

CHAPTER 33--S.F.No. 2369

An act relating to economic development; modifying economic development policy provisions; creating an account; modifying unemployment appeal periods; amending Minnesota Statutes 2022, sections 116J.552, subdivisions 4, 6; 116L.04, subdivision 1a; 116L.17, subdivision 1; 116U.25; 268.043; 268.051, subdivision 6; 268.053, subdivision 2; 268.0625, subdivision 4; 268.063; 268.064, subdivision 2; 268.065, subdivision 3; 268.07, subdivision 3a; 268.101, subdivisions 2, 4; 268.105, subdivisions 1a, 2, 3, 7; 268.18, subdivision 2; 268.183; 268.184, subdivisions 1, 1a; proposing coding for new law in Minnesota Statutes, chapters 116J; 298.

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

Section 1. [116J.015] LEGISLATIVE REVIEW; EXPIRATION OF REPORT MANDATES.

The commissioner shall submit to the chairs and ranking minority members of the legislative committees with jurisdiction over employment and economic development by February 15 of each year, beginning February 15, 2023, the following:

(1) a list of all reports required from the commissioner of employment and economic development to the legislature that are mandated by statute and the enabling legislation does not include a date for the submission of a final report;

(2) a discussion regarding the usefulness of continuation for each report; and

(3) any additional information the commissioner considers appropriate regarding whether the reporting requirement should be set to expire by the legislature.

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

Sec. 2. Minnesota Statutes 2022, section 116J.552, subdivision 4, is amended to read:

Subd. 4. **Development authority.** "Development authority" includes a statutory or home rule charter city, county, federally recognized Tribe, housing and redevelopment authority, economic development authority, and a port authority.

Sec. 3. Minnesota Statutes 2022, section 116J.552, subdivision 6, is amended to read:

Subd. 6. **Municipality.** "Municipality" means the statutory or home rule charter city, town, federally recognized Tribe, or, in the case of unorganized territory, the county in which the site is located.

Sec. 4. Minnesota Statutes 2022, section 116L.04, subdivision 1a, is amended to read:

Subd. 1a. **Pathways program.** The pathways program may provide grants-in-aid for developing programs which assist in the transition of persons from welfare to work and assist individuals at or below 200 percent of the federal poverty guidelines. The program is to be operated by the board. The board shall consult and coordinate with program administrators at the Department of Employment and Economic Development to design and provide services for temporary assistance for needy families recipients.

Pathways grants-in-aid may be awarded to educational or other nonprofit training institutions or to workforce development intermediaries for education and training programs and services supporting education and training programs that serve eligible recipients.

Preference shall be given to projects that:

- (1) provide employment with benefits paid to employees;
- (2) provide employment where there are defined career paths for trainees;
- (3) pilot the development of an educational pathway that can be used on a continuing basis for transitioning persons from welfare to work; and
- (4) demonstrate the active participation of Department of Employment and Economic Development workforce centers, Minnesota State College and University institutions and other educational institutions, and local welfare agencies.

Pathways projects must demonstrate the active involvement and financial commitment of private a participating business. Pathways projects must be matched with cash or in-kind contributions on at least a one-half-to-one ratio by a participating private business.

A single grant to any one institution shall not exceed \$400,000. A portion of a grant may be used for preemployment training.

Sec. 5. Minnesota Statutes 2022, section 116L.17, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them in this subdivision.

(b) "Commissioner" means the commissioner of employment and economic development.

(c) "Dislocated worker" means an individual who is a resident of Minnesota at the time employment ceased or was working in the state at the time employment ceased and:

(1) has been permanently separated or has received a notice of permanent separation from public or private sector employment and is eligible for or has exhausted entitlement to unemployment benefits, and is unlikely to return to the previous industry or occupation;

(2) has been long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including older individuals who may have substantial barriers to employment by reason of age;

(3) has been terminated or has received a notice of termination of employment as a result of a plant closing or a substantial layoff at a plant, facility, or enterprise;

(4) has been self-employed, including farmers and ranchers, and is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;

(5) is a veteran as defined by section 197.447, has been discharged or released from active duty under honorable conditions within the last 36 months, and (i) is unemployed or (ii) is employed in a job verified to be below the skill level and earning capacity of the veteran;

(6) is an individual determined by the United States Department of Labor to be covered by trade adjustment assistance under United States Code, title 19, sections 2271 to 2331, as amended; or

(7) is a displaced homemaker. A "displaced homemaker" is an individual who has spent a substantial number of years in the home providing homemaking service and (i) has been dependent upon the financial support of another; and ~~now~~ due to divorce, separation, death, or disability of that person, must now find employment to self support; or (ii) derived the substantial share of support from public assistance on account of dependents in the home and no longer receives such support. To be eligible under this clause, the support must have ceased while the worker resided in Minnesota.

For the purposes of this section, "dislocated worker" does not include an individual who was an employee, at the time employment ceased, of a political committee, political fund, principal campaign committee, or party unit, as those terms are used in chapter 10A, or an organization required to file with the federal elections commission.

(d) "Eligible organization" means a state or local government unit, nonprofit organization, community action agency, business organization or association, or labor organization.

(e) "Plant closing" means the announced or actual permanent shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment.

(f) "Substantial layoff" means a permanent reduction in the workforce, which is not a result of a plant closing, and which results in an employment loss at a single site of employment during any 30-day period for at least 50 employees excluding those employees that work less than 20 hours per week.

Sec. 6. Minnesota Statutes 2022, section 116U.25, is amended to read:

116U.25 EXPLORE MINNESOTA TOURISM COUNCIL.

(a) The director shall be advised by the Explore Minnesota Tourism Council consisting of up to ~~28~~ 35 voting members appointed by the governor for four-year terms, including:

(1) the director of Explore Minnesota Tourism who serves as the chair;

(2) ~~eleven~~ fourteen representatives of statewide associations representing bed and breakfast establishments, golf, festivals and events, counties, convention and visitor bureaus, lodging, resorts, trails, campgrounds, restaurants, ~~and~~ craft beverage establishments, chambers of commerce, chambers of commerce for underrepresented communities, and Tribal nations;

(3) one representative from each of the tourism marketing regions of the state as designated by the office;

(4) ~~six~~ ten representatives of the tourism business representing transportation, retail, travel agencies, tour operators, travel media, ~~and~~ convention facilities, arts and culture, sports, outdoor recreation, and tourism business owners from underrepresented communities;

(5) one or more ex officio nonvoting members including at least one from the University of Minnesota Tourism Center;

(6) four legislators, two from each house, one each from the two largest political party caucuses in each house, appointed according to the rules of the respective houses; and

(7) other persons, if any, as designated from time to time by the governor.

(b) The council shall act to serve the broader interests of tourism in Minnesota by promoting activities that support, maintain, and expand the state's domestic and international travel market, thereby generating increased visitor expenditures, tax revenue, and employment.

(c) Filling of membership vacancies is as provided in section 15.059. The terms of one-half of the members shall be coterminous with the governor and the terms of the remaining one-half of the members shall end on the first Monday in January one year after the terms of the other members. Members may serve until their successors are appointed and qualify. Members are not compensated. A member may be reappointed.

(d) The council shall meet at least four times per year and at other times determined by the council.

(e) If compliance with section 13D.02 is impractical, the Explore Minnesota Tourism Council may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the council participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the council can hear clearly all discussion and testimony and all votes of members of the council and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the council is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(f) Each member of the council participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(g) If telephone or other electronic means is used to conduct a meeting, the council, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The council may require the person making such a connection to pay for documented marginal costs that the council incurs as a result of the additional connection.

(h) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the council shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (g). The timing and method of providing notice is governed by section 13D.04.

Sec. 7. Minnesota Statutes 2022, section 268.043, is amended to read:

268.043 DETERMINATIONS OF COVERAGE.

(a) The commissioner, upon the commissioner's own motion or upon application of a person, must determine if that person is an employer or whether services performed for it constitute employment and covered employment, or whether any compensation constitutes wages, and notify the person of the determination. The determination is final unless the person files an appeal within 20 ~~45~~ calendar days after the commissioner sends the determination by mail or electronic transmission. Proceedings on the appeal are conducted in accordance with section 268.105.

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

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 8. Minnesota Statutes 2022, section 268.051, subdivision 6, is amended to read:

Subd. 6. **Determination of tax rate.** (a) On or before each December 15, the commissioner must notify each employer by mail or electronic transmission of the employer's tax rate, along with any additional assessments, fees, or surcharges, for the following calendar year. The determination must contain the base tax rate and the factors used in determining the employer's experience rating. Unless an appeal of the tax rate is made, the computed tax rate is final, except for fraud or recomputation required under subdivision 4 or 4a, and is the rate at which taxes must be paid. A recomputed tax rate under subdivision 4 or 4a is the rate applicable for the quarter that includes the date of acquisition and any quarter thereafter during the calendar year in which the acquisition occurred. The tax rate is not subject to collateral attack by way of claim for a credit adjustment or refund, or otherwise.

(b) If the legislature, after the sending of the determination of tax rate, changes any of the factors used to determine the rate, a new tax rate based on the new factors must be computed and sent to the employer.

(c) A review of an employer's tax rate may be obtained by the employer filing an appeal within 20 45 calendar days from the date the determination of tax rate was sent to the employer. Proceedings on the appeal are conducted in accordance with section 268.105.

(d) The commissioner may at any time upon the commissioner's own motion correct any error in the employer's tax rate.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 9. Minnesota Statutes 2022, section 268.053, subdivision 2, is amended to read:

Subd. 2. **Determination and appeal.** The commissioner must notify each nonprofit organization by mail or electronic transmission of any determination of its status as an employer with covered employment and of the effective date of any election or termination of election. The determination is final unless an appeal is filed within 20 45 calendar days of sending the determination. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 10. Minnesota Statutes 2022, section 268.0625, subdivision 4, is amended to read:

Subd. 4. **Determination and right to hearing.** At least 30 calendar days before the commissioner notifies a licensing authority, a determination of action under this section must be sent to the licensee by mail or electronic transmission. If the licensee disputes the action, the licensee must appeal within 20 45 calendar days after the sending of the determination to the licensee. The only issue on any appeal is whether the commissioner has complied with the requirements of this section. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 11. Minnesota Statutes 2022, section 268.063, is amended to read:

268.063 PERSONAL LIABILITY.

(a) Any officer, director, or employee of a corporation or any manager, governor, member, or employee of a limited liability company who

(1) either individually or jointly with others, have or should have had control of, supervision over, or responsibility for paying the amounts due under this chapter or section 116L.20, and

(2) knowingly fails to pay the amounts due, is personally liable for the amount due in the event the employer does not pay.

For purposes of this section, "knowingly" means that the facts demonstrate that the responsible individual used or allowed the use of corporate or company assets to pay other creditors knowing that the amounts due under this chapter were unpaid. An evil motive or intent to defraud is not necessary.

(b) Any partner of a limited liability partnership, or professional limited liability partnership, is jointly and severally liable for any amount due under this chapter or section 116L.20 in the event the employer does not pay.

(c) Any personal representative of the estate of a decedent or fiduciary who voluntarily distributes the assets without reserving a sufficient amount to pay the amount due is personally liable for the deficiency.

(d) The personal liability of any individual survives dissolution, reorganization, receivership, or assignment for the benefit of creditors. For the purposes of this section, all wages paid by the employer are considered earned from the individual determined to be personally liable.

(e) The commissioner must make a determination as to personal liability. The determination is final unless the individual found to be personally liable, within 20 45 calendar days after sending, by mail or electronic transmission, a notice of determination, files an appeal. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 12. Minnesota Statutes 2022, section 268.064, subdivision 2, is amended to read:

Subd. 2. **Reasonable value.** The commissioner, upon the commissioner's own motion or upon application of the acquiring person, must determine the reasonable value of the organization, trade, business or assets acquired based on available information. The determination is final unless the acquiring person, within 20 45 calendar days after being sent the determination by mail or electronic transmission, files an appeal. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 13. Minnesota Statutes 2022, section 268.065, subdivision 3, is amended to read:

Subd. 3. **Determination of liability.** The commissioner must make a determination as to the liability under this section. The determination is final unless the contractor or person found to be liable files an appeal within 20 45 calendar days after being sent the determination by mail or electronic transmission. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 14. Minnesota Statutes 2022, section 268.07, subdivision 3a, is amended to read:

Subd. 3a. **Right of appeal.** (a) A determination or amended determination of benefit account is final unless an applicant or base period employer within 20 45 calendar days after the sending of the determination or amended determination files an appeal. Every determination or amended determination of benefit account

must contain a prominent statement indicating in clear language the consequences of not appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

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

Sec. 15. Minnesota Statutes 2022, section 268.101, subdivision 2, is amended to read:

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

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

If a base period employer:

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

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

(3) did not raise an issue of ineligibility as a result of a quit or discharge of the applicant within ten calendar days of notification under subdivision 1, paragraph (b);

then any exception under section 268.047, subdivisions 2 and 3, begins the Sunday two weeks following the week that the issue of ineligibility as a result of a quit or discharge of the applicant was raised by the employer.

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

(c) Subject to section 268.031, an issue of ineligibility is determined based upon that information required of an applicant, any information that may be obtained from an applicant or employer, and information from any other source.

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

(e) The department is authorized to issue a determination on an issue of ineligibility within 24 months from the establishment of a benefit account based upon information from any source, even if the issue of ineligibility was not raised by the applicant or an employer.

If an applicant obtained unemployment benefits through misrepresentation under section 268.18, subdivision 2, the department is authorized to issue a determination of ineligibility within 48 months of the establishment of the benefit account.

If the department has filed an intervention in a worker's compensation matter under section 176.361, the department is authorized to issue a determination of ineligibility within 48 months of the establishment of the benefit account.

(f) A determination of eligibility or determination of ineligibility is final unless an appeal is filed by the applicant or employer within ~~20~~ 45 calendar days after sending. The determination must contain a prominent statement indicating the consequences of not appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

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

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 16. Minnesota Statutes 2022, section 268.101, subdivision 4, is amended to read:

Subd. 4. **Amended determination.** Unless an appeal has been filed, the commissioner, on the commissioner's own motion, may reconsider a determination of eligibility or determination of ineligibility that has not become final and issue an amended determination. Any amended determination must be sent to the applicant and any involved employer by mail or electronic transmission. Any amended determination is final unless an appeal is filed by the applicant or notified employer within ~~20~~ 45 calendar days after sending. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 17. Minnesota Statutes 2022, section 268.105, subdivision 1a, is amended to read:

Subd. 1a. **Decision.** (a) After the conclusion of the hearing, upon the evidence obtained, the unemployment law judge must make written findings of fact, reasons for decision, and decision and send those, by mail or electronic transmission, to all parties. When the credibility of a witness testifying in a hearing has a significant effect on the outcome of a decision, the unemployment law judge must set out the reason for crediting or discrediting that testimony. The unemployment law judge's decision is final unless a request for reconsideration is filed under subdivision 2.

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

(c) The unemployment law judge must issue a decision dismissing the appeal as untimely if the judge decides the appeal was not filed within ~~20~~ 45 calendar days after the sending of the determination. The unemployment law judge may dismiss the appeal by summary decision, or the judge may conduct a hearing to obtain evidence on the timeliness of the appeal.

(d) Decisions of an unemployment law judge are not precedential.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 18. Minnesota Statutes 2022, section 268.105, subdivision 2, is amended to read:

Subd. 2. **Request for reconsideration.** (a) Any party, or the commissioner, may within 20 calendar days of the sending of the unemployment law judge's decision under subdivision 1a, file a request for reconsideration asking the judge to reconsider that decision.

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

(1) that reconsideration is the procedure for the unemployment law judge to correct any factual or legal mistake in the decision, or to order an additional hearing when appropriate;

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

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

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

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

This paragraph does not apply if paragraph (d) is applicable. Sending the notice does not mean the unemployment law judge has decided the request for reconsideration was timely filed.

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

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

(1) would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence; or

(2) would show that the evidence that was submitted at the hearing was likely false and that the likely false evidence had an effect on the outcome of the decision.

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

(d) If the party who filed the request for reconsideration failed to participate in the hearing, the unemployment law judge must issue an order setting aside the decision and ordering an additional hearing if the party who failed to participate had good cause for failing to do so. The party who failed to participate in the hearing must be informed of the requirement to show good cause for failing to participate. If the

unemployment law judge determines that good cause for failure to participate has not been shown, the judge must state that in the decision issued under paragraph (f).

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

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

(e) A request for reconsideration must be decided by the unemployment law judge who issued the decision under subdivision 1a unless that judge:

- (1) is no longer employed by the department;
- (2) is on an extended or indefinite leave; or
- (3) has been removed from the proceedings by the chief unemployment law judge.

(f) If a request for reconsideration is timely filed, the unemployment law judge must issue:

(1) a decision affirming the findings of fact, reasons for decision, and decision issued under subdivision 1a;

(2) a decision modifying the findings of fact, reasons for decision, and decision under subdivision 1a; or

(3) an order setting aside the findings of fact, reasons for decision, and decision issued under subdivision 1a, and ordering an additional hearing.

The unemployment law judge must issue a decision dismissing the request for reconsideration as untimely if the judge decides the request for reconsideration was not filed within ~~20~~ 45 calendar days after the sending of the decision under subdivision 1a.

The unemployment law judge must send to all parties, by mail or electronic transmission, the decision or order issued under this subdivision. A decision affirming or modifying the previously issued findings of fact, reasons for decision, and decision, or a decision dismissing the request for reconsideration as untimely, is the final decision on the matter and is binding on the parties unless judicial review is sought under subdivision 7.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 19. Minnesota Statutes 2022, section 268.105, subdivision 3, is amended to read:

Subd. 3. **Withdrawal of an appeal.** (a) An appeal that is pending before an unemployment law judge may be withdrawn by the appealing party, or an authorized representative of that party, by filing of a notice of withdrawal. A notice of withdrawal may be filed by mail or by electronic transmission.

(b) The appeal must, by order, be dismissed if a notice of withdrawal is filed, unless an unemployment law judge directs that further proceedings are required for a proper result. An order of dismissal issued as a result of a notice of withdrawal is not subject to reconsideration or appeal.

(c) A party may file a new appeal after the order of dismissal, but the original ~~20~~ 45-calendar-day period for appeal begins from the date of issuance of the determination and that time period is not suspended or

restarted by the notice of withdrawal and order of dismissal. The new appeal may only be filed by mail or facsimile transmission.

(d) For purposes of this subdivision, "appeals" includes a request for reconsideration filed under subdivision 2.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 20. Minnesota Statutes 2022, section 268.105, subdivision 7, is amended to read:

Subd. 7. **Judicial review.** (a) The Minnesota Court of Appeals must, by writ of certiorari to the department, review the unemployment law judge's decision on reconsideration, provided a petition for the writ is filed with the court and a copy is served upon the unemployment law judge or the commissioner and any other party within ~~30~~ 45 calendar days of the sending of the unemployment law judge's decision on reconsideration under subdivision 2. Three days are added to the ~~30~~ 45-calendar-day period if the decision on reconsideration was mailed to the parties.

(b) Any employer petitioning for a writ of certiorari must pay to the court the required filing fee in accordance with the Rules of Civil Appellate Procedure. If the employer requests a written transcript of the testimony received at the hearing conducted under subdivision 1, the employer must pay to the department the cost of preparing the transcript. That money is credited to the administration account.

(c) Upon issuance by the Minnesota Court of Appeals of a writ of certiorari as a result of an applicant's petition, the department must furnish to the applicant at no cost a written transcript of any testimony received at the hearing conducted under subdivision 1, and, if requested, a copy of all exhibits entered into evidence. No filing fee or cost bond is required of an applicant petitioning the Minnesota Court of Appeals for a writ of certiorari.

(d) The Minnesota Court of Appeals may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the department;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the hearing record as submitted; or
- (6) arbitrary or capricious.

(e) The department is the primary responding party to any judicial action involving an unemployment law judge's decision. The department may be represented by an attorney licensed to practice law in Minnesota who is an employee of the department.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 21. Minnesota Statutes 2022, section 268.18, subdivision 2, is amended to read:

Subd. 2. **Overpayment because of misrepresentation.** (a) An applicant has committed misrepresentation if the applicant is overpaid unemployment benefits by making a false statement or representation without a good faith belief as to the correctness of the statement or representation.

After the discovery of facts indicating misrepresentation, the commissioner must issue a determination of overpayment penalty assessing a penalty equal to 40 percent of the amount overpaid. This penalty is in addition to penalties under section 268.183.

(b) Unless the applicant files an appeal within ~~20~~ 45 calendar days after the sending of a determination of overpayment penalty to the applicant by mail or electronic transmission, the determination is final. Proceedings on the appeal are conducted in accordance with section 268.105.

(c) A determination of overpayment penalty must state the methods of collection the commissioner may use to recover the overpayment, penalty, and interest assessed. Money received in repayment of overpaid unemployment benefits, penalties, and interest is first applied to the benefits overpaid, then to the penalty amount due, then to any interest due. 62.5 percent of the payments made toward the penalty are credited to the contingent account and 37.5 percent credited to the trust fund.

(d) The department is authorized to issue a determination of overpayment penalty under this subdivision within 48 months of the establishment of the benefit account upon which the unemployment benefits were obtained through misrepresentation.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 22. Minnesota Statutes 2022, section 268.183, is amended to read:

268.183 APPLICANT ADMINISTRATIVE PENALTIES.

(a) Any applicant who makes a false statement or representation without a good faith belief as to the correctness of the statement or representation, in order to obtain or in an attempt to obtain unemployment benefits may be assessed, in addition to any other penalties, an administrative penalty of being ineligible for unemployment benefits for 13 to 104 weeks.

(b) A determination of ineligibility setting out the weeks the applicant is ineligible must be sent to the applicant by mail or electronic transmission. The department is authorized to issue a determination of ineligibility under this subdivision within 48 months of the establishment of the benefit account upon which the unemployment benefits were obtained, or attempted to be obtained. Unless an appeal is filed within ~~20~~ 45 calendar days of sending, the determination is final. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 23. Minnesota Statutes 2022, section 268.184, subdivision 1, is amended to read:

Subdivision 1. **Misrepresentation; administrative penalties.** (a) The commissioner must penalize an employer if that employer or any employee, officer, or agent of that employer made a false statement or representation without a good faith belief as to correctness of the statement or representation or knowingly failed to disclose a material fact in order to:

(1) assist an applicant to receive unemployment benefits to which the applicant is not entitled;

(2) prevent or reduce the payment of unemployment benefits to an applicant; or

(3) avoid or reduce any payment required from an employer under this chapter or section 116L.20.

The penalty is the greater of \$500 or 50 percent of the following resulting from the employer's action:

(i) the amount of any overpaid unemployment benefits to an applicant;

(ii) the amount of unemployment benefits not paid to an applicant that would otherwise have been paid;
or

(iii) the amount of any payment required from the employer under this chapter or section 116L.20 that was not paid.

(b) The commissioner must penalize an employer if that employer failed or refused to honor a subpoena issued under section 268.188. The penalty is \$500 and any costs of enforcing the subpoena, including attorney fees.

(c) Penalties under this subdivision and under section 268.047, subdivision 4, paragraph (b), are in addition to any other penalties and subject to the same collection procedures that apply to past due taxes. Penalties must be paid within 30 calendar days of issuance of the determination of penalty and credited to the trust fund.

(d) The determination of penalty is final unless the employer files an appeal within ~~20~~45 calendar days after the sending of the determination of penalty to the employer by mail or electronic transmission. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 24. Minnesota Statutes 2022, section 268.184, subdivision 1a, is amended to read:

Subd. 1a. **Notification and misreporting penalties.** (a) If the commissioner finds that any employer or agent of an employer failed to meet the notification requirements of section 268.051, subdivision 4, the employer must be assessed a penalty of \$5,000 or two percent of the first full quarterly payroll acquired, whichever is higher. Payroll is wages paid as defined in section 268.035, subdivision 30. The penalty under this paragraph must be canceled if the commissioner determines that the failure occurred because of ignorance or inadvertence.

(b) If the commissioner finds that any individual advised an employer to violate the employer's notification requirements under section 268.051, subdivision 4, the individual, and that individual's employer, must each be assessed the penalty in paragraph (a).

(c) If the commissioner finds that any person or agent of a person violated the reporting requirements of section 268.046, the person must be assessed a penalty of \$5,000 or two percent of the quarterly payroll reported in violation of section 268.046, whichever is higher. Payroll is wages paid as defined in section 268.035, subdivision 30.

(d) Penalties under this subdivision are in addition to any other penalties and subject to the same collection procedures that apply to past due amounts from an employer. Penalties must be paid within 30 calendar days after sending of the determination of penalty and credited to the trust fund.

(e) The determination of penalty is final unless the person assessed files an appeal within ~~20~~ 45 calendar days after sending of the determination of penalty by mail or electronic transmission. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after May 5, 2024.

Sec. 25. **[298.2216] GIANTS RIDGE ACCOUNT.**

Subdivision 1. **Account established.** The Giants Ridge account is established in the state treasury. The account consists of appropriations made by the state or funds dedicated by the Department of Iron Range Resources and Rehabilitation. The account may also receive private contributions, gifts, or grants under section 16A.013. Any interest or profit accruing from investment of these sums is credited to the account.

Subd. 2. **Definitions.** (a) For the purposes of this section the following terms have the meanings given.

(b) "Commissioner" means the commissioner of Iron Range resources and rehabilitation.

(c) "Income" means the amount of interest or profit accruing from the investment of account funds.

(d) "Long-term maintenance" means activities that would constitute substantial repairs or rehabilitation.

(e) "Routine maintenance" means activities that are predictable and repetitive.

Subd. 3. **Use of funds.** (a) Income derived from the investment of principal in the account may be used by the commissioner for capital expenditures, facility operations, or routine or long-term maintenance of the commercial, state-owned assets within the Giants Ridge Recreation Area. No money from this account may be used for any purposes except those described in this section and no money from this account may be transferred to any other account in the state treasury without specific legislative authorization.

(b) Investment management fees incurred by the State Board of Investment are eligible expenses for reimbursement from the account.

(c) The commissioner has authority to approve or deny expenditures of funds in the account.

Subd. 4. **Appropriation.** Income in the account derived from the investment of principal is appropriated upon request by the commissioner to the agency for the purposes described in this section. The commissioner may also request appropriations from the principal for capital expenditures when the commissioner determines such expenditures are in the best interest of the agency.

Subd. 5. **Investment.** Funds in the account shall be invested pursuant to law by the State Board of Investment.

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

Sec. 26. **DEPARTMENT OF IRON RANGE RESOURCES AND REHABILITATION; AUTHORIZATION OF SEPARATION AND RETENTION INCENTIVE PROGRAMS.**

The commissioner of Iron Range resources and rehabilitation may provide separation and retention incentive programs for employees of the agency that are consistent with the provisions of Laws 2009, chapter 78, article 7, section 2, as amended by Laws 2010, chapters 215, article 9, section 2, and 216, section 53. The cost of such incentives are payable solely by funds made available to the commissioner of Iron Range resources and rehabilitation under Minnesota Statutes, chapter 298. Employees must not be required to participate in the programs. This section expires December 31, 2024.

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

Presented to the governor May 8, 2023

Signed by the governor May 8, 2023, 4:52 p.m.