

A bill for an act

relating to unemployment insurance; modifying administrative, benefit, and tax provisions; amending Minnesota Statutes 2008, sections 268.035, subdivision 20; 268.046, subdivision 1; 268.051, subdivisions 2, 5, 7; 268.07, as amended; 268.085, subdivision 9; Minnesota Statutes 2009 Supplement, sections 268.035, subdivision 19a; 268.052, subdivision 2; 268.053, subdivision 1; 268.085, subdivision 1; 268.136, subdivision 1.

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

Section 1. Minnesota Statutes 2009 Supplement, section 268.035, subdivision 19a, is amended to read:

Subd. 19a. **Immediate family member.** "Immediate family member" means ~~the applicant's~~ an individual's spouse, parent, stepparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.

Sec. 2. Minnesota Statutes 2008, section 268.035, subdivision 20, is amended to read:

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

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

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

(3) employment for a foreign government;

(4) employment for an instrumentality wholly owned by a foreign government, if the employment is of a character similar to that performed in foreign countries by employees of the United States government or an instrumentality thereof and the United States Secretary of State has certified that the foreign government grants an equivalent

exemption to similar employment performed in the foreign country by employees of the United States government and instrumentalities thereof;

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

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

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

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

(9) employment of an individual receiving rehabilitation of "sheltered" work in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or a program providing "sheltered" work for individuals who because of an impaired physical or mental capacity cannot be readily absorbed in the competitive labor market. This clause applies only to services performed for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a) in a facility certified by the Rehabilitation Services Branch of the department or in a day training or habilitation program licensed by the Department of Human Services;

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

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

(12) employment as a member of the Minnesota National Guard or Air National Guard;

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

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

(15) employment for Minnesota that is a major policy-making or advisory position in the unclassified service, including those positions established under section 43A.08, subdivision 1a;

(16) employment for a political subdivision of Minnesota that is a nontenured major policy making or advisory position;

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

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

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

(19) employment for a personal care assistance provider agency by an immediate family member of a recipient who provides the direct care to the recipient through the state personal care assistance program under section 256B.0659;

~~(19)~~ (20) employment of an inmate of a custodial or penal institution;

~~(20)~~ (21) employment for a school, college, or university by a student who is enrolled and is regularly attending classes at the school, college, or university;

~~(21)~~ (22) employment of an individual who is enrolled as a student in a full-time program at a nonprofit or public educational institution that maintains a regular faculty and curriculum and has a regularly organized body of students in attendance at the place where its educational activities are carried on, taken for credit at the institution, that combines academic instruction with work experience, if the employment is an integral

part of the program, and the institution has so certified to the employer, except that this clause does not apply to employment in a program established for or on behalf of an employer or group of employers;

~~(22)~~ (23) employment of university, college, or professional school students in an internship or other training program with the city of St. Paul or the city of Minneapolis under Laws 1990, chapter 570, article 6, section 3;

~~(23)~~ (24) employment for a hospital by a patient of the hospital. "Hospital" means an institution that has been licensed by the Department of Health as a hospital;

~~(24)~~ (25) employment as a student nurse for a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in an accredited nurses' training school;

~~(25)~~ (26) employment as an intern for a hospital by an individual who has completed a four-year course in an accredited medical school;

~~(26)~~ (27) employment as an insurance salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission. The word "insurance" includes an annuity and an optional annuity;

~~(27)~~ (28) employment as an officer of a township mutual insurance company or farmer's mutual insurance company operating under chapter 67A;

~~(28)~~ (29) employment of a corporate officer, if the officer owns 25 percent or more of the employer corporation, and employment of a member of a limited liability company, if the member owns 25 percent or more of the employer limited liability company;

~~(29)~~ (30) employment as a real estate salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission;

~~(30)~~ (31) employment as a direct seller as defined in United States Code, title 26, section 3508;

~~(31)~~ (32) employment of an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

~~(32)~~ (33) casual employment performed for an individual, other than domestic employment under clause (17), that does not promote or advance that employer's trade or business;

~~(33)~~ (34) employment in "agricultural employment" unless considered "covered agricultural employment" under subdivision 11; or

~~(34)~~ (35) if employment during one-half or more of any pay period was covered employment, all the employment for the pay period is considered covered employment; but if during more than one-half of any pay period the employment was noncovered

employment, then all of the employment for the pay period is considered noncovered employment. "Pay period" means a period of not more than a calendar month for which a payment or compensation is ordinarily made to the employee by the employer.

Sec. 3. Minnesota Statutes 2008, section 268.046, subdivision 1, is amended to read:

Subdivision 1. **Tax accounts assigned.** (a) Any person that contracts with a taxpaying employer to have that person obtain the taxpaying employer's workforce and provide workers to the taxpaying employer for a fee is, as of the effective date of the contract, assigned for the duration of the contract the taxpaying employer's account under section 268.045. That tax account must be maintained by the person separate and distinct from every other tax account held by the person and identified in a manner prescribed by the commissioner. The tax account is, for the duration of the contract, considered that person's account for all purposes of this chapter. The workers obtained from the taxpaying employer and any other workers provided by that person to the taxpaying employer, including officers of the taxpaying employer as defined in section 268.035, subdivision 20, clause (28), whose wages paid by the person are considered paid in covered employment under section 268.035, subdivision 24, for the duration of the contract between the taxpaying employer and the person, must, under section 268.044, be reported on the wage detail report under that tax account, and that person must pay any taxes due at the tax rate computed for that account under section 268.051, subdivision 2.

(b) Any workers of the taxpaying employer who are not covered by the contract under paragraph (a) must be reported by the taxpaying employer as a separate unit on the wage detail report under the tax account assigned under paragraph (a). Taxes and any other amounts due on the wages reported by the taxpaying employer under this paragraph may be paid directly by the taxpaying employer.

(c) If the taxpaying employer that contracts with a person under paragraph (a) does not have a tax account at the time of the execution of the contract, an account must be registered for the taxpaying employer under section 268.042 and the new employer tax rate under section 268.051, subdivision 5, must be assigned. The tax account is then assigned to the person as provided for in paragraph (a).

(d) A person that contracts with a taxpaying employer under paragraph (a) must, within 30 calendar days of the execution or termination of a contract, notify the commissioner by electronic transmission, in a format prescribed by the commissioner, of that execution or termination. The taxpaying employer's name, the account number assigned, and any other information required by the commissioner must be provided by that person.

(e) Any contract subject to paragraph (a) must specifically inform the taxpaying employer of the assignment of the tax account under this section and the taxpaying employer's obligation under paragraph (b). If there is a termination of the contract, the tax account is, as of the date of termination, immediately assigned to the taxpaying employer.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2008, section 268.051, subdivision 2, is amended to read:

Subd. 2. **Computation of tax rates; additional assessments.** (a) For each calendar year the commissioner ~~shall~~ must compute the tax rate of each taxpaying employer that qualifies for an experience rating by adding the base tax rate to the employer's experience rating along with assigning any appropriate additional assessment under paragraph ~~(d)~~ (c).

(b) The base tax rate for the calendar year and any additional assessments under this subdivision are determined based upon the amount in the trust fund on March 31 of the prior year as a percentage of total wages paid in covered employment. The base tax rate is:

(1) one-tenth of one percent if the trust fund is equal to or more than 0.75 percent;

(2) two-tenths of one percent if the trust fund is less than 0.75 percent but equal to or more than 0.65 percent;

(3) three-tenths of one percent if the trust fund is less than 0.65 percent but equal to or more than 0.55 percent; ~~or~~

(4) four-tenths of one percent if the trust fund is less than 0.55 percent, but has a positive balance; or

(5) five-tenths of one percent if the trust fund has a negative balance and is borrowing from the federal unemployment trust fund in order to pay unemployment benefits as provided for under section 268.194, subdivision 6.

~~(c) There is a "falling trust fund adjustment" to the base tax rate for the calendar year if the amount in the trust fund on March 31 of the prior year is less than 0.75 percent of total wages paid in covered employment and:~~

~~(1) the amount in the trust fund on March 31 of the prior year is ten percent or more below the amount in the trust fund on March 31 of the year before that; or~~

~~(2) the amount in the trust fund on March 31 of the prior year is greater than the amount in the trust fund on June 30 of that same year.~~

~~If a "falling trust fund adjustment" is applicable, then the base tax rate is one-tenth of one percent greater than otherwise provided for under paragraph (b).~~

~~(d)~~ (c) In addition to the base tax rate, there is an additional assessment for the calendar year on the quarterly unemployment taxes due from every taxpaying employer if

the amount in the trust fund on March 31 of the prior year is less than 0.55 percent of total wages paid in covered employment. The assessment is as follows:

(1) a five percent assessment if the trust fund is less than 0.55 percent but equal to or more than 0.45 percent;

(2) a ten percent assessment if the trust fund is less than 0.45 percent but equal to or more than 0.35 percent; or

(3) a 14 percent assessment if the trust fund is less than 0.35 percent.

~~(c)~~ (d) For the purposes of this subdivision, the trust fund does not include any money borrowed from the federal unemployment trust fund provided for in section 268.194, subdivision 6.

~~(f)~~ (e) For the purposes of this subdivision, total wages paid in covered employment are those wages paid to all employees in covered employment during the calendar year before the March 31 date used in paragraph (b).

~~(g)~~ (f) The base tax rate and any additional assessments are assessed on all taxpaying employers to cover a portion of the costs to the trust fund for unemployment benefits paid that do not affect any single employer's future experience rating because:

(1) the employer's experience rating is limited by the maximum under subdivision 3, paragraph (b);

(2) the employer has ceased doing business; or

(3) the unemployment benefits paid have been determined not to be used in computing the employer's experience rating under section 268.047, subdivision 2 or 3.

Sec. 5. Minnesota Statutes 2008, section 268.051, subdivision 5, is amended to read:

Subd. 5. **Tax rate for new employers.** (a) Each new taxpaying employer that does not qualify for an experience rating under subdivision 3, except new employers in a high experience rating industry, must be assigned, for a calendar year, a tax rate the higher of (1) one percent, or (2) the tax rate computed, to the nearest ~~one-hundredth~~ 1/100 of a percent, by dividing the total amount of unemployment benefits paid all applicants during the 48 calendar months ending on June 30 of the prior calendar year by the total taxable wages of all taxpaying employers during the same period, plus the applicable base tax rate and any additional assessments under subdivision 2, paragraph (d).

(b) Each new taxpaying employer in a high experience rating industry that does not qualify for an experience rating under subdivision 3, must be assigned, for a calendar year, a tax rate the higher of 8.00 percent, (1) that assigned under paragraph (a), or (2) the tax rate, computed to the nearest 1/100 of a percent, by dividing the total amount of unemployment benefits paid to all applicants from high experience rating industry

employers during the 48 calendar months ending on June 30 of the prior calendar year by the total taxable wages of all high experience rating industry employers during the same period, to a maximum provided for under subdivision 3, paragraph (b), plus the applicable base tax rate and any additional assessments under subdivision 2, paragraph (d).

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

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

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

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

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

~~(c)~~ (d) The commissioner ~~shall~~ must send to the new employer, by mail or electronic transmission, notice of the tax rate assigned. An employer may appeal the assignment of a tax rate in accordance with the procedures in subdivision 6, paragraph (c).

Sec. 6. Minnesota Statutes 2008, section 268.051, subdivision 7, is amended to read:

Subd. 7. **Tax rate buydown.** (a) Any taxpaying employer that has been assigned a tax rate based upon an experience rating, and has no amounts past due under this chapter, may, upon the payment of an amount equivalent to any portion or all of the unemployment benefits used in computing the experience rating plus a surcharge of 25 percent, obtain a cancellation of unemployment benefits used equal to the payment made, less the surcharge. The payment is applied to the most recent unemployment benefits paid that are used in computing the experience rating. Upon the payment, the commissioner ~~shall~~ must compute a new experience rating for the employer, and compute a new tax rate.

(b) Payments for a tax rate buydown may be made only by electronic payment and must be received within 120 calendar days from the beginning of the calendar year for which the tax rate is effective.

(c) For calendar years 2011, 2012, and 2013, the surcharge of 25 percent provided for in paragraph (a) does not apply.

Sec. 7. Minnesota Statutes 2009 Supplement, section 268.052, subdivision 2, is amended to read:

Subd. 2. **Election by state or political subdivision to be 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.~~ The election is effective at the beginning of the next calendar quarter. 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~~ 24 calendar ~~years~~ months 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~~ quarter.

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

EFFECTIVE DATE. This section is effective November 30, 2010.

Sec. 8. Minnesota Statutes 2009 Supplement, 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~~ 24 calendar ~~years~~ months 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~~ quarter the termination is to be effective.

~~(e)~~ 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)~~ (c) 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. The election is effective at the beginning of the next calendar

10.1 quarter. The election is not terminable by the organization for ~~that and the next 24~~
10.2 calendar year months.

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

10.6 ~~(f)~~ (e) A notice of election or notice terminating election must be filed by electronic
10.7 transmission in a format prescribed by the commissioner.

10.8 **EFFECTIVE DATE.** This section is effective November 30, 2010.

10.9 Sec. 9. Minnesota Statutes 2008, section 268.07, as amended by Laws 2009, chapter
10.10 15, sections 5 and 6, and chapter 78, article 3, section 6, and article 4, sections 19 to
10.11 21, is amended to read:

10.12 **268.07 BENEFIT ACCOUNT.**

10.13 Subdivision 1. **Application for unemployment benefits; determination of benefit**
10.14 **account.** (a) An application for unemployment benefits may be filed in person, by mail,
10.15 or by electronic transmission as the commissioner may require. The applicant must be
10.16 unemployed at the time the application is filed and must provide all requested information
10.17 in the manner required. If the applicant is not unemployed at the time of the application
10.18 or fails to provide all requested information, the communication is not considered an
10.19 application for unemployment benefits.

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

10.29 (c) If a base period employer did not provide wage detail information for the
10.30 applicant as required under section 268.044, or provided erroneous information, or wage
10.31 detail is not yet due and the applicant is using an alternate base period under section
10.32 268.035, subdivision 4, paragraph (d), the commissioner may accept an applicant
10.33 certification of wage credits, based upon the applicant's records, and issue a determination
10.34 of benefit account.

(d) An employer must provide wage detail information on an applicant within five calendar days of request by the commissioner, in a manner and format requested, when:

(1) the applicant is using an alternate base period under section 268.035, subdivision 4, paragraph (d); and

(2) wage detail under section 268.044 is not yet required to have been filed by the employer.

(e) 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 wage credits listed in the determination ~~was~~ were 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.

(f) 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.

Subd. 2. **Benefit account requirements ~~and weekly unemployment benefit amount and maximum amount of unemployment benefits~~**. (a) Unless paragraph (b) applies, to establish a benefit account:

(1) using the primary base period under section 268.035, subdivision 4, paragraph (a), an applicant must have:

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

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

~~To establish a benefit account~~

(2) using the secondary base period under section 268.035, subdivision 4, paragraph (b), an applicant must have wage credits in the high quarter of \$1,000 or more.

(b) To establish a new benefit account within 52 calendar weeks following the expiration of the benefit year on a prior benefit account, an applicant must meet the requirements of paragraph (a) and must have performed services in covered employment in a calendar quarter that started after the effective date of the prior benefit account. The wage credits for those services must be at least eight times the weekly benefit amount on the prior benefit account.

Subd. 2a. **Weekly unemployment benefit amount and maximum amount of unemployment benefits available.** ~~(b)~~ (a) If an applicant has established a benefit account under subdivision 2, the weekly unemployment benefit amount available during the applicant's 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.

~~(e)~~ (b) 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)~~ (c) 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.

~~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 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 those services must be at least eight times the weekly unemployment benefit amount of the prior benefit account. Part of the reason for this subdivision is to prevent an applicant from establishing more than one benefit account as a result of one loss of employment.~~

Subd. 3a. **Right of appeal.** (a) A determination or amended determination of benefit account is final unless an applicant or base period employer within 20 calendar days after the sending of the determination or amended determination files an appeal. Every determination or amended determination of benefit account must contain a prominent statement indicating in clear language the consequences of not appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

(b) Any applicant or base period employer may appeal from a determination or amended determination of benefit account on the issue of whether services performed constitute employment ~~and, whether the employment is considered~~ covered employment,

13.1 and whether money paid constitutes wages. Proceedings on the appeal are conducted in
13.2 accordance with section 268.105.

13.3 Subd. 3b. **Limitations on applications and benefit accounts.** (a) An application for
13.4 unemployment benefits is effective the Sunday of the calendar week that the application
13.5 was filed. An application for unemployment benefits may be backdated one calendar week
13.6 before the Sunday of the week the application was actually filed if the applicant requests
13.7 the backdating at the time the application is filed. An application may be backdated only if
13.8 the applicant had no employment during the period of the backdating. If an individual
13.9 attempted to file an application for unemployment benefits, but was prevented from filing
13.10 an application by the department, the application is effective the Sunday of the calendar
13.11 week the individual first attempted to file an application.

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

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

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

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

13.19 A determination or amended determination of eligibility or ineligibility issued under
13.20 section 268.101, that was sent before the withdrawal of the benefit account, remains in
13.21 effect and is not voided by the withdrawal of the benefit account. A determination of
13.22 ineligibility requiring subsequent earnings to satisfy the period of ineligibility under
13.23 section 268.095, subdivision 10, applies to the weekly unemployment benefit amount on
13.24 the new benefit account.

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

13.29 **EFFECTIVE DATE.** This section is effective the first Sunday following final
13.30 enactment.

13.31 Sec. 10. Minnesota Statutes 2009 Supplement, section 268.085, subdivision 1, is
13.32 amended to read:

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

(1) the applicant has filed a continued request for unemployment benefits for that week under section 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 available for suitable employment as defined in subdivision 15. The applicant's weekly unemployment benefit amount is reduced one-fifth for each day the applicant is unavailable for suitable employment. 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

(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. 11. Minnesota Statutes 2008, section 268.085, subdivision 9, is amended to read:

Subd. 9. **Business owners.** (a) Wage credits from an employer may not be used for unemployment benefit purposes by any applicant who:

(1) individually, jointly, or in combination with the applicant's spouse, parent, or child owns or controls directly or indirectly 25 percent or more interest in the employer; or

(2) is the spouse, parent, or ~~minor~~ child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employer.

This subdivision is effective when the applicant has been paid five times the applicant's weekly unemployment benefit amount in the current benefit year. This subdivision does not apply if the applicant had wages paid in covered employment of \$7,500 or more from the employer covered by this subdivision in each of the 16 calendar quarters prior to the effective date of the benefit account and all taxes due on those wages have been paid.

15.1 (b) An officer of a taxpaying employer referred to in section 268.046, subdivision 1,
15.2 is subject to the limitations of this subdivision.

15.3 Sec. 12. Minnesota Statutes 2009 Supplement, section 268.136, subdivision 1, is
15.4 amended to read:

15.5 Subdivision 1. **Shared work agreement requirements.** (a) An employer may
15.6 submit a proposed shared work plan for an employee group to the commissioner for
15.7 approval in a manner and format set by the commissioner. The proposed agreement
15.8 must include:

15.9 (1) a certified statement that the normal weekly hours of work of all of the proposed
15.10 participating employees were full time but are now reduced, or will be reduced, with a
15.11 corresponding reduction in pay, in order to prevent layoffs;

15.12 (2) the name and Social Security number of each participating employee;

15.13 (3) a certified statement of when each participating employee was first hired by the
15.14 employer, which must be at least one year before the proposed agreement is submitted;

15.15 (4) the hours of work each participating employee will work each week for the
15.16 duration of the agreement, which must be at least 20 hours and no more than 32 hours
15.17 per week, except that the agreement may provide for a uniform vacation shutdown of up
15.18 to two weeks;

15.19 (5) the proposed duration of the agreement, which must be at least two months and
15.20 not more than one year, although an agreement may be extended for up to an additional
15.21 year upon approval of the commissioner;

15.22 (6) a starting date beginning on a Sunday at least 15 calendar days after the date
15.23 the proposed agreement is submitted; and

15.24 (7) a signature of an owner or officer of the employer who is listed as an owner or
15.25 officer on the employer's account under section 268.045.

15.26 (b) An agreement may not be approved for an employer that:

15.27 (1) has any unemployment tax or reimbursements, including any interest, fees,
15.28 or penalties, due but unpaid; or

15.29 (2) has the maximum experience rating provided for under section 268.051,
15.30 subdivision 3; ~~or~~

15.31 ~~(3) is in a high-experience rating industry as defined in section 268.051, subdivision~~
15.32 ~~5.~~

15.33 Sec. 13. **SPECIAL STATE EXTENDED UNEMPLOYMENT INSURANCE**
15.34 **PROGRAM.**

Subdivision 1. **Eligibility.** (a) Special state extended unemployment insurance benefits are payable under this section to an applicant who does not qualify for extended unemployment insurance benefits under Minnesota Statutes, section 268.115, solely because the applicant does not have wage credits of at least 40 times the applicant's weekly benefit amount.

(b) Except as provided in paragraph (a), all requirements for extended unemployment benefits under Minnesota Statutes, section 268.115, and all other requirements of Minnesota Statutes, chapter 268, must be met in order for an applicant to be eligible for special state extended unemployment insurance benefits under this section.

(c) Except as provided for in paragraph (d), special state extended unemployment insurance benefits are payable in the same amounts, for the same duration, and for the same time period as provided for under Minnesota Statutes, section 268.115.

(d) The maximum amount of special state extended unemployment insurance benefits under this section available to an applicant is reduced by the amount of special state emergency unemployment insurance benefits paid the applicant under Laws 2009, chapter 1, sections 2 and 11.

Subd. 2. **Payment from trust fund.** Special state extended unemployment insurance benefits are payable from the Minnesota unemployment insurance trust fund. Special state extended unemployment insurance benefits must not be used in computing the future unemployment insurance tax rate of a taxpaying employer, and they must not be charged to the reimbursing account of government or nonprofit employers.

Subd. 3. **Expiration.** This section expires on March 26, 2011, and no benefits may be paid under this section for a week beginning after that date.

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 14. **LEAVES OF ABSENCE.**

Minnesota Statutes, section 268.088, applies to leaves of absence taken by workers at the New Ulm location of 3M during 2009. The department must, notwithstanding any prior determination or appeal decision, redetermine an applicant's entitlement to unemployment benefits under this section.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 15. **SPECIAL STATE EMERGENCY UNEMPLOYMENT COMPENSATION.**

Notwithstanding the June 30, 2010, expiration date of Laws 2009, chapter 1, section 2, subdivision 4, if an applicant has received special state emergency unemployment compensation for a week beginning prior to June 30, 2010, but has not exhausted the maximum amount available to the applicant under that law, the applicant may continue to receive special state emergency unemployment compensation under that law up to the applicant's determined maximum under that law. This section expires March 26, 2011, and no benefits may be paid pursuant to this section for a week beginning after that date.

Sec. 16. **NEW BENEFIT ACCOUNTS.**

If an applicant establishes a new benefit account under Minnesota Statutes, section 268.07, subdivision 2, paragraph (b), within 39 weeks of the expiration of the benefit year on a prior benefit account, notwithstanding Minnesota Statutes, section 268.07, subdivision 2a, paragraph (a), the weekly benefit amount on the new benefit account will not be less than 80 percent of the weekly benefit amount on the prior benefit account.

EFFECTIVE DATE. This section applies to benefit accounts effective on or after the first Sunday following enactment and expires the earlier of (1) the effective date of any federal legislation allowing an applicant to continue to collect federal emergency unemployment compensation, notwithstanding the applicant qualifying for a new regular state benefit account under Minnesota Statutes, section 268.07, subdivision 2, paragraph (b), or (2) June 30, 2011.

Sec. 17. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number in column B.

<u>Column A</u>	<u>Column B</u>
<u>268.035, subdivision 12b</u>	<u>268.035, subdivision 12d</u>
<u>268.035, subdivision 21a</u>	<u>268.035, subdivision 21c</u>
<u>268.035, subdivision 20a</u>	<u>268.035, subdivision 21b</u>
<u>268.035, subdivision 25a</u>	<u>268.035, subdivision 25c</u>