
23.19 to an employee in order to care for a family member with a serious health condition. The
23.20 length of the leave shall be determined by the employee, but must not exceed 12 weeks
23.21 during any 12-month period, unless agreed to by the employer. The leave provided under
23.22 this section may be reduced by any period of leave taken under section 181.941 for the same
23.23 period. Leave under this section may be taken intermittently when medically necessary.

23.24 Subd. 5. **Terms of leave.** The leave shall begin at a time requested by the employee.
23.25 The employer may adopt reasonable policies governing the timing of requests for unpaid
23.26 leave and may require an employee to provide notice of the need for leave as soon
23.27 as practicable. An employer may require that a request for leave be supported by a
23.28 certification issued by the health care provider of the family member.

23.29 Subd. 6. **No employer retribution.** An employer shall not retaliate against an
23.30 employee for requesting or obtaining a leave of absence under this section.

23.31 Subd. 7. **Continued insurance.** During any period that an employee takes leave
23.32 under this section, the employer shall maintain coverage under any group health plan for
23.33 the duration of such leave at the level and under the conditions coverage would have been
23.34 provided if the employee had continued in employment continuously for the duration
23.35 of leave.

24.1 Sec. 5. Minnesota Statutes 2014, section 181.942, subdivision 1, is amended to read:

24.2 Subdivision 1. **Comparable position.** (a) An employee returning from a leave
24.3 of absence under section 181.941 or 181.9411 is entitled to return to employment in
24.4 the employee's former position or in a position of comparable duties, number of hours,
24.5 and pay. An employee returning from a leave of absence longer than one month must
24.6 notify a supervisor at least two weeks prior to return from leave. An employee returning
24.7 from a leave under section 181.9412 or 181.9413 is entitled to return to employment in
24.8 the employee's former position.

24.9 (b) If, during a leave under sections 181.940 to 181.944, the employer experiences
24.10 a layoff and the employee would have lost a position had the employee not been on
24.11 leave, pursuant to the good faith operation of a bona fide layoff and recall system,
24.12 including a system under a collective bargaining agreement, the employee is not entitled to
24.13 reinstatement in the former or comparable position. In such circumstances, the employee
24.14 retains all rights under the layoff and recall system, including a system under a collective
24.15 bargaining agreement, as if the employee had not taken the leave.

24.16 Sec. 6. Minnesota Statutes 2014, section 181.943, is amended to read:

24.17 **181.943 RELATIONSHIP TO OTHER LEAVE.**

24.18 (a) The length of leave provided under section 181.941 or 181.9411 may be reduced
24.19 by any period of:

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

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

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

24.28 (c) For the purpose of this section, benefits paid under chapter 268B are not provided
24.29 by an employer.

24.30 (d) An employer may not require an employee to take more than two weeks of paid
24.31 parental, disability, personal, medical, or sick leave, or accrued vacation provided by an
24.32 employer for the purpose of a leave under section 181.941 or 181.9411, unless agreed to
24.33 by an employee. This paragraph applies only to an employee who is eligible for benefits
24.34 under chapter 268B based on the same event for which leave is provided under section
24.35 181.941 or 181.9411.

25.1 **ARTICLE 3**

25.2 **TEMPORARY PROVISIONS AND APPROPRIATIONS**

25.3 Section 1. **INITIAL TAX RATES FOR FAMILY AND MEDICAL BENEFIT**

25.4 **PROGRAM.**

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

25.7 (1) percent in calendar year 2017;

25.8 (2) percent in calendar year 2018; and

25.9 (3) percent in calendar year 2019.

25.10 **EFFECTIVE DATE.** This section is effective August 1, 2016.

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

25.12 **APPROPRIATION.**

25.13 \$6,983,000 in fiscal year 2017 is appropriated from the general fund to the
 25.14 commissioner of employment and economic development for the purposes of Minnesota
 25.15 Statutes, chapter 268B. The base for fiscal year 2018 is \$9,201,000, the base for fiscal year
 25.16 2019 is \$9,667,000, and the base for fiscal years 2020 and later is zero.

25.17 **EFFECTIVE DATE.** This section is effective July 1, 2016.

25.18 **ARTICLE 4**

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

25.20 Section 1. Minnesota Statutes 2014, section 256J.561, is amended by adding a
 25.21 subdivision to read:

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

25.25 Sec. 2. Minnesota Statutes 2014, section 256J.95, subdivision 3, is amended to read:

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

- 26.1 (1) child only cases;
- 26.2 (2) single-parent family units that include a child under 12 months of age. A parent
26.3 is eligible for this exception once in a parent's lifetime;
- 26.4 (3) family units with a minor parent without a high school diploma or its equivalent;
- 26.5 (4) family units with an 18- or 19-year-old caregiver without a high school diploma
26.6 or its equivalent who chooses to have an employment plan with an education option;
- 26.7 (5) family units with a caregiver who received DWP benefits within the 12 months
26.8 prior to the month the family applied for DWP, except as provided in paragraph (c);
- 26.9 (6) family units with a caregiver who received MFIP within the 12 months prior to
26.10 the month the family applied for DWP;
- 26.11 (7) family units with a caregiver who received 60 or more months of TANF
26.12 assistance; ~~and~~
- 26.13 (8) family units with a caregiver who is disqualified from the work participation
26.14 cash benefit program, DWP, or MFIP due to fraud; and
- 26.15 (9) single-parent family units where a parent is receiving family and medical leave
26.16 benefits under chapter 268B.

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

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

26.23 Sec. 3. Minnesota Statutes 2014, section 256J.95, subdivision 11, is amended to read:

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

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

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

27.1 (d) One parent in a two-parent family unit ~~that has a natural born child under~~
27.2 ~~12 months of age~~ is not required to have an employment plan ~~until the child reaches~~
27.3 ~~12 months of age unless the family unit has already used the exclusion under section~~
27.4 ~~256J.561, subdivision 3, or the previously allowed child under age one exemption under~~
27.5 ~~section 256J.56, paragraph (a), clause (5) if that parent:~~

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

27.7 (2) has a natural born child under 12 months of age until the child reaches 12 months
27.8 of age unless the family unit has already used the exclusion under section 256J.561,
27.9 subdivision 3, or the previously allowed child under age one exemption under section
27.10 256J.56, paragraph (a), clause (5).

27.11 (e) The provision in paragraph (d) ends the first full month after the child reaches
27.12 12 months of age. This provision is allowable only once in a caregiver's lifetime. In a
27.13 two-parent household, only one parent shall be allowed to use this category.

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

27.19 Sec. 4. Minnesota Statutes 2015 Supplement, section 256P.01, subdivision 3, is
27.20 amended to read:

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

APPENDIX
Article locations in S2558-4

ARTICLE 1	FAMILY AND MEDICAL BENEFITS	Page.Ln 1.13
ARTICLE 2	EMPLOYMENT LEAVE	Page.Ln 22.6
ARTICLE 3	TEMPORARY PROVISIONS AND APPROPRIATIONS	Page.Ln 25.1
ARTICLE 4	FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS	Page.Ln 25.18