

bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

Presented to the governor May 23, 2001

Signed by the governor May 24, 2001, 2:07 p.m.

CHAPTER 175—H.F.No. 655

An act relating to unemployment insurance; making technical and substantive changes; modifying unemployment compensation provisions for Indian tribes; providing for workers' compensation and disability insurance offsets of unemployment benefits payments; providing that certain applicants on leaves of absence are ineligible for benefits; modifying definitions; clarifying procedures; providing eligibility for benefits for certain victims of domestic abuse; instructing the revisor to renumber sections and change terms; amending Minnesota Statutes 2000, sections 268.03, subdivision 1; 268.035, subdivisions 4, 5, 20, 29, and by adding subdivisions; 268.042, subdivision 1; 268.045; 268.047; 268.051, subdivisions 1a, 3, 4, and 7; 268.052, subdivisions 1, 2, and by adding a subdivision; 268.053, subdivisions 1 and 3; 268.059; 268.07, subdivisions 1, 2, 3a, and 3b; 268.085, subdivisions 1, 2, 3, 6, 7, 14, 15, and by adding subdivisions; 268.086, subdivisions 1 and 7; 268.095, subdivisions 1, 2, 8, and 11; 268.101, subdivisions 1 and 2; 268.105, subdivision 7; 268.131, subdivision 2; 268.18, subdivision 2b; 268.184; 268.192, subdivision 1; 268.6715; and 268.976, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Laws 1999, chapter 107, section 22.

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

Section 1. **[268.029] CITATION; UNEMPLOYMENT INSURANCE PROGRAM.**

Sections 268.029 to 268.23 shall be known and may be cited as the "Minnesota Unemployment Insurance Program Law."

Sec. 2. Minnesota Statutes 2000, section 268.03, subdivision 1, is amended to read:

Subdivision 1. **STATEMENT.** The public policy underlying purpose of sections 268.03 268.029 to 268.23 is as follows: Economic insecurity due to involuntary unemployment is a serious threat to the well-being of the people of workers in Minnesota. Involuntary unemployment is a subject of general interest and concern that requires appropriate action by the legislature to prevent its spread and to lighten its burdens. The public good and the well-being of the citizens of Minnesota will be promoted by providing, under the taxing powers of the state for the compulsory setting aside of reserves to be used for the payment of unemployment benefits to individuals workers who are unemployed through no fault of their own. Unemployment benefits are a temporary partial wage replacement to assist the unemployed worker to become reemployed. This program will be known as the "Minnesota unemployment insurance program."

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 3. Minnesota Statutes 2000, section 268.035, subdivision 4, is amended to read:

Subd. 4. **BASE PERIOD.** "Base period" means:

(1) the first four of the last five completed calendar quarters ~~immediately~~ prior to the effective date of an applicant's benefit account; as set forth below:

If the benefit account is effective
on or between these dates:

January 1 - March 31

April 1 - June 30

July 1 - September 30

October 1 - December 31

The base period
is the prior:

October 1 - September 30

January 1 - December 31

April 1 - March 31

July 1 - June 30

(2) if during the base period under clause (1) an applicant received workers' compensation for temporary disability under chapter 176 or a similar federal law of the United States or similar law of another state, or if an applicant whose own serious illness caused a loss of work for which the applicant received compensation for loss of wages from some other source, the applicant may request a base period as follows:

(i) if an applicant was compensated for a loss of work of seven to 13 weeks, the base period shall be the first four of the last six completed calendar quarters prior to the effective date of the benefit account;

(ii) if an applicant was compensated for a loss of work of 14 to 26 weeks, the base period shall be the first four of the last seven completed calendar quarters prior to the effective date of the benefit account;

(iii) if an applicant was compensated for a loss of work of 27 to 39 weeks, the base period shall be the first four of the last eight completed calendar quarters prior to the effective date of the benefit account; and

(iv) if an applicant was compensated for a loss of work of 40 to 52 weeks, the base period shall be the first four of the last nine completed calendar quarters prior to the effective date of the benefit account;

(3) if the applicant qualifies for a base period under clause (2), but has insufficient wage credits to establish a benefit account, the applicant may request a base period of the last four completed calendar quarters prior to the date the applicant's benefit account is effective. This base period may be used only once during any five-calendar-year period; and

(4) no base period under clause (1), (2), or (3) shall include wage credits upon which a prior benefit account was established.

Sec. 4. Minnesota Statutes 2000, section 268.035, subdivision 5, is amended to read:

Subd. 5. **UNEMPLOYMENT BENEFITS.** "Unemployment benefits" means the money payments portion of the Minnesota unemployment insurance program available to an applicant.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 5. Minnesota Statutes 2000, section 268.035, is amended by adding a subdivision to read:

Subd. 8a. COMMISSIONER. "Commissioner" means the commissioner of economic security.

Sec. 6. Minnesota Statutes 2000, section 268.035, is amended by adding a subdivision to read:

Subd. 12a. DEPARTMENT. "Department" means the department of economic security.

Sec. 7. Minnesota Statutes 2000, 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 an Indian, an Indian-controlled employer, and Indian tribe, or any wholly controlled subsidiaries or subdivisions, if the employment is performed on an Indian reservation or Indian Trust Land;~~

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

(4) (3) employment for a foreign government;

(5) (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;

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

(7) (6) employment covered by a reciprocal arrangement between the commissioner and another state or the federal government which 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;

(8) (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);

(9) (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

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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);

~~(10)~~ (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;

~~(11)~~ (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 shall not apply to programs that require unemployment benefit coverage for the participants;

~~(12)~~ (11) employment for Minnesota or a political subdivision as an elected official, a member of a legislative body, or a member of the judiciary;

~~(13)~~ (12) employment as a member of the Minnesota national guard or air national guard;

~~(14)~~ (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;

~~(15)~~ (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;

~~(16)~~ (15) employment for Minnesota that is a major policy making or advisory position in the unclassified service, including those positions established pursuant to section 43A.08, subdivision 1a;

~~(17)~~ (16) employment for a political subdivision of Minnesota that is a nontenured major policy making or advisory position;

~~(18)~~ (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 preceding calendar year to all individuals in domestic employment totaled less than \$1,000.

New language is indicated by underline, deletions by ~~strikeout~~.

“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;

(19) (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;

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

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

(22) (21) 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 shall not apply to employment in a program established for or on behalf of an employer or group of employers;

(23) (22) 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 pursuant to Laws 1990, chapter 570, article 6, section 3;

(24) (23) 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;

(25) (24) 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;

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

(27) (26) employment as an insurance salesperson, by other than a corporate officer, if all the compensation for the employment is solely by way of commission. The word “insurance” shall include an annuity and an optional annuity;

(28) (27) employment as an officer of a township mutual insurance company or farmer’s mutual insurance company operating pursuant to chapter 67A;

(29) (28) employment as a real estate salesperson, by other than a corporate officer, if all the compensation for the employment is solely by way of commission;

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

(31) (30) 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;

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(32) (31) casual employment performed for an individual, other than domestic employment under clause ~~(18)~~ (17), that does not promote or advance that employer's trade or business;

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

(34) (33) if employment during one-half or more of any pay period was covered employment, all the employment for the pay period shall be 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 shall be 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.

EFFECTIVE DATE. This section is effective retroactive to December 31, 2000.

Sec. 8. Minnesota Statutes 2000, section 268.035, subdivision 29, is amended to read:

Subd. 29. **WAGES.** "Wages" means all compensation for services, including commissions; bonuses; severance payments; vacation and holiday pay; back pay as of the date of payment; tips and gratuities paid to an employee by a customer of an employer and accounted for by the employee to the employer; sickness and accident disability payments, except as otherwise provided in this subdivision; and the cash value of all compensation in any medium other than cash, except:

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

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

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

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

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(5) disability payments made under the provisions of any workers' compensation law;

(6) sickness or accident disability payments made by a third party payer such as an insurance company;

(7) payments made into a fund, or for the purchase of insurance or an annuity, to provide for sickness or accident disability payments to employees pursuant to a plan or system established by the employer that provides for the employer's employees generally or for a class or classes of employees; or

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

Sec. 9. Minnesota Statutes 2000, section 268.042, subdivision 1, is amended to read:

Subdivision 1. **EMPLOYER FOR PART OF YEAR.** Except as provided in subdivision 3, any organization or person that is or becomes an employer subject to sections 268.03 to 268.23 within any calendar year shall be considered to be an employer during subject to these sections the entire calendar year.

Sec. 10. Minnesota Statutes 2000, section 268.045, is amended to read:

268.045 EMPLOYER TAX OR REIMBURSABLE ACCOUNTS.

(a) The commissioner shall maintain a tax account for each taxpaying employer and a reimbursable account for each nonprofit or government employer that is has elected to be liable for payments in lieu of taxes if that employer has employees in covered employment in the current or the prior calendar year, except as provided in this section, and. The commissioner shall assess the tax account of a taxpaying employer for all the taxes due under section 268.051 and credit the tax account with all taxes paid. The commissioner shall charge the reimbursable account of a nonprofit or government employer that elects to make payments in lieu of taxes for any unemployment benefits determined chargeable to the employer under section 268.047 and shall credit the tax account with all the taxes paid, or if the employer is liable for payments in lieu of taxes, shall credit the reimbursable account with the payments made.

(b) Two or more related taxpaying corporations concurrently employing the same employees and compensating those employees through a common paymaster that is one of the corporations may apply to the commissioner to establish a common paymaster tax account that shall be the tax account of the common paymaster corporation. If approved, the separate tax accounts shall be maintained, but the employees compensated through the common paymaster shall be reported as employees of the common paymaster corporation. The corporations using the common paymaster tax account shall be jointly and severally liable for any unpaid taxes,

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penalties, and interest owing from the common paymaster tax account.

(c) Two or more taxpaying employers having 50 percent or more common ownership and compensating employees through a single payer that is one of the employers may apply to the commissioner for a merging of the experience ~~rating~~ records ratings of the employers into a single experience rating and joint tax account.

If approved, the joint tax account shall be effective on that date assigned by the commissioner and shall remain in effect for not less than two calendar years, and continuing unless written notice terminating the joint tax account is filed with the commissioner. The termination shall be effective on January 1 next following the filing of the written notice of termination.

The employers in the joint tax account shall be jointly and severally liable for any unpaid taxes, penalties, and interest owing from the joint tax account.

(d) Two or more nonprofit or government employers that are have elected to be liable for payments in lieu of taxes may apply to the commissioner for the establishment of a group reimbursable account for the purpose of sharing the cost of unemployment benefits charged based upon wage credits from all employers in the group. The application shall identify and authorize a group representative to act as the group's agent for the purposes of the reimbursable account. If approved, the commissioner shall establish a group reimbursable account for the employers effective as of the beginning of the calendar year that the application is received. The reimbursable account shall remain in effect for not less than two calendar years and thereafter until terminated at the discretion of the commissioner or upon application by the group at least 30 calendar days prior to the end of the two year period or 30 calendar days prior to January 1 of any following calendar year. Each nonprofit or government employer in the group shall be jointly and severally liable for payments in lieu of taxes for all unemployment benefits paid based upon wage credits from all employers in the group during the period the group reimbursable account was in effect.

Sec. 11. Minnesota Statutes 2000, section 268.047, is amended to read:

268.047 EFFECT ON AN EMPLOYER OF UNEMPLOYMENT BENEFITS CHARGED TO EMPLOYER PAID.

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

Subd. 2. **EXCEPTIONS TO CHARGES FOR ALL EMPLOYERS.** Unemployment benefits paid shall not be ~~charged to the tax account used in computing the future tax rate~~ of a taxpaying base period employer or ~~charged to the reimbursable account of a base period nonprofit or government employer that is~~ has elected to be liable for payments in lieu of taxes when:

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

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

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

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

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

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

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

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

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(9) the fund was reimbursed for the unemployment benefits by the federal government.

Subd. 3. EXCEPTIONS TO CHARGES FOR TAXPAYING EMPLOYERS. Unemployment benefits paid shall not be charged to the tax account used in computing the future tax rate of a taxpaying base period employer when:

(1) the applicant's wage credits from that employer are less than \$500;

(2) the applicant quit the employment, unless it was determined under section 268.095, to have been because of a good reason caused by the employer or because the employer notified the applicant of discharge within 30 calendar days. This exception shall apply only to unemployment benefits paid for periods after the applicant's quitting the employment; or

(3) the employer discharged the applicant from employment because of employment misconduct as determined under section 268.095. This exception shall apply only to unemployment benefits paid for periods after the applicant's discharge from employment.

Subd. 4. LIMITATION ON EXCEPTIONS. Regardless of subdivisions 2 and 3, an exception under those subdivisions will be limited in accordance with section 268.101, subdivision 2, paragraph (b).

Subd. 4. FEDERAL REIMBURSED BENEFITS NOT CHARGED. ~~Regardless of subdivision 1, no employer's account shall be charged for unemployment benefits for which the fund is reimbursed by the federal government.~~

Subd. 5. NOTICE OF UNEMPLOYMENT BENEFITS CHARGED PAID.

(a) The commissioner shall notify each employer at least quarterly by mail or electronic transmission of the unemployment benefits paid that will be used in computing the future tax rate of a taxpaying employer, or that have been charged to the employer's reimbursable account of a nonprofit or government employer that has elected to be liable for payments in lieu of taxes. Unless a protest is filed in a manner prescribed by the commissioner within 30 calendar days from the date of sending of the notice, the charges set forth in the notice shall be final and shall not be subject to collateral attack by way of review of a tax rate notice, or application for a credit adjustment or refund, or otherwise.

(b) Upon receipt of a protest, the commissioner shall review the charges on the notice unemployment benefits to be used in computing the future tax rate of a taxpaying employer or charged to the reimbursable account of a nonprofit or government employer that has elected to be liable for payments in lieu of taxes and determine whether there has been an error in the charging of the employer's account made. The commissioner shall either affirm or make a redetermination of the charges unemployment benefits paid to be used in computing the future tax rate of a taxpaying employer or charged to the reimbursable account of a nonprofit or government employer that has elected to be liable for payments in lieu of taxes, and a notice of affirmation or redetermination shall be sent to the employer by mail or electronic transmission.

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(c) The affirmation or redetermination shall be final unless the employer files an appeal within 30 calendar days after the date the affirmation or redetermination was sent. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(d) An employer may not collaterally attack, by way of a protest to a notice of unemployment benefits charged paid, any prior determination or decision holding that unemployment benefits paid shall be used in computing the future tax rate of a taxpaying employer or charged to the employer's reimbursable account, that of a nonprofit or government employer that has elected to be liable for payments in lieu of taxes which determination or decision has become final.

(e) The commissioner may at any time upon the commissioner's own motion correct a clerical error that resulted in charges to an employer's account an incorrect notice under paragraph (a).

Sec. 12. Minnesota Statutes 2000, section 268.051, subdivision 1a, is amended to read:

Subd. 1a. **TAX REPORTS.** (a) Every employer, except those making nonprofit and government employers that have elected to make payments in lieu of taxes, shall submit a tax report on a form, or in a manner, prescribed by the commissioner on or before the last day of the month following the end of the calendar quarter, unless the employer meets the requirements for submitting tax reports annually under section 268.0511. An employer that fails to submit a tax report when due, or submits an incorrect tax report, shall be subject to section 268.057, subdivision 1.

(b) Each tax report shall include the total wages paid and the taxable wages paid that quarter, the amount of tax due, and any other information required by the commissioner.

(c) A tax report must be submitted for each calendar quarter even though no wages were paid or no tax is due.

Sec. 13. Minnesota Statutes 2000, section 268.051, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF A TAXPAYING EMPLOYER'S EXPERIENCE RATING.** (a) For each calendar year, the commissioner shall compute an experience rating for each taxpaying employer who has been subject to this chapter for at least the 12 calendar months prior to July 1 of the prior calendar year.

(b) The experience rating shall be the ratio obtained by dividing 125 percent of the total unemployment benefits charged to the employer's tax account required under section 268.047 to be used in computing the employer's tax rate during the period the employer has been subject to this chapter, but not more than the 60 calendar months ending on June 30 of the prior calendar year, by the employer's total taxable payroll for the that same period.

(b) (c) For purposes of paragraph ~~(a)~~ (b), only that taxable payroll upon which taxes have been paid on or before September 30 of the prior calendar year may be used in computing an employer's experience rating.

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(e) (d) The experience rating shall be computed to the nearest one-tenth of a percent, to a maximum of 8.9 percent.

Sec. 14. Minnesota Statutes 2000, section 268.051, subdivision 4, is amended to read:

Subd. 4. **EXPERIENCE RATING RECORD TRANSFER.** (a) When an taxpaying employer acquires the organization, trade or business or substantially all the assets of another employer, and there is 25 percent or more common ownership, directly or indirectly, between the predecessor and successor, the experience rating record of the predecessor employer shall be transferred as of the date of acquisition to the successor employer for the purpose of computing a tax rate.

(b) When an taxpaying employer acquires a distinct severable portion of the organization, trade, business, or assets that is less than substantially all of the employing enterprises of another employer, and there is 25 percent or more common ownership, directly or indirectly, between the predecessor and successor, the successor employer shall acquire the experience rating record attributable to the portion it acquired, and the predecessor employer shall retain the experience rating record attributable to the portion that it has retained, if (1) the successor makes a written request to apply for the transfer of the experience rating record attributable to the severable portion acquired from the predecessor within 180 calendar days from the date of acquisition, and (2) files an application within the time and in the manner prescribed by the commissioner that furnishes sufficient information to substantiate the severable portion and to assign the appropriate ~~total and taxable wages and unemployment benefit charges to the successor for~~ portion of the experience rating purposes.

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

(d) If the successor employer under paragraphs (a) and (b) had an experience rating record at the time of the acquisition, the transferred ~~record~~ experience rating of the predecessor shall be combined with the successor's ~~record~~ experience rating for purposes of computing a tax rate.

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

(f) The commissioner, upon the commissioner's own motion or upon application of an employer shall determine if an employer is a successor within the meaning of this subdivision and shall send the determination to the employer by mail or electronic transmission. The determination shall be final unless an appeal is filed by the employer within 30 calendar days after the sending of the determination. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(g) The commissioner may, as the result of any determination or decision regarding succession or nonsuccession, recompute the tax rate of all employers

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affected by the determination or decision for any year, including the year of the acquisition and subsequent years, that is affected by the transfer or nontransfer of part or all of the experience rating record. This paragraph does not apply to rates that have become final before the filing of a written request to apply for the transfer of a severable portion of the experience rating record under paragraph (b).

(h) Should an employer not have been in operation long enough to qualify for an experience rating under subdivision 3, paragraph (a), the experience rating record for purposes of this subdivision shall consist of those factors that normally make up an experience rating, without the 12-month minimum required under subdivision 3.

(i) If the commissioner finds that a transaction was done, in whole or in part, to avoid an experience rating record or the transfer of an experience rating record, the commissioner may transfer all or part of the experience rating record regardless of the requirements or limitations of paragraph (a). This shall include the transferring of employees from the payroll of an employer with a higher experience rating record to the payroll of an employer with a lower experience rating record.

(j) Regardless of paragraph (a), if there is an acquisition or merger of a publicly held corporation by or with another publicly held corporation the experience rating records ratings of the corporations shall be combined as of the date of acquisition or merger for the purpose of computing a tax rate.

Sec. 15. Minnesota Statutes 2000, section 268.051, subdivision 7, is amended to read:

Subd. 7. **TAX RATE BUYDOWN.** (a) Any taxpaying employer who has been assigned a tax rate based upon an experience rating may, upon the voluntary payment of an amount equivalent to any portion or all of the unemployment benefits ~~charged to the employer's account, used in computing the experience rating~~ plus a surcharge of 25 percent, obtain a cancellation of unemployment benefits ~~charged to the account used~~ equal to the payment made, less the surcharge. Upon the payment, the commissioner shall compute a new experience rating for the employer, and determine a new tax rate.

(b) Voluntary payments may be made only during the 30 calendar day period immediately following the date of sending of the notice of tax rate. This period may be extended, upon a showing of good cause, but in no event shall a voluntary payment be allowed after 120 calendar days from the beginning of the calendar year for which the tax rate is effective.

(c) Voluntary payments made within the time required will not be refunded unless a request is made in writing within 30 calendar days after sending of the notice of the new tax rate.

Sec. 16. Minnesota Statutes 2000, section 268.052, subdivision 1, is amended to read:

Subdivision 1. **PAYMENTS.** In lieu of taxes payable on a quarterly basis, the state of Minnesota or its political subdivisions shall pay into the fund the amount of unemployment benefits charged to its reimbursable account under section 268.047.

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Payments in the amount of unemployment benefits charged to the reimbursable account during a calendar quarter shall be made on or before the last day of the month following the month that the notice of unemployment benefits charged paid is sent pursuant to section 268.047, subdivision 5 6. Past due payments in lieu of taxes shall be subject to the same interest charges and collection procedures that apply to past due taxes.

Sec. 17. Minnesota Statutes 2000, section 268.052, subdivision 2, is amended to read:

Subd. 2. ELECTION BY STATE OR POLITICAL SUBDIVISION TO BE A TAXPAYING EMPLOYER. (a) The state or political subdivision may elect to be a taxing employer for any calendar year if a notice of election is filed within 30 calendar days following January 1 of that calendar year. Upon election, the state or political subdivision shall be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the election and until it qualifies for an experience rating under section 268.051, subdivision 3.

(b) An election shall be for a minimum period of ~~three~~ two calendar years following the effective date of the election and continue unless a notice terminating the election is filed not later than 30 calendar days before the beginning of the calendar year. The termination shall be effective at the beginning of the next calendar year. Upon election, the commissioner shall establish a reimbursable account for the state or political subdivision. A termination of election shall be allowed only if the state or political subdivision has a zero, since the beginning of the experience rating and has no period under section 268.051, subdivision 3, paid taxes and made voluntary payments under section 268.051, subdivision 7, equal or more than 125 percent of the unemployment benefit charges to its tax account that have not yet been used in computing an benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experience rating under section 268.051, subdivision 3, period shall be transferred to the new reimbursable account of the state or political subdivision. If the amount of taxes and voluntary payments paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess shall be applied against any unemployment benefits paid after the experience rating period.

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

(d) The commissioner may allow a notice of election or a notice terminating election to be filed by mail or electronic transmission.

Sec. 18. Minnesota Statutes 2000, section 268.052, is amended by adding a subdivision to read:

Subd. 5. CONSIDERED AN ELECTION. If the state of Minnesota or its political subdivisions choose not to be a taxing employer under subdivision 2, the

New language is indicated by underline, deletions by ~~strikeout~~.

state or its political subdivision shall be considered, for purposes of the Minnesota unemployment insurance program, to have elected to be liable for payments in lieu of taxes under subdivision 1.

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

Sec. 19. [268.0525] INDIAN TRIBES.

(a) An Indian tribe, as defined under United States Code, title 25, section 450b(e) of the Indian Self-Determination and Education Assistance Act, and any subdivision, subsidiary, or business enterprise owned by the Indian tribe, shall be treated the same as the state of Minnesota, or a political subdivision of the state, for all purposes of the Minnesota unemployment insurance program law.

(b) The Indian tribe may make separate elections under section 268.052, subdivision 2, for itself and each subdivision, subsidiary, or business enterprise wholly owned by the Indian tribe.

(c) If an Indian tribe, subdivision, subsidiary, or business enterprise wholly owned by the tribe, which has elected to be liable for payments in lieu of taxes, fails to make the required payments within 90 days of the notice of delinquency, the commissioner shall terminate the election to make payments in lieu of taxes as of the beginning of the next calendar year, unless all past due payments in lieu of taxes, and any interest and penalties, have been paid before the beginning of the next calendar year.

An Indian tribe, subdivision, subsidiary, or business enterprise wholly owned by the tribe that has its election terminated under this paragraph shall become a taxpaying employer and assigned the new employer tax rate under section 268.051, subdivision 5, until the tribe, subdivision, subsidiary, or business enterprise wholly owned by the Indian tribe qualifies for an experience rating under section 268.051, subdivision 3.

EFFECTIVE DATE. This section is effective retroactive to December 31, 2000.

Sec. 20. Minnesota Statutes 2000, section 268.053, subdivision 1, is amended to read:

Subdivision 1. **ELECTION.** (a) Any nonprofit organization that has employees in covered employment shall pay taxes on a quarterly basis pursuant to section 268.051 unless it elects to make payments in lieu of taxes to the fund the amount of unemployment benefits charged to its ~~employer~~ reimbursable account under section 268.047.

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

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

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

(d) Any nonprofit organization that has been paying taxes may elect to make payments in lieu of taxes by filing no less than 30 calendar days before January 1 of any calendar year a notice of election. Upon election, the commissioner shall establish a reimbursable account for the nonprofit organization. An election shall be allowed only if the nonprofit organization has, during since the beginning of the experience rating period under section 268.051, subdivision 3, paid taxes or and made voluntary payments under section 268.051, subdivision 7, equal to or more than 125 percent of the unemployment benefit charges during benefits used in computing the experience rating period. In addition, any unemployment benefit charges to its tax account that ~~some benefits paid~~ after the experience rating period shall be transferred to the new reimbursable account of the nonprofit organization. If the amount of taxes and voluntary payments paid during since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefit charges benefits paid during the experience rating period, that amount in excess shall be applied against any unemployment benefit charges that ~~some benefits paid~~ after the experience rating period. The election shall not be terminable by the organization for that and the next calendar year.

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

(f) The commissioner may allow a notice of election or notice terminating election to be filed by mail or electronic transmission.

Sec. 21. Minnesota Statutes 2000, section 268.053, subdivision 3, is amended to read:

Subd. 3. **PAYMENTS.** (a) Payments in lieu of taxes, in the amount of unemployment benefits charged to the reimbursable account, during a calendar quarter, shall be made on or before the last day of the month following the month that the notice of unemployment benefits charged paid is sent pursuant to section 268.047, subdivision 5.

(b) Past due payments in lieu of taxes shall be subject to the same interest charges and collection procedures that apply to past due taxes.

(c) If any nonprofit organization is delinquent in making payments in lieu of taxes, the commissioner may terminate the organization's election to make payments in lieu of taxes as of the beginning of the next calendar year, and the termination shall be effective for that and the following calendar year. A nonprofit organization that has its election terminated under this paragraph shall be assigned the new employer tax rate under section 268.051, subdivision 5, until the organization qualifies for an experience

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rating under section 268.051, subdivision 3.

Sec. 22. Minnesota Statutes 2000, section 268.059, is amended to read:

268.059 GARNISHMENT FOR DELINQUENT TAXES AND UNEMPLOYMENT BENEFIT OVERPAYMENTS.

(a) Subdivision 1. NOTICE. The commissioner may give notice to any employer that an employee owes delinquent taxes, payments in lieu of taxes, or overpaid unemployment benefits, including penalties, interest, and costs, and that the obligation to the department fund should be withheld from the employee's wages. The commissioner may proceed only if the tax, payment in lieu of taxes, or unemployment benefit overpayment is uncontested or if the time for any appeal has expired. The commissioner shall not proceed until 30 calendar days after mailing to the debtor employee, at the debtor's last known address, a written notice of intent to garnish wages and exemption notice. That notice shall list:

- (1) the amount of taxes, payments in lieu of taxes, overpaid unemployment benefits, interest, penalties, or costs due from the debtor;
- (2) demand for immediate payment; and
- (3) the intention to serve a garnishment notice on the debtor's employer.

The notice shall expire 180 calendar days after it has been mailed to the debtor provided that the notice may be renewed by mailing a new notice that is in accordance with this section. The renewed notice shall have the effect of reinstating the priority of the original notice. The exemption notice shall be in substantially the same form as in section 571.72. The notice shall inform the debtor of the right to claim exemptions contained in section 550.37, subdivision 14. If no written claim of exemption is received by the commissioner within 30 calendar days after mailing of the notice, the commissioner may proceed with the garnishment. The notice to the debtor's employer may be served by mail and shall be in substantially the same form as in section 571.75.

Subd. 2. EMPLOYER ACTION. (a) Upon receipt of the garnishment notice, the employer shall withhold from the earnings due or to become due to the employee, the amount shown on the notice plus accrued interest, subject to section 571.922. The employer shall continue to withhold each pay period the amount shown on the notice plus accrued interest until the garnishment notice is released by the commissioner. Upon receipt of notice by the employer, the claim of the commissioner shall have priority over any subsequent garnishments or wage assignments. The commissioner may arrange between the employer and employee for withholding a portion of the total amount due the employee each pay period, until the total amount shown on the notice plus accrued interest has been withheld.

The "earnings due" any employee is as defined in section 571.921.

(b) The maximum garnishment allowed for any one pay period shall be decreased by any amounts payable pursuant to any other garnishment action served prior to the garnishment notice, and any amounts covered by any irrevocable and previously effective assignment of wages; the employer shall give notice to the commissioner of

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the amounts and the facts relating to the assignment within ten days after the service of the garnishment notice on the form provided by the commissioner.

(c) Within ten calendar days after the expiration of the pay period, the employer shall remit to the commissioner, on a form and in the manner prescribed by the commissioner, the amount withheld during each pay period.

~~(b)~~ Subd. 3. **DISCHARGE OR DISCIPLINE PROHIBITED.** ~~(a)~~ If the employee ceases to be employed by the employer before the full amount set forth on the garnishment notice plus accrued interest has been withheld, the employer shall immediately notify the commissioner in writing of the termination date of the employee and the total amount withheld. No employer may discharge or discipline any employee because the commissioner has proceeded under this section. If an employer discharges an employee in violation of this section, the employee shall have the same remedy as provided in section 571.927, subdivision 2.

~~(e) Within ten calendar days after the expiration of the pay period, the employer shall remit to the commissioner, on a form and in the manner prescribed by the commissioner, the amount withheld during each pay period.~~

~~(d)~~ Paragraphs ~~(a) to (e)~~ (b) This section shall apply if the employer is the state of Minnesota or any political subdivision.

~~(e)~~ (c) The commissioner shall refund to the employee any excess amounts withheld from the employee.

~~(f)~~ (d) An employer that fails or refuses to comply with this section shall be jointly and severally liable as provided in for the total amount due from the employee. Any amount due from the employer under this paragraph may be collected in accordance with section 268.058, subdivision 2, paragraph (j).

Sec. 23. Minnesota Statutes 2000, section 268.07, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION FOR UNEMPLOYMENT BENEFITS; DE-TERMINATION OF BENEFIT ACCOUNT.** (a) An application for unemployment benefits may be filed in person, by mail, by telephone, or by electronic transmission as the commissioner shall require. The applicant must be unemployed at the time the application is filed and must provide all requested information in the manner required. If the applicant is not unemployed at the time of the application or fails to provide all requested information, the communication shall not be considered an application for unemployment benefits.

(b) The commissioner shall examine each application for unemployment benefits to determine the base period, and the benefit year, and based upon all the covered employment in the base period the commissioner shall determine the weekly unemployment benefit amount available, if any, and the maximum amount of unemployment benefits available, if any. The determination shall be known as the determination of benefit account. A determination of benefit account shall be sent to the applicant and all base period employers, by mail or electronic transmission.

New language is indicated by underline, deletions by ~~strikeout~~.

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

(d) The commissioner may, at any time within 24 months from the establishment of a benefit account, reconsider any determination of benefit account and make a redetermination ~~an amended determination~~ if the commissioner finds that the determination was incorrect for any reason. ~~A redetermination~~ An amended determination shall be promptly sent to the applicant and all base period employers, by mail or electronic transmission.

If a redetermination ~~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 ~~redetermined~~ entitled is considered an overpayment of unemployment benefits under section 268.18, subdivision 1.

Sec. 24. Minnesota Statutes 2000, section 268.07, subdivision 2, is amended to read:

Subd. 2. BENEFIT ACCOUNT REQUIREMENTS AND WEEKLY UNEMPLOYMENT BENEFIT AMOUNT AND MAXIMUM AMOUNT OF UNEMPLOYMENT BENEFITS. (a) To establish a benefit account, an applicant must have:

- (1) high quarter wage credits of at least \$1,000; and
- (2) wage credits, in other than the high quarter, of at least \$250.

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

- (1) 50 percent of the applicant's average weekly wage during the base period, to a maximum of ~~66-2/3~~ 50 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 ~~the higher of \$334 or~~ 50 percent of the state's average weekly wage.

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

(c) The state's maximum weekly unemployment benefit amount and the applicant's weekly unemployment benefit amount and maximum amount of unemployment benefits shall be rounded down to the next lowest whole dollar.

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

- (1) 33-1/3 percent of the applicant's total wage credits ~~to a maximum of;~~ or
- (2) 26 times the applicant's weekly unemployment benefit amount.

EFFECTIVE DATE. This section is effective September 1, 2001.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 25. Minnesota Statutes 2000, section 268.07, subdivision 3a, is amended to read:

Subd. 3a. **RIGHT OF APPEAL.** (a) A determination or ~~redetermination~~ amended determination of a benefit account shall be final unless an applicant or base period employer within 30 calendar days after the sending of the determination or ~~redetermination~~ amended determination files an appeal. Every determination or ~~redetermination~~ amended determination of a benefit account shall contain a prominent statement indicating in clear language the consequences of not appealing. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(b) Any applicant or base period employer may appeal from a determination or ~~redetermination~~ amended determination of a benefit account on the issue of whether services performed constitute employment and covered employment. Proceedings on the appeal shall be conducted in accordance with section 268.105.

Sec. 26. Minnesota Statutes 2000, section 268.07, subdivision 3b, is amended to read:

Subd. 3b. **LIMITATIONS.** (a) A benefit account shall be established effective the Sunday of the calendar week that the application for unemployment benefits was filed. Upon specific request of an applicant, an application for benefits may be backdated one calendar week prior to the Sunday of the week the application was actually filed. An application shall be backdated only if the applicant was unemployed throughout the period of the backdating. If an individual attempted to file an application for unemployment benefits, but was prevented from filing an application by the department, the benefit account shall be effective the Sunday of the calendar week the individual first attempted to file an application.

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

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

(2) the applicant has not served a waiting week under section 268.085, subdivision 1, clause (3).

A determination or amended determination pursuant to section 268.101, that was issued before the withdrawal of the benefit account, shall remain in effect and shall not be voided by the withdrawal of the benefit account. A determination of disqualification requiring subsequent earnings to satisfy the disqualification under section 268.095, subdivision 10, shall apply to the weekly unemployment benefit amount on the new benefit account.

(c) An application for unemployment benefits shall not be allowed prior to the Sunday following the expiration of the benefit year on a prior benefit account. Except as allowed under paragraph (b), a applicant may establish only one benefit account each 52 calendar weeks.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) All unemployment benefits shall be available from the fund only for weeks occurring during the applicant's benefit year.

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

Sec. 27. Minnesota Statutes 2000, section 268.085, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY CONDITIONS.** An applicant shall be eligible to receive unemployment benefits for any week if:

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

(2) the applicant was able to work and was available for suitable employment, and was actively seeking suitable employment. The applicant's weekly unemployment benefit amount shall be reduced one-fifth for each day the applicant is unable to work or is unavailable for suitable employment.

This clause shall not apply to an applicant who is in reemployment assistance training.

The requirement that the applicant be available for employment and actively seeking suitable employment This clause shall not apply each day the applicant is on jury duty;

(3) the applicant has served a waiting period of one week that the applicant is otherwise entitled to some amount of unemployment benefits. This clause shall 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

(4) 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 there is good cause for the applicant's failure to participate.

Sec. 28. Minnesota Statutes 2000, section 268.085, subdivision 2, is amended to read:

Subd. 2. **NOT ELIGIBLE.** An applicant shall not be eligible to receive unemployment benefits for any week:

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

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

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

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(4) that the applicant is on a voluntary leave of absence, including a requested period of paid or unpaid vacation. A leave of absence is voluntary when work, that the applicant can perform, is available with the applicant's employer, but the applicant chooses not to work. An applicant who is not working as a result of a vacation period assigned by an employer under: (i) a uniform vacation shutdown, (ii) a collective bargaining agreement, or (iii) an established employer policy, shall not be ineligible under this clause that the applicant fails or refuses to provide information on an issue of eligibility required under section 268.101, subdivision 1, paragraph (a), or an issue of disqualification required under section 268.101, subdivision 1, paragraph (d);

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

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

Sec. 29. Minnesota Statutes 2000, section 268.085, subdivision 3, is amended to read:

Subd. 3. **DEDUCTIBLE PAYMENTS.** (a) An applicant shall not be eligible to receive unemployment benefits for any week with respect to which the applicant is receiving, has received, or has filed for payment in an amount equal to or in excess of the applicant's weekly unemployment benefit amount in the form of:

(1) a severance payment, pay, bonus pay, vacation pay, sick pay, and any other money payments, except earnings under subdivision 5, and back pay under subdivision 6, paid by an employer because of, upon, or after separation from employment that are considered wages under section 268.035, subdivision 29, or United States Code, title 26, section 3121, clause (2) of the Federal Insurance Contribution Act. This clause shall apply to the first four weeks of payment and to one-half of the total number of any additional weeks of payment. This clause shall be applied to the period immediately following the last day of employment. The number of weeks of payment shall be determined as follows:

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

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

(2) This clause shall not apply to vacation pay, paid directly by an employer for vacation periods assigned by the employer under: (i) a collective bargaining agreement, (ii) established employer policy, or (iii) uniform vacation shutdown; upon permanent separation from employment.

(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 compensation for

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loss of wages under any other insurance or fund paid in whole or in part by an employer;

(4) (2) pension, retirement, or annuity payments from any plan contributed to by a base period employer including the United States government, except social security benefits which are provided for in subdivision 4. The base period employer contributed to the plan if the contribution is excluded from the definition of wages under section 268.035, subdivision 29, clause (1), or United States Code, title 26, section 3121, clause (2), of the Federal Insurance Contribution Act.

If the applicant receives a lump sum pension payment, that sum shall be divided by the applicant's last level of regular weekly pay to determine the number of weeks of payment. The number of weeks of payment shall be applied to the period immediately following the last day of employment. An applicant shall not be considered to have received the lump sum payment if the applicant immediately deposits that payment in a qualified pension plan or account; or

(5) (3) holiday pay or sick pay, paid directly by an employer.

(b) If the deductible payment is less than the applicant's weekly unemployment benefit amount, unemployment benefits shall be reduced by the amount of the payment. If the computation of reduced unemployment benefits is not a whole dollar, it shall be rounded down to the next lowest dollar.

(e) If the appropriate agency finally determines that the applicant is not entitled to payments, this subdivision shall not apply.

Sec. 30. Minnesota Statutes 2000, section 268.085, is amended by adding a subdivision to read:

Subd. 3a. WORKERS' COMPENSATION AND DISABILITY INSURANCE

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

- (1) the workers' compensation law of this state;
- (2) the workers' compensation law of any other state or similar federal law; or
- (3) any insurance or fund paid in whole or in part by an employer.

(b) This subdivision shall not apply to an applicant who has a claim pending for loss of wages under paragraph (a); however, before unemployment benefits may be paid when a claim is pending, the issue of the applicant being able to work, as required under subdivision 1, clause (2), shall be determined under section 268.101, subdivision 3. If the applicant later receives compensation as a result of the pending claim, the applicant is subject to the provisions of paragraph (a) and the unemployment benefits paid shall be subject to recoupment by the commissioner to the extent that the compensation constitutes overpaid unemployment benefits.

New language is indicated by underline, deletions by ~~strikeout~~.

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

Sec. 31. Minnesota Statutes 2000, section 268.085, subdivision 6, is amended to read:

Subd. 6. **RECEIPT OF BACK PAY.** (a) Back pay received by an applicant with respect to any week occurring in the 104 weeks prior to the payment of the back pay shall be deducted from unemployment benefits paid for that week.

If an arbitration award, administrative or judicial decision, or negotiated settlement that provides for back pay does not specify the period with respect to which it is paid, the back pay shall be applied to the period immediately following the last day of employment.

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

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

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

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

(c) Charges to the employer's tax or reimbursable account under section 268.047 for Unemployment benefits paid the applicant shall be removed from the employer's computation of the tax rate for taxpaying employers and removed from the reimbursable account for nonprofit and government employers that have elected to be liable for payments in lieu of taxes in the calendar quarter the fund receives payment.

(d) Payments to the fund under this subdivision shall be considered as made by the applicant.

Sec. 32. Minnesota Statutes 2000, section 268.085, subdivision 7, is amended to read:

Subd. 7. **SCHOOL EMPLOYEES.** (a) No wage credits in any amount from any employment with any educational institution or institutions earned in any capacity may be used for unemployment benefit purposes for any week during the period between two successive academic years or terms if:

(1) the applicant had employment for any educational institution or institutions in the prior academic year or term; and

(2) there is a reasonable assurance that the applicant will have employment for any educational institution or institutions in the following academic year or term, unless that subsequent employment is not substantially less favorable than the

New language is indicated by underline, deletions by ~~strikeout~~.

employment of the prior academic year or term.

(b) Paragraph (a) shall not apply to an applicant who, at the end of the prior academic year or term, had an agreement for a definite period of employment between academic years or terms in other than an instructional, research, or principal administrative capacity and the educational institution or institutions failed to provide that employment.

(c) If unemployment benefits are denied to any applicant under paragraph (a) who was employed in the prior academic year or term in other than an instructional, research, or principal administrative capacity and who was not offered an opportunity to perform the employment in the following academic year or term, the applicant shall be entitled to retroactive unemployment benefits for each week during the period between academic years or terms that the applicant filed a timely continued request for unemployment benefits, but unemployment benefits were denied solely because of paragraph (a).

(d) An educational assistant shall not be considered to be in an instructional, research, or principal administrative capacity.

(e) Paragraph (a) shall apply to any vacation period or holiday recess if the applicant was employed immediately before the vacation period or holiday recess, and there is a reasonable assurance that the applicant will be employed immediately following the vacation period or holiday recess.

(f) This subdivision shall apply to employment with an educational service agency if the applicant performed the services at an educational institution or institutions. "Educational service agency" means a governmental agency or entity established and operated exclusively for the purpose of providing services to one or more educational institutions. This subdivision shall also apply to employment with Minnesota or a political subdivision, or a nonprofit organization, if the services are provided to or on behalf of an educational institution or institutions.

(g) Paragraphs (a) and (e) shall apply beginning the Sunday of the week that there is a reasonable assurance of employment.

(h) Employment with multiple education institutions shall be aggregated for purposes of application of this subdivision.

(i) If all of the applicant's employment with any educational institution or institutions during the prior academic year or term consisted of on-call employment, and the applicant has a reasonable assurance of any on-call employment with any educational institution or institutions for the following academic year or term, it shall not be considered substantially less favorable employment.

(j) Paragraph (a) shall also apply to the period between two regular but not successive terms.

(k) A "reasonable assurance" may be written, oral, implied, or established by custom or practice.

New language is indicated by underline, deletions by ~~strikeout~~.

(l) An "educational institution" is an educational entity operated by Minnesota or a political subdivision or an instrumentality thereof, or an educational 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).

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

Sec. 33. Minnesota Statutes 2000, section 268.085, is amended by adding a subdivision to read:

Subd. 13a. LEAVE OF ABSENCE. (a) An applicant on a voluntary leave of absence shall be ineligible for benefits for the duration of the leave of absence.

A leave of absence is voluntary when work that the applicant can then perform is available with the applicant's employer but the applicant chooses not to work.

(b) A period of vacation requested by the applicant, paid or unpaid, shall be considered a voluntary leave of absence. A vacation period assigned by an employer under: (1) a uniform vacation shutdown; (2) a collective bargaining agreement; or (3) an established employer policy, shall not be considered a voluntary leave of absence.

(c) A leave of absence shall not be considered a quit or a discharge from employment for purposes of section 268.095.

(d) An applicant who is on a paid leave of absence, whether the leave of absence is voluntary or involuntary, shall be ineligible for benefits for the duration of the leave.

(e) This subdivision shall apply to a leave of absence from a base period employer, an employer during the period between the end of the base period and the effective date of the benefit account, or an employer during the benefit year.

Sec. 34. Minnesota Statutes 2000, section 268.085, subdivision 14, is amended to read:

Subd. 14. ABLE TO WORK DEFINED. "Able to work" means an applicant has the physical and mental ability to perform the usual duties of the applicant's customary usual occupation or the usual duties of other suitable comparable employment.

Sec. 35. Minnesota Statutes 2000, section 268.085, subdivision 15, is amended to read:

Subd. 15. AVAILABLE FOR SUITABLE EMPLOYMENT DEFINED. (a) "Available for suitable employment" means an applicant is ready and willing to accept suitable employment in the labor market area. The attachment to the work force must be genuine. An applicant may restrict availability to suitable employment, but there must be no other restrictions, either self-imposed or created by circumstances, temporary or permanent, that prevent accepting suitable employment.

(b) To be considered "available for suitable employment," a student must be willing to quit school to accept suitable employment that would conflict with school attendance.

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

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

Sec. 36. Minnesota Statutes 2000, section 268.086, subdivision 1, is amended to read:

Subdivision 1. **ACTIVE BENEFIT ACCOUNT.** (a) A benefit account shall be considered active only when an applicant files continued requests for unemployment benefits in the manner and within the time periods prescribed. A benefit account shall be considered inactive if an applicant stops filing a continued request or fails to file a continued request within the time period required. The benefit account shall be considered inactive as of the Sunday following the last week or biweekly period for which a continued request has been timely filed.

(b) A benefit account that is inactive shall be reactivated the Sunday of the week that the applicant makes a contact with the department to do so, in the manner prescribed by the commissioner for reactivating that applicant's benefit account. Upon specific request of an applicant, a benefit account may be reactivated effective up to two weeks prior to the week the applicant made contact with the department to reactivate.

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

Sec. 37. Minnesota Statutes 2000, section 268.086, subdivision 7, is amended to read:

Subd. 7. **IN-PERSON CONTINUED REQUEST FOR UNEMPLOYMENT BENEFITS.** The commissioner may require any applicant who has been designated to make a continued request for unemployment benefits ~~by mail, by telephone, by electronic transmission, or by mail to appear for a personal interview at a place, time, and date designated, during which a written continued request for unemployment benefits form shall be completed and submitted by the applicant.~~

An applicant shall be ineligible for unemployment benefits for the week or biweekly period covered by a continued request and the benefit account shall be considered inactive if the applicant fails, without good cause, to comply with the requirement that the applicant appear for a personal interview and at that time complete and submit a written continued request form.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 38. Minnesota Statutes 2000, section 268.095, subdivision 1, is amended to read:

Subdivision 1. **QUIT.** An applicant who quit employment shall be disqualified from all unemployment benefits except when:

(1) the applicant quit the employment because of a good reason caused by the employer;

(2) the applicant quit the employment to accept other covered employment that provided substantially better terms and conditions of employment, but the applicant did not work long enough at the other employment to have sufficient subsequent earnings to satisfy the disqualification that would otherwise be imposed;

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

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

(5) the employment was part time and the applicant had full-time employment in the base period, that the applicant separated from because of nondisqualifying reasons, sufficient to meet the minimum requirements to establish a benefit account under section 268.07;

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

(7) the applicant quit the employment because the applicant's serious illness or injury made it medically necessary that the applicant quit, provided that the applicant made reasonable efforts to remain in that employment in spite of the serious illness or injury.

Reasonable efforts to remain in that employment are those a reasonable individual would make if interested in remaining with the employer and require that the applicant inform the employer of the serious illness or injury and request accommodation.

If the applicant's serious illness is chemical dependency, the applicant has not made reasonable efforts to remain in that employment if the applicant has previously been diagnosed as chemically dependent, or has previously had treatment for chemical dependency, and has failed to make consistent efforts to control the chemical dependency; or

(8) domestic abuse of the applicant or the applicant's minor child, necessitated the applicant's quitting the employment. Domestic abuse shall be shown by one or more of the following:

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

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- (ii) a police record documenting the domestic abuse;
- (iii) documentation that the perpetrator of the domestic abuse has been convicted of the offense of domestic abuse;
- (iv) medical documentation of domestic abuse; or
- (v) documentation or certification of the domestic abuse provided by a social worker, member of the clergy, shelter worker, or other professional who has assisted the applicant in dealing with the domestic abuse.

Domestic abuse for purposes of this clause shall be defined under section 518B.01.

Sec. 39. Minnesota Statutes 2000, section 268.095, subdivision 2, is amended to read:

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

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

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

(d) An applicant who, without good cause, fails to affirmatively request an additional job assignment after completion of a temporary job assignment from a staffing service employer shall be considered to have quit employment.

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

For purposes of this paragraph, "good cause" shall be a reason that is significant and would compel an average, reasonable worker, who would otherwise want an additional temporary job assignment with the staffing service employer, to fail to contact the staffing service employer. The applicant shall be considered to have good cause if the temporary job assignment just completed was not suitable employment for the applicant.

For purposes of this paragraph, a "staffing service employer" is an employer whose business involves employing individuals directly for the purpose of furnishing temporary help to clients of the staffing service.

Sec. 40. Minnesota Statutes 2000, section 268.095, subdivision 8, is amended to read:

Subd. 8. **OFFERS OF EMPLOYMENT.** (a) An applicant shall be disqualified from all unemployment benefits if the applicant, without good cause:

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(1) failed to apply for available, suitable employment of which the applicant was advised by the commissioner or an employer;

(2) failed to accept suitable employment when offered; or

(3) avoided an offer of suitable employment.

(b) "Good cause" is a reason that would cause a reasonable individual who wants suitable employment to fail to apply for, accept, or avoid suitable employment. Good cause includes:

(1) the applicant is employed in other suitable employment;

(2) the applicant is in reemployment assistance training;

(3) the applicant formerly worked for the employer and the loss of employment occurred prior to the commencement of a labor dispute, was permanent or for an indefinite period, and the applicant failed to apply for or accept the employment because a labor dispute was in progress at the establishment; or

(4) the applicant formerly worked for the employer and quit that employment because of a good reason caused by the employer.

(c) This subdivision only applies to offers of employment with a new or a former employer and does not apply to any type of job transfers, position reassignments, or changes in job duties or responsibilities during the course of employment with an employer.

Sec. 41. Minnesota Statutes 2000, section 268.095, subdivision 11, is amended to read:

Subd. 11. **APPLICATION.** (a) This section shall apply to:

(~~1~~) all covered employment, full time or part time, temporary or of limited duration, permanent or of indefinite duration, that occurred in Minnesota during the base period, the period between the end of the base period and the effective date of the benefit account, or the benefit year, except as provided for in subdivision 1, clause (5); ~~or~~

(~~2~~) all covered employment ~~occurring in this state~~, and (b) Paragraph (a) shall also apply to employment covered under an unemployment insurance program; (~~i~~) of any other state or (~~ii~~) established by an act of Congress.

Sec. 42. Minnesota Statutes 2000, section 268.101, subdivision 1, is amended to read:

Subdivision 1. **NOTIFICATION.** (a) In an application for unemployment benefits, each applicant shall report the name and the reason for no longer working for the applicant's most recent employer, as well as the names of all employers and the reasons for no longer working for all employers during the applicant's last 30 days of employment six calendar months prior to the date of the application. If the reason reported for no longer working for any of those employers is other than a layoff due to lack of work, that shall raise an issue of disqualification that the department shall

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determine. An applicant's failure to report the name of an employer, or giving an incorrect reason for no longer working for an employer, shall be considered a violation of section 268.182, paragraph (b).

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

(b) Upon establishment of a benefit account, the commissioner shall notify, by mail or electronic transmission, all employers the applicant was ~~employed by during the applicant's last 30 days of employment prior to making an required to report on the application and all base period employers and determined successors to those employers under section 268.051, subdivision 4.~~ An in order to provide the employer shall have ten calendar days after the sending of the notice an opportunity to raise, in a manner prescribed by the commissioner, any issue of disqualification or any issue of eligibility. An employer shall be informed of the effect that failure to raise an issue of disqualification within ten calendar days after sending of the notice, as provided for under subdivision 2, paragraph (b), may have on the employer charges under section 268.047. An issue raised more than ten calendar days after sending of the notice shall be considered untimely.

(c) Each applicant shall report any employment, loss of employment, and offers of employment received, during those weeks the applicant filed continued requests for unemployment benefits pursuant to section 268.086. Each applicant who stops filing continued requests during the benefit year and later begins filing continued requests during that same benefit year shall report the name of any employer the applicant worked for during the period between the filing of continued requests, ~~up to a period of the last 30 days of employment,~~ and the reason the applicant stopped working for the employer. The applicant shall report any offers of employment during the period between the filing of continued requests for unemployment benefits. Those employers from which the applicant has reported a loss of employment or an offer of employment pursuant to this paragraph shall be notified by mail or electronic transmission. ~~An employer shall have ten calendar days after the sending of the notice and provided an opportunity to raise, in a manner prescribed by the commissioner, any issue of disqualification or any issue of eligibility. An employer shall be informed of the effect that failure to raise an issue may have on the employer charges under section 268.047. An issue raised more than ten calendar days after sending of the notice shall be considered untimely.~~

(d) The purpose for requiring the applicant to report the name of all employers and the reason for no longer working for all those employers ~~during the applicant's "last 30 days of employment"~~ under paragraphs (a) and (c) is for the commissioner to obtain information from an applicant raising all issues that may have the potential of disqualifying the applicant from unemployment benefits under section 268.095. If the reason given by the applicant for no longer working for an employer is other than a

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layoff due to lack of work, that shall raise an issue of disqualification and the applicant shall be required, as part of the determination process under subdivision 2, paragraph (a), to state all the facts about the cause for no longer working for the employer, if known. If the applicant fails or refuses to provide this information, the applicant shall be ineligible for benefits under section 268.085, subdivision 2, until the applicant provides this required information.

Sec. 43. Minnesota Statutes 2000, section 268.101, subdivision 2, is amended to read:

Subd. 2. **DISQUALIFICATION DETERMINATION.** (a) ~~The commissioner shall determine any issue of disqualification timely raised by an employer, and mail to the applicant and that employer at the last known address a determination of disqualification or a determination of nondisqualification, as is appropriate. The determination shall state the effect on employer charges under section 268.047.~~

(b) (a) The commissioner shall determine any issue of disqualification raised by information required from an applicant under subdivision 1, paragraph (a) or (c), and mail to the applicant and employer at the last known address a determination of disqualification or a determination of nondisqualification, as is appropriate. The determination shall state the effect on the employer charges under section 268.047. A determination shall be made pursuant to this paragraph only on those issues involving the applicant's last 30 days of employment and shall be made even if a notified employer has not raised the issue of disqualification.

(e) (b) The commissioner shall determine any untimely issue of disqualification raised by an employer and mail to the applicant and that employer at the last known address a determination of disqualification or a determination of nondisqualification as is appropriate. The determination shall state the effect on the employer charges under section 268.047.

If the a base period employer:

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

(2) did not employ the applicant during the applicant's last 30 days of employment six calendar months prior to the applicant's application for unemployment benefits, but only employed the applicant for periods prior to that; and

(3) did not raise an issue of disqualification within ten calendar days of notification under subdivision 1, paragraph (b); then any exception to employer charges under section 268.047, subdivisions 2 and 3, shall begin the Sunday two weeks following the week that the untimely issue of disqualification was raised by the employer.

(d) (c) If any time within 24 months from the establishment of a benefit account the commissioner finds that an applicant failed to report any employment, loss of employment, or offers of employment that were required to be provided by the applicant under this section, the commissioner shall determine any issue of disquali-

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fication on that loss of employment or offer of employment and mail to the applicant and involved employer at the last known address a determination of disqualification or a determination of nondisqualification, as is appropriate. The determination shall state the effect on the employer charges under section 268.047.

This paragraph shall not prevent the imposition of any penalty under section 268.18, subdivision 2, or 268.182.

(e) (d) An issue of disqualification shall be determined based upon that information required of an applicant, any information that may be obtained from an applicant or employer, and information from any other source, without regard to any common law burden of proof.

(f) (e) A determination of disqualification or a determination of nondisqualification shall be final unless an appeal is filed by the applicant or notified employer within 30 calendar days after mailing. The determination shall contain a prominent statement indicating the consequences of not appealing. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(g) (f) An issue of disqualification for purposes of this section shall include any reason for no longer working for an employer other than a layoff due to lack of work, any question of a disqualification from unemployment benefits under section 268.095, any question of an exception to disqualification under section 268.095, any question of unemployment benefit charge to effect on an employer under section 268.047, and any question of an otherwise imposed disqualification that an applicant has satisfied under section 268.095, subdivision 10.

(h) (g) Regardless of the requirements of this subdivision, the commissioner is not required to mail to an applicant a determination where the applicant has satisfied any otherwise potential disqualification under section 268.095, subdivision 10.

Sec. 44. Minnesota Statutes 2000, section 268.105, subdivision 7, is amended to read:

Subd. 7. **JUDICIAL REVIEW.** (a) The Minnesota court of appeals shall, by writ of certiorari to the commissioner, review the decision of the commissioner provided a petition for the writ is filed with the court and a copy is served upon the commissioner and any other involved party within 30 calendar days of the mailing of the commissioner's decision.

(b) Any employer petitioning for a writ of certiorari shall pay to the court the required filing fee and upon the service of the writ shall furnish a cost bond to the commissioner in accordance with the rules of civil appellate procedure. If the employer requests a written transcript of the testimony received at the evidentiary hearing conducted pursuant to subdivision 1, the employer shall pay to the commissioner the cost of preparing the transcript.

(c) Upon issuance by the Minnesota court of appeals of a writ of certiorari as a result of an applicant's petition, the commissioner shall furnish to the applicant at no cost a written transcript of the testimony received at the evidentiary hearing conducted

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pursuant to subdivision 1, and, if requested, a copy of all exhibits entered into evidence. No filing fee or cost bond shall be required of an applicant petitioning the Minnesota court of appeals for a writ of certiorari.

(d) The commissioner shall be considered the primary responding party to any judicial action involving the commissioner's decision ~~and the case title shall be, "In Re the matter of: (named petitioner) and the commissioner of economic security."~~. The commissioner may be represented by an attorney who is a classified employee of the department designated by the commissioner for that purpose.

Sec. 45. Minnesota Statutes 2000, section 268.131, subdivision 2, is amended to read:

Subd. 2. **COOPERATION WITH FOREIGN GOVERNMENTS.** The commissioner is authorized to enter into or cooperate in arrangements whereby facilities and services provided under sections 268.03 to 268.23 and facilities and services provided under the unemployment insurance program of any foreign government, may be used for the taking of applications for unemployment benefits and continued ~~claims requests~~ and the payment of unemployment benefits under this law or under a similar law of a foreign government.

Sec. 46. Minnesota Statutes 2000, section 268.18, subdivision 2b, is amended to read:

Subd. 2b. **INTEREST.** (a) ~~Beginning January 1, 2002,~~ On any unemployment benefits fraudulently obtained, and any penalty amounts assessed under subdivision 2, the commissioner shall may assess interest at the rate of 1-1/2 percent per month on any amount that remains unpaid 30 calendar days after the date of the determination of overpayment by fraud. A determination of overpayment by fraud shall state that interest shall be assessed.

(b) If this subdivision became effective after the date of the determination, or the determination did not state that interest shall be assessed, interest shall be assessed beginning 30 calendar days after written notification to the applicant.

Sec. 47. Minnesota Statutes 2000, section 268.184, is amended to read:

268.184 EMPLOYER MISCONDUCT; PENALTY.

(a) If the commissioner finds that any employer or any employee, officer, or agent of any employer, is in collusion with any applicant for the purpose of assisting the applicant to receive unemployment benefits illegally, the employer shall be penalized \$500 or the amount of unemployment benefits determined to be overpaid, whichever is greater.

(b) If the commissioner finds that any employer or any employee, officer, or agent of an employer has made (1) a false statement or representation knowing it to be false, or (2) has made a false statement or representation without a good faith belief as to correctness of the statement or representation, or (3) who knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment benefits to any applicant or to reduce or prevent a ~~charge~~ the effects of unemployment benefits ~~to~~ paid

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on its tax or reimbursable account, the employer shall be penalized \$500.

(c) Penalties under this section shall be in addition to any other penalties and subject to the same collection procedures that apply to past due taxes. Penalties shall be paid to the department within 30 calendar days of assessment and credited to the contingent account.

(d) The assessment of the penalty shall be final unless the employer files an appeal within 30 calendar days after the sending of notice of the penalty to the employer by mail or electronic transmission. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(e) Any employer or any officer or agent of an employer or any other individual 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 unemployment benefits to any applicant, is guilty of a gross misdemeanor unless the unemployment benefit underpayment exceeds \$500, in that case the individual is guilty of a felony.

Sec. 48. Minnesota Statutes 2000, section 268.192, subdivision 1, is amended to read:

Subdivision 1. **WAIVER OF RIGHTS VOID.** Any agreement by an individual to waive, release, or commute rights to unemployment benefits or any other rights under sections 268.03 to 268.23 shall be void. Any agreement by an employee to pay all or any portion of an employer's taxes, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to pay the employer's taxes, require or accept any waiver of any right or in any manner obstruct or impede an application or continued claim request for unemployment benefits. Any employer or officer or agent of any employer who violates any portion of this subdivision shall, for each offense, be guilty of a misdemeanor.

Sec. 49. Minnesota Statutes 2000, section 268.6715, is amended to read:

268.6715 1997 MINNESOTA EMPLOYMENT AND ECONOMIC DEVELOPMENT PROGRAM.

The 1997 Minnesota employment and economic development program is established to assist businesses and communities to create jobs that provide the wages, benefits, and on-the-job training opportunities necessary to help low-wage workers and people transitioning from public assistance to get and retain jobs, and to help their families to move out of poverty. Employment obtained under this program is not ~~excluded from~~ included in the definition of "noncovered employment" by section ~~268.04~~ 268.035, subdivision ~~12~~ 20, clause ~~(10)~~, ~~paragraph (d)~~ (11).

Sec. 50. Minnesota Statutes 2000, section 268.976, subdivision 1, is amended to read:

Subdivision 1. **EARLY WARNING INDICATORS.** The commissioner, in cooperation with the commissioners of revenue and trade and economic development, shall establish and oversee an early warning system to identify industries and

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businesses likely to experience large losses in employment including a plant closing or a substantial layoff, by collecting and analyzing information which may include, but not be limited to, products and markets experiencing declining growth rates, companies and industries subject to competition from production in low wage counties, changes in ownership, layoff and employment patterns, payments of unemployment contributions taxes, and state tax payments. The commissioner may request the assistance of businesses, business organizations, and trade associations in identifying businesses, industries, and specific establishments that are likely to experience large losses in employment. The commissioner may request information and other assistance from other state agencies for the purposes of this subdivision.

Sec. 51. **RETROACTIVE ELECTION BY INDIAN TRIBES.**

Regardless of any law to the contrary, an Indian tribe, subdivision, subsidiary, or business enterprise wholly owned by the tribe may elect to be liable for payments in lieu of unemployment taxes for the calendar year 2000 or 2001, or both. If such tribe, subdivision, subsidiary, or business enterprise paid unemployment taxes on a quarterly basis during 2000 or 2001, and if the tribe elects by December 31, 2002, to be liable for payments in lieu of unemployment taxes for one or both of those calendar years, the department shall grant a refund or credit for the amount that the total of unemployment tax payments exceeded the total payment that would have been due if payments in lieu of unemployment taxes had been made.

EFFECTIVE DATE. This section is effective December 31, 2000.

Sec. 52. **INSTRUCTIONS TO REVISOR.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

| <u>Column A</u> | <u>Column B</u> |
|--------------------------|---------------------------|
| <u>268.035, subd. 5</u> | <u>268.035, subd. 26a</u> |
| <u>268.035, subd. 8</u> | <u>268.035, subd. 2a</u> |
| <u>268.095, subd. 4a</u> | <u>268.095, subd. 6a</u> |
| <u>268.101, subd. 7</u> | <u>268.19, subd. 2</u> |
| <u>268.198</u> | <u>268.26</u> |

In Minnesota Statutes, sections 268.001 to 268.23:

The term "or the Federal Economic Security Law" shall be changed to "or Federal Unemployment Insurance Program."

The term "section 268.03 to 268.23" shall be changed to "the Minnesota Unemployment Insurance Program Law."

The term "administer sections 268.03 to 268.23" shall be changed to "administer the Minnesota unemployment insurance program and the job service."

The term "administration of sections 268.03 to 268.23" shall be changed to "administration of the Minnesota unemployment insurance program and the job service."

New language is indicated by underline, deletions by strikeout.

The term "economic security administration account" shall be changed to "administration account."

The term "economic security contingent account" shall be changed to "contingent account."

The term "notwithstanding" shall be changed to "regardless of."

Sec. 53. REPEALER.

Laws 1999, chapter 107, section 22, is repealed.

Presented to the governor May 23, 2001

Signed by the governor May 25, 2001, 12:12 p.m.

CHAPTER 176—S.F.No. 1154

An act relating to the metropolitan radio board; extending the expiration date for the board; providing for the transfer of its duties and responsibilities; requiring the submission to the legislature of a report and plan on the board's transition; amending Laws 1995, chapter 195, article 1, section 18, as amended.

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

Section 1. Laws 1995, chapter 195, article 1, section 18, as amended by Laws 1999, chapter 238, article 2, section 78, is amended to read:

Sec. 18. SUNSET.

The metropolitan radio board is abolished effective July 1, ~~2002~~ 2004. Effective July 1, ~~2002~~ 2004, the board's duties and responsibilities are transferred to the metropolitan council or an appropriate state agency, as provided by law, based on the reports submitted by the metropolitan council under section 7, subdivision 3, of this article. The designated agency is the successor to all the property, interests, obligations, and rules of the metropolitan radio board. By February 1, 2002, the board shall submit to the legislature a report and plan for the board's transition from its current status. The report shall include financial projections on future capital and operating costs, including sources and uses of funds, and a recommendation on whether to transfer its duties and responsibilities to a specific state agency, to remain an independent agency, or to become an association of local units of government working jointly with state agencies. If the recommendation is to become an independent agency, the board shall submit recommendations on changing its size, its name, and the makeup of its geographical and functional representation.

Presented to the governor May 23, 2001

Signed by the governor May 25, 2001, 12:03 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.