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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1013

02/09/2017 Authored by Metsa, Flanagan, Sundin, Ecklund, Poppe and others
The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to employment; providing for paid family, pregnancy, bonding, and
1.3 applicant's serious medical condition benefits; regulating and requiring certain
1.4 unpaid leaves; classifying certain data; authorizing rulemaking; appropriating
1.5 money; amending Minnesota Statutes 2016, sections 13.719, by adding a
1.6 subdivision; 177.27, subdivision 4; 181.943; 256J.561, by adding a subdivision;
1.7 256J.95, subdivisions 3, 11; 256P.01, subdivision 3; 268.19, subdivision 1;
1.8 290.0132, by adding a subdivision; proposing coding for new law as Minnesota
1.9 Statutes, chapter 268B.

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

1.11 ARTICLE 1

1.12 FAMILY AND MEDICAL BENEFITS

1.13 Section 1. Minnesota Statutes 2016, section 13.719, is amended by adding a subdivision
1.14 to read:

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

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

1.21 Sec. 2. Minnesota Statutes 2016, section 177.27, subdivision 4, is amended to read:

1.22 Subd. 4. Compliance orders. The commissioner may issue an order requiring an
1.23 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
1.24 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,

2.1 subdivision 2a, 181.722, 181.79, and 181.939 to 181.943; chapter 268B; or with any rule
 2.2 promulgated under section 177.28. The commissioner shall issue an order requiring an
 2.3 employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes
 2.4 of this subdivision only, a violation is repeated if at any time during the two years that
 2.5 preceded the date of violation, the commissioner issued an order to the employer for violation
 2.6 of sections 177.41 to 177.435 and the order is final or the commissioner and the employer
 2.7 have entered into a settlement agreement that required the employer to pay back wages that
 2.8 were required by sections 177.41 to 177.435. The department shall serve the order upon the
 2.9 employer or the employer's authorized representative in person or by certified mail at the
 2.10 employer's place of business. An employer who wishes to contest the order must file written
 2.11 notice of objection to the order with the commissioner within 15 calendar days after being
 2.12 served with the order. A contested case proceeding must then be held in accordance with
 2.13 sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the
 2.14 employer fails to file a written notice of objection with the commissioner, the order becomes
 2.15 a final order of the commissioner.

2.16 Sec. 3. Minnesota Statutes 2016, section 181.943, is amended to read:

2.17 **181.943 RELATIONSHIP TO OTHER LEAVE.**

2.18 (a) The length of leave provided under section 181.941 may be reduced by ~~any period~~
 2.19 ~~of~~:

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

2.23 (2) leave taken for the same purpose by the employee under United States Code, title
 2.24 29, chapter 28.

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

2.28 (c) A leave for which benefits are paid under chapter 268B is not paid leave provided
 2.29 by an employer for the purposes of paragraph (a), clause (1).

2.30 Sec. 4. Minnesota Statutes 2016, section 268.19, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.30 Sec. 5. **[268B.01] DEFINITIONS.**

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

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

5.3 Subd. 3. **Applicant.** "Applicant" means an individual applying for benefits under this
5.4 chapter.

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

5.7 Subd. 5. **Bonding.** "Bonding" means time spent by an applicant who is a biological,
5.8 adoptive, or foster parent with a biological, adopted, or foster child in conjunction with the
5.9 child's birth, adoption, or placement.

5.10 Subd. 6. **Commissioner.** "Commissioner" means the commissioner of employment and
5.11 economic development.

5.12 Subd. 7. **Covered employment.** "Covered employment" has the meaning given in section
5.13 268.035, subdivision 12.

5.14 Subd. 8. **Department.** "Department" means the Department of Employment and
5.15 Economic Development.

5.16 Subd. 9. **Employee.** "Employee" means an individual for whom taxes are paid on wages
5.17 under this chapter.

5.18 Subd. 10. **Employer.** "Employer" means a person or entity, other than an employee,
5.19 required to pay taxes under this chapter.

5.20 Subd. 11. **Family benefit program.** "Family benefit program" means the program
5.21 administered under this chapter for the collection of taxes and payment of benefits related
5.22 to family care and bonding.

5.23 Subd. 12. **Family care.** "Family care" means an applicant caring for a family member
5.24 with a serious health condition.

5.25 Subd. 13. **Family member.** "Family member" means an employee's child, adult child,
5.26 spouse, sibling, parent, foster parent, mother-in-law, father-in-law, grandchild, grandparent,
5.27 or stepparent.

5.28 Subd. 14. **Health care provider.** "Health care provider" means an individual who is
5.29 licensed, certified, or otherwise authorized under law to practice in the individual's state of
5.30 practice as a physician, osteopath, physician assistant, chiropractor, advanced practice
5.31 registered nurse, optometrist, licensed psychologist, licensed independent clinical social

6.1 worker, dentist, or podiatrist. "Chiropractor" means only a chiropractor who provides manual
6.2 manipulation of the spine to correct a subluxation demonstrated to exist by an x-ray.

6.3 Subd. 15. **High quarter.** "High quarter" has the meaning given in section 268.035,
6.4 subdivision 19.

6.5 Subd. 16. **ICD code.** "ICD code" means the code under the International Classification
6.6 of Diseases, Clinical Modification/Coding System, for the most recent edition commonly
6.7 used.

6.8 Subd. 17. **Maximum weekly benefit amount.** "Maximum weekly benefit amount"
6.9 means the state's average weekly wage as calculated under section 268.035, subdivision 23.

6.10 Subd. 18. **Medical benefit program.** "Medical benefit program" means the program
6.11 administered under this chapter for the collection of taxes and payment of benefits related
6.12 to an applicant's serious medical condition or pregnancy.

6.13 Subd. 19. **Noncovered employment.** "Noncovered employment" has the meaning given
6.14 in section 268.035, subdivision 20.

6.15 Subd. 20. **Pregnancy.** "Pregnancy" means prenatal care or incapacity due to pregnancy,
6.16 childbirth, or related health conditions.

6.17 Subd. 21. **Qualified health care provider.** "Qualified health care provider" means a
6.18 health care provider who, in the judgment of the commissioner, has the qualifications
6.19 necessary to diagnose or treat a particular health condition or conditions associated with
6.20 benefits sought under this chapter.

6.21 Subd. 22. **Serious health condition.** "Serious health condition" means an illness, injury,
6.22 impairment, or physical or mental condition that involves:

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

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

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

6.27 Subd. 24. **Wage credits.** "Wage credits" has the meaning given in section 268.035,
6.28 subdivision 27.

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

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

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

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

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

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

7.15 Subdivision 1. **Applicant.** An applicant who has a serious health condition, is providing
7.16 family care, is bonding, or is pregnant, and who satisfies the conditions of this section is
7.17 eligible to receive benefits subject to the provisions of this chapter.

7.18 Subd. 2. **Wage credits.** An applicant must have sufficient wage credits from an employer
7.19 as defined in section 268B.01, subdivision 10, to establish a benefit account under section
7.20 268.07, subdivision 2. Wage credits from an employer during a period in which the employer
7.21 has successfully opted out of the benefit program being applied for may not be used for the
7.22 purposes of this subdivision.

7.23 Subd. 3. **Seven-day qualifying event.** The period for which an applicant is seeking
7.24 benefits must be or have been based on a single event of at least seven days duration related
7.25 to pregnancy, family care, bonding, or the applicant's serious health condition. The days
7.26 need not be consecutive.

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

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

7.31 Subd. 6. **Records release.** An individual whose medical records are necessary to
7.32 determine eligibility for benefits under this chapter must sign and date a legally effective

8.1 waiver authorizing release to the department of medical and other records to the limited
8.2 extent necessary to administer this chapter.

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

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

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

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

8.14 (1) an application for family care benefits;

8.15 (2) an application for bonding benefits;

8.16 (3) an application for pregnancy benefits; and

8.17 (4) an application for benefits related to an applicant's serious health condition.

8.18 Subd. 2. **Content of applications.** (a) All four application forms under subdivision 1
8.19 must require, at a minimum, the following:

8.20 (1) the name, birth date, home address, and mailing address of the applicant;

8.21 (2) the Social Security number, or other unique identification number, of the applicant;

8.22 (3) a description of the qualifying event underlying the requested benefit;

8.23 (4) the date for which benefits are sought began or will begin, if known;

8.24 (5) the date for which benefits are sought ended or will end, if known;

8.25 (6) whether the benefits are sought on an intermittent basis;

8.26 (7) whether the applicant has applied for or received any other paid benefits, whether
8.27 public or private, based on the same event underlying the benefits sought or during the same
8.28 time period for which the applicant is seeking benefits;

8.29 (8) a description of any benefits listed under clause (7);

9.1 (9) a signed and dated certification that all the information contained in the application
9.2 is true and correct, to the best of the applicant's knowledge; and

9.3 (10) a list of all the applicant's employers for the past 79 weeks.

9.4 (b) In addition to the requirements under paragraph (a), an application for family care
9.5 benefits must contain, at a minimum, the following:

9.6 (1) the name, birth date, home address, and mailing address of the family member for
9.7 whom the applicant has provided or will be providing care;

9.8 (2) the family member's relationship to the applicant;

9.9 (3) the Social Security number, or other unique identification number, of the family
9.10 member for whom the applicant has provided or will be providing care;

9.11 (4) a certification from the care recipient, or the care recipient's authorized representative,
9.12 that all the information contained in the application is true and correct, to the best of that
9.13 individual's knowledge;

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

9.17 (6) a signed and dated certification by a qualified health care provider treating the care
9.18 recipient:

9.19 (i) describing the nature of the serious medical condition or conditions of the care
9.20 recipient;

9.21 (ii) stating whether care by another individual is necessary in the treatment, or will aid
9.22 in the recovery, of the care recipient;

9.23 (iii) describing the nature of the care under item (ii);

9.24 (iv) stating or estimating the dates benefits are needed; and

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

9.27 (c) In addition to the requirements under paragraph (a), an application for benefits for
9.28 bonding must contain, at a minimum, the following:

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

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

10.4 (d) In addition to the requirements under paragraph (a), an application for pregnancy
10.5 benefits must contain, at a minimum, the following:

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

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

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

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

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

10.15 (e) In addition to the requirements under paragraph (a), an application for benefits
10.16 associated with an applicant's serious health condition must contain, at a minimum, the
10.17 following:

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

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

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

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

10.25 (iii) stating or estimating the dates care and treatment are needed; and

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

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

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

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

11.5 Upon the filing of a complete application for benefits, the commissioner shall examine
 11.6 the application and on the basis of facts found by the commissioner and records maintained
 11.7 by the department, the application shall be determined to be valid or invalid within two
 11.8 weeks. If the application is determined to be valid, the commissioner shall promptly notify
 11.9 the applicant and any other interested party as to the week when benefits commence, the
 11.10 weekly benefit amount payable, and the maximum duration of those benefits. If the
 11.11 application is determined to be invalid, the commissioner shall notify the applicant and any
 11.12 other interested party of that determination and the reasons for it. If the processing of the
 11.13 application is delayed for any reason, the commissioner shall notify the applicant, in writing,
 11.14 within two weeks of the date the application for benefits is filed of the reason for the delay.
 11.15 Unless the applicant or any other interested party, within 30 days, requests a hearing before
 11.16 a benefit judge, the determination is final. For good cause shown, the 30-day period may
 11.17 be extended. At any time within one year from the date of a monetary determination, the
 11.18 commissioner, upon request of the applicant or on the commissioner's own initiative, may
 11.19 reconsider the determination if it is found that an error in computation or identity has occurred
 11.20 in connection with the determination or that additional wages pertinent to the applicant's
 11.21 status have become available, or if that determination has been made as a result of a
 11.22 nondisclosure or misrepresentation of a material fact.

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

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

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

11.28 (1) the name of the applicant;

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

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

11.31 (4) the week the benefits commence;

11.32 (5) the weekly benefit amount payable;

- 12.1 (6) the maximum duration of benefits;
 12.2 (7) an explanation of why the notification has been sent; and
 12.3 (8) descriptions of the employer's right to participate in a hearing under section 268B.05,
 12.4 and appeal process under section 268B.07.

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

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

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

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

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

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

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

12.19 Subd. 3. **Request for reconsideration.** Any party, or the commissioner, may, within
 12.20 30 calendar days of the receipt of the benefit judge's decision, file a request for
 12.21 reconsideration asking the judge to reconsider that decision.

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

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

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

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

13.2 Subdivision 1. **Weekly benefit amount.** (a) Subject to the maximum weekly benefit
13.3 amount, an applicant's weekly benefit is calculated by adding the amounts obtained by
13.4 applying the following percentage to an applicant's average weekly wage earned with an
13.5 employer as defined in section 268B.01, subdivision 10:

13.6 (1) 80 percent of wages that do not exceed 50 percent of the state's average weekly wage;
13.7 plus

13.8 (2) 66 percent of wages that exceed 50 percent of the state's average weekly wage but
13.9 not 100 percent; plus

13.10 (3) 55 percent of wages that exceed 100 percent of the state's average weekly wage.

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

13.13 (c) The state's average weekly wage is the average wage as calculated under section
13.14 268.035, subdivision 23, at the time a benefit amount is first determined.

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

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

13.19 Subd. 3. **Method of payment.** The commissioner may pay benefits using any method
13.20 or methods authorized for the payment of unemployment insurance benefits under chapter
13.21 268.

13.22 Subd. 4. **Maximum length of benefits.** In a 52-week period, an applicant may receive
13.23 up to 12 weeks of benefits under this chapter related to the applicant's serious health condition
13.24 or pregnancy and up to 12 weeks of benefits under this chapter for bonding or family care.

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

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

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

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

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

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

14.11 Subd. 2. **Interference prohibited.** An employer must not obstruct or impede an
 14.12 application for benefits under this chapter.

14.13 Subd. 3. **Waiver of rights void.** Any agreement to waive, release, or commute rights
 14.14 to benefits under this chapter is void.

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

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

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

14.29 Subd. 7. **Remedies.** In addition to any other remedies available by law, an individual
 14.30 injured by a violation of this section may bring a civil action seeking any damages
 14.31 recoverable by law, together with costs and disbursements, including reasonable attorney
 14.32 fees, and may receive injunctive and other equitable relief as determined by a court.

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

15.2 Bonding leave taken under this chapter begins at a time requested by the employee.

15.3 Bonding leave must begin within 12 months of the birth, adoption, or placement of a foster

15.4 child, except that, in the case where the child must remain in the hospital longer than the

15.5 mother, the leave must begin within 12 months after the child leaves the hospital.

15.6 Sec. 15. **[268B.10] SUBSTITUTION OF OTHER PLAN; EMPLOYER EXCLUSION.**

15.7 Subdivision 1. **Application for exclusion.** If a majority of affected employees agree in

15.8 writing to the application, an employer may apply to the commissioner to be excluded from

15.9 either or both the family or medical benefit programs under this chapter. An employer

15.10 excluded under this subdivision from either or both benefit programs is liable for the tax

15.11 for excluded employers specified under section 268B.12.

15.12 Subd. 2. **Employer plan requirements; medical benefit program.** The commissioner

15.13 must approve an application for exclusion from the medical benefit program if the

15.14 commissioner finds that:

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

15.16 employer plan;

15.17 (2) eligibility requirements for benefits are no more restrictive than as provided for

15.18 benefits payable under this chapter;

15.19 (3) the weekly benefits payable under the employer plan for any week are at least equal

15.20 to the weekly benefit amount payable under this chapter, taking into consideration any

15.21 coverage with respect to concurrent employment by another employer, and the total number

15.22 of weeks for which benefits are payable under the employer plan is at least equal to the total

15.23 number of weeks for which benefits would have been payable under this chapter;

15.24 (4) no greater amount is required to be paid by employees toward the cost of benefits

15.25 under the employer plan than by this chapter; and

15.26 (5) coverage will be continued under the employer plan while an employee remains

15.27 employed by the employer.

15.28 Subd. 3. **Employer plan; family benefit program.** The commissioner must approve

15.29 an application for exclusion from the family benefit program if the commissioner finds that:

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

15.31 employer plan;

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

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

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

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

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

16.13 **EFFECTIVE DATE.** This section is effective July 1, 2019, for exclusions commencing
16.14 January 1, 2021, and thereafter.

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

16.16 (a) A self-employed individual may file with the commissioner, by electronic transmission
16.17 in a format prescribed by the commissioner, an election that the individual is covered as an
16.18 employee for not less than two calendar years. Upon the approval of the commissioner, sent
16.19 by United States mail or electronic transmission, the individual is covered as an employee
16.20 under this chapter beginning the calendar quarter after the date of approval or beginning in
16.21 a later calendar quarter if requested by the employer. The individual ceases to be covered
16.22 as of the first day of January of any calendar year only if, at least 30 calendar days before
16.23 the first day of January, the individual has filed with the commissioner, by electronic
16.24 transmission in a format prescribed by the commissioner, a notice to that effect.

16.25 (b) The commissioner must terminate any election agreement under this section upon
16.26 30 calendar days' notice sent by United States mail or electronic transmission if the individual
16.27 is delinquent on any taxes due under this chapter.

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

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

17.1 Sec. 17. **[268B.12] TAXATION.**

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

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

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

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

17.16 Subd. 4. **Annual tax rates.** The employer tax rates for the calendar year beginning
17.17 January 1, 2021, shall be as follows:

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

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

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

17.23 Subd. 5. **Tax rate adjustments.** (a) Each calendar year following the calendar year
17.24 beginning January 1, 2021, except calendar year 2022, the commissioner must adjust the
17.25 annual tax rates using the formula in paragraph (b).

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

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

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

17.30 (3) divide the resulting figure by twice the total wages in covered employment of
17.31 employees of employers that have not opted out of both the family and medical benefit
17.32 programs. For employees of employers that have opted out of one of the two programs,

18.1 count only the proportion of wages in covered employment associated with the program of
 18.2 which the employer did not opt out; and

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

18.4 (c) For calendar year 2022, the calculation shall be as provided in paragraph (b), except
 18.5 that the disbursements in clause (1) shall be those for the 39 weeks ending September 30,
 18.6 and projected disbursements for the next 13 weeks.

18.7 (d) The commissioner must not increase or decrease the employer tax rate by more than
 18.8 0.1 percent each year.

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

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

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

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

18.19 **Sec. 18. [268B.13] COLLECTION OF TAXES.**

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

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

18.27 (1) taxes due under this chapter; then

18.28 (2) interest on past due taxes; then

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20.14 For the calendar year beginning January 1, 2021, and each calendar year thereafter, the
 20.15 commissioner may spend up to seven percent of projected benefit payments for that calendar
 20.16 year for the administration of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21.16 or

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

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

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

21.24 Sec. 23. [268B.18] RECORDS; AUDITS.

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

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

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

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

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

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

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

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

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

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

22.21 **Sec. 26. Minnesota Statutes 2016, section 290.0132, is amended by adding a subdivision**
22.22 **to read:**

22.23 Subd. 23. **Benefits under chapter 268B.** The amount received in benefits under chapter
22.24 268B is a subtraction.

22.25 **Sec. 27. EFFECTIVE DATE INTENTION.**

22.26 The intention of the legislature is that benefits under Minnesota Statutes, chapter 268B,
22.27 shall not be applied for nor paid until January 1, 2021, and thereafter. The sections of this
22.28 article are effective August 1, 2017, unless specifically provided otherwise in this article.

23.1

ARTICLE 2

23.2

TEMPORARY PROVISIONS AND APPROPRIATIONS

23.3

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

23.4

PROGRAM.

23.5

Notwithstanding any other law to the contrary, the tax rate for employers subject to tax

23.6

under Minnesota Statutes, section 268B.12, and employees in an equal amount, is:

23.7

(1) percent in calendar year 2018;

23.8

(2) percent in calendar year 2019; and

23.9

(3) percent in calendar year 2020.

23.10

EFFECTIVE DATE. This section is effective August 1, 2017.

23.11

Sec. 2. **FAMILY AND MEDICAL BENEFIT PROGRAM; APPROPRIATION.**

23.12

\$..... in fiscal year 2018 is appropriated from the general fund to the commissioner of

23.13

employment and economic development for the purposes of Minnesota Statutes, chapter

23.14

268B. The base for fiscal year 2019 is \$....., the base for fiscal year 2020 is \$....., and the

23.15

base for fiscal years 2021 and later is zero.

23.16

EFFECTIVE DATE. This section is effective July 1, 2017.

23.17

ARTICLE 3

23.18

FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS

23.19

Section 1. Minnesota Statutes 2016, section 256J.561, is amended by adding a subdivision

23.20

to read:

23.21

Subd. 4. Parents receiving family and medical leave benefits. A parent who meets

23.22

the criteria under subdivision 2 and who receives benefits under chapter 268B is not required

23.23

to participate in employment services.

23.24

Sec. 2. Minnesota Statutes 2016, section 256J.95, subdivision 3, is amended to read:

23.25

Subd. 3. Eligibility for diversionary work program. (a) Except for the categories of

23.26

family units listed in clauses (1) to (8), all family units who apply for cash benefits and who

23.27

meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must

23.28

participate in the diversionary work program. Family units or individuals that are not eligible

23.29

for the diversionary work program include:

- 24.1 (1) child only cases;
- 24.2 (2) single-parent family units that include a child under 12 months of age. A parent is
24.3 eligible for this exception once in a parent's lifetime;
- 24.4 (3) family units with a minor parent without a high school diploma or its equivalent;
- 24.5 (4) family units with an 18- or 19-year-old caregiver without a high school diploma or
24.6 its equivalent who chooses to have an employment plan with an education option;
- 24.7 (5) family units with a caregiver who received DWP benefits within the 12 months prior
24.8 to the month the family applied for DWP, except as provided in paragraph (c);
- 24.9 (6) family units with a caregiver who received MFIP within the 12 months prior to the
24.10 month the family applied for DWP;
- 24.11 (7) family units with a caregiver who received 60 or more months of TANF assistance;
24.12 ~~and~~
- 24.13 (8) family units with a caregiver who is disqualified from the work participation cash
24.14 benefit program, DWP, or MFIP due to fraud; and
- 24.15 (9) single-parent family units where a parent is receiving family and medical leave
24.16 benefits under chapter 268B.
- 24.17 (b) A two-parent family must participate in DWP unless both caregivers meet the criteria
24.18 for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a
24.19 parent who meets the criteria in paragraph (a), clause (6), (7), or (8).
- 24.20 (c) Once DWP eligibility is determined, the four months run consecutively. If a participant
24.21 leaves the program for any reason and reapplies during the four-month period, the county
24.22 must redetermine eligibility for DWP.
- 24.23 Sec. 3. Minnesota Statutes 2016, section 256J.95, subdivision 11, is amended to read:
- 24.24 Subd. 11. **Universal participation required.** (a) All DWP caregivers, except caregivers
24.25 who meet the criteria in paragraph (d), are required to participate in DWP employment
24.26 services. Except as specified in paragraphs (b) and (c), employment plans under DWP must,
24.27 at a minimum, meet the requirements in section 256J.55, subdivision 1.
- 24.28 (b) A caregiver who is a member of a two-parent family that is required to participate
24.29 in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed
24.30 to develop an employment plan under section 256J.521, subdivision 2, that may contain
24.31 alternate activities and reduced hours.

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

25.5 (d) One parent in a two-parent family unit ~~that has a natural born child under 12 months~~
25.6 ~~of age~~ is not required to have an employment plan ~~until the child reaches 12 months of age~~
25.7 ~~unless the family unit has already used the exclusion under section 256J.561, subdivision~~
25.8 ~~3, or the previously allowed child under age one exemption under section 256J.56, paragraph~~
25.9 ~~(a), clause (5) if that parent:~~

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

25.11 (2) has a natural born child under 12 months of age until the child reaches 12 months
25.12 of age unless the family unit has already used the exclusion under section 256J.561,
25.13 subdivision 3, or the previously allowed child under age one exemption under section
25.14 256J.56, paragraph (a), clause (5).

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

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

25.22 Sec. 4. Minnesota Statutes 2016, section 256P.01, subdivision 3, is amended to read:

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

APPENDIX
Article locations in 17-2177

ARTICLE 1	FAMILY AND MEDICAL BENEFITS	Page.Ln 1.11
ARTICLE 2	TEMPORARY PROVISIONS AND APPROPRIATIONS	Page.Ln 23.1
ARTICLE 3	FAMILY AND MEDICAL LEAVE BENEFIT AS EARNINGS	Page.Ln 23.17