

annuities or retirement allowance payments received by the retired member prior to his death.

Sec. 24. Minnesota Statutes 1949, Section 352.12, is amended by adding thereto the following subdivision:

352.12. *Subd. 5. If a member or former member dies without having designated a beneficiary, or if the beneficiary should die before making application for refundment of the sum to the credit of such deceased member or former member, and the amount of the refundment is \$500 or less, the retirement board may 90 days after the date of death of the member or former member in the absence of probate proceedings make refundment to the surviving spouse of the deceased member or former members or, if none, to the next of kin under the laws of descent of the State of Minnesota and such payment shall be a bar to recovery by any other person or persons. Any retirement allowance or annuity which shall have accrued at the time of death of an annuitant may be paid in like manner.*

Sec. 25. Minnesota Statutes 1949, Section 352.13, is amended to read as follows:

352.13. *Annuities paid monthly. All annuities and retirement and disability allowances granted under the provisions of this chapter shall be paid in equal monthly instalments and shall not be increased, decreased, or revoked except as provided herein.*

Sec. 26. This act shall take effect July 1, 1951.

Approved April 18, 1951.

CHAPTER 442—H. F. No. 551

An act relating to employment and security; amending Minnesota Statutes 1949, Sections 268.04, Subdivision 25; 268.06, Subdivision 20; 268.10, Subdivisions 2 and 8; 268.12, Subdivisions 2, 3, 5, 6 and 8; and 268.18; and repealing Section 268.07, Subdivision 4.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1949, Section 268.04, Subdivision 25, is amended to read:

268.04 Subd. 25. "Wages" means all remuneration for services, employment, including commissions and bonuses and the cash value of all emuneration in any medium other than cash, except that such term shall not include:

(1) For the purpose of determining contributions payable under section 268.06, subdivision 2, clause (2) [,] that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment in this state or any other state during any calendar year subsequent to December 31, 1944, is paid to such individual by such employer with respect to employment during such calendar year; *provided, that if the definition of the term "wages" as contained in the Federal Unemployment Tax Act is amended to include remuneration in excess of \$3,000 paid to an individual by an employer under the federal act during any calendar year, wages for the purposes of this law shall include remuneration paid in a calendar year to an individual by an employer subject to this act or his predecessor with respect to employment during any calendar year up to an amount equal to the dollar limitation specified in the Federal Unemployment Tax Act. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government.*

(2) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (a) retirement or (b) sickness or accident disability or (c) medical and hospitalization expenses in connection with sickness or accident disability, or (d) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment, or if such death benefit is insured, any part of the premium (or contributions to premiums) paid by his employer and (ii) has not the right, under the provisions of the plan or system or policy of insur-

ance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(3) The payment by an employer (without deduction from the remuneration of the employee) (a) of the tax imposed upon an employee under section 1400 of the Federal Internal Revenue Code, or (b) of any payment required from an employee under a state unemployment compensation law; or

(4) Dismissal payments which the employer is not legally required to make;

(5) Any payments made to a former employee during the period of active military service in the armed forces of the United States by such employer, *whether legally required or not.*

Sec. 2. Minnesota Statutes 1949, Section 268.06, Subdivision 20, is amended to read:

268.06 Subd. 20. **Redetermination of rate.** *A review of the charges made to an employer's account as set forth in the notice of charges referred to in subdivision 18 of this section and a review of an employer's contribution rate as set forth in the notice of his rate for any calendar year as provided in subdivision 19 of this section, may be had by such employer if he files with the director a written protest setting forth his reasons therefor within 30 days from the date of the mailing of the notice of charges or contribution rate to him, which date shall appear on such notice. Upon receipt of such protest the director shall refer the matter to an official designated by him to review the charges appearing on such notice appealed from or the computations of the protesting employer's rate, as the case may be, to determine whether or not there has been any clerical error or error in computation in either case, and he shall either affirm or make a redetermination rectifying said charges or rate as the case may be, and a notice of such affirmation or redetermination shall immediately be mailed to said employer. If the employer is not satisfied with such affirmation or redetermination, he may appeal therefrom by filing a notice thereof with the division within ten days after the date of mailing appearing upon said redetermination. Upon the receipt of such appeal the director*

shall refer the matter to a referee for a hearing and after opportunity for a fair hearing, the referee shall affirm, modify or set aside the original determination with its affirmation or the redetermination, as appears just and proper. The director may at any time upon his own motion correct any clerical error of the division resulting in charges against an employer's account or any error in the computation of an employer's contribution rate. The referee may order the consolidation of two or more appeals whenever, in his judgment, such consolidation will not be prejudicial to any interested party. At any such hearing a written report of any employee of the division which has been authenticated shall be admissible in evidence. Appeals from the decision of the referee shall be made in the same manner as appeals from the decision of an appeal tribunal. Decisions of the director made upon appeal from a decision of the referee shall be reviewed by the supreme court upon certiorari in accordance with the procedure outlined therefor with respect to benefit decisions.

Sec. 3. Minnesota Statutes 1949, Section 268.07, Subdivision 4, is hereby repealed.

Sec. 4. Minnesota Statutes 1949, Section 268.10, Subdivision 2, is amended to read:

268.10 Subd. 2. **Duty of designated deputy.** (1) *An official, designated by the director, shall promptly examine each claim for benefits filed to establish a benefit year pursuant to this section, and, on the basis of the facts found, shall determine whether or not such claims are valid, and if valid, the weekly benefit amount payable, the maximum benefit amount payable during the benefit year, and the date the benefit year terminates, and such determination shall be known as the determination of validity.* Notice of any such determination of validity shall be promptly given the claimant and all other interested parties. Unless the claimant or such other interested party, parties, or employing unit or units within ten calendar days after the delivery of such notification, or within 12 calendar days after such notification was mailed to his last known address files a protest to such determination of validity or makes an allegation of disqualification, or raises an issue of the chargeability to his account of benefits that may be paid to such claimant as a result of such claim, such determination shall be final and benefits shall be paid or denied in accordance therewith. *If the claimant or an interested employer files a protest to such determination of validity*

or the employer makes an allegation of disqualification or raises an issue of the chargeability to his account of benefits that may be paid on such claim within the time aforesaid, the issue thereby raised shall be promptly determined by said official and a notification of such determination delivered or mailed to all the interested parties and such determination shall become final unless any interested party appeals therefrom within ten calendar days after the delivery of such notification or within 12 calendar days after such notification was mailed to his last known address. If an appeal is filed, benefits may be paid on the uncontested portion of the claim; benefits on the contested portion of the claim, if any, shall be paid after the final determination of the appeal. Except in respect to cases arising under Section 268.09, Subdivision 1, Clause (6), if an appeal tribunal affirms an initial determination or the director affirms a decision of the appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, such benefits so paid shall not be considered in determining any individual employer's future contribution rate under section 268.06.

(2) However, the director may in his discretion refer any disputed claims directly to the appeal tribunal for hearing and determination in accordance with the procedure outlined in subdivision 3 of this section and the effect and status of such determination in such a case shall be the same as though the matter had been determined upon an appeal to such appeal tribunal from an initial determination.

(3) If within the benefit year an official of the division or any interested party or parties raises an issue of claimant's eligibility for benefits for any week or weeks in accordance with the requirements of the provisions of sections 268.03 to 268.24 or any official of the division or any interested party or parties or benefit year employer raises an issue of disqualification in accordance with the regulations of the director, a determination shall be made thereon and a written notice thereof shall be given to the claimant and such other interested party or parties or benefit year employer. Unless the claimant or such other interested party or parties or benefit year employer shall within ten calendar days after the delivery of such notice, or within 12 days after such notice was mailed to his last known address, files an appeal from such determination, such determination shall be final and benefits shall be paid or denied in accordance therewith.

Sec. 5. Minnesota Statutes 1949, Section 268.10, Subdivision 8, is amended to read:

268.10 Subd. 8. *Certiorari.* Any such decision of the director may be reviewed on certiorari by the supreme court provided such writ is issued and served upon the adverse party or parties within 30 days after the date of mailing notice of any decision to him at his last known address.

Any party in interest except a claimant for benefits upon the service of such writ shall furnish a cost bond to be approved by the director and pay to the division of employment and security a fee of \$15, \$5.00 of which shall be retained by the division and deposited in its administration fund, and \$10 of which shall be forwarded to the Clerk of the Supreme Court.

Sec. 6. Minnesota Statutes 1949, Section 268.12, Subdivision 2, is amended to read:

268.12 Subd. 2. *Report to governor.* (1) Not later than the first day of August each year the director shall submit to the governor a report covering the administration and operation of these sections during the preceding calendar year and make such recommendations for amendments thereto as the director deems proper. When the director believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the governor and the legislature and make recommendations with respect thereto.

(2) *For the purpose of ascertaining the point at which the unemployment compensation fund should be stabilized in order to both avoid possible insolvency and the building up of unnecessary reserves and for the further purpose of ascertaining what might be a stabilized average annual rate of contributions over a period of years thereby eliminating great fluctuations in contribution rates from year to year, the director is hereby authorized and directed to make a study thereof. For such study he is hereby authorized to utilize such funds as may be available to him to contract for the services of specialists in this field or utilize such public personnel as may be furnished to assist him in making such study. Such study shall be made with the advice and counsel of the state advisory council to the division of employment and security, and a report of such study shall be made to the governor and the legislature from time to time.*

Sec. 7. Minnesota Statutes 1949, Section 268.12, Subdivision 3, is amended to read:

268.12 Subd. 3. **Rules, regulations.** Notwithstanding any inconsistent provision of law the director is hereby authorized to adopt, amend, or rescind regulations as may be necessary for the administration of sections 268.03 to 268.24. Each proposed regulation, excepting those relating solely to the internal operation of the division, shall be published in one or more newspapers of general circulation in this state and be filed with the secretary of state prior to the time of publication. Any person or association desiring a copy of any proposed regulations shall file with the director a written request therefor, containing his or its name and address. For a period of two years after the filing of such request the director, at or prior to the time of any publication, shall mail to such person or association a copy of such proposed regulations. Each such proposed regulation shall become final and effective ten days after the publication thereof. Any employer, employee, or other person whose interest is or may be affected thereby may object to any such proposed regulation within ten days after publication thereof by filing with the director a petition setting forth the grounds of objection to the proposed regulation and request a hearing thereon, whereupon a hearing shall thereafter be had before the director or his duly authorized representative at time and place designated by the director or such representative after due notice of said hearing has been served by registered mail, upon the objecting party or parties not less than ten days before said hearing. In the event that the director elects to amend such regulation after such hearing, then such amended regulation shall be filed with the secretary of state and a copy thereof mailed to each of the persons and associations who have filed a request for copies of proposed regulations as provided herein, and such amended regulation shall become effective five days after such filing and mailing. *Judicial notice of any rule, regulation or order duly filed or published under the provisions of this subdivision shall be taken.*

Sec. 8. Minnesota Statutes 1949, Section 268.12, Subdivision 5, is amended to read:

268.12 Subd. 5. **Assistance:** (1) Subject to the provisions of the state civil service act and to the other provisions of sections 268.03 to 268.24 the director is authorized to appoint, and prescribe the duties and powers of, such officers,

accountants, attorneys, experts, and other persons as may be necessary in the performance of his duties thereunder. The director may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of those sections and may, in his discretion, bond any person handling moneys or signing checks thereunder. The director is authorized to adopt such personnel and fiscal regulations as he deems necessary to satisfy fiscal and personnel standards required by the Social Security Administration pursuant to the Social Security Act, as amended, and the act of Congress entitled "An act to provide for the establishment of a national employment system and to cooperate with the states in the promotion of such system and for other purposes," approved June 6, 1933, as amended. The director may, subject to the approval of the commissioner of administration, also adopt regulations relating to reimbursement to division employees for travel expenses incurred while traveling on official business including allowances on a per diem basis in lieu of actual subsistence expenses incurred. *The director is also hereby authorized to purchase liability and property damage automobile insurance to cover any automobiles owned by the Minnesota Division of Employment and Security for the protection of its employees who may be required to operate the same in pursuit of their duties for the division.*

The attorney general shall appoint an assistant attorney general; to be in addition to the number now authorized by law, who shall be the attorney and the chief counsel for the division of employment and security. Such assistant attorney general shall receive the same salary as the other assistant attorneys general, but devote his entire time to this division. This assistant attorney general shall have the power to act for and represent the attorney general in all matters in which the attorney general is authorized to act for the director by these sections. The compensation and all expenses and disbursements of such assistant attorney general shall be paid from the moneys appropriated to and for the use of the director;

(2) (a) No officer or employee engaged in the administration of these sections shall use his official authority to influence for the purpose of interfering with an election or affecting the results thereof. No person engaged in the administration of these sections who holds a position in the state classified service pursuant to provisions contained in the state civil service act, while retaining the right to vote as he pleases and

to express privately his opinion on all political subjects, shall take an active part in political management or campaigns;

(b) No officer or employee engaged in the administration of these sections shall solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose for any person;

(c) No officer or employee engaged in the administration of these sections shall, for political purposes, furnish or disclose, or aid or assist in furnishing or disclosing, any list or names of persons obtained in the administration of these sections, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager, and it shall be unlawful for any person to receive any such list or names for political purposes.

Sec. 9. Minnesota Statutes 1949, Section 268.12, Subdivision 6, is amended to read:

268.12 Subd. 6. Advisory councils; state, local. The governor shall appoint a state advisory council and may appoint such local advisory councils as he deems advisable, composed in each case of an equal number of employer and employee representatives who shall be selected because of their vocation, employment, or affiliation, and of such members representing the general public as he may designate. *The governor may also appoint an agricultural employment advisory council and such other advisory councils as may be found necessary for proper administration.* Such councils shall aid the director in formulating policies and discussing problems relating to the administration of sections 268.03 to 268.24 and in assuring impartiality and freedom from political influence in the solution of such problems. The members of such advisory councils shall serve at the pleasure of the governor and may be paid a fee of not more than \$15 per day for active service on such councils in lieu of remuneration for such service and subsistence and shall be reimbursed for any necessary traveling expenses at the rate of five cents per mile.

Sec. 10. Minnesota Statutes 1949, Section 268.12, Subdivision 8, is amended to read:

268.12 Subd. 8. **Work records; report.** (1) Each employing unit shall keep true and accurate work records for such periods of time and containing such information as the director may prescribe. Such records shall be open to inspection, audit, and verification, and be subject to being copied by any authorized representative of the director at any reasonable time and as often as may be necessary. The director, appeal referee, chairman of an appeal tribunal, or any other duly authorized representative of the director, may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the director, appeal referee, chairman of an appeal tribunal, or any other duly authorized representative of the director deems necessary for the effective administration of sections 268.03 to 268.24, provided that quarterly contribution and wage report forms shall be made to correspond wherever possible with the reports required from employers under the federal insurance contributions act, so that such state forms may be prepared as duplicates of such federal forms, except that no employer shall be permitted to submit a duplicate report which is not thoroughly legible.

(2) The director may cause to be made such summaries, compilations, photographs, duplications, or reproductions of any records, reports, or transcripts thereof as he may deem advisable for the effective and economical preservation of the information contained therein, and such summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceeding under sections 268.03 to 268.24, if the original record or records would have been admissible therein. *Notwithstanding any restrictions contained in section 16.02, except restrictions as to quantity, the director is hereby authorized to duplicate, on equipment furnished by the federal government or purchased with funds furnished for that purpose by the federal government, records, reports, summaries, compilations, instructions, determinations, or any other written matter pertaining to the administration of the Minnesota Employment and Security Law.*

(3) Notwithstanding any inconsistent provisions elsewhere; the director may provide for the destruction or disposition of any records, reports, transcripts, or reproductions thereof, or other papers in his custody, which are more than four years old, the preservation of which is no longer necessary for the establishment of contribution liability or benefit rights or for any purpose necessary to the proper administration of sections 268.03 to 268.24, including any required audit thereof,

provided, that the director may provide for the destruction or disposition of any record, report, or transcript, or other paper in his custody which has been photographed, duplicated, or reproduced in the manner provided in clause (2) above.

(4) Notwithstanding the provisions of the Minnesota State Archives Act the director shall with the approval of and subject to the supervision of the public examiner destroy all benefit checks and benefit check authorization cards that are more than four years old and no person shall make any demand, bring any suit or other proceeding to recover from the State of Minnesota any sum alleged to be due him on any claim for benefits after the expiration of four years from the date of filing such claim.

Sec. 11. Minnesota Statutes 1949, Section 268.18, is amended to read:

268.18 Subdivision 1. Return of benefits; false statements. *(1) Any claimant for benefits who, by reason of his own mistake or through the error of any individual engaged in the administration of sections 268.03 to 268.24, has received any sum as benefits to which he was not entitled under these sections, shall promptly return such benefits in cash to the nearest office of the Minnesota Division of Employment and Security. If such claimant fails to return such benefits, the Division of Employment and Security shall, as soon as it discovers such erroneous payment, determine the amount thereof and notify said individual to return the same. If such claimant fails to return such benefits to the division within 20 days after such notification, the director of the division of employment and security shall deduct from any future benefits payable to such claimant under these sections in either the current or subsequent benefit year an amount equivalent to such erroneous payment, and forthwith mail to said claimant's last known address or deliver to such claimant in person written notice of his determination to do so. Unless such claimant files a written protest with the division of employment and security within ten days after the delivery of such notice or within 12 days after the date of the mailing thereof, such determination shall become final. If such claimant files a protest with the division in writing within the time aforesaid the matter shall be set for hearing before an appeal tribunal of the division and heard as other benefit matters are heard in accordance with section 268.10 with the same rights of review as outlined for benefit cases in that section.*

(2) Any claimant who files a claim for and receives benefits by knowingly and wilfully misrepresenting or misstating any material fact or by knowingly and wilfully failing to disclose any material fact which would make him ineligible for benefits under sections 268.03 to 268.24 and as specifically set forth in section 268.08 of Minnesota Statutes in force at the time of filing such claim for benefits, shall be deemed guilty of fraud. Notwithstanding the provisions of Minnesota Statutes 1949, Section 268.09, Subdivision 1, Clause (7), upon the discovery of facts by the director indicating such fraud in obtaining benefits under sections 268.03 to 268.24, he shall make a determination that such claimant was ineligible for each week with reference to which benefits were obtained by such fraud for such amount as was in excess of what such claimant would have been entitled to had he not made such fraudulent statements or failed to disclose any material facts, and at the discretion of the director, disqualifying such claimant from receiving any unemployment benefits under the Minnesota law for any part or all of the remainder of the benefit year following the week when such fraud was committed by such claimant or in his next subsequent benefit year, and that said claimant shall repay in cash to the division of employment and security all benefits so fraudulently obtained. If such benefits so fraudulently obtained are not repaid in cash within 20 days from the date of mailing the notice to said claimant of said determination, the director shall make a written order that the same shall be deducted from future benefits payable to such claimant in either the current or any subsequent benefit year and such claimant shall be notified in writing of the making of such order. Unless the claimant shall appeal from any such determination or order within ten days after the same has been personally delivered to him or within 12 days after such determination shall have been mailed to him, such determination shall become final. If such claimant shall appeal from such determination within the time above specified said matter shall be referred to an appeal tribunal for a hearing as in other benefit cases and thereafter the procedure for review shall be the same as set forth in section 268.10.

(3) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain or increase any benefit or other payment under sections 268.03 to 268.24, or under the employment security law of any state or of the federal government or of a foreign government, either for himself or any other person, shall be guilty of a misdemeanor.

Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under those sections or under the employment and security law of any state or of the federal government, or who wilfully fails or refuses to make any such contributions or other payment or to furnish any reports at the time when required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be guilty of a misdemeanor.

Approved April 18, 1951.

CHAPTER 443—H. F. No. 779

An act relating to wild animals and the use of artificial lights in fishing; amending Minnesota Statutes 1949, Section 101.42, Subdivision 3.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1949, Section 101.42, Subdivision 3, is hereby amended to read:

101.42 Subd. 3. Except as otherwise specifically permitted, it shall be unlawful to use artificial lights of any kind for the purpose of luring or attracting fish of any kind or for the purpose of seeing the fish within the water while spearing.

Approved April 18, 1951.

CHAPTER 444—H. F. No. 1206

[Not Coded]

An act relating to tax levy for county road and bridge purposes in certain counties.