

State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3512

- 03/23/2016 Authored by O'Neill and Mahoney
- The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance
- 04/14/2016 Adoption of Report: Placed on the General Register
- Read Second Time
- 05/09/2016 Referred to the Chief Clerk for Comparison with S. F. No. 3216
- 05/11/2016 Postponed Indefinitely

1.1 A bill for an act

1.2 relating to unemployment insurance; adopting recommendations of the

1.3 Unemployment Insurance Advisory Council; amending Minnesota Statutes 2014,

1.4 sections 268.035, subdivisions 12, 20, 23a, 29, by adding subdivisions; 268.051,

1.5 subdivision 5; 268.085, subdivisions 4, 5; 268.0865, subdivisions 3, 4; 268.095,

1.6 subdivisions 1, 2, 5; 268.101, subdivision 2; 268.18; 268.182, subdivision 2;

1.7 Minnesota Statutes 2015 Supplement, sections 268.07, subdivision 3b; 268.085,

1.8 subdivision 2.

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

1.10 ARTICLE 1

1.11 UNEMPLOYMENT INSURANCE ADVISORY COUNCIL POLICY

1.12 Section 1. Minnesota Statutes 2014, section 268.051, subdivision 5, is amended to read:

1.13 Subd. 5. **Tax rate for new employers.** ~~(a) Each new taxpaying employer that does~~

1.14 ~~not qualify for an experience rating under subdivision 3, except new employers in a high~~

1.15 ~~experience rating industry, must be assigned, for a calendar year, a tax rate the higher of~~

1.16 ~~(1) one percent, or (2) the tax rate computed, to the nearest 1/100 of a percent, by dividing~~

1.17 ~~the total amount of unemployment benefits paid all applicants during the 48 calendar~~

1.18 ~~months ending on June 30 of the prior calendar year by the total taxable wages of all~~

1.19 ~~taxpaying employers during the same period, plus the applicable base tax rate and any~~

1.20 ~~additional assessments under subdivision 2, paragraph (c).~~

1.21 (b) Each new taxpaying employer in a high experience rating industry that does not

1.22 qualify for an experience rating under subdivision 3, must be assigned, for a calendar year,

1.23 a tax rate the higher of (1) that assigned under paragraph (a), or (2) the tax rate, computed

1.24 to the nearest 1/100 of a percent, by dividing the total amount of unemployment benefits

1.25 paid to all applicants from high experience rating industry employers during the 48

2.1 calendar months ending on June 30 of the prior calendar year by the total taxable wages  
 2.2 of all high experience rating industry employers during the same period, to a maximum  
 2.3 provided for under subdivision 3, paragraph (b), plus the applicable base tax rate and any  
 2.4 additional assessments under subdivision 2, paragraph (c).

2.5 (e) An employer is considered to be in a high experience rating industry if:

2.6 (1) the employer is engaged in residential, commercial, or industrial construction,  
 2.7 including general contractors;

2.8 (2) the employer is engaged in sand, gravel, or limestone mining;

2.9 (3) the employer is engaged in the manufacturing of concrete, concrete products,  
 2.10 or asphalt; or

2.11 (4) the employer is engaged in road building, repair, or resurfacing, including bridge  
 2.12 and tunnels and residential and commercial driveways and parking lots.

2.13 (a) Each new taxpaying employer that does not qualify for an experience rating  
 2.14 under subdivision 3 must be assigned, for the calendar year, a tax rate equal to the average  
 2.15 experience rating for the employer's industry, plus the applicable base tax rate and any  
 2.16 additional assessments under subdivision 2, paragraph (c). The tax rate assigned may not  
 2.17 be less than one percent.

2.18 (b) The employer's industry, except for construction, is determined by the first two  
 2.19 digits of the North American Industrial Classification System (NAICS). The construction  
 2.20 industry is determined to five digits. For each calendar year the commissioner must  
 2.21 compute, in accordance with subdivision 3, the average industry experience rating for  
 2.22 the employer's industry.

2.23 (d) (c) Regardless of any law to the contrary, a taxpaying employer must be  
 2.24 assigned a tax rate under this subdivision if the employer had no taxable wages during the  
 2.25 experience rating period under subdivision 3.

2.26 (e) (d) The commissioner must send to the new employer, by mail or electronic  
 2.27 transmission, a determination of tax rate. An employer may appeal the determination of  
 2.28 tax rate in accordance with the procedures in subdivision 6, paragraph (c).

2.29 **EFFECTIVE DATE.** This section is effective January 1, 2018, and applies to tax  
 2.30 rates assigned for the calendar year 2018 and thereafter.

2.31 Sec. 2. Minnesota Statutes 2015 Supplement, section 268.07, subdivision 3b, is  
 2.32 amended to read:

2.33 Subd. 3b. **Limitations on applications and benefit accounts.** (a) An application for  
 2.34 unemployment benefits is effective the Sunday of the calendar week that the application  
 2.35 was filed. An application for unemployment benefits may be backdated one calendar week

3.1 before the Sunday of the week the application was actually filed if the applicant requests  
 3.2 the backdating at within seven calendar days of the time date the application is filed. An  
 3.3 application may be backdated only if the applicant was unemployed during the period of  
 3.4 the backdating. If an individual attempted to file an application for unemployment benefits,  
 3.5 but was prevented from filing an application by the department, the application is effective  
 3.6 the Sunday of the calendar week the individual first attempted to file an application.

3.7 (b) A benefit account established under subdivision 2 is effective the date the  
 3.8 application for unemployment benefits was effective.

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

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

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

3.14 A determination or amended determination of eligibility or ineligibility issued under  
 3.15 section 268.101, that was sent before the withdrawal of the benefit account, remains in  
 3.16 effect and is not voided by the withdrawal of the benefit account.

3.17 (d) An application for unemployment benefits is not allowed before the Sunday  
 3.18 following the expiration of the benefit year on a prior benefit account. Except as allowed  
 3.19 under paragraph (c), an applicant may establish only one benefit account each 52 calendar  
 3.20 weeks. This paragraph applies to benefit accounts established under any federal law or  
 3.21 the law of any other state.

3.22 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to  
 3.23 applications for unemployment benefits filed after that date.

3.24 Sec. 3. Minnesota Statutes 2014, section 268.095, subdivision 1, is amended to read:

3.25 Subdivision 1. **Quit.** An applicant who quit employment is ineligible for all  
 3.26 unemployment benefits according to subdivision 10 except when:

3.27 (1) the applicant quit the employment because of a good reason caused by the  
 3.28 employer as defined in subdivision 3;

3.29 (2) the applicant quit the employment to accept other covered employment that  
 3.30 provided substantially equal to or better terms and conditions of employment, but  
 3.31 the applicant did not work long enough at the second employment to have sufficient  
 3.32 subsequent earnings wages paid to satisfy the period of ineligibility that would otherwise  
 3.33 be imposed under subdivision 10 for quitting the first employment;

3.34 (3) the applicant quit the employment within 30 calendar days of beginning the  
 3.35 employment because and the employment was unsuitable ~~for the applicant~~;

4.1 (4) the employment was unsuitable ~~for the applicant~~ and the applicant quit to enter  
4.2 reemployment assistance training;

4.3 (5) the employment was part time and the applicant also had full-time employment  
4.4 in the base period, from which full-time employment the applicant separated because of  
4.5 reasons for which the applicant ~~was held~~ is not to be ineligible, and the wage credits from  
4.6 the full-time employment are sufficient to meet the minimum requirements to establish a  
4.7 benefit account under section 268.07;

4.8 (6) the applicant quit because the employer notified the applicant that the applicant  
4.9 was going to be laid off because of lack of work within 30 calendar days. An applicant  
4.10 who quit employment within 30 calendar days of a notified date of layoff because of lack  
4.11 of work is ineligible for unemployment benefits through the end of the week that includes  
4.12 the scheduled date of layoff;

4.13 (7) the applicant quit the employment (i) because the applicant's serious illness or  
4.14 injury made it medically necessary that the applicant quit; or (ii) in order to provide  
4.15 necessary care because of the illness, injury, or disability of an immediate family member  
4.16 of the applicant. This exception only applies if the applicant informs the employer of  
4.17 the medical problem and requests accommodation and no reasonable accommodation  
4.18 is made available.

4.19 If the applicant's serious illness is chemical dependency, this exception does not  
4.20 apply if the applicant was previously diagnosed as chemically dependent or had treatment  
4.21 for chemical dependency, and since that diagnosis or treatment has failed to make  
4.22 consistent efforts to control the chemical dependency.

4.23 This exception raises an issue of the applicant's being available for suitable  
4.24 employment under section 268.085, subdivision 1, that the commissioner must determine;

4.25 (8) the applicant's loss of child care for the applicant's minor child caused the  
4.26 applicant to quit the employment, provided the applicant made reasonable effort to obtain  
4.27 other child care and requested time off or other accommodation from the employer and no  
4.28 reasonable accommodation is available.

4.29 This exception raises an issue of the applicant's being available for suitable  
4.30 employment under section 268.085, subdivision 1, that the commissioner must determine;

4.31 (9) the applicant quit because domestic abuse, sexual assault, or stalking of the  
4.32 applicant or an immediate family member of the applicant, necessitated the applicant's  
4.33 quitting the employment.

4.34 For purposes of this subdivision:

4.35 (i) "domestic abuse" has the meaning given in section 518B.01;

5.1 (ii) "sexual assault" means an act that would constitute a violation of sections  
5.2 609.342 to 609.3453 or 609.352; and

5.3 (iii) "stalking" means an act that would constitute a violation of section 609.749; or  
5.4 (10) the applicant quit in order to relocate to accompany a spouse;

5.5 (1) who is in the military; or

5.6 (2) whose job was transferred by the spouse's employer to a new location ~~changed~~  
5.7 making it impractical for the applicant to commute.

5.8 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to all  
5.9 matters pending a determination or a decision by an unemployment law judge.

5.10 Sec. 4. Minnesota Statutes 2014, section 268.101, subdivision 2, is amended to read:

5.11 Subd. 2. **Determination.** (a) The commissioner must determine any issue of  
5.12 ineligibility raised by information required from an applicant under subdivision 1,  
5.13 paragraph (a) or (c), and send to the applicant and any involved employer, by mail or  
5.14 electronic transmission, a document titled a determination of eligibility or a determination  
5.15 of ineligibility, as is appropriate. The determination on an issue of ineligibility as a result  
5.16 of a quit or a discharge of the applicant must state the effect on the employer under section  
5.17 268.047. A determination must be made in accordance with this paragraph even if a  
5.18 notified employer has not raised the issue of ineligibility.

5.19 (b) The commissioner must determine any issue of ineligibility raised by an  
5.20 employer and send to the applicant and that employer, by mail or electronic transmission,  
5.21 a document titled a determination of eligibility or a determination of ineligibility as is  
5.22 appropriate. The determination on an issue of ineligibility as a result of a quit or discharge  
5.23 of the applicant must state the effect on the employer under section 268.047.

5.24 If a base period employer:

5.25 (1) was not the applicant's most recent employer before the application for  
5.26 unemployment benefits;

5.27 (2) did not employ the applicant during the six calendar months before the  
5.28 application for unemployment benefits; and

5.29 (3) did not raise an issue of ineligibility as a result of a quit or discharge of the  
5.30 applicant within ten calendar days of notification under subdivision 1, paragraph (b);

5.31 then any exception under section 268.047, subdivisions 2 and 3, begins the Sunday two  
5.32 weeks following the week that the issue of ineligibility as a result of a quit or discharge of  
5.33 the applicant was raised by the employer.

6.1 A communication from an employer must specifically set out why the applicant  
6.2 should be determined ineligible for unemployment benefits for that communication to be  
6.3 considered to have raised an issue of ineligibility for purposes of this section. A statement  
6.4 of "protest" or a similar term without more information does not constitute raising an issue  
6.5 of ineligibility for purposes of this section.

6.6 (c) Subject to section 268.031, an issue of ineligibility is determined based upon  
6.7 that information required of an applicant, any information that may be obtained from an  
6.8 applicant or employer, and information from any other source.

6.9 (d) Regardless of the requirements of this subdivision, the commissioner is not  
6.10 required to send to an applicant a copy of the determination where the applicant has  
6.11 satisfied a period of ineligibility because of a quit or a discharge under section 268.095,  
6.12 subdivision 10.

6.13 (e) The commissioner may issue a determination on an issue of ineligibility ~~at any~~  
6.14 ~~time~~ within 24 months from the establishment of a benefit account based upon information  
6.15 from any source, even if the issue of ineligibility was not raised by the applicant or an  
6.16 employer. ~~This paragraph does not prevent the imposition of a penalty on~~

6.17 If an applicant obtained unemployment benefits through fraud under section 268.18,  
6.18 subdivision 2, or 268.182 a determination of ineligibility may be issued within 48 months  
6.19 of the establishment of the benefit account.

6.20 (f) A determination of eligibility or determination of ineligibility is final unless an  
6.21 appeal is filed by the applicant or notified employer within 20 calendar days after sending.  
6.22 The determination must contain a prominent statement indicating the consequences of not  
6.23 appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

6.24 (g) An issue of ineligibility required to be determined under this section includes  
6.25 any question regarding the denial or allowing of unemployment benefits under this chapter  
6.26 except for issues under section 268.07. An issue of ineligibility for purposes of this section  
6.27 includes any question of effect on an employer under section 268.047.

6.28 ~~(h) Except for issues of ineligibility as a result of a quit or discharge of the applicant,~~  
6.29 ~~the employer will be (1) sent a copy of the determination of eligibility or a determination~~  
6.30 ~~of ineligibility, or (2) considered an involved employer for purposes of an appeal under~~  
6.31 ~~section 268.105, only if the employer raised the issue of ineligibility.~~

6.32 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to all  
6.33 matters pending a determination.

6.34 Sec. 5. Minnesota Statutes 2014, section 268.182, subdivision 2, is amended to read:

7.1 Subd. 2. **Administrative penalties.** (a) Any applicant who knowingly makes a false  
 7.2 statement or representation, who knowingly fails to disclose a material fact, or who makes  
 7.3 a false statement or representation without a good faith belief as to the correctness of the  
 7.4 statement or representation, in order to obtain or in an attempt to obtain unemployment  
 7.5 benefits may be assessed, in addition to any other penalties, an administrative penalty of  
 7.6 being ineligible for unemployment benefits for 13 to 104 weeks.

7.7 (b) A determination of ineligibility setting out the weeks the applicant is ineligible  
 7.8 must be sent to the applicant by mail or electronic transmission. A determination of  
 7.9 ineligibility under this subdivision may be issued within 48 months of the establishment of  
 7.10 the benefit account upon which the unemployment benefits were obtained, or attempted to  
 7.11 be obtained. Unless an appeal is filed within 20 calendar days of sending, the determination  
 7.12 is final. Proceedings on the appeal are conducted in accordance with section 268.105.

7.13 **EFFECTIVE DATE.** This section is effective July 31, 2016 and applies to all  
 7.14 matters pending a determination.

## 7.15 ARTICLE 2

### 7.16 UNEMPLOYMENT INSURANCE ADVISORY COUNCIL HOUSEKEEPING

7.17 Section 1. Minnesota Statutes 2014, section 268.035, subdivision 12, is amended to read:

7.18 Subd. 12. **Covered employment.** (a) "Covered employment" means the following  
 7.19 unless excluded as "noncovered employment" under subdivision 20:

7.20 (1) an employee's entire employment during the calendar quarter if:

7.21 (i) the employment during the quarter is performed primarily in Minnesota;

7.22 (ii) the employment during the quarter is not performed primarily in Minnesota or  
 7.23 any other state but some of the employment is performed in Minnesota and the base  
 7.24 of operations or the place from which the employment is directed or controlled is in  
 7.25 Minnesota; or

7.26 (iii) the employment during the quarter is not performed primarily in Minnesota  
 7.27 or any other state and the base of operations or place from which the employment is  
 7.28 directed or controlled is not in any state where part of the employment is performed, but  
 7.29 the employee's residence is in Minnesota;

7.30 (2) an employee's entire employment during the calendar quarter performed within  
 7.31 the United States or Canada, if:

7.32 (i) the employment is not ~~considered~~ covered employment under the unemployment  
 7.33 insurance program of any other state, federal law, or the law of Canada; and

7.34 (ii) the place from which the employment is directed or controlled is in Minnesota;

8.1 (3) the employment during the calendar quarter, performed entirely outside of the  
 8.2 United States and Canada, by an employee who is a United States citizen in the employ of  
 8.3 an American employer if the employer's principal place of business in the United States is  
 8.4 located in Minnesota. An "American employer," for the purposes of this clause, means a  
 8.5 corporation organized under the laws of any state, an individual who is a resident of the  
 8.6 United States, or a partnership if two-thirds or more of the partners are residents of the  
 8.7 United States, or a trust, if all of the trustees are residents of the United States; and

8.8 (4) all employment during the calendar quarter performed by an officer or member  
 8.9 of the crew of an American vessel on or in connection with the vessel, if the operating  
 8.10 office from which the operations of the vessel operating on navigable waters within, or  
 8.11 within and without, the United States are ordinarily and regularly supervised, managed,  
 8.12 directed, and controlled is in Minnesota.

8.13 (b) "Covered employment" includes covered agricultural employment under  
 8.14 subdivision 11.

8.15 (c) For the purposes of ~~satisfying the period of ineligibility under~~ section 268.095,  
 8.16 ~~subdivision 10~~, "covered employment" includes ~~covered~~ covered employment under an  
 8.17 unemployment insurance program:

- 8.18 (1) of any other state; or  
 8.19 (2) established by an act of Congress.

8.20 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to all  
 8.21 matters pending a determination or a decision by an unemployment law judge

8.22 Sec. 2. Minnesota Statutes 2014, section 268.035, subdivision 29, is amended to read:

8.23 Subd. 29. **Wages.** (a) "Wages" means all compensation for employment, including  
 8.24 commissions; bonuses, awards, and prizes; severance payments; standby pay; vacation and  
 8.25 holiday pay; back pay as of the date of payment; tips and gratuities paid to an employee by  
 8.26 a customer of an employer and accounted for by the employee to the employer; sickness  
 8.27 and accident disability payments, except as otherwise provided in this subdivision; and  
 8.28 the cash value of housing, utilities, meals, exchanges of services, and any other goods  
 8.29 and services provided to compensate an employee, except:

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

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

9.5 (3) any payment made to, or on behalf of, an employee or beneficiary (i) from or  
9.6 to a trust described in United States Code, title 26, section 401(a) of the federal Internal  
9.7 Revenue Code, that is exempt from tax under section 501(a) at the time of the payment  
9.8 unless the payment is made to an employee of the trust as compensation for services as an  
9.9 employee and not as a beneficiary of the trust, or (ii) under or to an annuity plan that, at  
9.10 the time of the payment, is a plan described in section 403(a);

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

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

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

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

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

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

9.24 (10) advances or reimbursements for traveling or other bona fide ordinary and  
9.25 necessary expenses incurred or reasonably expected to be incurred in the business of the  
9.26 employer. Traveling and other reimbursed expenses must be identified either by making  
9.27 separate payments or by specifically indicating the separate amounts where both wages  
9.28 and expense allowances are combined in a single payment;

9.29 (11) residual payments to radio, television, and similar artists that accrue after  
9.30 the production of television commercials, musical jingles, spot announcements, radio  
9.31 transcriptions, film sound tracks, and similar activities;

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

9.34 (13) ~~payments made to supplement~~ supplemental unemployment ~~benefits~~ benefit  
9.35 payments under a plan established by an employer, ~~that makes provisions for employees~~  
9.36 ~~generally or for a class or classes of employees under the written terms of an agreement,~~

10.1 ~~contract, trust arrangement, or other instrument~~ if the payment is not wages under the  
 10.2 Federal Unemployment Tax Act. ~~The plan must provide supplemental payments are~~  
 10.3 wages unless made solely for the supplementing of weekly state or federal unemployment  
 10.4 benefits. ~~The plan must provide supplemental payments only for those weeks the applicant~~  
 10.5 ~~has been paid regular, extended, or additional unemployment benefits. The supplemental~~  
 10.6 ~~payments, when combined with the applicant's weekly unemployment benefits paid, may~~  
 10.7 ~~not exceed the applicant's regular weekly pay. The plan must not allow the assignment~~  
 10.8 ~~of Supplemental unemployment benefit payments or provide for any type of additional~~  
 10.9 ~~payment. The plan must not require~~ may not be assigned, nor may any consideration be  
 10.10 required from the applicant, other than a release of claims, ~~and must not be designed for~~  
 10.11 ~~the purpose of avoiding the payment of Social Security obligations, or unemployment~~  
 10.12 ~~taxes on money disbursed from the plan~~ in order to be excluded from wages;

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

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

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

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

10.24 (b) Nothing in this subdivision excludes from the term "wages" any payment  
 10.25 made under any type of salary reduction agreement, including payments made under a  
 10.26 cash or deferred arrangement and cafeteria plan, as defined in United States Code, title  
 10.27 26, sections 401(k) and 125 of the federal Internal Revenue Code, to the extent that the  
 10.28 employee has the option to receive the payment in cash.

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

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

10.35 (2) at the time of each payment there is a written ~~acknowledgement~~ acknowledgment  
 10.36 indicating the separate allocated amounts.

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

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

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

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

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

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

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

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

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

11.27 Sec. 3. Minnesota Statutes 2015 Supplement, section 268.085, subdivision 2, is  
11.28 amended to read:

11.29 Subd. 2. **Not eligible.** An applicant is ineligible for unemployment benefits for  
11.30 any week:

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

11.32 (2) that the applicant, at ~~the beginning of any time during~~ any time during the week, has an  
11.33 outstanding fraud overpayment balance under section 268.18, subdivision 2, including  
11.34 any penalties and interest;

12.1 (3) that occurs in a period when the applicant is a student in attendance at, or on  
12.2 vacation from a secondary school including the period between academic years or terms;

12.3 (4) that the applicant is incarcerated or performing court-ordered community service.  
12.4 The applicant's weekly unemployment benefit amount is reduced by one-fifth for each day  
12.5 the applicant is incarcerated or performing court-ordered community service;

12.6 (5) that the applicant fails or refuses to provide information on an issue of  
12.7 ineligibility required under section 268.101;

12.8 (6) that the applicant is performing services 32 hours or more, in employment,  
12.9 covered employment, noncovered employment, volunteer work, or self-employment  
12.10 regardless of the amount of any earnings; or

12.11 (7) with respect to which the applicant has filed an application for unemployment  
12.12 benefits under any federal law or the law of any other state. If the appropriate agency  
12.13 finally determines that the applicant is not entitled to establish a benefit account under  
12.14 federal law or the law of any other state, this clause does not apply.

12.15 Sec. 4. Minnesota Statutes 2014, section 268.0865, subdivision 3, is amended to read:

12.16 Subd. 3. **Continued request for unemployment benefits by electronic**

12.17 **transmission.** (a) A continued request for unemployment benefits by electronic  
12.18 transmission must be filed to that electronic mail address, telephone number, or Internet  
12.19 address prescribed by the commissioner for that applicant. In order to constitute a  
12.20 continued request, all information asked for, including information authenticating that the  
12.21 applicant is sending the transmission, must be provided in the format required. If all of the  
12.22 information asked for is not provided, the communication does not constitute a continued  
12.23 request for unemployment benefits.

12.24 (b) The continued request by electronic transmission communication must be filed  
12.25 within four calendar weeks following the week for which payment is requested on the  
12.26 date day of the week and during the time of day designated for the applicant ~~for filing a~~  
12.27 ~~continued request by electronic transmission.~~

12.28 (c) ~~If the electronic transmission continued request is not filed as required under~~  
12.29 ~~paragraph (b), a continued request by electronic transmission must be accepted if the~~  
12.30 ~~applicant files the continued request by electronic transmission within three calendar~~  
12.31 ~~weeks following the week for which payment is requested. If the continued request by~~  
12.32 ~~electronic transmission is not filed within three~~ four ~~calendar weeks following the week~~  
12.33 ~~for which payment is requested, the electronic continued request will not be accepted~~  
12.34 ~~and the applicant is ineligible for unemployment benefits for the period covered by the~~

13.1 continued request, unless the applicant shows good cause for failing to file the continued  
13.2 request by electronic transmission within the time period required.

13.3 Sec. 5. Minnesota Statutes 2014, section 268.0865, subdivision 4, is amended to read:

13.4 Subd. 4. **Continued request for unemployment benefits by mail.** (a) A  
13.5 continued request for unemployment benefits by mail must be on a form prescribed by  
13.6 the commissioner. The form, in order to constitute a continued request, must be totally  
13.7 completed and signed by the applicant. The form must be filed by mail, in an envelope  
13.8 with postage prepaid, and sent to the address designated ~~during the week following the~~  
13.9 ~~week for which payment is requested.~~

13.10 ~~(b) If the mail continued request for unemployment benefits is not filed as required~~  
13.11 ~~under paragraph (a), a continued request must be accepted if the form is filed by mail~~  
13.12 ~~within three four calendar weeks following the week for which payment is requested.~~

13.13 (b) If the continued request form is not filed within three four calendar weeks  
13.14 following the week for which payment is requested, the form will not be accepted and the  
13.15 applicant is ineligible for unemployment benefits for the period covered by the continued  
13.16 request for unemployment benefits, unless the applicant shows good cause for failing to  
13.17 file the form by mail within the time period required.

13.18 (c) If the applicant has been designated to file a continued request for unemployment  
13.19 benefits by mail, an applicant may submit the form by facsimile transmission within  
13.20 three four calendar weeks following the week for which payment is requested. A form  
13.21 submitted by facsimile transmission must be sent only to the telephone number assigned  
13.22 for that purpose.

13.23 (d) An applicant who has been designated to file a continued request by mail may  
13.24 personally deliver a continued request form only to the location to which the form was  
13.25 otherwise designated to be mailed.

13.26 Sec. 6. Minnesota Statutes 2014, section 268.095, subdivision 2, is amended to read:

13.27 Subd. 2. **Quit defined.** (a) A quit from employment occurs when the decision to end  
13.28 the employment was, at the time the employment ended, the employee's.

13.29 (b) When determining if an applicant quit, the theory of a constructive quit does  
13.30 not apply.

13.31 ~~(b)~~ (c) An employee who has been notified that the employee will be discharged in  
13.32 the future, who chooses to end the employment while employment in any capacity is still  
13.33 available, ~~is considered to have~~ has quit the employment.

14.1 ~~(e)~~ (d) An employee who seeks to withdraw a previously submitted notice of quitting  
 14.2 ~~is considered to have~~ has quit the employment, as of the intended date of quitting, if the  
 14.3 employer does not agree that the notice may be withdrawn.

14.4 ~~(d)~~ (e) An applicant ~~who~~ has quit employment with a staffing service if, within  
 14.5 five calendar days after completion of a suitable job assignment from a staffing service,  
 14.6 the applicant:

14.7 (1) fails without good cause to affirmatively request an additional suitable job  
 14.8 assignment;

14.9 (2) refuses without good cause an additional suitable job assignment offered;

14.10 (3) accepts employment with the client of the staffing service, ~~is considered to have~~  
 14.11 ~~quit employment with the staffing service~~. Accepting employment with the client of the  
 14.12 staffing service meets the requirements of the exception to ineligibility under subdivision  
 14.13 1, clause (2).

14.14 This paragraph applies only if, at the time of beginning of employment with the  
 14.15 staffing service, the applicant signed and was provided a copy of a separate document  
 14.16 written in clear and concise language that informed the applicant of this paragraph and  
 14.17 that unemployment benefits may be affected.

14.18 For purposes of this paragraph, "good cause" is a reason that ~~is significant and~~ would  
 14.19 compel an average, reasonable worker, who would otherwise want an additional suitable  
 14.20 job assignment with the staffing service (1) to fail to contact the staffing service, or (2)  
 14.21 to refuse an offered assignment.

14.22 Sec. 7. Minnesota Statutes 2014, section 268.095, subdivision 5, is amended to read:

14.23 Subd. 5. **Discharge defined.** (a) A discharge from employment occurs when any  
 14.24 words or actions by an employer would lead a reasonable employee to believe that the  
 14.25 employer will no longer allow the employee to work for the employer in any capacity. A  
 14.26 layoff because of lack of work is ~~considered~~ a discharge. A suspension from employment  
 14.27 without pay of more than 30 calendar days is ~~considered~~ a discharge.

14.28 (b) When determining if an applicant was discharged, the theory of a constructive  
 14.29 discharge does not apply.

14.30 ~~(b)~~ (c) An employee who gives notice of intention to quit the employment and is not  
 14.31 allowed by the employer to work the entire notice period is ~~considered~~ discharged from  
 14.32 the employment as of the date the employer will no longer allow the employee to work. If  
 14.33 the discharge occurs within 30 calendar days before the intended date of quitting, then,  
 14.34 as of the intended date of quitting, the separation from employment is ~~considered~~ a quit  
 14.35 from employment subject to subdivision 1.

15.1 ~~(e)~~ (d) The end of a job assignment with the client of a staffing service is considered  
 15.2 a discharge from employment with the staffing service unless subdivision 2, paragraph  
 15.3 (d), applies.

15.4 Sec. 8. Minnesota Statutes 2014, section 268.18, is amended to read:

15.5 **268.18 UNEMPLOYMENT BENEFIT OVERPAYMENTS.**

15.6 Subdivision 1. **Nonfraud Repaying an overpayment.** (a) Any applicant who (1)  
 15.7 because of a determination or amended determination issued under section 268.07 or  
 15.8 268.101, or any other section of this chapter, or (2) because of an unemployment law  
 15.9 judge's decision under section 268.105, has received any unemployment benefits that the  
 15.10 applicant was held not entitled to, is overpaid the benefits, and must promptly repay the  
 15.11 unemployment benefits to the trust fund.

15.12 (b) If the applicant fails to repay the unemployment benefits overpaid, ~~the~~  
 15.13 ~~commissioner may offset from any future unemployment benefits otherwise payable the~~  
 15.14 ~~amount of the overpayment. Except when the overpayment resulted because the applicant~~  
 15.15 ~~failed to report deductible earnings or deductible or benefit delaying payments, no single~~  
 15.16 ~~offset may exceed 50 percent of the amount of the payment from which the offset is made.~~  
 15.17 ~~The overpayment may also~~ including any penalty and interest assessed under subdivisions  
 15.18 2 and 2a, the total due may be collected by the methods allowed under state and federal law.

15.19 ~~(c) If an applicant has been overpaid unemployment benefits under the law of~~  
 15.20 ~~another state, because of a reason other than fraud, and that state certifies that the applicant~~  
 15.21 ~~is liable under its law to repay the unemployment benefits and requests the commissioner~~  
 15.22 ~~to recover the overpayment, the commissioner may offset from future unemployment~~  
 15.23 ~~benefits otherwise payable the amount of overpayment, except that no single offset may~~  
 15.24 ~~exceed 50 percent of the amount of the payment from which the offset is made.~~

15.25 Subd. 2. **Overpayment because of fraud.** (a) ~~Any~~ An applicant who receives has  
 15.26 committed fraud if the applicant is overpaid unemployment benefits by:

15.27 (1) knowingly misrepresenting, misstating, or failing to disclose any material fact;  
 15.28 ~~or who makes~~

15.29 (2) making a false statement or representation without a good faith belief as to the  
 15.30 correctness of the statement or representation, ~~has committed fraud.~~

15.31 After the discovery of facts indicating fraud, the commissioner must make issue a  
 15.32 determination ~~that the applicant obtained unemployment benefits by fraud and that the~~  
 15.33 ~~applicant must promptly repay the unemployment benefits to the trust fund. In addition, the~~  
 15.34 ~~commissioner must assess~~ of overpayment penalty assessing a penalty equal to 40 percent

16.1 of the amount ~~fraudulently obtained~~ overpaid. This penalty is in addition to penalties under  
16.2 section 268.182. ~~The determination is effective the Sunday of the week that it was issued.~~

16.3 (b) Unless the applicant files an appeal within 20 calendar days after the sending of  
16.4 ~~the~~ a determination of overpayment by fraud penalty to the applicant by mail or electronic  
16.5 transmission, the determination is final. Proceedings on the appeal are conducted in  
16.6 accordance with section 268.105.

16.7 (c) ~~If the applicant fails to repay the unemployment benefits, penalty, and interest~~  
16.8 ~~assessed, the total due may be collected by the methods allowed under state and federal~~  
16.9 ~~law.~~ A determination of overpayment by fraud penalty must state the methods of collection  
16.10 the commissioner may use to recover the overpayment, penalty, and interest assessed.  
16.11 Money received in repayment of ~~fraudulently obtained~~ overpaid unemployment benefits,  
16.12 penalties, and interest is first applied to the ~~unemployment~~ benefits overpaid, then to the  
16.13 penalty amount due, then to any interest due. 62.5 percent of the payments made toward the  
16.14 penalty are credited to the contingent account and 37.5 percent credited to the trust fund.

16.15 (d) ~~If an applicant has been overpaid unemployment benefits under the law of~~  
16.16 ~~another state because of fraud and that state certifies that the applicant is liable to repay~~  
16.17 ~~the unemployment benefits and requests the commissioner to recover the overpayment,~~  
16.18 ~~the commissioner may offset from future unemployment benefits otherwise payable the~~  
16.19 ~~amount of overpayment.~~

16.20 (e) ~~Regardless of the limitations in section 268.101, subdivision 2, paragraph (e),~~  
16.21 ~~unemployment benefits paid for weeks more than four years before the date of~~ (d) A  
16.22 determination of overpayment by ~~fraud issued~~ penalty under this subdivision are ~~not~~  
16.23 ~~considered overpaid unemployment benefits~~ may be issued within 48 months of the  
16.24 establishment of the benefit account upon which the unemployment benefits were obtained  
16.25 though fraud.

16.26 Subd. 2b. **Interest.** On any unemployment benefits fraudulently obtained, and any  
16.27 penalty amounts assessed under subdivision 2, the commissioner must assess interest at the  
16.28 rate of one percent per month on any amount that remains unpaid beginning 30 calendar  
16.29 days after the date of ~~the~~ a determination of overpayment by fraud penalty. A determination  
16.30 of overpayment by ~~fraud~~ penalty must state that interest will be assessed. Interest is  
16.31 assessed in the same manner as on employer debt under section 268.057, subdivision 5.  
16.32 Interest payments collected under this subdivision are credited to the trust fund.

16.33 Subd. 3a. **Offset of federal unemployment benefits.** ~~The commissioner is~~  
16.34 ~~authorized to enter into reciprocal agreements with the United States Secretary of Labor,~~  
16.35 ~~whereby,~~ (a) The commissioner may offset from any future unemployment benefits  
16.36 otherwise payable the amount of a nonfraud overpayment. Except when the nonfraud

17.1 overpayment resulted because the applicant failed to report deductible earnings or  
 17.2 deductible or benefit delaying payments, no single offset may exceed 50 percent of the  
 17.3 amount of the payment from which the offset is made.

17.4 (b) Overpayments of unemployment benefits as determined under a federal law  
 17.5 program, may be recovered by offset from unemployment future benefits otherwise  
 17.6 payable and.

17.7 (c) If an applicant has been overpaid unemployment benefits under the law of  
 17.8 another state, the commissioner may offset from future benefits otherwise payable the  
 17.9 amount of overpayment.

17.10 (d) Nonfraud unemployment benefit overpayments under subdivisions 1 and 2  
 17.11 may be recovered by offset from unemployment future benefits otherwise payable under  
 17.12 a federal program.

17.13 Subd. 4. **Cancellation of overpayments.** (a) If unemployment benefits overpaid  
 17.14 under subdivision 1 for reasons other than fraud are not repaid or offset from subsequent  
 17.15 unemployment benefits as provided for in subdivision 1 within six years after the date  
 17.16 of the determination or decision holding the applicant overpaid, the commissioner must  
 17.17 cancel the overpayment balance, and no administrative or legal proceedings may be used  
 17.18 to enforce collection of those amounts.

17.19 (b) If unemployment benefits determined overpaid under subdivision 2 because of  
 17.20 fraud including penalties and interest are not repaid within ten years after the date of  
 17.21 the determination of overpayment by fraud penalty, the commissioner must cancel the  
 17.22 overpayment balance and any penalties and interest due, and no administrative or legal  
 17.23 proceeding may be used to enforce collection of those amounts.

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

17.27 Subd. 4a. **Court fees; collection fees.** (a) If the commissioner department  
 17.28 is required to pay any court fees in an attempt to enforce collection of overpaid  
 17.29 unemployment benefits, penalties, or interest, the commissioner may add the amount of  
 17.30 the court fees may be added to the total amount due.

17.31 (b) If an applicant who has been determined overpaid unemployment benefits  
 17.32 because of fraud seeks to have any portion of the debt discharged under the federal  
 17.33 bankruptcy code, and the commissioner department files an objection in bankruptcy court  
 17.34 to the discharge, the commissioner may add the commissioner's cost of any court fees may  
 17.35 be added to the debt if the bankruptcy court does not discharge the debt.

18.1 (c) If the Internal Revenue Service assesses the ~~commissioner~~ department a fee for  
 18.2 offsetting from a federal tax refund the amount of any overpayment, including penalties  
 18.3 and interest, the amount of the fee may be added to the total amount due. The offset  
 18.4 amount must be put in the trust fund and that amount credited to the total amount due  
 18.5 from the applicant.

18.6 Subd. 5. **Remedies.** (a) Any method undertaken to recover an overpayment of  
 18.7 unemployment benefits, including any penalties and interest, is not considered an election  
 18.8 of a method of recovery.

18.9 (b) Intervention or lack thereof, in whole or in part, in a workers' compensation  
 18.10 matter under section 176.361 is not considered an election of a remedy and does not  
 18.11 prevent the commissioner from determining any unemployment benefits overpaid under  
 18.12 subdivision 1 or 2 or taking action under section 268.182.

18.13 Subd. 6. **Collection of overpayments.** (a) The commissioner may not compromise  
 18.14 the amount ~~that has been determined of any overpaid under this section~~ unemployment  
 18.15 benefits including penalties and interest.

18.16 (b) The commissioner has discretion regarding the recovery of any overpayment  
 18.17 ~~under subdivision 4~~ for reasons other than fraud. Regardless of any law to the contrary, the  
 18.18 commissioner is not required to refer any ~~amount determined overpaid under subdivision~~  
 18.19 ~~4~~ overpayment for reasons other than fraud to a public or private collection agency,  
 18.20 including agencies of this state.

18.21 (c) Amounts ~~determined overpaid under subdivision 4~~ for reasons other than fraud  
 18.22 are not considered a "debt" to the state of Minnesota for purposes of any reporting  
 18.23 requirements to the commissioner of management and budget.

18.24 (d) A pending appeal under section 268.105 does not suspend the assessment of  
 18.25 interest, penalties, or collection of an overpayment ~~under this section~~.

18.26 (e) Section 16A.626 applies to the repayment by an applicant of any overpayment,  
 18.27 penalty, or interest ~~under this section~~.

18.28 Sec. 9. **EFFECTIVE DATE.**

18.29 This article is effective July 31, 2016, unless indicated otherwise.

18.30 **ARTICLE 3**

18.31 **UNEMPLOYMENT INSURANCE ADVISORY COUNCIL TECHNICAL**

18.32 Section 1. Minnesota Statutes 2014, section 268.035, is amended by adding a  
 18.33 subdivision to read:

19.1 Subd. 12e. **Earnings.** "Earnings" means all compensation to which the applicant has  
 19.2 a legal claim and is earned income under state and federal law for income tax purposes.

19.3 Sec. 2. Minnesota Statutes 2014, section 268.035, subdivision 20, is amended to read:

19.4 Subd. 20. **Noncovered employment.** "Noncovered employment" means:

19.5 (1) employment for the United States government or an instrumentality thereof,  
 19.6 including military service;

19.7 (2) employment for a state, other than Minnesota, or a political subdivision or  
 19.8 instrumentality thereof;

19.9 (3) employment for a foreign government;

19.10 ~~(4) employment for an instrumentality wholly owned by a foreign government,~~  
 19.11 ~~if the employment is of a character similar to that performed in foreign countries by~~  
 19.12 ~~employees of the United States government or an instrumentality thereof and the United~~  
 19.13 ~~States Secretary of State has certified that the foreign government grants an equivalent~~  
 19.14 ~~exemption to similar employment performed in the foreign country by employees of the~~  
 19.15 ~~United States government and instrumentalities thereof;~~

19.16 ~~(5) (4) employment covered under United States Code, title 45, section 351, the~~  
 19.17 ~~federal Railroad Unemployment Insurance Act;~~

19.18 ~~(6) employment covered by a reciprocal arrangement between the commissioner and~~  
 19.19 ~~another state or the federal government that provides that all employment performed by an~~  
 19.20 ~~individual for an employer during the period covered by the reciprocal arrangement is~~  
 19.21 ~~considered performed entirely within another state;~~

19.22 ~~(7) (5) employment for a church or convention or association of churches, or an~~  
 19.23 ~~nonprofit organization operated primarily for religious purposes that is operated,~~  
 19.24 ~~supervised, controlled, or principally supported by a church or convention or association~~  
 19.25 ~~of churches described in United States Code, title 26, section 501(e)(3) of the federal~~  
 19.26 ~~Internal Revenue Code and exempt from income tax under section 501(a);~~

19.27 ~~(8) (6) employment for Minnesota or a political subdivision, or a nonprofit~~  
 19.28 ~~organization, of a duly ordained or licensed minister of a church in the exercise of a~~  
 19.29 ~~ministry or by a member of a religious order in the exercise of duties required by the order,~~  
 19.30 ~~for Minnesota or a political subdivision or an organization described in United States~~  
 19.31 ~~Code, title 26, section 501(e)(3) of the federal Internal Revenue Code and exempt from~~  
 19.32 ~~income tax under section 501(a);~~

19.33 ~~(9) (7) employment for Minnesota or a political subdivision, or a nonprofit~~  
 19.34 ~~organization, of an individual receiving rehabilitation of "sheltered" work in a facility~~  
 19.35 ~~conducted for the purpose of carrying out a program of rehabilitation for individuals~~

20.1 whose earning capacity is impaired by age or physical or mental deficiency or injury or a  
 20.2 program providing "sheltered" work for individuals who because of an impaired physical  
 20.3 or mental capacity cannot be readily absorbed in the competitive labor market. This  
 20.4 clause applies only to services performed ~~for Minnesota or a political subdivision or an~~  
 20.5 ~~organization described in United States Code, title 26, section 501(e)(3) of the federal~~  
 20.6 ~~Internal Revenue Code and exempt from income tax under section 501(a)~~ in a facility  
 20.7 certified by the Rehabilitation Services Branch of the department or in a day training or  
 20.8 habilitation program licensed by the Department of Human Services;

20.9 ~~(10)~~ (8) employment for Minnesota or a political subdivision, or a nonprofit  
 20.10 organization, of an individual receiving work relief or work training as part of an  
 20.11 unemployment work relief or work training program assisted or financed in whole or  
 20.12 in part by any federal agency or an agency of a state or political subdivision thereof.  
 20.13 ~~This clause applies only to employment for Minnesota or a political subdivision or an~~  
 20.14 ~~organization described in United States Code, title 26, section 501(e)(3) of the federal~~  
 20.15 ~~Internal Revenue Code and exempt from income tax under section 501(a).~~ This clause does  
 20.16 not apply to programs that require unemployment benefit coverage for the participants;

20.17 ~~(11)~~ (9) employment for Minnesota or a political subdivision, as an elected official, a  
 20.18 member of a legislative body, or a member of the judiciary;

20.19 ~~(12)~~ (10) employment as a member of the Minnesota National Guard or Air National  
 20.20 Guard;

20.21 ~~(13)~~ (11) employment for Minnesota, or a political subdivision, or instrumentality  
 20.22 thereof, as an employee of an individual serving only on a temporary basis in case of  
 20.23 fire, flood, tornado, or similar emergency;

20.24 ~~(14)~~ (12) employment as an election official or election worker for Minnesota or  
 20.25 a political subdivision, ~~but only~~ if the compensation for that employment was less than  
 20.26 \$1,000 in a calendar year;

20.27 ~~(15)~~ (13) employment for Minnesota that is a major policy-making or advisory  
 20.28 position in the unclassified service;

20.29 ~~(16)~~ (14) employment for Minnesota in an unclassified position established under  
 20.30 section 43A.08, subdivision 1a;

20.31 ~~(17)~~ (15) employment for a political subdivision of Minnesota that is a nontenured  
 20.32 major policy making or advisory position;

20.33 ~~(18)~~ (16) domestic employment in a private household, local college club, or local  
 20.34 chapter of a college fraternity or sorority ~~performed for a person, only,~~ if the wages paid  
 20.35 in any calendar quarter in either the current or prior calendar year to all individuals in  
 20.36 domestic employment totaled less than \$1,000.

21.1 "Domestic employment" includes all service in the operation and maintenance of a  
 21.2 private household, for a local college club, or local chapter of a college fraternity or  
 21.3 sorority as distinguished from service as an employee in the pursuit of an employer's  
 21.4 trade or business;

21.5 ~~(19)~~ (17) employment of an individual by a son, daughter, or spouse, and  
 21.6 employment of a child under the age of 18 by the child's father or mother;

21.7 ~~(20)~~ (18) employment of an inmate of a custodial or penal institution;

21.8 ~~(21)~~ (19) employment for a school, college, or university, by a student who is  
 21.9 enrolled and whose primary relation to the school, college, or university is as a student.

21.10 This does not include an individual whose primary relation to the school, college, or  
 21.11 university is as an employee who also takes courses;

21.12 ~~(22)~~ (20) employment of an individual who is enrolled as a student in a full-time  
 21.13 program at a nonprofit or public educational institution that maintains a regular faculty  
 21.14 and curriculum and has a regularly organized body of students in attendance at the place  
 21.15 where its educational activities are carried on, taken for credit at the institution, that  
 21.16 combines academic instruction with work experience, if the employment is an integral  
 21.17 part of the program, and the institution has so certified to the employer, except that this  
 21.18 clause does not apply to employment in a program established for or on behalf of an  
 21.19 employer or group of employers;

21.20 ~~(23)~~ (21) employment of university, college, or professional school students in an  
 21.21 internship or other training program with the city of St. Paul or the city of Minneapolis  
 21.22 under Laws 1990, chapter 570, article 6, section 3;

21.23 ~~(24)~~ (22) employment for a hospital by a patient of the hospital. "Hospital" means  
 21.24 an institution that has been licensed by the Department of Health as a hospital;

21.25 ~~(25)~~ (23) employment as a student nurse for a hospital or a nurses' training school by  
 21.26 an individual who is enrolled and is regularly attending classes in an accredited nurses'  
 21.27 training school;

21.28 ~~(26)~~ (24) employment as an intern for a hospital by an individual who has completed  
 21.29 a four-year course in an accredited medical school;

21.30 ~~(27)~~ (25) employment as an insurance salesperson, by other than a corporate  
 21.31 officer, if all the wages from the employment is solely by way of commission. The word  
 21.32 "insurance" includes an annuity and an optional annuity;

21.33 ~~(28)~~ (26) employment as an officer of a township mutual insurance company or  
 21.34 farmer's mutual insurance company operating under chapter 67A;

21.35 ~~(29)~~ (27) employment of a corporate officer, if the officer directly or indirectly,  
 21.36 including through a subsidiary or holding company, owns 25 percent or more of the

22.1 employer corporation, and employment of a member of a limited liability company, if the  
 22.2 member directly or indirectly, including through a subsidiary or holding company, owns  
 22.3 25 percent or more of the employer limited liability company;

22.4 ~~(30)~~ (28) employment as a real estate salesperson, ~~by~~ other than a corporate officer,  
 22.5 if all the wages from the employment is solely by way of commission;

22.6 ~~(31)~~ (29) employment as a direct seller as defined in United States Code, title 26,  
 22.7 section 3508;

22.8 ~~(32)~~ (30) employment of an individual under the age of 18 in the delivery or  
 22.9 distribution of newspapers or shopping news, not including delivery or distribution to any  
 22.10 point for subsequent delivery or distribution;

22.11 ~~(33)~~ (31) casual employment performed for an individual, other than domestic  
 22.12 employment under clause ~~(18)~~ (16), that does not promote or advance that employer's  
 22.13 trade or business;

22.14 ~~(34)~~ (32) employment in "agricultural employment" unless ~~considered~~ it is "covered  
 22.15 agricultural employment" under subdivision 11; or

22.16 ~~(35)~~ (33) if employment during one-half or more of any pay period was covered  
 22.17 employment, all the employment for the pay period is ~~considered~~ covered employment;  
 22.18 but if during more than one-half of any pay period the employment was noncovered  
 22.19 employment, then all of the employment for the pay period is ~~considered~~ noncovered  
 22.20 employment. "Pay period" means a period of not more than a calendar month for which a  
 22.21 payment or compensation is ordinarily made to the employee by the employer.

22.22 Sec. 3. Minnesota Statutes 2014, section 268.035, is amended by adding a subdivision  
 22.23 to read:

22.24 Subd. 20b. **Nonprofit organization.** "Nonprofit organization" means an  
 22.25 organization described in United States Code, title 26, section 501(c)(3), and is exempt  
 22.26 from income tax under section 501(a).

22.27 Sec. 4. Minnesota Statutes 2014, section 268.035, subdivision 23a, is amended to read:

22.28 Subd. 23a. **Suitable employment.** (a) Suitable employment means employment in  
 22.29 the applicant's labor market area that is reasonably related to the applicant's qualifications.  
 22.30 In determining whether any employment is suitable for an applicant, the degree of risk  
 22.31 involved to the health and safety, physical fitness, prior training, experience, length  
 22.32 of unemployment, prospects for securing employment in the applicant's customary  
 22.33 occupation, and the distance of the employment from the applicant's residence is  
 22.34 considered.

23.1 (b) In determining what is suitable employment, primary consideration is given to the  
 23.2 temporary or permanent nature of the applicant's separation from employment and whether  
 23.3 the applicant has favorable prospects of finding employment in the applicant's usual or  
 23.4 customary occupation at the applicant's past wage level within a reasonable period of time.

23.5 If prospects are unfavorable, employment at lower skill or wage levels is suitable  
 23.6 if the applicant is reasonably suited for the employment considering the applicant's  
 23.7 education, training, work experience, and current physical and mental ability.

23.8 The total compensation must be considered, including the wage rate, hours of  
 23.9 employment, method of payment, overtime practices, bonuses, incentive payments, and  
 23.10 fringe benefits.

23.11 (c) When potential employment is at a rate of pay lower than the applicant's former  
 23.12 rate, consideration must be given to the length of the applicant's unemployment and the  
 23.13 proportion of difference in the rates. Employment that may not be suitable because of  
 23.14 lower wages during the early weeks of the applicant's unemployment may become suitable  
 23.15 as the duration of unemployment lengthens.

23.16 (d) For an applicant seasonally unemployed, suitable employment includes  
 23.17 temporary work in a lower skilled occupation that pays average gross weekly wages equal  
 23.18 to or more than 150 percent of the applicant's weekly unemployment benefit amount.

23.19 (e) If a majority of the applicant's weeks of employment in the base period includes  
 23.20 part-time employment, part-time employment in a position with comparable skills and  
 23.21 comparable hours that pays comparable wages is ~~considered~~ suitable employment.

23.22 Full-time employment is not ~~considered~~ suitable employment for an applicant if a  
 23.23 majority of the applicant's weeks of employment in the base period includes part-time  
 23.24 employment.

23.25 (f) To determine suitability of employment in terms of shifts, the arrangement of  
 23.26 hours in addition to the total number of hours is to be considered. Employment on a  
 23.27 second, third, rotating, or split shift is suitable employment if it is customary in the  
 23.28 occupation in the labor market area.

23.29 (g) Employment is not ~~considered~~ suitable if:

23.30 (1) the position offered is vacant because of a labor dispute;

23.31 (2) the wages, hours, or other conditions of employment are ~~substantially~~ less  
 23.32 favorable than those prevailing for similar employment in the labor market area; or

23.33 (3) as a condition of becoming employed, the applicant would be required to join a  
 23.34 company union or to resign from or refrain from joining any bona fide labor organization; ~~or~~

23.35 ~~(4) the employment is with a staffing service and less than 25 percent of the~~  
 23.36 ~~applicant's wage credits are from a job assignment with the client of a staffing service.~~

24.1 (h) A job assignment with a staffing service is ~~considered~~ suitable only if 25  
 24.2 percent or more of the applicant's wage credits are from job assignments with clients of  
 24.3 a staffing service and the job assignment meets the definition of suitable employment  
 24.4 under paragraph (a).

24.5 Sec. 5. Minnesota Statutes 2014, section 268.085, subdivision 4, is amended to read:

24.6 Subd. 4. **Social Security old age insurance benefits.** (a) Any applicant aged 62 or  
 24.7 over is required to state when filing an application for unemployment benefits and when  
 24.8 filing continued requests for unemployment benefits if the applicant is receiving, has filed  
 24.9 for, or intends to file for, primary Social Security old age benefits.

24.10 (b) Unless paragraph ~~(b)~~ (c) applies, 50 percent of the weekly equivalent of the  
 24.11 primary Social Security old age benefit the applicant has received, has filed for, or  
 24.12 intends to file for, with respect to that week must be deducted from an applicant's weekly  
 24.13 unemployment benefit amount.

24.14 ~~(b)~~ (c) If all of the applicant's wage credits were earned while the applicant was  
 24.15 claiming Social Security old age benefits, there is no deduction of the Social Security  
 24.16 benefits from the applicant's weekly unemployment benefit amount.

24.17 ~~(e)~~ (d) Information from the Social Security Administration is ~~considered~~ conclusive,  
 24.18 absent specific evidence showing that the information was erroneous.

24.19 ~~(d)~~ (e) This subdivision does not apply to Social Security survivor benefits.

24.20 Sec. 6. Minnesota Statutes 2014, section 268.085, subdivision 5, is amended to read:

24.21 Subd. 5. **Deductible earnings.** (a) If the applicant has earnings, including holiday  
 24.22 pay, with respect to any week, from employment, covered employment, noncovered  
 24.23 employment, self-employment, or volunteer work, equal to or in excess of the applicant's  
 24.24 weekly unemployment benefit amount, the applicant is ineligible for unemployment  
 24.25 benefits for that week.

24.26 (b) If the applicant has earnings, including holiday pay, with respect to any week,  
 24.27 that is less than the applicant's weekly unemployment benefit amount, from employment,  
 24.28 covered employment, noncovered employment, self-employment, or volunteer work, 50  
 24.29 percent of the earnings are deducted from the weekly unemployment benefit amount.

24.30 (c) No deduction is made from an applicant's weekly unemployment benefit amount  
 24.31 for earnings from service in the National Guard or a United States military reserve unit or  
 24.32 from direct service as a volunteer firefighter or volunteer ambulance service personnel.

24.33 This exception to paragraphs (a) and (b) does not apply to on-call or standby pay provided

25.1 to a volunteer firefighter or volunteer ambulance service personnel. No deduction is made  
 25.2 for jury duty pay or for pay as an election judge.

25.3 (d) The applicant may report deductible earnings on continued requests for  
 25.4 unemployment benefits at the next lower whole dollar amount.

25.5 (e) Deductible earnings does not include any money ~~considered that is~~ a deductible  
 25.6 payment under subdivision 3, ~~but includes all compensation considered wages under~~  
 25.7 ~~section 268.035, subdivision 29, and any other compensation considered earned income~~  
 25.8 ~~under state and federal law for income tax purposes.~~

25.9 **Sec. 7. REVISOR'S INSTRUCTION.**

25.10 (a) The revisor of statutes shall change "liability" to "liability for damages" in  
 25.11 Minnesota Rules, part 3315.0555, subpart 1.

25.12 (b) The revisor of statutes shall change "entitled to" to "eligible for" in Minnesota  
 25.13 Statutes, section 268.085, subdivision 1, clause (6).

25.14 (c) The revisor of statutes shall change "shall calculate" to "must calculate" in  
 25.15 Minnesota Statutes, section 268.035, subdivision 23.

25.16 (d) The revisor of statutes shall renumber Minnesota Statutes, section 268.035,  
 25.17 subdivision 12d, to subdivision 12f.

25.18 (e) The revisor of statutes shall reletter the paragraphs in Minnesota Statutes, section  
 25.19 268.085, subdivision 4, as follows:

25.20 (1) paragraph (a) shall be relettered paragraph (c); and

25.21 (2) paragraph (c) shall be relettered paragraph (a).

25.22 (f) The revisor of statutes shall renumber the reference to "clause (29)" to "clause  
 25.23 (27)" in Minnesota Statutes, section 268.046, subdivision 1.

25.24 (g) The revisor of statutes shall renumber the reference to "clause (10)" to "clause  
 25.25 (8)" in Minnesota Statutes, section 383C.19.

25.26 **Sec. 8. EFFECTIVE DATE.**

25.27 This article is effective July 31, 2016, and applies to all matters pending a  
 25.28 determination or a decision by an unemployment law judge.

APPENDIX  
Article locations in 16-4818

ARTICLE 1	UNEMPLOYMENT INSURANCE ADVISORY COUNCIL POLICY .....	Page.Ln 1.10
ARTICLE 2	UNEMPLOYMENT INSURANCE ADVISORY COUNCIL HOUSEKEEPING .....	Page.Ln 7.15
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