

processors, and natural wild rice dealers who are enrolled members of American Indian tribes as defined in section 254B.01, subdivision 2, who are Minnesota residents. Members of the advisory council shall serve for four-year terms and section 15.059, subdivisions 2 and 4, shall apply to members of the advisory council. Members of the advisory council may not receive per diem and may not be reimbursed for expenses. The department of trade and economic development shall provide technical assistance to the advisory council relating to the marketing of natural wild rice. The advisory council functions shall include but not be limited to addressing the issues of trademarking, labeling, packaging, consumer awareness, and marketing techniques necessary to the successful promotion of the exclusive and original nature of the home-grown Minnesota product.

The advisory council shall advise the department of trade and economic development annually of its activities and progress in this regard.

Presented to the governor April 24, 1990

Signed by the governor April 26, 1990, 10:15 p.m.

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#### CHAPTER 516—S.F.No. 2395

*An act relating to unemployment compensation; making various technical changes; regulating eligibility of conservation corps members and entertainers; increasing the income disregard; regulating eligibility for persons receiving holiday pay; regulating administrative hearings; providing for data sharing; appropriating certain federal money; amending Minnesota Statutes 1988, sections 268.08, subdivision 3; 268.10, subdivision 9; and 268.12, subdivision 13; Minnesota Statutes 1989 Supplement, sections 84.965, subdivision 2; 84.98, subdivision 5; 268.07, subdivision 2; 268.12, subdivision 12; 270B.14, subdivision 8; and 290.92, subdivision 21.*

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

Section 1. Minnesota Statutes 1989 Supplement, section 84.965, subdivision 2, is amended to read:

Subd. 2. **CORPS MEMBER STATUS; FEES.** All camp staff except camp directors in the young adult program are corps members. Corps members are not eligible covered for unemployment compensation ~~or~~ if their services are excluded under section 268.04, subdivision 12, and they are not eligible for other benefits except workers' compensation; and they. The corps members are not employees of the state of Minnesota within the meaning of section 43A.02, subdivision 21. The commissioner may charge a fee for any service performed by the corps.

Sec. 2. Minnesota Statutes 1989 Supplement, section 84.98, subdivision 5, is amended to read:

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Subd. 5. **CORPS MEMBER STATUS.** Minnesota conservation corps members are not ~~eligible covered~~ for unemployment compensation ~~or if their services are excluded under section 268.04, subdivision 12, and they are not eligible for other benefits except workers' compensation; and.~~ The corps members are not employees of the state within the meaning of section 43A.02, subdivision 21.

Sec. 3. Minnesota Statutes 1989 Supplement, section 268.07, subdivision 2, is amended to read:

Subd. 2. **WEEKLY BENEFIT AMOUNT AND DURATION.** (a) To establish a benefit year for unemployment insurance benefits, effective after January 1, 1988, and thereafter, an individual must have:

(1) wage credits in two or more calendar quarters of the individual's base period;

(2) minimum total base period wage credits equal to the high quarter wages multiplied by 1.25;

(3) high quarter wage credits of not less than \$1,000; and

(4) performed work in 15 or more calendar weeks in the base period.

(b) If the commissioner finds that an individual has sufficient wage credits and weeks worked within the base period to establish a valid claim, the weekly benefit amount payable to the individual during the individual's benefit year shall be equal to 1/26 of the individual's high quarter wage credits, rounded to the next lower whole dollar.

(c) Notwithstanding paragraph (b), the maximum weekly benefit amount of claims for benefits which establish a benefit year subsequent to July 1, 1979, shall be a percentage of the average weekly wage as determined under paragraphs (d) and (e).

(d) On or before June 30 of each year the commissioner shall determine the average weekly wage for purposes of paragraph (c) paid by employers subject to sections 268.03 to 268.24 in the following manner:

(1) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment.

(2) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

(3) The average annual wage shall be divided by 52 to determine the average weekly wage.

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(e) The maximum weekly benefit amount for any claim filed during the 12-month period subsequent to June 30 of any year shall be determined on the basis of the unemployment fund balance on December 31 of the preceding year. If the fund balance is less than \$70,000,000 on that date, the maximum weekly benefit amount shall be 66-2/3 percent of the average weekly wage; if the fund balance is more than \$70,000,000 but less than \$100,000,000, the maximum weekly benefit amount is 66 percent of the average weekly wage; if the fund balance is more than \$100,000,000 but less than \$150,000,000, the maximum weekly benefit amount is 65 percent of the average weekly wage; if the fund balance is more than \$150,000,000 but less than \$200,000,000, the maximum weekly benefit amount is 64 percent of the average weekly wage; if the fund balance is more than \$200,000,000 but less than \$250,000,000, the maximum weekly benefit amount is 63 percent of the average weekly wage; if the fund balance is more than \$250,000,000 but less than \$300,000,000, the maximum weekly benefit amount is 62 percent of the average weekly wage; if the fund balance is more than \$300,000,000 but less than \$350,000,000, the maximum weekly benefit amount is 61 percent of the average weekly wage; if the fund balance is more than \$350,000,000, the maximum weekly benefit amount is 60 percent. The maximum weekly benefit amount as determined under this paragraph computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to June 30 of each year.

(f) Any eligible individual shall be entitled during any benefit year to a total amount of benefits equal to one-third of the individual's total base period wage credits rounded to the next lower dollar, not to exceed 26 times the individual's weekly benefit amount.

(g) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to the individual's weekly benefit amount less that part of the individual's earnings, including holiday pay, payable to the individual with respect to such week which is in excess of \$200 for earnings from service in the national guard or a United States military reserve unit and the greater of ~~\$25~~ \$50 or 25 percent of the earnings in other work; provided that no deduction may be made from the weekly benefit amount for earnings from service as a volunteer firefighter or volunteer ambulance service personnel. Jury duty pay is not considered as earnings and shall not be deducted from benefits paid. Such benefit, if not a whole dollar amount shall be rounded down to the next lower dollar amount.

Sec. 4. Minnesota Statutes 1988, section 268.08, subdivision 3, is amended to read:

Subd. 3. **NOT ELIGIBLE.** An individual shall not be eligible to receive benefits for any week with respect to which the individual is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of the individual's weekly benefit amount in the form of

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(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision 3k; or

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under title II of the Social Security Act as amended, or similar old age benefits under any act of congress or this state or any other state; or

(6) holiday pay, in excess of \$25.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.24, the individual shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that the individual is not entitled to such benefits, this provision shall not apply. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Sec. 5. Minnesota Statutes 1988, section 268.10, subdivision 9, is amended to read:

Subd. 9. **REPRESENTATION BY ATTORNEY.** In any proceeding under these sections ~~before a referee or the commissioner~~, a party may be represented by an any agent or attorney, but no individual claiming. Except for services provided by an attorney-at-law, a claimant for benefits shall not be charged fees of any kind in a proceeding before a referee, the commissioner, commissioner's representatives, or by any court or any officers thereof. ~~Any individual claiming benefits in any proceedings before the commissioner or representatives or a~~

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court may be represented by counsel or other duly authorized agent, except that said agent in any court proceedings under these sections, must be an attorney at law; but no counsel shall either charge or receive for the services more than an amount approved by the commissioner and no fees shall be collected from an individual claiming benefits by any agent unless the agent is an attorney at law.

Sec. 6. Minnesota Statutes 1989 Supplement, section 268.12, subdivision 12, is amended to read:

Subd. 12. **INFORMATION.** Except as hereinafter otherwise provided, data gathered from any employing unit; employer or individual pursuant to the administration of sections 268.03 to ~~268.24~~ 268.231, and from any determination as to the benefit rights of any individual are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to this subdivision or a valid court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(a) State and federal agencies specifically authorized access to the data by state or federal law;

(b) Any agency of this or any other state; or any federal agency charged with the administration of an employment security law or the maintenance of a system of public employment offices;

(c) Local human rights groups within the state which have enforcement powers;

(d) ~~The Minnesota department of revenue on an interchangeable basis with the department of jobs and training subject to the following restrictions and notwithstanding any law to the contrary:~~

(1) ~~The department of revenue may~~ shall have access to department of jobs and training private data on individuals and employing units nonpublic data not on individuals only to the extent necessary for proper enforcement of Minnesota tax laws; ~~and~~

(2) ~~The department of jobs and training shall have access to department of revenue individual income tax return data pertaining to the identity, whereabouts, employment, income, and property of an individual who owes or allegedly owes an obligation to the department of jobs and training; is subject to a benefit overpayment or fraud investigation; or is subject to an investigation; for possible criminal prosecution under this chapter. Upon receipt of the data, the department of jobs and training may not disseminate the data to any other individual or agency except in connection with a prosecution for violation of the provisions of sections 268.03 to 268.24. Information pertaining to corporations or other employing units shall be disclosed to the extent necessary for the proper enforcement of this chapter;~~

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(e) Public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(f) The department of labor and industry on an interchangeable basis with the department of jobs and training subject to the following limitations and notwithstanding any law to the contrary:

(1) the department of jobs and training shall have access to private data on individuals and nonpublic data not on ~~employers~~, individuals; and ~~employing units~~ for uses consistent with the administration of its duties under sections 268.03 to ~~268.24~~ 268.231; and

(2) the department of labor and industry shall have access to private data on individuals and nonpublic data not on ~~employers~~, individuals; and ~~employing units~~ for uses consistent with the administration of its duties under state law;

(g) The department of trade and economic development may have access to private data on individual employing units and nonpublic data ~~as defined in section 13.02, subdivision 9~~; not on individual employing units for its internal use only; when received by the department of trade and economic development, the data remain private data on individuals or nonpublic data;

(h) Local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department of jobs and training; and

(i) Local, state and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of the data subject, provided the data subject is the subject of a criminal investigation.

Data on individuals, ~~employers~~, and employing units which are collected, maintained, or used by the department in an investigation pursuant to section 268.18, subdivision 3, are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13; ~~as to nonindividual employers and employing units~~; and shall not be disclosed except pursuant to statute or ~~valid~~ court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

~~Data on individuals, employers, and employing units which are collected, maintained, or used by the department in the adjudication of a separation or eligibility issue pursuant to the administration of section 268.10, subdivision 2, are private as to data on individuals and protected nonpublic data as to nonindividual employers and employing units as defined in section 13.02, subdivisions 3 and 13, and shall not be disclosed except pursuant to the administration of section 268.10, subdivisions 3 to 8, or pursuant to a valid court order.~~

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Tape recordings and transcripts of recordings of proceedings before a referee of the department and exhibits offered by parties other than the department and received into evidence at those proceedings are private data on individuals and nonpublic data not on individuals and shall be disclosed only pursuant to the administration of section 268.10, subdivisions 3 to 8, or pursuant to a court order.

Aggregate data about employers compiled from individual job orders placed with the department of jobs and training are private data on individuals and nonpublic data not on individuals as defined in section 13.02, ~~subdivision~~ subdivisions 9 and 12, if the commissioner determines that divulging the data would result in disclosure of the identity of the employer. The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are also classified as private data on individuals or nonpublic data.

Data on individuals collected, maintained or created because an individual applies for benefits or services provided by the energy assistance and weatherization programs administered by the department of jobs and training is private data on individuals and shall not be disseminated except pursuant to section 13.05, subdivisions 3 and 4.

Data gathered by the department pursuant to the administration of sections 268.03 to ~~268.24~~ 268.231 shall not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 7. Minnesota Statutes 1988, section 268.12, subdivision 13, is amended to read:

Subd. 13. **DETERMINATIONS.** (1) An official, designated by the commissioner, upon the commissioner's own motion or upon application of an employing unit, shall determine if an employing unit is an employer within the meaning of this chapter or as to whether services performed for it constitute employment within the meaning of this chapter, and shall notify the employing unit of the determination. The determination shall be final unless the employing unit, within 30 days after the mailing of notice of the determination to the employing unit's last known address, files a written appeal from it.

(2) The commissioner shall designate one or more referees to conduct hearings on appeals. The employing unit and any claimant whose filed claim for benefits may be affected by a determination issued under clause (1) shall be interested parties to an appeal. The referee shall fix a time and place within this state for the hearing and give interested parties written notice of it, by mail, not less than ten days prior to the time of the hearing. In the discharge of the duties imposed by this subdivision, the referee may administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with

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the subject matter of the hearing. The written report of any employee of the department of jobs and training, made in the regular course of the performance of the employee's duties, shall be competent evidence of the facts contained in it and shall be prima facie correct, unless refuted by other credible evidence.

(3) Upon the conclusion of the hearing, the referee shall serve upon the interested parties by mail findings of fact and decision. The decision of the referee, together with the findings of fact and reasons in support of them, is final unless an interested party, within 30 days after the mailing of a copy of it to the interested parties' last known addresses, files an appeal with the commissioner, or unless the commissioner, within 30 days after mailing of the decision, on the commissioner's own motion orders the matter certified to the commissioner for review. Appeal from and review by the commissioner of the decision of the referee shall be in the manner provided by rule. The commissioner may without further hearing affirm, modify, or set aside the findings of fact or decision, or both, of the referee on the basis of the evidence previously submitted in the case, or direct the taking of additional evidence. The commissioner may disregard the findings of fact of the referee and examine the testimony taken and make any findings of fact as the evidence taken before the referee may, in the judgment of the commissioner, require, and make any decision as the facts found by the commissioner require. The commissioner shall notify the employing unit of the commissioner's findings and decision by mail, mailed to the interested parties' last known addresses. The decision of the commissioner is final unless judicial review of it is sought as provided by this subdivision. ~~Any interested party to a proceeding before the commissioner may obtain a transcript of the testimony taken before the referee upon payment to the commissioner of the cost of the transcript at the rate of ten cents per 100 words.~~

(4) The court of appeals may, by writ of certiorari to the commissioner, review all questions of law and fact presented by the record in accordance with chapter 14, and section 268.10, subdivision 8. ~~The commissioner shall not be required to certify the record to the court unless the party commencing the proceedings for review pays to the commissioner the cost of certification of the record at the rate of ten cents per 100 words less any amount previously paid by the party for a transcript. The commissioner shall, upon receipt of the payment, prepare and certify to the court a true and correct typewritten copy of all matters contained in the record. The costs collected by the commissioner shall be deposited in the economic security administration fund provided for in section 268.15.~~

(5) A final decision of the commissioner or referee, in the absence of appeal, is conclusive for all the purposes of sections 268.03 to ~~268.24~~ 268.231 except as otherwise provided, and, together with the records therein made, shall be admissible in any subsequent judicial proceeding involving liability for contributions. ~~A~~ The final decision of the commissioner or referee on an appeal may be introduced in any proceeding involving a claim for benefits.

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(6) In the event a final decision of the commissioner or referee on an appeal determines the amount of contributions due under sections 268.03 to ~~268.24~~ 268.231, then, if the amount, together with interest and penalties, is not paid within 30 days after the decision, the provisions of section 268.161 shall apply. The commissioner shall proceed thereunder, substituting a certified copy of the final decision in place of the contribution report.

Sec. 8. Minnesota Statutes 1989 Supplement, section 270B.14, subdivision 8, is amended to read:

Subd. 8. **EXCHANGE BETWEEN DEPARTMENTS OF JOBS AND TRAINING, LABOR AND INDUSTRY, AND REVENUE.** Notwithstanding any law to the contrary, the departments of jobs and training, labor and industry, and revenue may exchange information on a reciprocal basis. Data that may be disclosed are limited to data used in determining whether a business is an employer or a contracting agent.

Sec. 9. Minnesota Statutes 1989 Supplement, section 290.92, subdivision 21, is amended to read:

Subd. 21. **EXTENSION OF WITHHOLDING NOTICE TO UNEMPLOYMENT COMPENSATION BENEFITS CLAIMANTS.** (a) At the time an individual makes a claim for unemployment compensation benefits, the commissioner of jobs and training must notify the individual that the individual's unemployment compensation may be subject to state income taxes depending on the individual's other income and that the individual may elect to have the payments subject to withholding under this section. If the individual does not notify the commissioner of jobs and training that the individual elects to have the payments not be subject to withholding within five working days of receipt of the notice from the commissioner, unemployment compensation benefits paid to the individual shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(b) For purposes of this section, any supplemental unemployment compensation benefit paid to an individual to the extent includable in such individual's Minnesota gross income, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

Sec. 10. **APPROPRIATION OF REED ACT MONEY.**

(a) \$200,000 of funds made available to the state under United States Code, title 42, section 1103, is appropriated from the unemployment compensation fund to the commissioner of jobs and training and is available for obligation until two years after the date of enactment of this section for use in the procurement of electronic data processing equipment by the department of jobs and training for administration of the unemployment compensation program and the system of public employment offices.

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(b) The amount that may be obligated during a fiscal year is limited as required by United States Code, title 42, section 1104(d)(2)(D).

Sec. 11. **EFFECTIVE DATE.**

Sections 1, 2, 4, 5, 6, 7, 8, 9, and 10 are effective the day following final enactment. Section 3 is effective July 1, 1990.

Presented to the governor April 24, 1990

Signed by the governor April 26, 1990, 10:35 p.m.

**CHAPTER 517—S.F.No. 1779**

*An act relating to agriculture; providing for mediation and arbitration of certain contract disputes; providing for recapture of capital investments required by certain agricultural contracts; clarifying responsibility of parent companies for affiliates; requiring good faith; prohibiting unfair practices; creating an ombudsman; appropriating money; amending Laws 1989, chapter 350, article 20, section 25; proposing coding for new law in Minnesota Statutes, chapters 17 and 514.*

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

Section 1. **[17.90] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 1 to 9.

Subd. 2. AGRICULTURAL COMMODITY. "Agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oilseeds, seeds, livestock, livestock products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use.

Subd. 3. CONTRACTOR. "Contractor" means a person who in the ordinary course of business buys agricultural commodities grown or raised in this state or who contracts with a producer to grow or raise agricultural commodities in this state.

Subd. 4. PRODUCER. "Producer" means a person who produces or causes to be produced an agricultural commodity in a quantity beyond the person's own family use and is able to transfer title to another or provides management, labor, machinery, facilities, or any other production input for the production of an agricultural commodity.

Sec. 2. **[17.91] MEDIATION; ARBITRATION.**

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