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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 784

01/25/2023 Authored by Noor, Xiong and Hassan

The bill was read for the first time and referred to the Committee on Workforce Development Finance and Policy

03/06/2023 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to unemployment; modifying penalties for a misrepresentation
1.3 overpayment; extending opportunities to appeal; amending Minnesota Statutes
1.4 2022, sections 268.043; 268.069, subdivision 1; 268.07, subdivision 3a; 268.085,
1.5 subdivision 2; 268.101, subdivisions 1, 2, 4; 268.105, subdivisions 1a, 2, 3; 268.133;
1.6 268.18; repealing Minnesota Statutes 2022, section 268.183.

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

1.8 Section 1. Minnesota Statutes 2022, section 268.043, is amended to read:

1.9 268.043 DETERMINATIONS OF COVERAGE.

1.10 (a) The commissioner, upon the commissioner's own motion or upon application of a
1.11 person, must determine if that person is an employer or whether services performed for it
1.12 constitute employment and covered employment, or whether any compensation constitutes
1.13 wages, and notify the person of the determination. The determination is final unless the
1.14 person files an appeal within 20 60 calendar days after the commissioner sends the
1.15 determination by mail or electronic transmission. Proceedings on the appeal are conducted
1.16 in accordance with section 268.105.

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

1.21 Sec. 2. Minnesota Statutes 2022, section 268.069, subdivision 1, is amended to read:

1.22 Subdivision 1. Requirements. The commissioner must pay unemployment benefits
1.23 from the trust fund to an applicant who has met each of the following requirements:

2.1 (1) the applicant has filed an application for unemployment benefits and established a
2.2 benefit account in accordance with section 268.07;

2.3 (2) the applicant has not been held ineligible for unemployment benefits under section
2.4 268.095 because of a quit or discharge;

2.5 (3) the applicant has met all of the ongoing eligibility requirements under section 268.085;
2.6 and

2.7 (4) the applicant does not have an outstanding overpayment of unemployment benefits,
2.8 including any penalties ~~or interest; and~~ and.

2.9 ~~(5) the applicant has not been held ineligible for unemployment benefits under section~~
2.10 ~~268.183.~~

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

2.12 Subd. 3a. **Right of appeal.** (a) A determination or amended determination of benefit
2.13 account is final unless an applicant or base period employer within ~~20~~ 60 calendar days
2.14 after the sending of the determination or amended determination files an appeal. Every
2.15 determination or amended determination of benefit account must contain a prominent
2.16 statement indicating in clear language the consequences of not appealing. Proceedings on
2.17 the appeal are conducted in accordance with section 268.105.

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

2.22 Sec. 4. Minnesota Statutes 2022, section 268.085, subdivision 2, is amended to read:

2.23 Subd. 2. **Not eligible.** An applicant is ineligible for unemployment benefits for any week:

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

2.25 ~~(2) that the applicant, at any time during the week, has an outstanding misrepresentation~~
2.26 ~~overpayment balance under section 268.18, subdivision 2, including any penalties and~~
2.27 ~~interest;~~

2.28 ~~(3)~~ (2) that the applicant is incarcerated or performing court-ordered community service.
2.29 The applicant's weekly unemployment benefit amount is reduced by one-fifth for each day
2.30 the applicant is incarcerated or performing court-ordered community service;

3.1 ~~(4)~~(3) that the applicant fails or refuses to provide information on an issue of ineligibility
3.2 required under section 268.101;

3.3 ~~(5)~~(4) that the applicant is performing services 32 hours or more, in employment, covered
3.4 employment, noncovered employment, volunteer work, or self-employment regardless of
3.5 the amount of any earnings; or

3.6 ~~(6)~~(5) with respect to which the applicant has filed an application for unemployment
3.7 benefits under any federal law or the law of any other state. If the appropriate agency finally
3.8 determines that the applicant is not entitled to establish a benefit account under federal law
3.9 or the law of any other state, this clause does not apply.

3.10 Sec. 5. Minnesota Statutes 2022, section 268.101, subdivision 1, is amended to read:

3.11 Subdivision 1. **Notification.** (a) In an application for unemployment benefits, each
3.12 applicant must report the name and the reason for no longer working for the applicant's
3.13 most recent employer, as well as the names of all employers and the reasons for no longer
3.14 working for all employers during the six calendar months before the date of the application.
3.15 If the reason reported for no longer working for any of those employers is other than a layoff
3.16 because of lack of work, that raises an issue of ineligibility that the department must
3.17 determine. An applicant must report any offers of employment refused during the eight
3.18 calendar weeks before the date of the application for unemployment benefits and the name
3.19 of the employer that made the offer. An applicant's failure to report the name of an employer,
3.20 or giving an incorrect reason for no longer working for an employer, or failing to disclose
3.21 an offer of employment that was refused, is a violation of section ~~268.183~~ 268.18.

3.22 In an application, the applicant must also provide all information necessary to determine
3.23 the applicant's eligibility for unemployment benefits under this chapter. If the applicant fails
3.24 or refuses to provide information necessary to determine the applicant's eligibility for
3.25 unemployment benefits, the applicant is ineligible for unemployment benefits under section
3.26 268.085, subdivision 2, until the applicant provides this required information.

3.27 (b) Upon establishment of a benefit account under section 268.07, subdivision 2, the
3.28 commissioner must notify, by mail or electronic transmission, all employers the applicant
3.29 was required to report on the application and all base period employers and determined
3.30 successors to those employers under section 268.051, subdivision 4, in order to provide the
3.31 employer an opportunity to raise, in a manner and format prescribed by the commissioner,
3.32 any issue of ineligibility. An employer must be informed of the effect that failure to raise
3.33 an issue of ineligibility as a result of a quit or discharge of the applicant, as provided for
3.34 under subdivision 2, paragraph (b), may have on the employer under section 268.047.

4.1 (c) Each applicant must report any employment, and loss of employment, and offers of
4.2 employment refused, during those weeks the applicant filed continued requests for
4.3 unemployment benefits under section 268.0865. Each applicant who stops filing continued
4.4 requests during the benefit year and later begins filing continued requests during that same
4.5 benefit year must report the name of any employer the applicant worked for during the
4.6 period between the filing of continued requests and the reason the applicant stopped working
4.7 for the employer. The applicant must report any offers of employment refused during the
4.8 period between the filing of continued requests for unemployment benefits. Those employers
4.9 from which the applicant has reported a loss of employment under this paragraph must be
4.10 notified by mail or electronic transmission and provided an opportunity to raise, in a manner
4.11 prescribed by the commissioner, any issue of ineligibility. An employer must be informed
4.12 of the effect that failure to raise an issue of ineligibility as a result of a quit or a discharge
4.13 of the applicant may have on the employer under section 268.047.

4.14 (d) The purpose for requiring the applicant to report the name of employers and the
4.15 reason for no longer working for those employers, or offers of employment refused, under
4.16 paragraphs (a) and (c) is for the commissioner to obtain information from an applicant
4.17 raising all issues that may result in the applicant being ineligible for unemployment benefits
4.18 under section 268.095, because of a quit or discharge, or the applicant being ineligible for
4.19 unemployment benefits under section 268.085, subdivision 13c. If the reason given by the
4.20 applicant for no longer working for an employer is other than a layoff because of lack of
4.21 work, that raises an issue of ineligibility and the applicant is required, as part of the
4.22 determination process under subdivision 2, paragraph (a), to state all the facts about the
4.23 cause for no longer working for the employer, if known. If the applicant fails or refuses to
4.24 provide any required information, the applicant is ineligible for unemployment benefits
4.25 under section 268.085, subdivision 2, until the applicant provides this required information.

4.26 Sec. 6. Minnesota Statutes 2022, section 268.101, subdivision 2, is amended to read:

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

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

5.6 If a base period employer:

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

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

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

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

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

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

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

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

5.30 ~~If an applicant obtained unemployment benefits through misrepresentation under section~~
5.31 ~~268.18, subdivision 2, the department is authorized to issue a determination of ineligibility~~
5.32 ~~within 48 months of the establishment of the benefit account.~~

6.1 If the department has filed an intervention in a worker's compensation matter under
6.2 section 176.361, the department is authorized to issue a determination of ineligibility within
6.3 48 months of the establishment of the benefit account.

6.4 (f) A determination of eligibility or determination of ineligibility is final unless an appeal
6.5 is filed by the applicant or employer within ~~20~~ 60 calendar days after sending. The
6.6 determination must contain a prominent statement indicating the consequences of not
6.7 appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

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

6.12 Sec. 7. Minnesota Statutes 2022, section 268.101, subdivision 4, is amended to read:

6.13 Subd. 4. **Amended determination.** Unless an appeal has been filed, the commissioner,
6.14 on the commissioner's own motion, may reconsider a determination of eligibility or
6.15 determination of ineligibility that has not become final and issue an amended determination.
6.16 Any amended determination must be sent to the applicant and any involved employer by
6.17 mail or electronic transmission. Any amended determination is final unless an appeal is
6.18 filed by the applicant or notified employer within ~~20~~ 60 calendar days after sending.
6.19 Proceedings on the appeal are conducted in accordance with section 268.105.

6.20 Sec. 8. Minnesota Statutes 2022, section 268.105, subdivision 1a, is amended to read:

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

6.28 (b) If the appealing party fails to participate in the hearing, the unemployment law judge
6.29 has the discretion to dismiss the appeal by summary decision. By failing to participate, the
6.30 appealing party is considered to have failed to exhaust available administrative remedies
6.31 unless the appealing party files a request for reconsideration under subdivision 2 and
6.32 establishes good cause for failing to participate in the hearing. Submission of a written

7.1 statement does not constitute participation. The applicant must participate personally and
7.2 appearance solely by a representative does not constitute participation.

7.3 (c) The unemployment law judge must issue a decision dismissing the appeal as untimely
7.4 if the judge decides the appeal was not filed within ~~20~~ 60 calendar days after the sending
7.5 of the determination. The unemployment law judge may dismiss the appeal by summary
7.6 decision, or the judge may conduct a hearing to obtain evidence on the timeliness of the
7.7 appeal.

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

7.9 Sec. 9. Minnesota Statutes 2022, section 268.105, subdivision 2, is amended to read:

7.10 Subd. 2. **Request for reconsideration.** (a) Any party, or the commissioner, may within
7.11 ~~20~~ 60 calendar days of the sending of the unemployment law judge's decision under
7.12 subdivision 1a, file a request for reconsideration asking the judge to reconsider that decision.

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

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

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

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

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

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

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

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

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

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

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

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

8.9 (d) If the party who filed the request for reconsideration failed to participate in the
8.10 hearing, the unemployment law judge must issue an order setting aside the decision and
8.11 ordering an additional hearing if the party who failed to participate had good cause for
8.12 failing to do so. The party who failed to participate in the hearing must be informed of the
8.13 requirement to show good cause for failing to participate. If the unemployment law judge
8.14 determines that good cause for failure to participate has not been shown, the judge must
8.15 state that in the decision issued under paragraph (f).

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

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

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

8.22 (1) is no longer employed by the department;

8.23 (2) is on an extended or indefinite leave; or

8.24 (3) has been removed from the proceedings by the chief unemployment law judge.

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

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

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

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

9.3 The unemployment law judge must issue a decision dismissing the request for
9.4 reconsideration as untimely if the judge decides the request for reconsideration was not
9.5 filed within ~~20~~ 60 calendar days after the sending of the decision under subdivision 1a.

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

9.11 Sec. 10. Minnesota Statutes 2022, section 268.105, subdivision 3, is amended to read:

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

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

9.20 (c) A party may file a new appeal after the order of dismissal, but the original
9.21 ~~20-calendar-day~~ 60-calendar-day period for appeal begins from the date of issuance of the
9.22 determination and that time period is not suspended or restarted by the notice of withdrawal
9.23 and order of dismissal. The new appeal may only be filed by mail or facsimile transmission.

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

9.26 Sec. 11. Minnesota Statutes 2022, section 268.133, is amended to read:

9.27 **268.133 UNEMPLOYMENT BENEFITS WHILE IN ENTREPRENEURIAL**
9.28 **TRAINING.**

9.29 Unemployment benefits are available to dislocated workers participating in the converting
9.30 layoffs into Minnesota businesses (CLIMB) program under section 116L.17, subdivision
9.31 11. Applicants participating in CLIMB are considered in reemployment assistance training

10.1 under section 268.035, subdivision 21c. All requirements under section 268.069, subdivision
10.2 1, must be met, except the commissioner may waive:

10.3 (1) the deductible earnings provisions in section 268.085, subdivision 5; and

10.4 (2) the 32 hours of work limitation in section 268.085, subdivision 2, clause ~~(5)~~ (4). A
10.5 maximum of 500 applicants may receive a waiver at any given time.

10.6 Sec. 12. Minnesota Statutes 2022, section 268.18, is amended to read:

10.7 **268.18 UNEMPLOYMENT BENEFIT OVERPAYMENTS.**

10.8 Subdivision 1. **Repaying an overpayment.** (a) Any applicant who (1) because of a
10.9 determination or amended determination issued under section 268.07 or 268.101, or any
10.10 other section of this chapter, or (2) because of an unemployment law judge's decision under
10.11 section 268.105, has received any unemployment benefits that the applicant was held not
10.12 entitled to, is overpaid the benefits, and must promptly repay the benefits to the trust fund.

10.13 (b) If the applicant fails to repay the unemployment benefits overpaid, including any
10.14 penalty ~~and interest~~ assessed under ~~subdivisions~~ subdivision 2 and 2b, the total due may be
10.15 collected by the methods allowed under state and federal law.

10.16 Subd. 2. **Overpayment because of misrepresentation.** (a) An applicant has committed
10.17 misrepresentation if the applicant is overpaid unemployment benefits by making a an
10.18 intentional false statement or representation ~~without~~ in an effort to fraudulently collect
10.19 benefits. Overpayment because of misrepresentation does not occur where there is
10.20 unintentional mistake or a good faith belief as to the correctness of the statement or
10.21 representation.

10.22 (b) In reviewing the facts of an alleged misrepresentation, the department shall consider
10.23 any literacy, language, disability, and mental health barriers of the applicant. After the
10.24 discovery of facts indicating misrepresentation, the commissioner must issue a determination
10.25 of overpayment penalty assessing a penalty equal to ~~40~~ 15 percent of the amount overpaid.
10.26 ~~This penalty is in addition to penalties under section 268.183.~~

10.27 ~~(b)~~ (c) Unless the applicant files an appeal within ~~20~~ 60 calendar days after the sending
10.28 of a determination of overpayment penalty to the applicant by mail or electronic transmission,
10.29 the determination is final. Proceedings on the appeal are conducted in accordance with
10.30 section 268.105.

10.31 ~~(e)~~ (d) A determination of overpayment penalty must state the methods of collection the
10.32 commissioner may use to recover the overpayment, and penalty, ~~and interest~~ assessed.

11.1 Money received in repayment of overpaid unemployment benefits, and penalties, ~~and interest~~
11.2 is first applied to the benefits overpaid, and then to the penalty amount due, ~~then to any~~
11.3 ~~interest due~~. 62.5 percent of the payments made toward the penalty are credited to the
11.4 contingent account and 37.5 percent credited to the trust fund.

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

11.8 ~~Subd. 2b. **Interest.** On any unemployment benefits obtained by misrepresentation, and~~
11.9 ~~any penalty amounts assessed under subdivision 2, the commissioner must assess interest~~
11.10 ~~on any amount that remains unpaid beginning 30 calendar days after the date of a~~
11.11 ~~determination of overpayment penalty. Interest is assessed at the rate of one percent per~~
11.12 ~~month or any part of a month. A determination of overpayment penalty must state that~~
11.13 ~~interest will be assessed. Interest is not assessed on unpaid interest. Interest collected under~~
11.14 ~~this subdivision is credited to the trust fund.~~

11.15 Subd. 3a. **Offset of unemployment benefits.** (a) The commissioner may offset from
11.16 any future unemployment benefits otherwise payable the amount of a ~~nonmisrepresentation~~
11.17 an overpayment. Except when the ~~nonmisrepresentation~~ overpayment resulted because the
11.18 applicant failed to report deductible earnings or deductible or benefit delaying payments,
11.19 no single offset may exceed 50 percent of the amount of the payment from which the offset
11.20 is made.

11.21 (b) Overpayments of unemployment benefits under a federal program, may be recovered
11.22 by offset from future benefits otherwise payable.

11.23 (c) If an applicant has been overpaid unemployment benefits under the law of another
11.24 state, the commissioner may offset from future benefits otherwise payable the amount of
11.25 overpayment.

11.26 (d) ~~Nonmisrepresentation~~ Unemployment benefit overpayments may be recovered by
11.27 offset from future benefits otherwise payable under a federal program.

11.28 Subd. 4. **Cancellation of overpayments.** (a) If unemployment benefits overpaid ~~for~~
11.29 ~~reasons other than misrepresentation~~ are not repaid or offset from subsequent benefits within
11.30 six years after the date of the determination or decision holding the applicant overpaid, the
11.31 commissioner must cancel the overpayment balance, and no administrative or legal
11.32 proceedings may be used to enforce collection of those amounts.

12.1 ~~(b) If unemployment benefits overpaid because of misrepresentation including penalties~~
12.2 ~~and interest are not repaid within ten years after the date of the determination of overpayment~~
12.3 ~~penalty, the commissioner must cancel the overpayment balance and any penalties and~~
12.4 ~~interest due, and no administrative or legal proceeding may be used to enforce collection~~
12.5 ~~of those amounts.~~

12.6 ~~(e)~~ (b) The commissioner may cancel at any time any overpayment, including penalties
12.7 ~~and interest~~, that the commissioner determines is uncollectible because of death or
12.8 bankruptcy.

12.9 Subd. 4a. **Court fees; collection fees.** (a) If the department is required to pay any court
12.10 fees in an attempt to enforce collection of overpaid unemployment benefits, or penalties,
12.11 ~~or interest~~, the amount of the court fees may be added to the total amount due.

12.12 (b) If an applicant who has been overpaid unemployment benefits because of
12.13 misrepresentation seeks to have any portion of the debt discharged under the federal
12.14 bankruptcy code, and the department files an objection in bankruptcy court to the discharge,
12.15 the cost of any court fees may be added to the debt if the bankruptcy court does not discharge
12.16 the debt.

12.17 (c) If the Internal Revenue Service assesses the department a fee for offsetting from a
12.18 federal tax refund the amount of any overpayment, including penalties ~~and interest~~, the
12.19 amount of the fee may be added to the total amount due. The offset amount must be put in
12.20 the trust fund and that amount credited to the total amount due from the applicant.

12.21 Subd. 5. **Remedies.** (a) Any method undertaken to recover an overpayment of
12.22 unemployment benefits, including any penalties ~~and interest~~, is not an election of a method
12.23 of recovery.

12.24 (b) Intervention or lack thereof, in whole or in part, in a workers' compensation matter
12.25 under section 176.361 is not an election of a remedy and does not prevent the commissioner
12.26 from determining an applicant ineligible for unemployment benefits.

12.27 Subd. 6. **Collection of overpayments.** (a) The commissioner may not compromise the
12.28 amount of any overpaid unemployment benefits including penalties ~~and interest~~.

12.29 (b) The commissioner has discretion regarding the recovery of any overpayment ~~for~~
12.30 ~~reasons other than misrepresentation~~. Regardless of any law to the contrary, the commissioner
12.31 is not required to refer any overpayment ~~for reasons other than misrepresentation~~ to a public
12.32 or private collection agency, including agencies of this state.

13.1 (c) Amounts overpaid ~~for reasons other than misrepresentation~~ are not considered a
13.2 "debt" to the state of Minnesota for purposes of any reporting requirements to the
13.3 commissioner of management and budget.

13.4 (d) A pending appeal under section 268.105 does not suspend the assessment of ~~interest,~~
13.5 penalties; or collection of an overpayment.

13.6 (e) Section 16A.626 applies to the repayment by an applicant of any overpayment, or
13.7 penalty, ~~or interest.~~

13.8 Sec. 13. **REPEALER.**

13.9 Minnesota Statutes 2022, section 268.183, is repealed.

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 calendar days of sending, the determination is final. Proceedings on the appeal are conducted in accordance with section 268.105.