

A bill for an act

relating to employment and economic development; making technical changes; limiting certain liability; allowing funding for strategic investments; waiving certain unemployment benefit requirements for dislocated workers; expanding the authorized use of the Minnesota investment fund; modifying unemployment insurance provisions; requiring appeals to be filed online; providing for collection of fees; regulating continued request for unemployment benefits filings; providing administrative penalties; defining and clarifying terms; amending Minnesota Statutes 2008, sections 15.75, subdivision 5; 16B.54, subdivision 2; 84.94, subdivision 3; 116J.035, subdivision 6; 116J.401, subdivision 2; 116J.435, subdivisions 2, 3; 116J.68, subdivision 2; 116J.8731, subdivisions 2, 3; 116L.03, subdivision 5; 116L.05, subdivision 5; 116L.871, subdivision 1; 116L.96; 123A.08, subdivision 1; 124D.49, subdivision 3; 160.276, subdivision 8; 241.27, subdivision 1; 248.061, subdivision 3; 248.07, subdivisions 7, 8; 256J.626, subdivision 4; 256J.66, subdivision 1; 268.031; 268.035, subdivisions 2, 17, by adding subdivisions; 268.042, subdivision 3; 268.043; 268.044, subdivision 2; 268.047, subdivisions 1, 2; 268.051, subdivisions 1, 4; 268.052, subdivision 2; 268.053, subdivision 1; 268.057, subdivisions 4, 5; 268.0625, subdivision 1; 268.066; 268.067; 268.069, subdivision 1; 268.07, subdivisions 1, 2, 3, 3b; 268.084; 268.085, subdivisions 1, 2, 3, 3a, 4, 5, 6, 15; 268.095, subdivisions 1, 2, 4, 10, 11; 268.101, subdivisions 1, 2; 268.103, subdivision 1, by adding a subdivision; 268.105, subdivisions 1, 2, 3a, 4; 268.115, subdivision 5; 268.125, subdivision 5; 268.135, subdivision 4; 268.145, subdivision 1; 268.18, subdivisions 1, 2, 4a; 268.186; 268.196, subdivisions 1, 2; 268.199; 268.211; 268A.06, subdivision 1; 469.169, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2008, sections 116J.402; 116J.413; 116J.58, subdivision 1; 116J.59; 116J.61; 116J.656; 116L.16; 116L.88; 116U.65; 268.085, subdivision 14; 268.086.

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

ARTICLE 1

EMPLOYMENT AND ECONOMIC DEVELOPMENT POLICY

Section 1. Minnesota Statutes 2008, section 116J.435, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section:

(1) "local governmental unit" means a county, city, town, special district, public higher education institution, or other political subdivision or public corporation;

(2) "governing body" means the council, board of commissioners, board of trustees, board of regents, or other body charged with governing a local governmental unit;

(3) "public infrastructure" means publicly owned physical infrastructure in this state, including, but not limited to, wastewater collection and treatment systems, drinking water systems, storm sewers, utility extensions, telecommunications infrastructure, streets, roads, bridges, parking ramps, facilities that support basic science and clinical research, and research infrastructure; and

(4) "eligible project" means a bioscience business development capital improvement project in this state, including: manufacturing; technology; warehousing and distribution; research and development; bioscience business incubator; agricultural bioprocessing; or industrial, office, or research park development that would be used by a bioscience-based business.

Sec. 2. Minnesota Statutes 2008, section 116J.435, subdivision 3, is amended to read:

Subd. 3. **Grant program established.** (a) The commissioner shall make competitive grants to local governmental units to acquire and prepare land on which public infrastructure required to support an eligible project will be located, including demolition of structures and remediation of any hazardous conditions on the land, or to predesign, design, acquire, construct, furnish, and equip public infrastructure required to support an eligible project. The local governmental unit receiving a grant must provide for the remainder of the public infrastructure costs from other sources.

(b) The amount of a grant may not exceed the lesser of the cost of the public infrastructure or 50 percent of the sum of the cost of the public infrastructure plus the cost of the completed eligible project.

(c) The purpose of the program is to keep or enhance jobs in the area, increase the tax base, or to expand or create new economic development through the growth of new bioscience businesses and organizations.

Sec. 3. Minnesota Statutes 2008, section 116J.8731, subdivision 2, is amended to read:

Subd. 2. **Administration.** The commissioner shall administer the fund as part of the Small Cities Development Block Grant Program. Funds shall be made available to local communities and recognized Indian tribal governments in accordance with the rules adopted for economic development grants in the small cities community development

block grant program, except that all units of general purpose local government are eligible applicants for Minnesota investment funds. The commissioner may also make funds available within the department for eligible expenditures under section 116J.8731, subdivision 3, clause (2). A home rule charter or statutory city, county, or town may loan or grant money received from repayment of funds awarded under this section to a regional development commission, other regional entity, or statewide community capital fund as determined by the commissioner, to capitalize or to provide the local match required for capitalization of a regional or statewide revolving loan fund.

Sec. 4. Minnesota Statutes 2008, section 116J.8731, subdivision 3, is amended to read:

Subd. 3. **Eligible expenditures.** The money appropriated for this section may be used to ~~provide fund~~:

(1) grants for infrastructure, loans, loan guarantees, interest buy-downs, and other forms of participation with private sources of financing, provided that a loan to a private enterprise must be for a principal amount not to exceed one-half of the cost of the project for which financing is sought; and

(2) strategic investments in renewable energy market development, such as low interest loans for renewable energy equipment manufacturing, training grants to support renewable energy workforce, development of a renewable energy supply chain that represents and strengthens the industry throughout the state, and external marketing to garner more national and international investment into Minnesota's renewable sector. Expenditures in renewable energy market development are not subject to the limitations in clause (1).

Sec. 5. Minnesota Statutes 2008, section 248.07, subdivision 7, is amended to read:

Subd. 7. **Blind, vending stands and machines on governmental property; liability limited.** (a) Notwithstanding any other law, for the rehabilitation of blind persons the commissioner shall have exclusive authority to establish and to operate vending stands and vending machines in all buildings and properties owned or rented exclusively by the Minnesota State Colleges and Universities at a state university, a community college, a consolidated community technical college, or a technical college served by the commissioner before January 1, 1996, or by any department or agency of the state of Minnesota except the Department of Natural Resources properties operated directly by the Division of State Parks and not subject to private leasing. ~~The merchandise to be dispensed by such~~ Vending stands and machines authorized under this subdivision may ~~include~~ dispense nonalcoholic beverages, food, candies, tobacco, souvenirs, notions and

related items. ~~Such vending stands and vending machines herein authorized shall and~~
must be operated on the same basis as other vending stands for the blind established and
supervised by the commissioner under federal law. The commissioner shall waive this
authority to displace any present private individual concessionaire in any state-owned or
rented building or property who is operating under a contract with a specific renewal or
termination date, until the renewal or termination date. With the consent of the governing
body of a governmental subdivision of the state, the commissioner may establish and
supervise vending stands and vending machines for the blind in any building or property
exclusively owned or rented by the governmental subdivision.

(b) The Department of Employment and Economic Development is not liable
under chapter 176 for any injury sustained by a blind vendor's employee or agent. The
Department of Employment and Economic Development, its officers, and its agents are
not liable for the acts or omissions of a blind vendor or of a blind vendor's employee or
agent that may result in the blind vendor's liability to third parties. The Department of
Employment and Economic Development, its officers, and its agents are not liable for
negligence based on any theory of liability for claims arising from the relationship created
under this subdivision with the blind vendor.

Sec. 6. Minnesota Statutes 2008, section 268A.06, subdivision 1, is amended to read:

Subdivision 1. **Application.** Any city, town, county, nonprofit corporation,
regional treatment center, or any combination thereof, may apply to the commissioner for
assistance in establishing or operating a community rehabilitation facility. Application for
assistance ~~shall~~ must be on forms prescribed by the commissioner. ~~Each applicant shall~~
~~annually submit to the commissioner its plan and budget for the next fiscal year. No~~ An
~~applicant shall be~~ is not eligible for a grant ~~hereunder~~ under this section unless its ~~plan~~
~~and budget~~ audited financial statements of the prior fiscal year have been approved by
the commissioner.

ARTICLE 2

EMPLOYMENT AND ECONOMIC DEVELOPMENT TECHNICAL CHANGES

Section 1. Minnesota Statutes 2008, section 15.75, subdivision 5, is amended to read:

Subd. 5. **Agreements with Department of Employment and Economic**
Development. The commissioner of employment and economic development may
enter into agreements with regional entities established under subdivision 4 to prepare
plans to ensure coordination of the department's business development, community
development, workforce development, and trade functions with programs of local units of

government and other public and private development agencies in the regions. The plans will identify regional development priorities and serve as a guide for the implementation of the department's programs in the regions.

Sec. 2. Minnesota Statutes 2008, section 16B.54, subdivision 2, is amended to read:

Subd. 2. Vehicles. (a) The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck currently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the Constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(b) To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the Department of Administration.

(c) On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency transferring the vehicle or truck must be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(d) The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide for the use of motor vehicles without marking by:

(1) the governor;

(2) the lieutenant governor;

(3) the Division of Criminal Apprehension, the Division of Alcohol and Gambling Enforcement, and arson investigators of the Division of Fire Marshal in the Department of Public Safety;

(4) the Financial Institutions Division and investigative staff of the Department of Commerce;

(5) the Division of Disease Prevention and Control of the Department of Health;

(6) the State Lottery;

(7) criminal investigators of the Department of Revenue;

(8) state-owned community service facilities in the Department of Human Services;
~~(9) the investigative staff of the Department of Employment and Economic
Development;~~
~~(10) (9) the Office of the Attorney General; and~~
~~(11) (10) the investigative staff of the Gambling Control Board.~~

Sec. 3. Minnesota Statutes 2008, section 84.94, subdivision 3, is amended to read:

Subd. 3. **Identification and classification.** The Department of Natural Resources, with the cooperation of the state Geological Survey, ~~Departments the Department of Transportation, and Energy, Planning and Development~~ the Department of Employment and Economic Development, outside of the metropolitan area as defined in section 473.121, shall conduct a program of identification and classification of potentially valuable publicly or privately owned aggregate lands located outside of urban or developed areas where aggregate mining is restricted, without consideration of their present land use. The program shall give priority to identification and classification in areas of the state where urbanization or other factors are or may be resulting in a loss of aggregate resources to development. Lands shall be classified as:

- (1) identified resources, being those containing significant aggregate deposits;
- (2) potential resources, being those containing potentially significant deposits and meriting further evaluation; or
- (3) subeconomic resources, being those containing no significant deposits.

As lands are classified, the information on the classification shall be transmitted to each of the departments and agencies named in this subdivision, to the planning authority of the appropriate county and municipality, and to the appropriate county engineer. The county planning authority shall notify owners of land classified under this subdivision by publication in a newspaper of general circulation in the county or by mail.

Sec. 4. Minnesota Statutes 2008, section 116J.035, subdivision 6, is amended to read:

Subd. 6. **Receipt of gifts, money; appropriation.** (a) The commissioner may
~~accept gifts, bequests, grants, payments for services, and other public and private money
to help finance the activities of the department.;~~

(1) apply for, accept, and disburse gifts, bequests, grants, payments for services,
loans, or other property from the United States, the state, private foundations, or any
other source;

(2) enter into an agreement required for the gifts, grants, or loans; and

(3) hold, use, and dispose of its assets according to the terms of the gift, grant, loan, or agreement.

(b) Money received by the commissioner under this subdivision must be deposited in a separate account in the state treasury and invested by the State Board of Investment. The amount deposited, including investment earnings, is appropriated to the commissioner to carry out duties under this section.

Sec. 5. Minnesota Statutes 2008, section 116J.401, subdivision 2, is amended to read:

Subd. 2. **Duties; authorizations; limitations.** (a) The commissioner of employment and economic development shall:

(1) provide regional development commissions, the Metropolitan Council, and units of local government with information, technical assistance, training, and advice on using federal and state programs;

(2) receive and administer the Small Cities Community Development Block Grant Program authorized by Congress under the Housing and Community Development Act of 1974, as amended;

(3) receive and administer the section 107 technical assistance program grants authorized by Congress under the Housing and Community Development Act of 1974, as amended;

(4) receive, administer, and supervise other state and federal grants and grant programs for planning, community affairs, community development purposes, employment and training services, and other state and federal programs assigned to the department by law or by the governor in accordance with section 4.07;

(5) receive applications for state and federal grants and grant programs for planning, community affairs, and community development purposes, and other state and federal programs assigned to the department by law or by the governor in accordance with section 4.07;

(6) act as the agent of, and cooperate with, the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of functions of the commissioner;

(7) provide consistent, integrated employment and training services across the state;

(8) administer the Wagner-Peyser Act, the Workforce Investment Act, and other federal employment and training programs;

(9) establish the standards for all employment and training services administered under this chapter and chapters 116L, 248, 268, and 268A;

(10) administer the aspects of the Minnesota family investment program, general assistance, and food stamps that relate to employment and training services, subject to the contract under section 116L.86, subdivision 1;

(11) obtain reports from local service units and service providers for the purpose of evaluating the performance of employment and training services;

(12) as requested, certify employment and training services, and decertify services that fail to comply with performance criteria according to standards established by the commissioner;

(13) develop standards for the contents and structure of the local service unit plans and plans for Indian tribe employment and training services, review and comment on those plans, and approve or disapprove the plans;

(14) supervise the county boards of commissioners, local service units, and any other units of government designated in federal or state law as responsible for employment and training programs;

(15) establish administrative standards and payment conditions for providers of employment and training services;

(16) enter into agreements with Indian tribes as necessary to provide employment and training services as appropriate funds become available;

(17) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;

(18) administer and supervise all forms of unemployment insurance provided for under federal and state laws;

(19) provide current state and substate labor market information and forecasts, in cooperation with other agencies;

(20) require all general employment and training programs that receive state funds to make available information about opportunities for women in nontraditional careers in the trades and technical occupations;

(21) consult with the Rehabilitation Council for the Blind on matters pertaining to programs and services for the blind and visually impaired;

(22) enter into agreements with other departments of the state and local units of government as necessary; ~~and~~

(23) establish and maintain administrative units necessary to perform administrative functions common to all divisions of the department;

9.1 (24) investigate, study, and undertake ways and means of promoting and encouraging
9.2 the prosperous development and protection of the legitimate interest and welfare of
9.3 Minnesota business, industry, and commerce, within and outside the state;

9.4 (25) locate markets for manufacturers and processors and aid merchants in locating
9.5 and contacting markets;

9.6 (26) as necessary or useful for the proper execution of the powers and duties of the
9.7 commissioner in promoting and developing Minnesota business, industry, and commerce,
9.8 both within and outside the state, investigate and study conditions affecting Minnesota
9.9 business, industry, and commerce; collect and disseminate information; and engage in
9.10 technical studies, scientific investigations, statistical research, and educational activities;

9.11 (27) plan and develop an effective business information service both for the direct
9.12 assistance of business and industry of the state and for the encouragement of business and
9.13 industry outside the state to use economic facilities within the state;

9.14 (28) compile, collect, and develop periodically, or otherwise make available,
9.15 information relating to current business conditions;

9.16 (29) conduct or encourage research designed to further new and more extensive uses
9.17 of the natural and other resources of the state and designed to develop new products
9.18 and industrial processes;

9.19 (30) study trends and developments in the industries of the state and analyze the
9.20 reasons underlying the trends;

9.21 (31) study costs and other factors affecting successful operation of businesses within
9.22 the state;

9.23 (32) make recommendations regarding circumstances promoting or hampering
9.24 business and industrial development;

9.25 (33) serve as a clearing house for business and industrial problems of the state;

9.26 (34) advise small business enterprises regarding improved methods of accounting
9.27 and bookkeeping;

9.28 (35) cooperate with interstate commissions engaged in formulating and promoting
9.29 the adoption of interstate compacts and agreements helpful to business, industry, and
9.30 commerce;

9.31 (36) cooperate with other state departments and with boards, commissions, and
9.32 other state agencies in the preparation and coordination of plans and policies for the
9.33 development of the state and for the use and conservation of its resources insofar as the
9.34 use, conservation, and development may be appropriately directed or influenced by a
9.35 state agency;

10.1 (37) in connection with state, county, and municipal public works projects, assemble
10.2 and coordinate information relative to the status, scope, cost, and employment possibilities
10.3 and availability of materials, equipment, and labor and recommend limitations on the
10.4 public works;

10.5 (38) gather current progress information with reference to public and private
10.6 works projects of the state and its political subdivisions with reference to conditions of
10.7 employment;

10.8 (39) inquire into and report to the governor, when requested by the governor, with
10.9 respect to any program of public state improvements and its financing; and request
10.10 and obtain information from other state departments or agencies as may be needed for
10.11 the report;

10.12 (40) study changes in population and current trends and prepare plans and suggest
10.13 policies for the development and conservation of the resources of the state;

10.14 (41) confer and cooperate with the executive, legislative, or planning authorities of
10.15 the United States, neighboring states and provinces, and the counties and municipalities
10.16 of neighboring states, for the purpose of bringing about a coordination between the
10.17 development of neighboring provinces, states, counties, and municipalities and the
10.18 development of this state;

10.19 (42) generally gather, compile, and make available statistical information relating to
10.20 business, trade, commerce, industry, transportation, communication, natural resources,
10.21 and other like subjects in this state, with authority to call upon other state departments for
10.22 statistical data and results obtained by them and to arrange and compile that statistical
10.23 information in a reasonable manner;

10.24 (43) publish documents and annually convene regional meetings to inform
10.25 businesses, local government units, assistance providers, and other interested persons of
10.26 changes in state and federal law related to economic development;

10.27 (44) annually convene conferences of providers of economic development-related
10.28 financial and technical assistance for the purposes of exchanging information on economic
10.29 development assistance, coordinating economic development activities, and formulating
10.30 economic development strategies;

10.31 (45) provide business with information on the economic benefits of energy
10.32 conservation and on the availability of energy conservation assistance;

10.33 (46) as part of the biennial budget process, prepare performance measures for each
10.34 business loan or grant program within the jurisdiction of the commissioner. Measures
10.35 include source of funds for each program, number of jobs proposed or promised at the
10.36 time of application and the number of jobs created, estimated number of jobs retained, the

- 11.1 average salary and benefits for the jobs resulting from the program, and the number of
11.2 projects approved;
- 11.3 (47) provide a continuous program of education for business people;
11.4 (48) publish, disseminate, and distribute information and statistics;
11.5 (49) promote and encourage the expansion and development of markets for
11.6 Minnesota products;
- 11.7 (50) promote and encourage the location and development of new businesses in the
11.8 state as well as the maintenance and expansion of existing businesses and for that purpose
11.9 cooperate with state and local agencies and individuals, both within and outside the state;
- 11.10 (51) advertise and disseminate information as to natural resources, desirable
11.11 locations, and other advantages for the purpose of attracting businesses to locate in this
11.12 state;
- 11.13 (52) aid the various communities in this state in attracting business to their
11.14 communities;
- 11.15 (53) advise and cooperate with municipal, county, regional, and other planning
11.16 agencies and planning groups within the state for the purpose of promoting coordination
11.17 between the state and localities as to plans and development in order to maintain a high
11.18 level of gainful employment in private profitable production and achieve commensurate
11.19 advancement in social and cultural welfare;
- 11.20 (54) coordinate the activities of statewide and local planning agencies, correlate
11.21 information secured from them and from state departments and disseminate information
11.22 and suggestions to the planning agencies;
- 11.23 (55) encourage and assist in the organization and functioning of local planning
11.24 agencies where none exist; and
- 11.25 (56) adopt measures calculated to promote public interest in and understanding of
11.26 the problems of planning and, to that end, may publish and distribute copies of any plan
11.27 or any report and may employ other means of publicity and education that will give full
11.28 effect to the provisions of sections 116J.58 to 116J.63.
- 11.29 (b) At the request of any governmental subdivision in paragraph (a), clause (53),
11.30 the commissioner may provide planning assistance, which includes but is not limited to
11.31 surveys, land use studies, urban renewal plans, technical services and other planning work
11.32 to any city or other municipality in the state or perform similar planning work in any
11.33 county, metropolitan, or regional area in the state. The commissioner must not perform
11.34 the planning work with respect to a metropolitan or regional area which is under the
11.35 jurisdiction for planning purposes of a county, metropolitan, regional, or joint planning

12.1 body, except at the request or with the consent of the respective county, metropolitan,
12.2 regional, or joint planning body.

12.3 (c) The commissioner is authorized to:

12.4 (1) receive and expend money from municipal, county, regional, and other planning
12.5 agencies;

12.6 (2) accept and disburse grants and other aids for planning purposes from the federal
12.7 government and from other public or private sources;

12.8 (3) utilize money received under clause (2) for the employment of consultants and
12.9 other temporary personnel to assist in the supervision or performance of planning work
12.10 supported by money other than state-appropriated money;

12.11 (4) enter into contracts with agencies of the federal government, units of local
12.12 government or combinations thereof, and with private persons that are necessary in the
12.13 performance of the planning assistance function of the commissioner; and

12.14 (5) assist any local government unit in filling out application forms for the federal
12.15 grants-in-aid.

12.16 (d) In furtherance of its planning functions, any city or town, however organized,
12.17 may expend money and contract with agencies of the federal government, appropriate
12.18 departments of state government, other local units of government, and with private
12.19 persons.

12.20 Sec. 6. Minnesota Statutes 2008, section 116J.68, subdivision 2, is amended to read:

12.21 Subd. 2. **Duties.** The bureau shall:

12.22 ~~(a)~~ (1) provide information and assistance with respect to all aspects of business
12.23 planning and business management related to the start-up, operation, or expansion of
12.24 a small business in Minnesota;

12.25 ~~(b)~~ (2) refer persons interested in the start-up, operation, or expansion of a small
12.26 business in Minnesota to assistance programs sponsored by federal agencies, state
12.27 agencies, educational institutions, chambers of commerce, civic organizations, community
12.28 development groups, private industry associations, and other organizations ~~or to the~~
12.29 ~~business assistance referral system established by the Minnesota Project Outreach~~
12.30 ~~Corporation;~~

12.31 ~~(c)~~ (3) plan, develop, and implement a master file of information on small business
12.32 assistance programs of federal, state, and local governments, and other public and private
12.33 organizations so as to provide comprehensive, timely information to the bureau's clients;

12.34 ~~(d)~~ (4) employ staff with adequate and appropriate skills and education and training
12.35 for the delivery of information and assistance;

13.1 ~~(e)~~ (5) seek out and utilize, to the extent practicable, contributed expertise and
13.2 services of federal, state, and local governments, educational institutions, and other public
13.3 and private organizations;

13.4 ~~(f)~~ (6) maintain a close and continued relationship with the director of the
13.5 procurement program within the Department of Administration so as to facilitate the
13.6 department's duties and responsibilities under sections 16C.16 to 16C.19 relating to the
13.7 small targeted group business and economically disadvantaged business program of the
13.8 state;

13.9 ~~(g)~~ (7) develop an information system which will enable the commissioner and other
13.10 state agencies to efficiently store, retrieve, analyze, and exchange data regarding small
13.11 business development and growth in the state. All executive branch agencies of state
13.12 government and the secretary of state shall to the extent practicable, assist the bureau in
13.13 the development and implementation of the information system;

13.14 ~~(h)~~ (8) establish and maintain a toll free telephone number so that all small business
13.15 persons anywhere in the state can call the bureau office for assistance. An outreach
13.16 program shall be established to make the existence of the bureau well known to its
13.17 potential clientele throughout the state. If the small business person requires a referral to
13.18 another provider the bureau may use the business assistance referral system established by
13.19 the Minnesota Project Outreach Corporation;

13.20 ~~(i)~~ (9) conduct research and provide data as required by the state legislature;

13.21 ~~(j)~~ (10) develop and publish material on all aspects of the start-up, operation, or
13.22 expansion of a small business in Minnesota;

13.23 ~~(k)~~ (11) collect and disseminate information on state procurement opportunities,
13.24 including information on the procurement process;

13.25 ~~(l)~~ (12) develop a public awareness program through the use of newsletters, personal
13.26 contacts, and electronic and print news media advertising about state assistance programs
13.27 for small businesses, including those programs specifically for socially disadvantaged
13.28 small business persons;

13.29 ~~(m)~~ (13) enter into agreements with the federal government and other public and
13.30 private entities to serve as the statewide coordinator or host agency for the federal small
13.31 business development center program under United States Code, title 15, section 648; and

13.32 ~~(n)~~ (14) assist providers in the evaluation of their programs and the assessment of
13.33 their service area needs. The bureau may establish model evaluation techniques and
13.34 performance standards for providers to use.

13.35 Sec. 7. Minnesota Statutes 2008, section 116L.03, subdivision 5, is amended to read:

Subd. 5. **Terms.** The terms of appointed members shall be for four years ~~except for the initial appointments. The initial appointments of the governor shall have the following terms: two members each for one, two, three, and four years.~~ No member shall serve more than two terms, and no person shall be appointed after December 31, 2001, for any term that would cause that person to serve a total of more than eight years on the board. Compensation for board members is as provided in section 15.0575, subdivision 3.

Sec. 8. Minnesota Statutes 2008, section 116L.05, subdivision 5, is amended to read:

Subd. 5. **Use of workforce development funds.** After March 1 of any fiscal year, the board may use workforce development funds for the purposes outlined in sections 116L.02, 116L.04, and 116L.10 to 116L.14, or to provide incumbent worker training services under section 116L.18 if the following conditions have been met:

(1) the board examines relevant economic indicators, including the projected number of layoffs for the remainder of the fiscal year and the next fiscal year, evidence of declining and expanding industries, the number of initial applications for and the number of exhaustions of unemployment benefits, job vacancy data, and any additional relevant information brought to the board's attention;

(2) the board accounts for all allocations made in section 116L.17, subdivision 2;

(3) based on the past expenditures and projected revenue, the board estimates future funding needs for services under section 116L.17 for the remainder of the current fiscal year and the next fiscal year;

(4) the board determines there will be unspent funds after meeting the needs of dislocated workers in the current fiscal year and there will be sufficient revenue to meet the needs of dislocated workers in the next fiscal year; and

(5) the board reports its findings in clauses (1) to (4) to the chairs of legislative committees with jurisdiction over the workforce development fund, to the commissioners of revenue and finance, and to the public.

Sec. 9. Minnesota Statutes 2008, section 116L.871, subdivision 1, is amended to read:

Subdivision 1. **Responsibility and certification.** (a) Unless prohibited by federal law or otherwise determined by state law, a local service unit is responsible for the delivery of employment and training services. ~~As of July 1, 1998,~~ Employment and training services may be delivered by certified employment and training service providers.

(b) The local service unit's employment and training service provider must meet the certification standards in this subdivision if the county requests that they be certified to deliver any of the following employment and training services and programs: wage

15.1 subsidies; general assistance grant diversion; food stamp employment and training
15.2 programs; community work experience programs; and MFIP employment services.

15.3 (c) The commissioner shall certify a local service unit's service provider to provide
15.4 these employment and training services and programs if the commissioner determines
15.5 that the provider has:

15.6 (1) past experience in direct delivery of the programs specified in paragraph (b);

15.7 (2) staff capabilities and qualifications, including adequate staff to provide timely
15.8 and effective services to clients, and proven staff experience in providing specific services
15.9 such as assessments, career planning, job development, job placement, support services,
15.10 and knowledge of community services and educational resources;

15.11 (3) demonstrated effectiveness in providing services to public assistance recipients
15.12 and other economically disadvantaged clients; and

15.13 (4) demonstrated administrative capabilities, including adequate fiscal and
15.14 accounting procedures, financial management systems, participant data systems, and
15.15 record retention procedures.

15.16 (d) When the only service provider that meets the criterion in paragraph (c), clause
15.17 (1), has been decertified, according to subdivision 1a, in that local service unit, the
15.18 following criteria shall be substituted: past experience in direct delivery of multiple,
15.19 coordinated, nonduplicative services, including outreach, assessments, identification of
15.20 client barriers, employability development plans, and provision or referral to support
15.21 services.

15.22 Sec. 10. Minnesota Statutes 2008, section 116L.96, is amended to read:

15.23 **116L.96 DISPLACED HOMEMAKER PROGRAMS.**

15.24 The commissioner of ~~economic security~~ employment and economic development
15.25 may enter into arrangements with existing private or nonprofit organizations and agencies
15.26 with experience in dealing with displaced homemakers to provide counseling and
15.27 training services. The commissioner shall assist displaced homemakers in applying for
15.28 appropriate welfare programs and shall take welfare allowances received into account
15.29 in setting the stipend level. Income received as a stipend under these programs shall
15.30 be totally disregarded for purposes of determining eligibility for and the amount of a
15.31 general assistance grant.

15.32 Sec. 11. Minnesota Statutes 2008, section 123A.08, subdivision 1, is amended to read:

15.33 Subdivision 1. **Outside sources for resources and services.** A center may accept:

15.34 (1) resources and services from postsecondary institutions serving center pupils;

16.1 (2) resources from ~~Job Training Partnership Act~~ Workforce Investment Act of 1998,
16.2 Public Law 105-220 programs, including funding for jobs skills training for various
16.3 groups and the percentage reserved for education;

16.4 (3) resources from the Department of Human Services and county welfare funding;

16.5 (4) resources from a local education and employment transitions partnership; or

16.6 (5) private resources, foundation grants, gifts, corporate contributions, and other
16.7 grants.

16.8 Sec. 12. Minnesota Statutes 2008, section 124D.49, subdivision 3, is amended to read:

16.9 Subd. 3. **Local education and employment transitions systems.** A local education
16.10 and employment transitions partnership must assess the needs of employers, employees,
16.11 and learners, and develop a plan for implementing and achieving the objectives of a local
16.12 or regional education and employment transitions system. The plan must provide for a
16.13 comprehensive local system for assisting learners and workers in making the transition
16.14 from school to work or for retraining in a new vocational area. The objectives of a local
16.15 education and employment transitions system include:

16.16 (1) increasing the effectiveness of the educational programs and curriculum of
16.17 elementary, secondary, and postsecondary schools and the work site in preparing students
16.18 in the skills and knowledge needed to be successful in the workplace;

16.19 (2) implementing learner outcomes for students in grades kindergarten through 12
16.20 designed to introduce the world of work and to explore career opportunities, including
16.21 nontraditional career opportunities;

16.22 (3) eliminating barriers to providing effective integrated applied learning,
16.23 service-learning, or work-based curriculum;

16.24 (4) increasing opportunities to apply academic knowledge and skills, including
16.25 skills needed in the workplace, in local settings which include the school, school-based
16.26 enterprises, postsecondary institutions, the workplace, and the community;

16.27 (5) increasing applied instruction in the attitudes and skills essential for success in
16.28 the workplace, including cooperative working, leadership, problem-solving, and respect
16.29 for diversity;

16.30 (6) providing staff training for vocational guidance counselors, teachers, and other
16.31 appropriate staff in the importance of preparing learners for the transition to work, and in
16.32 methods of providing instruction that incorporate applied learning, work-based learning,
16.33 and service-learning experiences;

(7) identifying and enlisting local and regional employers who can effectively provide work-based or service-learning opportunities, including, but not limited to, apprenticeships, internships, and mentorships;

(8) recruiting community and workplace mentors including peers, parents, employers and employed individuals from the community, and employers of high school students;

(9) identifying current and emerging educational, training, and employment needs of the area or region, especially within industries with potential for job growth;

(10) improving the coordination and effectiveness of local vocational and job training programs, including vocational education, adult basic education, tech prep, apprenticeship, service-learning, youth entrepreneur, youth training and employment programs administered by the commissioner of employment and economic development, and local job training programs under the ~~Job Training Partnership Act, United States Code, title 29, section 1501, et seq.~~ Workforce Investment Act of 1998, Public Law 105-220;

(11) identifying and applying for federal, state, local, and private sources of funding for vocational or applied learning programs;

(12) providing students with current information and counseling about career opportunities, potential employment, educational opportunities in postsecondary institutions, workplaces, and the community, and the skills and knowledge necessary to succeed;

(13) providing educational technology, including interactive television networks and other distance learning methods, to ensure access to a broad variety of work-based learning opportunities;

(14) including students with disabilities in a district's vocational or applied learning program and ways to serve at-risk learners through collaboration with area learning centers under sections 123A.05 to 123A.09, or other alternative programs; and

(15) providing a warranty to employers, postsecondary education programs, and other postsecondary training programs, that learners successfully completing a high school work-based or applied learning program will be able to apply the knowledge and work skills included in the program outcomes or graduation requirements. The warranty shall require education and training programs to continue to work with those learners that need additional skill development until they can demonstrate achievement of the program outcomes or graduation requirements.

Sec. 13. Minnesota Statutes 2008, section 160.276, subdivision 8, is amended to read:

Subd. 8. **Revenue.** The agreement may provide that the vendor pay a portion of the gross revenues derived from advertising. These revenues must be paid to the state for deposit in the safety rest area account established in section 160.2745. The commissioner of transportation and director of ~~the Office of~~ Explore Minnesota Tourism may enter into an interagency agreement to define the distribution of the revenues generated in this subdivision and subdivisions 2a and 3a.

Sec. 14. Minnesota Statutes 2008, section 241.27, subdivision 1, is amended to read:

Subdivision 1. **Establishment of Minnesota correctional industries; MINNCOR industries.** For the purpose of providing adequate, regular and suitable employment, educational training, and to aid the inmates of state correctional facilities, the commissioner of corrections may establish, equip, maintain and operate at any correctional facility under the commissioner's control such industrial and commercial activities as may be deemed necessary and suitable to the profitable employment, educational training and development of proper work habits of the inmates of state correctional facilities. The industrial and commercial activities authorized by this section are designated MINNCOR industries and shall be for the primary purpose of sustaining and ensuring MINNCOR industries' self-sufficiency, providing educational training, meaningful employment and the teaching of proper work habits to the inmates of correctional facilities under the control of the commissioner of corrections, and not solely as competitive business ventures. The net profits from these activities shall be used for the benefit of the inmates as it relates to education, self-sufficiency skills, and transition services and not to fund non-inmate-related activities or mandates. Prior to the establishment of any industrial and commercial activity, the commissioner of corrections may consult with representatives of business, industry, organized labor, the state Department of Education, the state Apprenticeship Council, the state Department of Labor and Industry, the Department of Employment ~~Security~~ and Economic Development, the Department of Administration, and such other persons and bodies as the commissioner may feel are qualified to determine the quantity and nature of the goods, wares, merchandise and services to be made or provided, and the types of processes to be used in their manufacture, processing, repair, and production consistent with the greatest opportunity for the reform and educational training of the inmates, and with the best interests of the state, business, industry and labor.

The commissioner of corrections shall, at all times in the conduct of any industrial or commercial activity authorized by this section, utilize inmate labor to the greatest extent feasible, provided, however, that the commissioner may employ all administrative, supervisory and other skilled workers necessary to the proper instruction of the inmates

and the profitable and efficient operation of the industrial and commercial activities authorized by this section.

Additionally, the commissioner of corrections may authorize the director of any correctional facility under the commissioner's control to accept work projects from outside sources for processing, fabrication or repair, provided that preference shall be given to the performance of such work projects for state departments and agencies.

Sec. 15. Minnesota Statutes 2008, section 248.061, subdivision 3, is amended to read:

Subd. 3. **Eligible individual.** "Eligible individual" means an individual who is eligible for library loan services through the Library of Congress and the ~~State Library for the Blind and Physically Handicapped~~ Minnesota Braille and Talking Book Library under Code of Federal Regulations, title 36, section 701.10, subsection (b).

Sec. 16. Minnesota Statutes 2008, section 248.07, subdivision 8, is amended to read:

Subd. 8. **Use of revolving fund, licenses for operation of vending machines stands.** (a) The revolving fund created by Laws 1947, chapter 535, section 5, is continued as provided in this subdivision and shall be known as the revolving fund for vocational rehabilitation of the blind. It shall be used for the purchase of equipment and supplies for establishing and operating of vending stands by blind persons. All income, receipts, earnings, and federal ~~grants~~ vending machine income due to the operation ~~thereof~~ of vending stands operated under this subdivision shall also be paid into the fund. All interest earned on money accrued in the fund must be credited to the fund by the commissioner of finance. All equipment, supplies, and expenses for setting up these stands shall be paid for from the fund.

~~(b) Authority is hereby given to~~ The commissioner is authorized to use the money available in the revolving fund that originated as operational charges to individuals licensed under this subdivision for the establishment, operation, and supervision of vending stands by blind persons for the following purposes:

(1) purchase, upkeep and replacement of equipment;

(2) expenses incidental to the setting up of new stands and improvement of old stands;

(3) reimbursement under section 15.059 to individual blind vending operators for reasonable expenses incurred in attending supervisory meetings as called by the commissioner and other expenditures for management services consistent with federal law; and

(4) purchase of fringe benefits for blind vending operators and their employees such as group health insurance, retirement program, vacation or sick leave assistance provided that the purchase of any fringe benefit is approved by a majority vote of blind vending operators licensed pursuant to this subdivision after the commissioner provides to each blind vending operator information on all matters relevant to the fringe benefits. "Majority vote" means a majority of blind vending operators voting. Fringe benefits shall be paid only from assessments of operators for specific benefits, gifts to the fund for fringe benefit purposes, and vending income which is not assignable to an individual stand.

(c) Money originally deposited as merchandise and supplies repayments by individuals licensed under this subdivision may be expended for initial and replacement stocks of supplies and merchandise. Money originally deposited from vending income on federal property must be spent consistent with federal law.

(d) All other deposits may be used for the purchase of general liability insurance or any other expense related to the operation and supervision of vending stands.

(e) The commissioner shall issue each license for the operation of a vending stand or vending machine for an indefinite period but may terminate any license in the manner provided. In granting licenses for new or vacated stands preference on the basis of seniority of experience in operating stands under the control of the commissioner shall be given to capable operators who are deemed competent to handle the enterprise under consideration. Application of this preference shall not prohibit the commissioner from selecting an operator from the community in which the stand is located.

Sec. 17. Minnesota Statutes 2008, section 256J.626, subdivision 4, is amended to read:

Subd. 4. **County and tribal biennial service agreements.** (a) Effective January 1, 2004, and each two-year period thereafter, each county and tribe must have in place an approved biennial service agreement related to the services and programs in this chapter. In counties with a city of the first class with a population over 300,000, the county must consider a service agreement that includes a jointly developed plan for the delivery of employment services with the city. Counties may collaborate to develop multicounty, multitribal, or regional service agreements.

(b) The service agreements will be completed in a form prescribed by the commissioner. The agreement must include:

(1) a statement of the needs of the service population and strengths and resources in the community;

(2) numerical goals for participant outcomes measures to be accomplished during the biennial period. The commissioner may identify outcomes from section 256J.751, subdivision 2, as core outcomes for all counties and tribes;

(3) strategies the county or tribe will pursue to achieve the outcome targets. Strategies must include specification of how funds under this section will be used and may include community partnerships that will be established or strengthened;

(4) strategies the county or tribe will pursue under family stabilization services; and

(5) other items prescribed by the commissioner in consultation with counties and tribes.

(c) The commissioner shall provide each county and tribe with information needed to complete an agreement, including: (1) information on MFIP cases in the county or tribe; (2) comparisons with the rest of the state; (3) baseline performance on outcome measures; and (4) promising program practices.

(d) The service agreement must be submitted to the commissioner by October 15, 2003, and October 15 of each second year thereafter. The county or tribe must allow a period of not less than 30 days prior to the submission of the agreement to solicit comments from the public on the contents of the agreement.

(e) The commissioner must, within 60 days of receiving each county or tribal service agreement, inform the county or tribe if the service agreement is approved. If the service agreement is not approved, the commissioner must inform the county or tribe of any revisions needed prior to approval.

~~(f) The service agreement in this subdivision supersedes the plan requirements of section 116L.88.~~

Sec. 18. Minnesota Statutes 2008, section 256J.66, subdivision 1, is amended to read:

Subdivision 1. Establishing the on-the-job training program. (a) County agencies may develop on-the-job training programs for MFIP caregivers who are participating in employment and training services. A county agency that chooses to provide on-the-job training may make payments to employers for on-the-job training costs that, during the period of the training, must not exceed 50 percent of the wages paid by the employer to the participant. The payments are deemed to be in compensation for the extraordinary costs associated with training participants under this section and in compensation for the costs associated with the lower productivity of the participants during training.

(b) Provision of an on-the-job training program under the ~~Job Training Partnership Act~~ Workforce Investment Act of 1998, Public Law 105-220, in and of itself, does not qualify as an on-the-job training program under this section.

22.1 (c) Employers must compensate participants in on-the-job training ~~shall be~~
22.2 ~~compensated by the employer~~ at the same rates, including periodic increases, as similarly
22.3 situated employees or trainees and in accordance with applicable law, but in no event less
22.4 than the federal or applicable state minimum wage, whichever is higher.

22.5 Sec. 19. Minnesota Statutes 2008, section 469.169, subdivision 3, is amended to read:

22.6 Subd. 3. **Evaluation of applications.** (a) The commissioner shall review and
22.7 evaluate the applications submitted pursuant to subdivision 2 and shall determine whether
22.8 each area is eligible for designation as an enterprise zone. In determining whether an
22.9 area is eligible under section 469.168, subdivision 4, paragraph (a), if unemployment,
22.10 employment, income, or other necessary data are not available for the area from the
22.11 federal departments of labor or commerce or the state demographer, the commissioner
22.12 may rely upon other data submitted by the municipality if the commissioner determines it
22.13 is statistically reliable or accurate. The commissioner, together with the commissioner
22.14 of revenue, shall prepare an estimate of the amount of state tax revenue which will be
22.15 foregone for each application if the area is designated as a zone.

22.16 (b) By October 1 of each year, the commissioner shall submit to the Legislative
22.17 Advisory Commission a list of the areas eligible for designation as enterprise zones,
22.18 along with recommendations for designation and supporting documentation. In making
22.19 recommendations for designation, the commissioner shall consider and evaluate the
22.20 applications pursuant to the following criteria:

22.21 (1) the pervasiveness of poverty, unemployment, and general distress in the area;

22.22 (2) the extent of chronic abandonment, deterioration, or reduction in value of
22.23 commercial, industrial, or residential structures in the area and the extent of property
22.24 tax arrearages in the area;

22.25 (3) the prospects for new investment and economic development in the area with
22.26 the tax reductions proposed in the application relative to the state and local tax revenue
22.27 which would be foregone;

22.28 (4) the competing needs of other areas of the state;

22.29 (5) the municipality's proposed use of other state and federal development funds or
22.30 programs to increase the probability of new investment and development occurring;

22.31 (6) the extent to which the projected development in the zone will provide
22.32 employment to residents of the economic hardship area, and particularly individuals who
22.33 are unemployed or who are economically disadvantaged as defined in the federal ~~Job~~
22.34 ~~Training Partnership Act of 1982, Volume 96, Statutes at Large, page 1322~~ Workforce
22.35 Investment Act of 1998, Public Law 105-220;

(7) the funds available pursuant to subdivision 7; and
(8) other relevant factors that the commissioner specifies in the commissioner's recommendations.

(c) The commissioner shall submit a separate list of the areas entitled to designation as federally designated zones and border city zones along with recommendations for the amount of funds to be allocated to each area.

Sec. 20. REVISOR'S INSTRUCTION.

The revisor of statutes shall renumber Minnesota Statutes, section 116J.58, subdivision 2, as Minnesota Statutes, section 116J.035, subdivision 1a, and shall revise statutory cross-references consistent with that renumbering.

Sec. 21. REPEALER.

Minnesota Statutes 2008, sections 116J.402; 116J.413; 116J.58, subdivision 1; 116J.59; 116J.61; 116J.656; 116L.16; 116L.88; and 116U.65, are repealed.

**ARTICLE 3
UNEMPLOYMENT INSURANCE POLICY**

Section 1. Minnesota Statutes 2008, section 268.052, subdivision 2, is amended to read:

Subd. 2. Election by state or political subdivision to be a taxpaying employer.

(a) The state or political subdivision may elect to be a taxpaying employer for any calendar year if a notice of election is filed within 30 calendar days following January 1 of that calendar year. Upon election, the state or political subdivision must be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the election and unless or until it qualifies for an experience rating under section 268.051, subdivision 3.

(b) An election is for a minimum period of two calendar years following the effective date of the election and continue unless a notice terminating the election is filed not later than 30 calendar days before the beginning of the calendar year. The termination is effective at the beginning of the next calendar year. ~~Upon election, the commissioner shall establish a reimbursable account for the state or political subdivision. A termination of election is allowed only if the state or political subdivision has, since the beginning of the experience rating period under section 268.051, subdivision 3, paid taxes equal to or more than 125 percent of the unemployment benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experience rating period are transferred to the new reimbursable account of the state or political subdivision. If the amount of taxes~~

~~paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess is applied against any unemployment benefits paid after the experience rating period.~~

(c) The method of payments to the trust fund under subdivisions 3 and 4 applies to all taxes paid by or due from the state or political subdivision that elects to be taxpaying employers under this subdivision.

(d) A notice of election or a notice terminating election must be filed by electronic transmission in a format prescribed by the commissioner.

Sec. 2. Minnesota Statutes 2008, section 268.053, subdivision 1, is amended to read:

Subdivision 1. **Election.** (a) Any nonprofit organization that has employees in covered employment must pay taxes on a quarterly basis in accordance with section 268.051 unless it elects to make reimbursements to the trust fund the amount of unemployment benefits charged to its reimbursable account under section 268.047.

The organization may elect to make reimbursements for a period of not less than two calendar years beginning with the date that the organization was determined to be an employer with covered employment by filing a notice of election not later than 30 calendar days after the date of the determination.

(b) Any nonprofit organization that makes an election will continue to be liable for reimbursements until it files a notice terminating its election not later than 30 calendar days before the beginning of the calendar year the termination is to be effective.

(c) A nonprofit organization that has been making reimbursements that files a notice of termination of election must be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the termination of election and unless or until it qualifies for an experience rating under section 268.051, subdivision 3.

(d) Any nonprofit organization that has been paying taxes may elect to make reimbursements by filing no less than 30 calendar days before January 1 of any calendar year a notice of election. ~~Upon election, the commissioner shall establish a reimbursable account for the nonprofit organization. An election is allowed only if the nonprofit organization has, since the beginning of the experience rating period under section 268.051, subdivision 3, paid taxes equal to or more than 125 percent of the unemployment benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experience rating period are transferred to the new reimbursable account of the nonprofit organization. If the amount of taxes paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess is applied against any~~

25.1 ~~unemployment benefits paid after the experience rating period.~~ The election is not
25.2 terminable by the organization for that and the next calendar year.

25.3 (e) The commissioner may for good cause extend the period that a notice of election,
25.4 or a notice of termination, must be filed and may permit an election to be retroactive.

25.5 (f) A notice of election or notice terminating election must be filed by electronic
25.6 transmission in a format prescribed by the commissioner.

25.7 Sec. 3. Minnesota Statutes 2008, section 268.066, is amended to read:

25.8 **268.066 CANCELLATION OF AMOUNTS DUE FROM AN EMPLOYER.**

25.9 (a) The commissioner ~~shall~~ must cancel as uncollectible any amounts due from
25.10 an employer under this chapter or section 116L.20, that remain unpaid six years after
25.11 the amounts have been first determined due, except where the delinquent amounts are
25.12 secured by a notice of lien, a judgment, are in the process of garnishment, or are under a
25.13 payment plan.

25.14 (b) The commissioner may cancel at any time as uncollectible any amount due, or
25.15 any portion of an amount due, from an employer under this chapter or section 116L.20,
25.16 that (1) are uncollectible due to death or bankruptcy, or (2) the Collection Division of the
25.17 Department of Revenue under section 16D.04 was unable to collect, ~~or (3).~~

25.18 (c) The commissioner may cancel at any time any interest, penalties, or fees due
25.19 from an employer, or any portions due, if the commissioner determines that it is not in
25.20 the public interest to pursue collection of the amount due. This paragraph does not apply
25.21 to unemployment insurance taxes or reimbursements due.

25.22 Sec. 4. Minnesota Statutes 2008, section 268.067, is amended to read:

25.23 **268.067 COMPROMISE.**

25.24 (a) The commissioner may compromise in whole or in part any action, determination,
25.25 or decision that affects only an employer and not an applicant, ~~and that has occurred~~
25.26 ~~during the prior 24 months.~~ This paragraph ~~may apply~~ applies if it is determined by a court
25.27 of law, or a confession of judgment, that an applicant, while employed, wrongfully took
25.28 from the employer \$500 or more in money or property.

25.29 (b) The commissioner may at any time compromise any ~~amount~~ unemployment
25.30 insurance tax or reimbursement due from an employer under this chapter or section
25.31 116L.20.

25.32 (c) ~~Any compromise involving an amount over \$2,500 must be authorized by an~~
25.33 ~~attorney licensed to practice law in Minnesota who is an employee of the department~~
25.34 ~~designated by the commissioner for that purpose.~~

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

26.2 Sec. 5. Minnesota Statutes 2008, section 268.07, subdivision 3b, is amended to read:

26.3 Subd. 3b. **Limitations on applications and benefit accounts.** (a) An application for
26.4 unemployment benefits is effective the Sunday of the calendar week that the application
26.5 was filed. ~~Upon specific request of an applicant,~~ An application for unemployment benefits
26.6 may be backdated one calendar week before the Sunday of the week the application was
26.7 actually filed if the applicant requests the backdating at the time the application is filed.
26.8 An application may be backdated only if the applicant ~~was unemployed throughout~~ had
26.9 no employment during the period of the backdating. If an individual attempted to file an
26.10 application for unemployment benefits, but was prevented from filing an application by
26.11 the department, the application is effective the Sunday of the calendar week the individual
26.12 first attempted to file an application.

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

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

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

26.18 (2) a new application for unemployment benefits is filed and a new benefit account is
26.19 established at the time of the withdrawal; and

26.20 ~~(2) the applicant has not served the nonpayable waiting week under section 268.085,~~
26.21 ~~subdivision 1, clause (5).~~

26.22 A determination or amended determination of eligibility or ineligibility issued under
26.23 section 268.101, that was ~~issued~~ sent before the withdrawal of the benefit account, remains
26.24 in effect and is not voided by the withdrawal of the benefit account. A determination of
26.25 ineligibility requiring subsequent earnings to satisfy the period of ineligibility under
26.26 section 268.095, subdivision 10, applies to the weekly unemployment benefit amount on
26.27 the new benefit account.

26.28 (d) An application for unemployment benefits is not allowed before the Sunday
26.29 following the expiration of the benefit year on a prior benefit account. Except as allowed
26.30 under paragraph ~~(b)~~ (c), an applicant may establish only one benefit account each 52
26.31 calendar weeks.

26.32 Sec. 6. Minnesota Statutes 2008, section 268.085, subdivision 3, is amended to read:

26.33 Subd. 3. **Payments that delay unemployment benefits.** (a) An applicant is not
26.34 eligible to receive unemployment benefits for any week with respect to which the applicant

is receiving, has received, or has filed for payment, equal to or in excess of the applicant's weekly unemployment benefit amount, in the form of:

(1) vacation pay paid upon temporary, indefinite, or seasonal separation. This clause does not apply to (i) vacation pay paid upon a permanent separation from employment, or (ii) vacation pay paid from a vacation fund administered by a union or a third party not under the control of the employer;

(2) severance pay, bonus pay, sick pay, and any other payments, except earnings under subdivision 5, and back pay under subdivision 6, paid by an employer because of, upon, or after separation from employment, but only if the payment is considered wages at the time of payment under section 268.035, subdivision 29; or

(3) pension, retirement, or annuity payments from any plan contributed to by a base period employer including the United States government, except Social Security benefits that are provided for in subdivision 4. The base period employer is considered to have contributed to the plan if the contribution is excluded from the definition of wages under section 268.035, subdivision 29, clause (1).

If the pension, retirement, or annuity payment is paid in a lump sum, an applicant is not considered to have received the lump-sum payment if (i) the applicant immediately deposits that payment in a qualified pension plan or account, or (ii) that payment is an early distribution for which the applicant paid an early distribution penalty under the Internal Revenue Code, United States Code, title 26, section 72(t)(1).

(b) This subdivision applies to all the weeks of payment. Payments under paragraph (a), clauses (1) and (2), are applied to the period immediately following the last day of employment. The number of weeks of payment is determined as follows:

(1) if the payments are made periodically, the total of the payments to be received is divided by the applicant's last level of regular weekly pay from the employer; or

(2) if the payment is made in a lump sum, that sum is divided by the applicant's last level of regular weekly pay from the employer.

(c) If the payment is less than the applicant's weekly unemployment benefit amount, unemployment benefits are reduced by the amount of the payment. ~~If the computation of reduced unemployment benefits is not a whole dollar, it is rounded down to the next lower whole dollar.~~

Sec. 7. Minnesota Statutes 2008, section 268.085, subdivision 6, is amended to read:

Subd. 6. Receipt of back pay. (a) Back pay received by an applicant within 24 months of the establishment of the benefit account with respect to any week occurring

28.1 ~~in the 104 weeks before the payment of the back pay~~ during the benefit year must be
28.2 deducted from unemployment benefits paid for that week.

28.3 If the back pay is not paid with respect to a specific period, the back pay must be
28.4 applied to the period immediately following the last day of employment.

28.5 (b) If the back pay is reduced by the amount of unemployment benefits that have
28.6 been paid, the amount of back pay withheld must be:

28.7 (1) paid by the employer to the trust fund within 30 calendar days and subject to the
28.8 same collection procedures that apply to past due taxes;

28.9 (2) applied to unemployment benefit overpayments resulting from the payment of
28.10 the back pay; and

28.11 (3) credited to the maximum amount of unemployment benefits available to the
28.12 applicant in a benefit year that includes the weeks for which back pay was deducted.

28.13 (c) Unemployment benefits paid the applicant must be removed from the
28.14 computation of the tax rate for taxpaying employers and removed from the reimbursable
28.15 account for nonprofit and government employers that have elected to be liable for
28.16 reimbursements in the calendar quarter the trust fund receives payment.

28.17 (d) Payments to the trust fund under this subdivision are considered as made by
28.18 the applicant.

28.19 Sec. 8. Minnesota Statutes 2008, section 268.085, subdivision 15, is amended to read:

28.20 Subd. 15. **Available for suitable employment defined.** (a) "Available for suitable
28.21 employment" means an applicant is ready and willing to accept suitable employment ~~in~~
28.22 ~~the labor market area~~. The attachment to the work force must be genuine. An applicant
28.23 may restrict availability to suitable employment, but there must be no other restrictions,
28.24 either self-imposed or created by circumstances, temporary or permanent, that prevent
28.25 accepting suitable employment.

28.26 (b) To be considered "available for suitable employment," a student must be willing
28.27 to quit school to accept suitable employment.

28.28 (c) An applicant who is absent from the labor market area for personal reasons, other
28.29 than to search for work, is not "available for suitable employment."

28.30 (d) An applicant who has restrictions on the hours of the day or days of the week
28.31 that the applicant can or will work, that are not normal for the applicant's usual occupation
28.32 or other suitable employment, is not "available for suitable employment." An applicant
28.33 must be available for daytime employment, if suitable employment is performed during
28.34 the daytime, even though the applicant previously worked the night shift.

~~(c) An applicant must have transportation throughout the labor market area to be considered "available for suitable employment."~~

Sec. 9. Minnesota Statutes 2008, section 268.095, subdivision 1, is amended to read:

Subdivision 1. **Quit.** An applicant who quit employment is ineligible for all unemployment benefits according to subdivision 10 except when a preponderance of the available evidence shows:

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

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

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

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

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

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

(7) the applicant quit the employment because the applicant's serious illness or injury made it medically necessary that the applicant quit, provided that the applicant inform the employer of the serious illness or injury and request accommodation and no reasonable accommodation is made available.

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

30.1 This exception raises an issue of the applicant's being ~~able to work~~ available for
30.2 suitable employment under section 268.085, subdivision 1, that the commissioner ~~shall~~
30.3 must determine;

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

30.8 This exception raises an issue of the applicant's ~~availability~~ being available for
30.9 suitable employment under section 268.085, subdivision 1, that the commissioner ~~shall~~
30.10 must determine; or

30.11 (9) domestic abuse of the applicant or the applicant's minor child, necessitated the
30.12 applicant's quitting the employment. Domestic abuse must be shown by one or more of
30.13 the following:

30.14 (i) a district court order for protection or other documentation of equitable relief
30.15 issued by a court;

30.16 (ii) a police record documenting the domestic abuse;

30.17 (iii) documentation that the perpetrator of the domestic abuse has been convicted
30.18 of the offense of domestic abuse;

30.19 (iv) medical documentation of domestic abuse; or

30.20 (v) written statement that the applicant or the applicant's minor child is a victim
30.21 of domestic abuse, provided by a social worker, member of the clergy, shelter worker,
30.22 attorney at law, or other professional who has assisted the applicant in dealing with the
30.23 domestic abuse.

30.24 Domestic abuse for purposes of this clause is defined under section 518B.01.

30.25 Sec. 10. Minnesota Statutes 2008, section 268.095, subdivision 2, is amended to read:

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

30.28 (b) An employee who has been notified that the employee will be discharged in the
30.29 future, who chooses to end the employment while employment in any capacity is still
30.30 available, is considered to have quit the employment.

30.31 (c) An employee who seeks to withdraw a previously submitted notice of quitting is
30.32 considered to have quit the employment if the employer does not agree that the notice
30.33 may be withdrawn.

30.34 (d) An applicant who, within five calendar days after completion of a suitable
30.35 temporary job assignment from a staffing service employer, (1) fails without good cause

31.1 to affirmatively request an additional job assignment, ~~or~~ (2) refuses without good cause
31.2 an additional suitable job assignment offered, or (3) accepts employment with the client
31.3 of the staffing service, is considered to have quit employment with the staffing service.
31.4 Accepting employment with the client of the staffing service meets the requirements of the
31.5 exception to ineligibility under subdivision 1, clause (2).

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

31.10 For purposes of this paragraph, "good cause" is a reason that is significant and
31.11 would compel an average, reasonable worker, who would otherwise want an additional
31.12 temporary job assignment with the staffing service employer, (1) to fail to contact the
31.13 staffing service employer, or (2) to refuse an offered assignment.

31.14 For purposes of this paragraph, a "staffing service employer" is an employer whose
31.15 business involves employing individuals directly for the purpose of furnishing temporary
31.16 job assignment workers to clients of the staffing service.

31.17 Sec. 11. Minnesota Statutes 2008, section 268.103, is amended by adding a subdivision
31.18 to read:

31.19 Subd. 2a. **Employer-agent appeals filed online.** (a) If an agent files an appeal on
31.20 behalf of an employer, the appeal must be filed online. The appeal must be filed through
31.21 the electronic address provided on the determination being appealed. Use of another
31.22 method of filing does not constitute an appeal. This paragraph does not apply to an
31.23 employee filing an appeal on behalf of an employer.

31.24 (b) All information requested when the appeal is filed must be supplied or the
31.25 communication does not constitute an appeal.

31.26 Sec. 12. Minnesota Statutes 2008, section 268.18, subdivision 4a, is amended to read:

31.27 Subd. 4a. **Court fees; collection fees.** (a) If the commissioner is required to pay any
31.28 court fees in an attempt to enforce collection of overpaid unemployment benefits, penalties,
31.29 or interest, the commissioner may add the amount of the court fees to the total amount due.

31.30 (b) If an applicant who has been determined overpaid unemployment benefits
31.31 because of fraud seeks to have any portion of the debt discharged under the federal
31.32 bankruptcy code, and the commissioner files an objection in bankruptcy court to the
31.33 discharge, the commissioner may add the commissioner's cost of any court fees to the debt
31.34 if the bankruptcy court does not discharge the debt.

32.1 (c) If the Internal Revenue Service assesses the commissioner a fee for offsetting
32.2 from a federal tax refund the amount of any fraud overpayment, including penalties and
32.3 interest, the amount of the fee may be added to the total amount due. The offset amount
32.4 must be put in the trust fund and that amount credited to the total amount due from the
32.5 applicant.

32.6 Sec. 13. Minnesota Statutes 2008, section 268.186, is amended to read:

32.7 **268.186 RECORDS; AUDITS.**

32.8 (a) Each employer must keep true and accurate records for the periods of time and
32.9 containing the information the commissioner may require by rule. For the purpose of
32.10 administering this chapter, the commissioner has the power to audit, examine, or cause to
32.11 be supplied or copied, any books, correspondence, papers, records, or memoranda that
32.12 are relevant, whether the books, correspondence, papers, records, or memoranda are the
32.13 property of or in the possession of the employer or any other person at any reasonable
32.14 time and as often as may be necessary.

32.15 (b) Any employer that refuses to allow an audit of its records by the department, or
32.16 that fails to make all necessary records available for audit in Minnesota upon request of
32.17 the commissioner, may be assessed an administrative penalty of \$500. An employer that
32.18 fails to provide a weekly breakdown of money earned by an applicant upon request of the
32.19 commissioner, information necessary for the detection of applicant fraud under section
32.20 268.18, subdivision 2, may be assessed an administrative penalty of \$100. Any notice
32.21 requesting a weekly breakdown must clearly state that a \$100 penalty may be assessed for
32.22 failure to provide the information. The penalty collected is credited to the ~~administration~~
32.23 ~~account to be used by the commissioner to ensure integrity in the administration of the~~
32.24 ~~unemployment insurance program trust fund.~~

32.25 (c) The commissioner may make summaries, compilations, photographs,
32.26 duplications, or reproductions of any records, or reports that the commissioner considers
32.27 advisable for the preservation of the information contained therein. Any summaries,
32.28 compilations, photographs, duplications, or reproductions is admissible in any proceeding
32.29 under this chapter. The commissioner may duplicate records, reports, summaries,
32.30 compilations, instructions, determinations, or any other written or recorded matter
32.31 pertaining to the administration of this chapter.

32.32 (d) Regardless of any law to the contrary, the commissioner may provide for the
32.33 destruction of any records, reports, or reproductions, or other papers that are no longer
32.34 necessary for the administration of this chapter, including any required audit. In addition,
32.35 the commissioner may provide for the destruction or disposition of any record, report,

or other paper from which the information has been electronically captured and stored,
or that has been photographed, duplicated, or reproduced.

Sec. 14. ENTREPRENEURSHIP FOR DISLOCATED WORKERS.

Subdivision 1. **Authorization.** Minnesota has been awarded a federal grant by the United States Department of Labor under the Project GATE (Growing America Through Entrepreneurship) program to assist certain dislocated workers in starting a business. Providing unemployment benefits while the dislocated worker is receiving services such as entrepreneurial training, business counseling, and technical assistance will assist in the success of this pilot project. In order to provide unemployment benefits, the commissioner of employment and economic development is authorized to waive the availability for suitable employment requirements of Minnesota Statutes, section 268.085, subdivision 1, as well as the earnings deductibility provisions of Minnesota Statutes, section 268.085, subdivision 5, for individuals enrolled in this pilot project.

Subd. 2. **Limitations.** A maximum of 500 applicants for unemployment benefits are authorized to receive a waiver.

Subd. 3. **Expiration date.** The authorization under subdivision 1 expires June 30, 2012.

Sec. 15. EFFECTIVE DATE.

Sections 1 to 5, 7 to 10, 12, and 13 are effective August 2, 2009, and apply to all department determinations and unemployment law judge decisions issued on or after that date. Section 11 is effective April 1, 2010, and applies to all department determinations and unemployment law judge decisions issued on or after that date. Sections 6 and 14 are effective the day following final enactment.

ARTICLE 4

UNEMPLOYMENT INSURANCE TECHNICAL CHANGES

Section 1. Minnesota Statutes 2008, section 268.031, is amended to read:

268.031 STANDARD OF PROOF.

All issues of fact under the Minnesota Unemployment Insurance Law are determined by a preponderance of the evidence. ~~Preponderance of the evidence means evidence in substantiation of a fact that, when weighed against the evidence opposing the fact, is more convincing and has a greater probability of truth.~~

Sec. 2. [268.034] COMPUTATIONS OF MONEY ROUNDED DOWN.

34.1 Computations of money required under this chapter that do not result in a whole
34.2 dollar are rounded down to the next lower whole dollar, unless specifically provided
34.3 otherwise by law.

34.4 Sec. 3. Minnesota Statutes 2008, section 268.035, subdivision 2, is amended to read:

34.5 Subd. 2. **Agricultural employment.** "Agricultural employment" means services:

34.6 (1) on a farm, in the employ of any person or family farm corporation in connection
34.7 with cultivating the soil, or in connection with raising or harvesting any agricultural or
34.8 horticultural commodity, including the raising, shearing, feeding, caring for, training, and
34.9 management of livestock, bees, poultry, fur-bearing animals, and wildlife;

34.10 (2) in the employ of the owner or tenant or other operator of a farm, in connection
34.11 with the operation, management, conservation, improvement, or maintenance of the farm
34.12 and its tools and equipment, or in salvaging timber or clearing land of brush and other
34.13 debris left by a tornado-like storm, if the major part of the employment is performed
34.14 on a farm;

34.15 (3) in connection with the production or harvesting of any commodity defined as
34.16 an agricultural product in United States Code, title 7, section 1626 of the Agricultural
34.17 Marketing Act, or in connection with cotton ginning, or in connection with the operation
34.18 or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for
34.19 profit, used exclusively for supplying and storing water for farming purposes;

34.20 (4) in the employ of the operator of a farm in handling, planting, drying, packing,
34.21 packaging, processing, freezing, grading, storing, or delivering to storage or to market
34.22 or to a carrier for transportation to market, in its unmanufactured state, any agricultural
34.23 or horticultural commodity; but only if the operator produced more than one-half of
34.24 the commodity with respect to which the employment is performed, or in the employ
34.25 of a group of operators of farms or a cooperative organization of which the operators
34.26 are members, but only if the operators produced more than one-half of the commodity
34.27 with respect to which the employment is performed; however, this clause ~~shall~~ is not
34.28 ~~be~~ applicable to employment performed in connection with commercial canning or
34.29 commercial freezing or in connection with any agricultural or horticultural commodity
34.30 after its delivery to a terminal market for distribution for consumption; or

34.31 (5) on a farm operated for profit if the employment is not in the course of the
34.32 employer's trade or business.

34.33 For purposes of this subdivision, the term "farm" includes stock, dairy, poultry, fruit,
34.34 fur-bearing animals, and truck farms, plantations, ranches, nurseries, orchards, ranges,

35.1 greenhouses, or other similar structures used primarily for the raising of agricultural or
35.2 horticultural commodities.

35.3 Sec. 4. Minnesota Statutes 2008, section 268.035, is amended by adding a subdivision
35.4 to read:

35.5 Subd. 9a. **Construction; independent contractor.** For purposes of this chapter,
35.6 section 181.723 determines whether a worker is an independent contractor or an employee
35.7 when performing public or private sector commercial or residential building construction
35.8 or improvement services.

35.9 Sec. 5. Minnesota Statutes 2008, section 268.035, is amended by adding a subdivision
35.10 to read:

35.11 Subd. 12c. **Determination.** "Determination" means a document sent to an applicant
35.12 or employer by mail or electronic transmission that is an initial department ruling on a
35.13 specific issue. All documents that are determinations under this chapter use that term in
35.14 the title of the document and are appealable to an unemployment law judge under section
35.15 268.105, subdivision 1.

35.16 Sec. 6. Minnesota Statutes 2008, section 268.035, subdivision 17, is amended to read:

35.17 Subd. 17. **Filing; filed.** "Filing" or "filed" means the personal delivery of ~~any~~
35.18 ~~document~~ an application, appeal, or other required action to the commissioner or any of
35.19 the commissioner's agents, or ~~the depositing of the document if done by mail, deposited~~
35.20 in the United States mail properly addressed to the department with postage prepaid, in
35.21 which case ~~the document~~ it is considered filed on the day indicated by the cancellation
35.22 mark of the United States Postal Service.

35.23 ~~If, where allowed,~~ an application, appeal, or other required action is made by
35.24 electronic transmission, it is considered filed on the day received by the department.

35.25 Sec. 7. Minnesota Statutes 2008, section 268.035, is amended by adding a subdivision
35.26 to read:

35.27 Subd. 20a. **Preponderance of the evidence.** "Preponderance of the evidence"
35.28 means evidence in substantiation of a fact that, when weighed against the evidence
35.29 opposing the fact, is more convincing and has a greater probability of truth.

35.30 Sec. 8. Minnesota Statutes 2008, section 268.042, subdivision 3, is amended to read:

Subd. 3. **Election to have noncovered employment considered covered**

employment. (a) Any employer that has employment performed for it that is noncovered employment under section 268.035, subdivision 20, may file with the commissioner, by electronic transmission in a format prescribed by the commissioner, an election that all employees in that class of employment, in one or more distinct establishments or places of business, is considered covered employment for not less than two calendar years. The commissioner has discretion on the approval of any election. Upon the approval of the commissioner, sent by mail or electronic transmission, the employment constitutes covered employment beginning the calendar quarter after the date of approval or beginning a later calendar quarter if requested by the employer. The employment ceases to be considered covered employment as of the first day of January of any calendar year only if at least 30 calendar days before the first day of January the employer has filed with the commissioner, by electronic transmission in a format prescribed by the commissioner, a notice to that effect.

(b) The commissioner must terminate any election agreement under this subdivision upon 30 calendar days' notice sent by mail or electronic transmission, if the employer is delinquent on any taxes due or reimbursements due the trust fund.

Sec. 9. Minnesota Statutes 2008, section 268.043, is amended to read:

268.043 DETERMINATIONS OF COVERAGE.

(a) The commissioner, upon the commissioner's own motion or upon application of a person, ~~shall~~ must determine if that person is an employer or whether services performed for it constitute employment and covered employment, or whether ~~the any~~ any compensation ~~for services~~ constitutes wages, and notify the person of the determination. The determination is final unless the person, files an appeal within 20 calendar days after ~~sending of the determination~~ the commissioner sends the determination by mail or electronic transmission, ~~files an appeal~~. Proceedings on the appeal are conducted in accordance with section 268.105.

(b) No person may be initially determined an employer, or that services performed for it were in employment or covered employment, for periods more than four years before the year in which the determination is made, unless the commissioner finds that there was fraudulent action to avoid liability under this chapter.

Sec. 10. Minnesota Statutes 2008, section 268.044, subdivision 2, is amended to read:

Subd. 2. **Failure to timely file report; late fees.** (a) Any employer that fails to submit the quarterly wage detail report when due must pay a late fee of \$10 per employee, computed based upon the highest of:

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

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

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

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

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

(c) Late fees due under this subdivision may be ~~compromised~~ canceled, in whole or in part, under section ~~268.067~~ 268.066 where good cause for late submission is found by the commissioner.

Sec. 11. Minnesota Statutes 2008, section 268.047, subdivision 1, is amended to read:

Subdivision 1. **General rule.** Unemployment benefits paid to an applicant, including extended and shared work benefits, will be used in computing the future tax rate of a taxpaying base period employer or charged to the reimbursable account of a base period nonprofit or government employer that has elected to be liable for reimbursements except as provided in subdivisions 2 and 3. The amount of unemployment benefits used in computing the future tax rate of taxpaying employers or charged to the reimbursable account of a nonprofit or government employer that has elected to be liable for reimbursements is the same percentage of the total amount of unemployment benefits paid as the percentage of wage credits from the employer is of the total amount of wage credits from all the applicant's base period employers.

~~In making computations under this subdivision, the amount of wage credits, if not a whole dollar, must be computed to the nearest whole dollar.~~

Sec. 12. Minnesota Statutes 2008, section 268.047, subdivision 2, is amended to read:

Subd. 2. **Exceptions for all employers.** Unemployment benefits paid will not be used in computing the future tax rate of a taxpaying base period employer or charged to the reimbursable account of a base period nonprofit or government employer that has elected to be liable for reimbursements when:

(1) the applicant was discharged from the employment because of aggravated employment misconduct as determined under section 268.095. This exception applies only to unemployment benefits paid for periods after the applicant's discharge from employment;

(2) an applicant's discharge from that employment occurred because a law required removal of the applicant from the position the applicant held;

~~(3) the employer is in the tourist or recreation industry and is in active operation of business less than 15 calendar weeks each year and the applicant's wage credits from the employer are less than 600 times the applicable state or federal minimum wage;~~

~~(4)~~ (3) the employer provided regularly scheduled part-time employment to the applicant during the applicant's base period and continues to provide the applicant with regularly scheduled part-time employment during the benefit year of at least 90 percent of the part-time employment provided in the base period, and is an involved employer because of the applicant's loss of other employment. This exception terminates effective the first week that the employer fails to meet the benefit year employment requirements. This exception applies to educational institutions without consideration of the period between academic years or terms;

~~(5)~~ (4) the employer is a fire department or firefighting corporation or operator of a life-support transportation service, and continues to provide employment for the applicant as a volunteer firefighter or a volunteer ambulance service personnel during the benefit year on the same basis that employment was provided in the base period. This exception terminates effective the first week that the employer fails to meet the benefit year employment requirements;

~~(6)~~ (5) the applicant's unemployment from this employer was a direct result of the condemnation of property by a governmental agency, a fire, flood, or act of nature, where 25 percent or more of the employees employed at the affected location, including the applicant, became unemployed as a result. This exception does not apply where the unemployment was a direct result of the intentional act of the employer or a person acting on behalf of the employer;

~~(7)~~ (6) the unemployment benefits were paid by another state as a result of the transferring of wage credits under a combined wage arrangement provided for in section 268.131;

~~(8)~~ (7) the applicant stopped working because of a labor dispute at the applicant's primary place of employment if the employer was not a party to the labor dispute;

~~(9)~~ (8) the unemployment benefits were determined overpaid unemployment benefits under section 268.18;

~~(10)~~ (9) the applicant was employed as a replacement worker, for a period of six months or longer, for an employee who is in the military reserve and was called for active duty during the time the applicant worked as a replacement, and the applicant was laid off because the employee returned to employment after active duty; or

~~(11)~~ (10) the trust fund was reimbursed for the unemployment benefits by the federal government.

Sec. 13. Minnesota Statutes 2008, section 268.051, subdivision 1, is amended to read:

Subdivision 1. **Payments.** (a) Unemployment insurance taxes and any special assessments, fees, or surcharges accrue and become payable by each employer for each calendar year on the taxable wages that the employer paid to employees in covered employment, except for:

(1) nonprofit organizations that elect to make reimbursements as provided in section 268.053; and

(2) the state of Minnesota and political subdivisions that make reimbursements, unless they elect to pay taxes as provided in section 268.052.

Each employer must pay taxes quarterly, at the employer's assigned tax rate under subdivision 6, on the taxable wages paid to each employee. The commissioner must compute the tax due from the wage detail report required under section 268.044 and notify the employer of the tax due. The taxes and any special assessments, fees, or surcharges must be paid to the trust fund and must be received by the department on or before the last day of the month following the end of the calendar quarter.

~~(b) The tax amount computed, if not a whole dollar, is rounded down to the next lower whole dollar.~~

~~(c)~~ If for any reason the wages on the wage detail report under section 268.044 are adjusted for any quarter, the commissioner must recompute the taxes due for that quarter and assess the employer for any amount due or credit the employer as appropriate.

Sec. 14. Minnesota Statutes 2008, section 268.051, subdivision 4, is amended to read:

Subd. 4. **Experience rating history transfer.** (a) When:

(1) a taxing employer acquires all of the organization, trade or business, or workforce of another taxing employer; and

(2) there is 25 percent or more common ownership or there is substantially common management or control between the predecessor and successor, the experience rating history of the predecessor employer is transferred to the successor employer.

(b) When:

(1) a taxpaying employer acquires a portion, but less than all, of the organization, trade or business, or workforce of another taxpaying employer; and

(2) there is 25 percent or more common ownership or there is substantially common management or control between the predecessor and successor, the successor employer acquires, as of the date of acquisition, the experience rating history attributable to the portion it acquired, and the predecessor employer retains the experience rating history attributable to the portion that it has retained. If the commissioner determines that sufficient information is not available to substantiate that a distinct severable portion was acquired and to assign the appropriate distinct severable portion of the experience rating history, the commissioner ~~shall~~ must assign the successor employer that percentage of the predecessor employer's experience rating history equal to that percentage of the employment positions it has obtained, and the predecessor employer retains that percentage of the experience rating history equal to the percentage of the employment positions it has retained.

(c) The term "common ownership" for purposes of this subdivision includes ownership by a spouse, parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece, nephew, or first cousin, by birth or by marriage.

(d) Each successor employer that is subject to paragraph (a) or (b) must notify the commissioner of the acquisition by electronic transmission, in a format prescribed by the commissioner, within 30 calendar days of the date of acquisition. Any successor employer that fails to notify the commissioner is subject to the penalties under section 268.184, subdivision 1a, if the successor's ~~experience rating~~ assigned tax rate under subdivision 2 or 5 was lower than the predecessor's ~~experience rating~~ assigned tax rate at the time of the acquisition. Payments made toward the penalties are credited to the administration account to be used to ensure integrity in the unemployment insurance program.

(e) If the successor employer under paragraphs (a) and (b) had an experience rating at the time of the acquisition, the transferred experience rating history of the predecessor is combined with the successor's experience rating history for purposes of recomputing a tax rate.

(f) If there has been a transfer of an experience rating history under paragraph (a) or (b), employment with a predecessor employer is not considered to have been terminated if similar employment is offered by the successor employer and accepted by the employee.

(g) The commissioner, upon notification of an employer, or upon the commissioner's own motion if the employer fails to provide the required notification, ~~shall~~ must determine if an employer is a successor within the meaning of this subdivision. The commissioner ~~shall~~ must, after determining the issue of succession or nonsuccession, recompute the tax rate under subdivision 6 of all employers affected. The commissioner ~~shall~~ must send the recomputed tax rate to all affected employers by mail or electronic transmission. Any affected employer may appeal the recomputed tax rate in accordance with the procedures in subdivision 6, paragraph (c).

(h) The "experience rating history" for purposes of this subdivision and subdivision 4a means the amount of unemployment benefits paid and the taxable wages that are being used and would be used in computing the current and any future experience rating.

For purposes of this chapter, an "acquisition" means anything that results in the obtaining by the successor employer, in any way or manner, of the organization, trade or business, or workforce of the predecessor employer.

A "distinct severable portion" in paragraph (b) means a location or unit separately identifiable within the employer's wage detail report under section 268.044.

(i) Regardless of the ownership, management, or control requirements of paragraph (a), if there is an acquisition or merger of a publicly held corporation by or with another publicly held corporation the experience rating histories of the corporations are combined as of the date of acquisition or merger for the purpose of recomputing a tax rate.

Sec. 15. Minnesota Statutes 2008, section 268.057, subdivision 4, is amended to read:

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

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

(c) Costs and fees collected under this subdivision are credited to the administration account ~~to be used by the commissioner to ensure integrity in the administration of the unemployment insurance program.~~

Sec. 16. Minnesota Statutes 2008, section 268.057, subdivision 5, is amended to read:

Subd. 5. **Interest on amounts past due.** If any amounts due from an employer under this chapter or section 116L.20, except late fees under section 268.044, are not

42.1 received on the date due the unpaid balance bears interest at the rate of one and one-half
42.2 percent per month or any part thereof. ~~Interest assessed, if not a whole dollar amount,~~
42.3 ~~is rounded down to the next lower whole dollar.~~ Interest collected is credited to the
42.4 contingent account. ~~Interest may be compromised under section 268.067.~~

42.5 Sec. 17. Minnesota Statutes 2008, section 268.0625, subdivision 1, is amended to read:

42.6 Subdivision 1. **Notice of debt to licensing authority.** The state of Minnesota or a
42.7 political subdivision may not issue, transfer, or renew, and must revoke a license for the
42.8 conduct of any profession, trade, or business, if the commissioner notifies the licensing
42.9 authority that the licensee, applicant, or employer owes any amount due under this chapter
42.10 or section 116L.20, of \$500 or more. A licensing authority that has received ~~such~~ a notice
42.11 may issue, transfer, renew, or not revoke the license only if the licensing authority has
42.12 received a copy of the debt clearance certificate issued by the commissioner.

42.13 Sec. 18. Minnesota Statutes 2008, section 268.069, subdivision 1, is amended to read:

42.14 Subdivision 1. **Requirements.** The commissioner ~~shall~~ must pay unemployment
42.15 benefits from the trust fund to an applicant who has met each of the following requirements:

42.16 (1) the applicant has filed an application for unemployment benefits and established
42.17 a benefit account in accordance with section 268.07;

42.18 (2) the applicant has not been held ineligible for unemployment benefits under
42.19 section 268.095 because of a quit or discharge;

42.20 (3) the applicant has met all of the ongoing eligibility requirements under ~~sections~~
42.21 section 268.085 and 268.086;

42.22 (4) the applicant does not have an outstanding overpayment of unemployment
42.23 benefits, including any penalties or interest; and

42.24 (5) the applicant has not been held ineligible for unemployment benefits under
42.25 section 268.182 because of a false representation or concealment of facts.

42.26 Sec. 19. Minnesota Statutes 2008, section 268.07, subdivision 1, is amended to read:

42.27 Subdivision 1. **Application for unemployment benefits; determination of benefit**
42.28 **account.** (a) An application for unemployment benefits may be filed in person, by mail,
42.29 or by electronic transmission as the commissioner may require. The applicant must be
42.30 unemployed at the time the application is filed and must provide all requested information
42.31 in the manner required. If the applicant is not unemployed at the time of the application
42.32 or fails to provide all requested information, the communication is not considered an
42.33 application for unemployment benefits.

(b) The commissioner ~~shall~~ must examine each application for unemployment benefits to determine the base period and the benefit year, and based upon all the covered employment in the base period the commissioner shall determine the weekly unemployment benefit amount available, if any, and the maximum amount of unemployment benefits available, if any. The determination ~~is known as the~~, which is a document separate and distinct from a document titled a determination of eligibility or determination of ineligibility issued under section 268.101, must be titled determination of benefit account. A determination of benefit account must be sent to the applicant and all base period employers, by mail or electronic transmission.

(c) If a base period employer did not provide wage information for the applicant as provided for in section 268.044, or provided erroneous information, the commissioner may accept an applicant certification as to wage credits, based upon the applicant's records, and issue a determination of benefit account.

(d) The commissioner may, at any time within 24 months from the establishment of a benefit account, reconsider any determination of benefit account and make an amended determination if the commissioner finds that the determination was incorrect for any reason. An amended determination of benefit account must be promptly sent to the applicant and all base period employers, by mail or electronic transmission. This subdivision does not apply to documents titled determinations of eligibility or determinations of ineligibility issued under section 268.101.

(e) If an amended determination of benefit account reduces the weekly unemployment benefit amount or maximum amount of unemployment benefits available, any unemployment benefits that have been paid greater than the applicant was entitled is considered an overpayment of unemployment benefits. A determination or amended determination issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

Sec. 20. Minnesota Statutes 2008, section 268.07, subdivision 2, is amended to read:

Subd. 2. Benefit account requirements and weekly unemployment benefit amount and maximum amount of unemployment benefits. (a) To establish a benefit account, an applicant must have:

(1) high quarter wage credits of \$1,000 or more; and

(2) wage credits, in other than the high quarter, of \$250 or more.

(b) If an applicant has established a benefit account, the weekly unemployment benefit amount available during the benefit year is the higher of:

(1) 50 percent of the applicant's average weekly wage during the base period, to a maximum of 66-2/3 percent of the state's average weekly wage; or

(2) 50 percent of the applicant's average weekly wage during the high quarter, to a maximum of 43 percent of the state's average weekly wage.

The applicant's average weekly wage under clause (1) is computed by dividing the total wage credits by 52. The applicant's average weekly wage under clause (2) is computed by dividing the high quarter wage credits by 13.

~~(c) The state's maximum weekly unemployment benefit amount and an applicant's weekly unemployment benefit amount and maximum amount of unemployment benefits available is rounded down to the next lower whole dollar.~~ The state's maximum weekly benefit amount, computed in accordance with section 268.035, subdivision 23, applies to a benefit account established effective on or after the last Sunday in October. Once established, an applicant's weekly unemployment benefit amount is not affected by the last Sunday in October change in the state's maximum weekly unemployment benefit amount.

(d) The maximum amount of unemployment benefits available on any benefit account is the lower of:

(1) 33-1/3 percent of the applicant's total wage credits; or

(2) 26 times the applicant's weekly unemployment benefit amount.

Sec. 21. Minnesota Statutes 2008, section 268.07, subdivision 3, is amended to read:

Subd. 3. **Second benefit account requirements.** To establish a second benefit account following the expiration of a benefit year on a prior benefit account, an applicant must ~~have sufficient wage credits to establish a benefit account under~~ meet the requirements of subdivision 2 and must have performed services in covered employment after the effective date of the prior benefit account. The wages paid for ~~that employment~~ those services must ~~equal not less than~~ be at least eight times the weekly unemployment benefit amount of the prior benefit account. ~~Part of the purpose of~~ reason for this subdivision is to prevent an applicant from establishing more than one benefit account as a result of one loss of employment.

Sec. 22. Minnesota Statutes 2008, section 268.084, is amended to read:

268.084 PERSONAL IDENTIFICATION NUMBER; PRESUMPTION.

(a) Each applicant must be issued a personal identification number (PIN) for the purpose of filing continued requests for unemployment benefits, accessing information, and engaging in other transactions with the department.

(b) If a PIN assigned to an applicant is used in the filing of a continued request for unemployment benefits under section ~~268.086~~ 268.0865 or any other type of transaction, the applicant is presumed to have been the individual using that PIN and presumed to have received any unemployment benefit payment issued. This presumption may be rebutted by a preponderance of the evidence showing that the applicant assigned the PIN was not the individual who used that PIN in the transaction.

(c) The commissioner ~~shall~~ must notify each applicant of this section.

Sec. 23. Minnesota Statutes 2008, section 268.085, subdivision 1, is amended to read:

Subdivision 1. **Eligibility conditions.** An applicant may be eligible to receive unemployment benefits for any week if:

(1) the applicant has ~~an active benefit account and has~~ filed a continued request for unemployment benefits for that week under section ~~268.086~~ 268.0865;

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

(3) the applicant was unemployed as defined in section 268.035, subdivision 26;

(4) the applicant was ~~able to work and was~~ available for suitable employment, ~~and was actively seeking suitable employment as defined in subdivision 15.~~ The applicant's weekly unemployment benefit amount is reduced one-fifth for each day the applicant is ~~unable to work or is~~ unavailable for suitable employment. ~~If the computation of the reduced unemployment benefits is not a whole dollar, it is rounded down to the next lower whole dollar.~~ This clause does not apply to an applicant who is in reemployment assistance training, or each day the applicant is on jury duty or serving as an election judge;

(5) the applicant was actively seeking suitable employment as defined in subdivision 16. This clause does not apply to an applicant who is in reemployment assistance training or who was on jury duty throughout the week;

(6) the applicant has served a nonpayable waiting period of one week that the applicant is otherwise entitled to some amount of unemployment benefits. This clause does not apply if the applicant would have been entitled to federal disaster unemployment assistance because of a disaster in Minnesota, but for the applicant's establishment of a benefit account under section 268.07; and

~~(6)~~ (7) the applicant has been participating in reemployment assistance services, such as job search and resume writing classes, if the applicant has been determined in need of reemployment assistance services by the commissioner, unless the applicant has good cause for failing to participate.

Sec. 24. Minnesota Statutes 2008, section 268.085, subdivision 2, is amended to read:

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

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

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

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

(4) that the applicant is incarcerated or performing ~~court-ordered~~ court-ordered community service. The applicant's weekly unemployment benefit amount is reduced by one-fifth for each day the applicant is incarcerated or performing ~~court-ordered~~ court-ordered community service. ~~If the computation of the reduced unemployment benefits is not a whole dollar, it is rounded down to the next lower whole dollar;~~

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

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

(7) with respect to which the applicant is receiving, has received, or has filed an application for unemployment benefits under any federal law or the law of any other state. If the appropriate agency finally determines that the applicant is not entitled to the unemployment benefits, this clause does not apply.

Sec. 25. Minnesota Statutes 2008, section 268.085, subdivision 3a, is amended to read:

Subd. 3a. **Workers' compensation and disability insurance offset.** (a) An applicant is not eligible to receive unemployment benefits for any week in which the applicant is receiving or has received compensation for loss of wages equal to or in excess of the applicant's weekly unemployment benefit amount under:

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

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

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

(b) This subdivision does not apply to an applicant who has a claim pending for loss of wages under paragraph (a); however, before unemployment benefits may be paid when a claim is pending, the issue of the applicant being ~~able to work~~ available for suitable employment, as required under subdivision 1, clause ~~(2)~~ (4), is determined under

section 268.101, subdivision ~~3~~ 2. If the applicant later receives compensation as a result of the pending claim, the applicant is subject to the provisions of paragraph (a) and the unemployment benefits paid are subject to recoupment by the commissioner to the extent that the compensation constitutes overpaid unemployment benefits.

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

Sec. 26. Minnesota Statutes 2008, section 268.085, subdivision 4, is amended to read:

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

~~If the effective date of the applicant's Social Security claim for old age benefits is, or will be, after the start of the base period, there must be deducted from an applicant's weekly unemployment benefit amount~~ Unless paragraph (b) applies, 50 percent of the weekly equivalent of the primary Social Security old age benefit the applicant has received, has filed for, or intends to file for, with respect to that week must be deducted from an applicant's weekly unemployment benefit amount.

~~(b) If the effective date~~ (b) If all of the applicant's wage credits were earned while the applicant was claiming Social Security claim for old age benefits is before the start of the base period, there is no deduction from the applicant's weekly unemployment benefit amount. The purpose of this paragraph is to ensure that an applicant who is claiming Social Security benefits has demonstrated a desire and ability to work.

~~(b)~~ (c) An applicant who is receiving, has received, or has filed for primary Social Security disability benefits for any week during the benefit year must be determined ~~unable to work and~~ unavailable for suitable employment for that week, unless:

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

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

If an applicant meets the requirements of clause (1) there is no deduction from the applicant's weekly benefit amount for any Social Security disability benefits. If only clause (2) applies, then there must be deducted from the applicant's weekly unemployment

benefit amount 50 percent of the weekly equivalent of the primary Social Security disability benefits the applicant is receiving, has received, or has filed for, with respect to that week; provided, however, that if the Social Security Administration determines that an individual is not entitled to receive primary Social Security disability benefits for any week the applicant has applied for those benefits, the 50 percent deduction does not apply to that week.

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

~~(d) If the computation of the reduced unemployment benefits is not a whole dollar, it is rounded down to the next lower whole dollar.~~

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

Sec. 27. Minnesota Statutes 2008, section 268.085, subdivision 5, is amended to read:

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

(b) If the applicant has earnings, with respect to any week, that is less than the applicant's weekly unemployment benefit amount, from employment, covered employment, noncovered employment, self-employment, or volunteer work, 55 percent of the earnings are deducted from the weekly unemployment benefit amount.

~~The resulting unemployment benefit, if not a whole dollar, is rounded down to the next lower whole dollar.~~

(c) No deduction is made from an applicant's weekly unemployment benefit amount for earnings from service in the National Guard or a United States military reserve unit or from direct service as a volunteer firefighter or volunteer ambulance service personnel. This exception to paragraphs (a) and (b) does not apply to on-call or standby pay provided to a volunteer firefighter or volunteer ambulance service personnel. No deduction is made for jury duty pay or for pay as an election judge.

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

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

Sec. 28. **[268.0865] CONTINUED REQUEST FOR UNEMPLOYMENT BENEFITS.**

Subdivision 1. Continued request for unemployment benefits defined. A continued request for unemployment benefits is a certification by an applicant, done on a weekly basis, that the applicant is unemployed and meets the ongoing eligibility requirements for unemployment benefits under section 268.085. A continued request must include information on possible issues of ineligibility in accordance with section 268.101, subdivision 1, paragraph (c).

Subd. 2. Filing continued requests for unemployment benefits. (a) The commissioner must designate to each applicant one of the following methods for filing a continued request:

(1) by electronic transmission under subdivision 3; or

(2) by mail under subdivision 4.

(b) The method designated by the commissioner is the only method allowed for filing a continued request by that applicant. An applicant may ask that the other allowed method be designated and the commissioner must consider inconvenience to the applicant as well as administrative capacity in determining whether to allow an applicant to change the designated method for filing a continued request for unemployment benefits.

Subd. 3. Continued request for unemployment benefits by electronic transmission. (a) A continued request for unemployment benefits by electronic transmission must be filed to that electronic mail address, telephone number, or Internet address prescribed by the commissioner for that applicant. In order to constitute a continued request, all information asked for, including information authenticating that the applicant is sending the transmission, must be provided in the format required. If all of the information asked for is not provided, the communication does not constitute a continued request for unemployment benefits.

(b) The electronic transmission communication must be filed on the date and during the time of day designated for the applicant for filing a continued request by electronic transmission.

(c) If the electronic transmission continued request is not filed on the date and during the time of day designated, a continued request by electronic transmission must be accepted if the applicant files the continued request by electronic transmission within two calendar weeks following the week in which the date designated occurred. If the continued request by electronic transmission is not filed within two calendar weeks following the week in which the date designated occurred, the electronic continued request will not be accepted and the applicant is ineligible for unemployment benefits for the period covered

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

Subd. 4. Continued request for unemployment benefits by mail. (a) A continued request for unemployment benefits by mail must be on a form prescribed by the commissioner. The form, in order to constitute a continued request, must be totally completed and signed by the applicant. The form must be filed on the date required for the applicant for filing a continued request by mail, in an envelope with postage prepaid, and sent to the address designated.

(b) If the mail continued request for unemployment benefits is not filed on the date designated, a continued request must be accepted if the form is filed by mail within two calendar weeks following the week in which the date designated occurred. If the form is not filed within two calendar weeks following the week in which the date designated occurred, the form will not be accepted and the applicant is ineligible for unemployment benefits for the period covered by the continued request for unemployment benefits, unless the applicant shows good cause for failing to file the form by mail within the time period required.

(c) If the applicant has been designated to file a continued request for unemployment benefits by mail, an applicant may submit the form by facsimile transmission on the day otherwise required for mailing, or within two calendar weeks following the week in which the date designated occurred. A form submitted by facsimile transmission must be sent only to the telephone number assigned for that purpose.

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

Subd. 5. Good cause defined. (a) "Good cause" for purposes of this section is a compelling substantial reason that would have prevented a reasonable person acting with due diligence from filing a continued request for unemployment benefits within the time periods required.

(b) "Good cause" does not include forgetfulness, loss of the continued request form if filing by mail, having returned to work, having an appeal pending, or inability to file a continued request for unemployment benefits by the method designated if the applicant was aware of the inability and did not make diligent effort to have the method of filing a continued request changed by the commissioner. "Good cause" does not include having previously made an attempt to file a continued request for unemployment benefits but where the communication was not considered a continued request because the applicant failed to submit all required information.

51.1 Sec. 29. Minnesota Statutes 2008, section 268.095, subdivision 4, is amended to read:

51.2 Subd. 4. **Discharge.** An applicant who was discharged from employment by an
51.3 employer is ineligible for all unemployment benefits according to subdivision 10 only
51.4 if a preponderance of the available evidence shows:

51.5 (1) the applicant was discharged because of employment misconduct as defined
51.6 in subdivision 6; or

51.7 (2) the applicant was discharged because of aggravated employment misconduct as
51.8 defined in subdivision 6a.

51.9 Sec. 30. Minnesota Statutes 2008, section 268.095, subdivision 10, is amended to read:

51.10 Subd. 10. **Ineligibility duration.** (a) Ineligibility from the payment of all
51.11 unemployment benefits under subdivisions 1 and 4 is for the duration of the applicant's
51.12 unemployment and until the end of the calendar week that the applicant had total earnings
51.13 in subsequent covered employment of eight times the applicant's weekly unemployment
51.14 benefit amount.

51.15 (b) Ineligibility imposed under subdivisions 1 and 4 begins on the Sunday of the
51.16 week that the applicant became separated from employment.

51.17 (c) In addition to paragraph (a), if the applicant was discharged from employment
51.18 because of aggravated employment misconduct, wage credits from that employment are
51.19 canceled and cannot be used for purposes of a benefit account under section 268.07,
51.20 subdivision 2.

51.21 Sec. 31. Minnesota Statutes 2008, section 268.095, subdivision 11, is amended to read:

51.22 Subd. 11. **Application.** (a) This section and section 268.085, subdivision 13c,
51.23 ~~and this section~~ apply to all covered employment, full time or part time, temporary or of
51.24 limited duration, permanent or of indefinite duration, that occurred in Minnesota during
51.25 the base period, the period between the end of the base period and the effective date of the
51.26 benefit account, or the benefit year, ~~except as provided for in subdivision 1, clause (5).~~

51.27 (b) Paragraph (a) also applies to employment covered under an unemployment
51.28 insurance program of any other state or established by an act of Congress.

51.29 Sec. 32. Minnesota Statutes 2008, section 268.101, subdivision 1, is amended to read:

51.30 Subdivision 1. **Notification.** (a) In an application for unemployment benefits, each
51.31 applicant must report the name and the reason for no longer working for the applicant's
51.32 most recent employer, as well as the names of all employers and the reasons for no
51.33 longer working for all employers during the six calendar months before the date of the

application. If the reason reported for no longer working for any of those employers is other than a layoff because of lack of work, that raises an issue of ineligibility that the department must determine. An applicant must report any offers of employment refused during the eight calendar weeks before the date of the application for unemployment benefits and the name of the employer that made the offer. An applicant's failure to report the name of an employer, or giving an incorrect reason for no longer working for an employer, or failing to disclose an offer of employment that was refused, is a violation of section 268.182, subdivision 2.

In an application, the applicant must also provide all information necessary to determine the applicant's eligibility for unemployment benefits under this chapter. If the applicant fails or refuses to provide information necessary to determine the applicant's eligibility for unemployment benefits, the applicant is ineligible for unemployment benefits under section 268.085, subdivision 2, until the applicant provides this required information.

(b) Upon establishment of a benefit account under section 268.07, subdivision 2, the commissioner shall notify, by mail or electronic transmission, all employers the applicant was required to report on the application and all base period employers and determined successors to those employers under section 268.051, subdivision 4, in order to provide the employer an opportunity to raise, in a manner and format prescribed by the commissioner, any issue of ineligibility. An employer must be informed of the effect that failure to raise an issue of ineligibility as a result of a quit or discharge of the applicant, ~~within ten calendar days after sending of the notice,~~ as provided for under subdivision 2, paragraph (b), may have on the employer under section 268.047.

(c) Each applicant must report any employment, and loss of employment, and offers of employment refused, during those weeks the applicant filed continued requests for unemployment benefits under section ~~268.086~~ 268.0865. Each applicant who stops filing continued requests during the benefit year and later begins filing continued requests during that same benefit year must report the name of any employer the applicant worked for during the period between the filing of continued requests and the reason the applicant stopped working for the employer. The applicant must report any offers of employment refused during the period between the filing of continued requests for unemployment benefits. Those employers from which the applicant has reported a loss of employment under this paragraph must be notified by mail or electronic transmission and provided an opportunity to raise, in a manner prescribed by the commissioner, any issue of ineligibility. An employer must be informed of the effect that failure to raise an issue of ineligibility as

a result of a quit or a discharge of the applicant may have on the employer under section 268.047.

(d) The purpose for requiring the applicant to report the name of employers and the reason for no longer working for those employers, or offers of employment refused, under paragraphs (a) and (c) is for the commissioner to obtain information from an applicant raising all issues that may result in the applicant being ineligible for unemployment benefits under section 268.095, because of a quit or discharge, or the applicant being ineligible for unemployment benefits under section 268.085, subdivision 13c. If the reason given by the applicant for no longer working for an employer is other than a layoff because of lack of work, that raises an issue of ineligibility and the applicant is required, as part of the determination process under subdivision 2, paragraph (a), to state all the facts about the cause for no longer working for the employer, if known. If the applicant fails or refuses to provide any required information, the applicant is ineligible for unemployment benefits under section 268.085, subdivision 2, until the applicant provides this required information.

Sec. 33. Minnesota Statutes 2008, section 268.101, subdivision 2, is amended to read:

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

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

If a base period employer:

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

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

(3) did not raise an issue of ineligibility as a result of a quit or discharge of the applicant within ten calendar days of notification under subdivision 1, paragraph (b); then any exception under section 268.047, subdivisions 2 and 3, begins the Sunday two weeks following the week that the issue of ineligibility as a result of a quit or discharge of the applicant was raised by the employer.

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

(c) An issue of ineligibility is determined based upon that information required of an applicant, any information that may be obtained from an applicant or employer, and information from any other source, ~~without regard to any burden of proof.~~

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

(e) The commissioner may issue a determination on an issue of ineligibility at any time within 24 months from the establishment of a benefit account based upon information from any source, even if the issue of ineligibility was not raised by the applicant or an employer. This paragraph does not prevent the imposition of a penalty on an applicant under section 268.18, subdivision 2, or 268.182.

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

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

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

Sec. 34. Minnesota Statutes 2008, section 268.103, subdivision 1, is amended to read:

Subdivision 1. **In commissioner's discretion.** ~~(a) The commissioner shall have the discretion to~~ may allow an appeal to be filed by electronic transmission. If the commissioner allows an appeal to be filed by electronic transmission, that must be clearly set out on the determination or decision subject to appeal.

(b) The commissioner may restrict the manner, and format, and conditions under which an appeal by electronic transmission may be filed. Any Restrictions as to days, hours, a specific telephone number, or electronic address, or other conditions, must be clearly set out on the determination or decision subject to appeal.

(c) All information requested by the commissioner when an appeal is filed by electronic transmission must be supplied or the communication does not constitute an appeal.

(d) This section applies to requests for reconsideration under section 268.105, subdivision 2.

Sec. 35. Minnesota Statutes 2008, section 268.105, subdivision 1, is amended to read:

Subdivision 1. **Evidentiary hearing by unemployment law judge.** (a) Upon a timely appeal having been filed, the department must send, by mail or electronic transmission, a notice of appeal to all involved parties that an appeal has been filed, and that a de novo due process evidentiary hearing will be scheduled, and that the parties have certain. The notice must set out the parties' rights and responsibilities regarding the hearing. The notice must explain that the matter will be decided by the unemployment law judge based upon a preponderance of the available evidence. The notice must explain in clear and simple language the meaning of the term "preponderance of the evidence." The department must set a time and place for a de novo due process evidentiary hearing and send notice to any involved applicant and any involved employer, by mail or electronic transmission, not less than ten calendar days before the date of the hearing.

(b) The evidentiary hearing is conducted by an unemployment law judge without regard to any burden of proof as an evidence gathering inquiry and not an adversarial proceeding. At the beginning of the hearing the unemployment law judge must fully explain how the hearing will be conducted, that the matter will be decided upon a preponderance of the available evidence, and, in clear and simple language, the meaning of the term "preponderance of the evidence." The unemployment law judge must ensure that all relevant facts are clearly and fully developed. The department may adopt rules on evidentiary hearings. The rules need not conform to common law or statutory rules of evidence and other technical rules of procedure. The department has discretion regarding the method by which the evidentiary hearing is conducted. A report of any employee of

the department, except a determination, made in the regular course of the employee's duties, is competent evidence of the facts contained in it.

(c) After the conclusion of the hearing, upon the evidence obtained, the unemployment law judge must make findings of fact and decision and send those, by mail or electronic transmission, to all involved parties. When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the unemployment law judge must set out the reason for crediting or discrediting that testimony. The unemployment law judge's decision is final unless a request for reconsideration is filed under subdivision 2.

(d) Regardless of paragraph (c), if the appealing party fails to participate in the evidentiary hearing, the unemployment law judge has the discretion to dismiss the appeal by summary order. By failing to participate, the appealing party is considered to have failed to exhaust available administrative remedies unless the appealing party files a request for reconsideration under subdivision 2 and establishes good cause for failing to participate in the evidentiary hearing under subdivision 2, paragraph (d). Submission of a written statement does not constitute participation. The applicant must participate personally and appearance solely by a representative does not constitute participation.

(e) Only employees of the department who are attorneys licensed to practice law in Minnesota may serve as the chief unemployment law judge, senior unemployment law judges who are supervisors, or unemployment law judges. The commissioner must designate a chief unemployment law judge. The chief unemployment law judge may transfer to another unemployment law judge any proceedings pending before an unemployment law judge.

Sec. 36. Minnesota Statutes 2008, section 268.105, subdivision 2, is amended to read:

Subd. 2. Request for reconsideration. (a) Any involved applicant, involved employer, or the commissioner may, within 20 calendar days of the sending of the unemployment law judge's decision under subdivision 1, file a request for reconsideration asking the unemployment law judge to reconsider that decision. Section 268.103 applies to a request for reconsideration. If a request for reconsideration is timely filed, the unemployment law judge must issue an order:

- (1) modifying the findings of fact and decision issued under subdivision 1;
- (2) setting aside the ~~findings of fact and~~ decision issued under subdivision 1 and directing that an additional evidentiary hearing be conducted under subdivision 1; or
- (3) affirming the findings of fact and decision issued under subdivision 1.

(b) Upon a timely request for reconsideration having been filed, the department must send a notice, by mail or electronic transmission, to all involved parties that a request for reconsideration has been filed. The notice must inform the involved parties:

(1) of the opportunity to provide comment on the request for reconsideration, and the right under subdivision 5 to obtain a copy of any recorded testimony and exhibits offered or received into evidence at the evidentiary hearing;

(2) that providing specific comments as to a perceived factual or legal error in the decision, or a perceived error in procedure during the evidentiary hearing, will assist the unemployment law judge in deciding the request for reconsideration;

(3) of the right to obtain any comments and submissions provided by the other involved party regarding the request for reconsideration; and

(4) of the provisions of paragraph (c) regarding additional evidence.

This paragraph does not apply if paragraph (d) is applicable.

(c) In deciding a request for reconsideration, the unemployment law judge must not, except for purposes of determining whether to order an additional evidentiary hearing, consider any evidence that was not submitted at the evidentiary hearing conducted under subdivision 1.

The unemployment law judge must order an additional evidentiary hearing if an involved party shows that evidence which was not submitted at the evidentiary hearing:

(1) would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence; or (2) would show that the evidence that was submitted at the evidentiary hearing was likely false and that the likely false evidence had an effect on the outcome of the decision.

(d) If the involved applicant or involved employer who filed the request for reconsideration failed to participate in the evidentiary hearing conducted under subdivision 1, an order setting aside the ~~findings of fact and~~ decision and directing that an additional evidentiary hearing be conducted must be issued if the party who failed to participate had good cause for failing to do so. In the notice that a request for reconsideration has been filed, the party who failed to participate must be informed of the requirement, and provided the opportunity, to show good cause for failing to participate. If the unemployment law judge determines that good cause for failure to participate has not been shown, the unemployment law judge must state that in the order issued under paragraph (a).

Submission of a written statement at the evidentiary hearing under subdivision 1 does not constitute participation for purposes of this paragraph.

All involved parties must be informed of this paragraph with the notice of appeal and notice of hearing provided for in subdivision 1.

"Good cause" for purposes of this paragraph is a reason that would have prevented a reasonable person acting with due diligence from participating at the evidentiary hearing.

(e) A request for reconsideration must be decided by the unemployment law judge who issued the ~~findings of fact and~~ decision under subdivision 1 unless that unemployment law judge: (1) is no longer employed by the department; (2) is on an extended or indefinite leave; (3) has been disqualified from the proceedings on the judge's own motion; or (4) has been removed from the proceedings ~~as provided for under subdivision 1 or applicable rule~~ by the chief unemployment law judge.

(f) The unemployment law judge must send to any involved applicant or involved employer, by mail or electronic transmission, the order issued under this subdivision. An order modifying the previously issued findings of fact and decision or an order affirming the previously issued findings of fact and decision is the final department decision on the matter and is final and binding on the involved applicant and involved employer unless judicial review is sought under subdivision 7.

Sec. 37. Minnesota Statutes 2008, section 268.105, subdivision 3a, is amended to read:

Subd. 3a. **Decisions.** (a) If an unemployment law judge's decision or order allows unemployment benefits to an applicant, the unemployment benefits must be paid regardless of any request for reconsideration or any appeal to the Minnesota Court of Appeals having been filed.

(b) If an unemployment law judge's decision or order modifies or reverses a determination, or prior decision of the unemployment law judge, allowing unemployment benefits to an applicant, any benefits paid in accordance with the determination, or prior decision of the unemployment law judge, is considered an overpayment of those unemployment benefits. A decision or order issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

(c) If an unemployment law judge's order under subdivision 2 allows unemployment benefits to an applicant under section 268.095 because of a quit or discharge and the unemployment law judge's decision is reversed by the Minnesota Court of Appeals or the Supreme Court of Minnesota, the applicant cannot be held ineligible for any of the unemployment benefits paid the applicant and it is not considered an overpayment of those unemployment benefits under section 268.18, subdivision 1. The effect of the court's reversal is the application of section 268.047, subdivision 3, in computing the future tax rate of the employer.

59.1 (d) If an unemployment law judge, under subdivision 2, orders the taking of
59.2 additional evidence, the unemployment law judge's prior decision must continue to be
59.3 enforced until new findings of fact and decision are made by the unemployment law judge.

59.4 Sec. 38. Minnesota Statutes 2008, section 268.105, subdivision 4, is amended to read:

59.5 Subd. 4. **Oaths; subpoenas.** An unemployment law judge has authority to
59.6 administer oaths and affirmations, take depositions, and issue subpoenas to compel the
59.7 attendance of witnesses and the production of documents and other personal property
59.8 considered necessary as evidence in connection with the subject matter of an evidentiary
59.9 hearing.

59.10 The unemployment law judge must give full consideration to a request for a
59.11 subpoena and must not unreasonably deny a request for a subpoena. If a subpoena request
59.12 is initially denied, the unemployment law judge must, on the unemployment law judge's
59.13 own motion, reconsider that request during the evidentiary hearing and rule on whether
59.14 the request was properly denied. If the request was not properly denied, the evidentiary
59.15 hearing must be continued for issuance of the subpoena. The subpoenas are enforceable
59.16 through the district court in Ramsey County. Witnesses subpoenaed, other than an involved
59.17 applicant or involved employer or officers and employees of an involved employer, must
59.18 be paid by the department the same witness fees as in a civil action in district court.

59.19 Sec. 39. Minnesota Statutes 2008, section 268.115, subdivision 5, is amended to read:

59.20 Subd. 5. **Maximum amount of extended unemployment benefits.** The maximum
59.21 amount of extended unemployment benefits available to an applicant is 50 percent of the
59.22 maximum amount of regular unemployment benefits available in the benefit year, ~~rounded~~
59.23 ~~down to the next lower whole dollar.~~ If the total rate of unemployment computed under
59.24 subdivision 1, clause (2)(ii), equaled or exceeded eight percent, the maximum amount
59.25 of extended unemployment benefits available is 80 percent of the maximum amount of
59.26 regular unemployment benefits available in the benefit year.

59.27 Sec. 40. Minnesota Statutes 2008, section 268.125, subdivision 5, is amended to read:

59.28 Subd. 5. **Maximum amount of unemployment benefits.** The maximum amount
59.29 of additional unemployment benefits available in the applicant's benefit year is one-half
59.30 of the applicant's maximum amount of regular unemployment benefits available under
59.31 section 268.07, subdivision 2, ~~rounded down to the next lower whole dollar.~~ Extended
59.32 unemployment benefits paid and unemployment benefits paid under any federal law other

60.1 than regular unemployment benefits must be deducted from the maximum amount of
60.2 additional unemployment benefits available.

60.3 Sec. 41. Minnesota Statutes 2008, section 268.135, subdivision 4, is amended to read:

60.4 Subd. 4. **Weekly benefit amount.** (a) An applicant who is eligible for shared work
60.5 benefits is paid an amount equal to the regular weekly unemployment benefit amount
60.6 multiplied by the nearest full percentage of reduction of the applicant's regular weekly
60.7 hours of work as set in the plan. ~~The benefit payment, if not a whole dollar must be~~
60.8 ~~rounded down to the next lower whole dollar.~~

60.9 (b) The deductible earnings provisions of section 268.085, subdivision 5, must not
60.10 apply to earnings from the shared work employer of an applicant eligible for shared work
60.11 benefits unless the resulting amount would be less than the regular weekly unemployment
60.12 benefit amount the applicant would otherwise be eligible for without regard to shared
60.13 work benefits.

60.14 (c) An applicant is not eligible for shared work benefits for any week that
60.15 employment is performed for the shared work employer in excess of the reduced hours
60.16 set forth in the plan.

60.17 Sec. 42. Minnesota Statutes 2008, section 268.145, subdivision 1, is amended to read:

60.18 Subdivision 1. **Notification.** (a) Upon filing an application for unemployment
60.19 benefits, the applicant must be informed that:

60.20 (1) unemployment benefits are subject to federal and state income tax;

60.21 (2) there are requirements for filing estimated tax payments;

60.22 (3) the applicant may elect to have federal income tax withheld from unemployment
60.23 benefits;

60.24 (4) if the applicant elects to have federal income tax withheld, the applicant may, in
60.25 addition, elect to have Minnesota state income tax withheld; and

60.26 (5) at any time during the benefit year the applicant may change a prior election.

60.27 (b) If an applicant elects to have federal income tax withheld, the commissioner

60.28 ~~shall~~ must deduct ten percent for federal income tax, ~~rounded down to the next lower~~

60.29 ~~whole dollar.~~ If an applicant also elects to have Minnesota state income tax withheld, the

60.30 commissioner ~~shall~~ must make an additional five percent deduction for state income

60.31 tax, ~~rounded down to the next lower whole dollar.~~ Any amounts deducted or offset under

60.32 sections 268.155, 268.18, and 268.184 have priority over any amounts deducted under this

60.33 section. Federal income tax withholding has priority over state income tax withholding.

61.1 (c) An election to have income tax withheld may not be retroactive and only applies
61.2 to unemployment benefits paid after the election.

61.3 Sec. 43. Minnesota Statutes 2008, section 268.18, subdivision 1, is amended to read:

61.4 Subdivision 1. **Nonfraud overpayment.** (a) Any applicant who (1) because of a
61.5 determination or amended determination issued under section 268.07 or 268.101, or any
61.6 other section of this chapter, or (2) because of an appeal decision or order under section
61.7 268.105, has received any unemployment benefits that the applicant was held not entitled
61.8 to, must promptly repay the unemployment benefits to the trust fund.

61.9 (b) If the applicant fails to repay the unemployment benefits overpaid, the
61.10 commissioner may offset from any future unemployment benefits otherwise payable the
61.11 amount of the overpayment. Except when the overpayment resulted because the applicant
61.12 failed to report deductible earnings or deductible or benefit delaying payments, no single
61.13 offset may exceed 50 percent of the amount of the payment from which the offset is made.
61.14 The overpayment may also be collected by the same methods as delinquent payments
61.15 from an employer.

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

61.22 ~~(d) If under paragraph (b) or (c) the reduced unemployment benefits as a result of~~
61.23 ~~a 50 percent offset is not a whole dollar amount, it is rounded down to the next lower~~
61.24 ~~whole dollar.~~

61.25 Sec. 44. Minnesota Statutes 2008, section 268.18, subdivision 2, is amended to read:

61.26 Subd. 2. **Overpayment because of fraud.** (a) Any applicant who receives
61.27 unemployment benefits by knowingly misrepresenting, misstating, or failing to disclose
61.28 any material fact, or who makes a false statement or representation without a good faith
61.29 belief as to the correctness of the statement or representation, has committed fraud. After
61.30 the discovery of facts indicating fraud, the commissioner ~~shall~~ must make a determination
61.31 that the applicant obtained unemployment benefits by fraud and that the applicant must
61.32 promptly repay the unemployment benefits to the trust fund. In addition, the commissioner
61.33 ~~shall~~ must assess a penalty equal to 40 percent of the amount fraudulently obtained. This
61.34 penalty is in addition to penalties under section 268.182.

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

(c) If the applicant fails to repay the unemployment benefits, penalty, and interest assessed, the total due may be collected by the ~~same methods as delinquent payments from an employer~~ allowed under state and federal law. A determination of overpayment by fraud must state the methods of collection the commissioner may use to recover the overpayment. Money received in repayment of fraudulently obtained unemployment benefits, penalties, and interest is first applied to the unemployment benefits overpaid, then to the penalty amount due, then to any interest due. 62.5 percent of the payments made toward the penalty are credited to the contingent account and 37.5 percent credited to the administration account ~~for deterring, detecting, or collecting overpayments~~.

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

(e) Unemployment benefits paid for weeks more than four years before the date of a determination of overpayment by fraud issued under this subdivision are not considered overpaid unemployment benefits.

Sec. 45. Minnesota Statutes 2008, section 268.196, subdivision 1, is amended to read:

Subdivision 1. **Administration account.** (a) There is created in the state treasury a special account to be known as the administration account. All money that is deposited ~~or paid~~ into this account is continuously available to the commissioner for expenditure to administer the Minnesota unemployment insurance program, and does not lapse at any time. The administration account consists of:

(1) all money received from the federal government to administer the Minnesota unemployment insurance program, any federal unemployment insurance program, or assistance provided to any other state to administer that state's unemployment insurance program;

(2) five percent of any money recovered on overpaid unemployment benefits as provided for in section 268.194, subdivision 1, clause (7), which must be used for deterring, detecting, and collecting overpaid unemployment benefits;

(3) any money received as compensation for services or facilities supplied to the federal government or any other state;

(4) any money credited to this account under this chapter;

(5) any amounts received for losses sustained by this account or by reason of damage to equipment or supplies; and

~~(5)~~ (6) any proceeds from the sale or disposition of any equipment or supplies that may no longer be necessary for the proper administration of those sections.

(b) All money in this account must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for the other special accounts in the state treasury. The commissioner of finance, as treasurer and custodian of this account, is liable for the faithful performance of duties in connection with this account.

~~(c) All money in this account must be spent for the purposes and in the amounts found necessary by the United States Secretary of Labor for the proper and efficient administration of the Minnesota unemployment insurance program.~~

Sec. 46. Minnesota Statutes 2008, section 268.196, subdivision 2, is amended to read:

Subd. 2. **State to replace money wrongfully used.** If any money received under United States Code, title 42, section 501 of the Social Security Act ~~or the Wagner-Peyser Act~~, is found by the United States Secretary of Labor to have been spent for purposes other than, ~~or in amounts in excess of, those necessary~~ for the proper administration of the Minnesota unemployment insurance program, ~~the commissioner may replace the money from the contingent account. If the money is not replaced from the contingent account, it is the policy of this state that the money be replaced by money appropriated for that purpose from the general funds of this state. If not replaced from the contingent account,~~ the commissioner ~~shall~~ must, at the earliest opportunity, submit to the legislature a request for the appropriation of that amount.

Sec. 47. Minnesota Statutes 2008, section 268.199, is amended to read:

268.199 CONTINGENT ACCOUNT.

(a) There is created in the state treasury a special account, to be known as the contingent account, that does not lapse nor revert to any other fund or account. This account consists of ~~all money appropriated by the legislature,~~ all money collected under this chapter that is required to be placed in this account, and any interest earned on the account. All money in this ~~account is supplemental to all federal money available to the commissioner. Money in this account is appropriated to the commissioner and is available~~

~~to the commissioner~~ for administration of the Minnesota unemployment insurance program unless otherwise appropriated by session law.

(b) All money in this account must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for the other special accounts in the state treasury. ~~On June 30 of each year, all amounts in excess of \$300,000 in this account must be paid over to the trust fund.~~

Sec. 48. Minnesota Statutes 2008, section 268.211, is amended to read:

268.211 UNEMPLOYMENT INSURANCE BENEFITS TELEPHONE SYSTEM.

The commissioner must ensure that ~~the~~ any automated telephone system used for unemployment insurance benefits provides an option for any caller to speak to an unemployment insurance specialist. An individual who calls any of the publicized telephone numbers seeking information about applying for unemployment benefits or on the status of a ~~claim~~ benefit account must have the option to speak on the telephone to a specialist who can provide direct assistance or can direct the caller to the ~~person~~ individual or office that is able to respond to the caller's needs.

Sec. 49. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes, chapter 268, the revisor shall change "shall" to "must," except in Minnesota Statutes, sections 268.035 and 268.103.

Sec. 50. **REPEALER.**

Minnesota Statutes 2008, sections 268.085, subdivision 14; and 268.086, are repealed.

Sec. 51. **EFFECTIVE DATE.**

Sections 1 to 50 are effective August 2, 2009, and apply to all department determinations and unemployment law judge decisions issued on or after that date.

APPENDIX
Article locations in H1116-1

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