CHAPTER 268

UNEMPLOYMENT INSURANCE

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268.001 CITATION; MINNESOTA UNEMPLOYMENT INSURANCE LAW.

This chapter will be known and may be cited as the "Minnesota Unemployment Insurance Law."

History: *1987 c 385 s 47; 1994 c 483 s 1; 2004 c 206 s 38; 2007 c 128 art 6 s 2*

268.01 MS 1961 [Repealed, 1965 c 45 s 73]

268.011 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

268.0111 Subdivision 1. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 2. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 3. MS 1986 [Repealed, 1987 c 403 art 2 s 164]

Subd. 3a. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 4. [Renumbered 116L.19, subd 4]

Subd. 4a. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 5. [Renumbered 116L.19, subd 5]

Subd. 5a. [Renumbered 116L.19, subd 6]

Subd. 6. [Renumbered 116L.19, subd 7]

Subd. 7. [Renumbered 116L.19, subd 8]

Subd. 8. [Renumbered 116L.19, subd 9]

Subd. 9. MS 2000 [Repealed, 2001 c 79 s 8]

268.012 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

268.0121 Subdivision 1. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 2. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 3. [Renumbered 116J.01, subd 6]

Subd. 4. [Renumbered 116J.035, subd 4]

Subd. 5. [Renumbered 116J.035, subd 6]

268.0122 Subdivision 1. [Renumbered 116J.401, subdivision 1]

Subd. 2. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 3. MS 2003 Supp [Repealed, 2004 c 206 s 53]

Subd. 4. [Renumbered 116J.035, subd 5]

Subd. 5. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 6. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 7. [Renumbered 116J.401, subd 3]

268.0124 [Renumbered 116J.0124]

268.0125 [Renumbered 116J.0125]

268.013 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

268.014 [Renumbered 116J.014]

268.02 MS 1961 [Repealed, 1965 c 45 s 73]

268.021 MS 1998 [Repealed, 1999 c 107 s 67]

268.022 [Renumbered 116L.20]

268.025 MS 1961 [Repealed, 1965 c 45 s 73]

268.026 MS 1996 [Repealed, 1997 c 66 s 81]

268.027 MS 2002 [Repealed, 2004 c 206 s 53]

268.028 MS 2002 [Repealed, 2004 c 206 s 53]

268.029 MS 2003 Supp [Repealed, 2004 c 206 s 53]

268.03 PUBLIC PURPOSE OF THE MINNESOTA UNEMPLOYMENT INSURANCE PROGRAM.

Subdivision 1. **Statement.** The public purpose of this chapter is: Economic insecurity because of involuntary unemployment of workers in Minnesota is a subject of general concern that requires appropriate action by the legislature. The public good is promoted by providing workers who are unemployed through no fault of their own a temporary partial wage replacement to assist the unemployed worker to become reemployed. This program is the "Minnesota unemployment insurance program."

Subd. 2. MS 2006 [Renumbered 268.031]

History: *(4337-21) Ex1936 c 2 s 1; 1989 c 209 art 2 s 1; 1994 c 488 s 1; 1997 c 7 art 1 s 105; 1998 c 265 s 3; 1999 c 107 s 66; 2000 c 343 s 1; 2001 c 175 s 2,52; 1Sp2003 c 3 art 2 s 20; 2005 c 112 art 2 s 1; 2007 c 128 art 6 s 3,4; 2008 c 300 s 51*

268.031 STANDARD OF PROOF; STATUTORY INTERPRETATION AND APPLICATION.

Subdivision 1. **Standard of proof.** All issues under the Minnesota Unemployment Insurance Law are determined by a preponderance of the evidence.

Subd. 2. **Statutory application.** This chapter is remedial in nature and must be applied in favor of awarding unemployment benefits. Any legal conclusion that results in an applicant being ineligible for unemployment benefits must be fully supported by the facts. In determining eligibility or ineligibility for benefits, any statutory provision that would preclude an applicant from receiving benefits must be narrowly construed.

History: *(4337-21) Ex1936 c 2 s 1; 1989 c 209 art 2 s 1; 1994 c 488 s 1; 1997 c 7 art 1 s 105; 1998 c 265 s 3; 1999 c 107 s 66; 2000 c 343 s 1; 2001 c 175 s 2,52; 1Sp2003 c 3 art 2 s 20; 2005 c 112 art 2 s 1; 2007 c 128 art 6 s 3,4; 2008 c 300 s 51; 2009 c 78 art 4 s 1; 2017 c 35 art 3 s 1*

268.032 ELECTRONIC TRANSMISSION; WHEN ALLOWED; SENDING TO LAST KNOWN ADDRESS REQUIRED.

(a) If any required notice, determination, or decision issued under this chapter provides that the commissioner may send the notice, determination, or decision by mail or electronic transmission, the commissioner may send the notice, determination, or decision to an applicant or employer by electronic transmission only if the applicant or employer has affirmatively indicated that the applicant or employer would prefer required notices, determinations, or decisions be sent by electronic transmission rather than by mail. An applicant or employer may withdraw an indicated preference for electronic transmission.

(b) If any required notice, determination, or decision issued under this chapter is sent by mail to an applicant or an employer, the notice, determination, or decision must be sent to the last known address. If any required notice, determination, or decision issued under this chapter is sent by electronic transmission, the notice, determination, or decision must be sent to the last known electronic address of the applicant or employer. If any required notice, determination, or decision issued under this chapter is sent by electronic transmission and the commissioner is notified that the electronic address of the applicant or employer is no longer in service, the commissioner must then send the required notice, determination, or decision by mail to the last known address.

History: *2004 c 183 s 2*

268.033 COMPUTATION OF TIME.

The computation of time provisions of sections 645.15 and 645.151 apply to this chapter.

History: *2004 c 183 s 3; 2014 c 251 art 2 s 24*

268.034 COMPUTATIONS OF MONEY ROUNDED DOWN.

Computations of money required under this chapter that do not result in a whole dollar are rounded down to the next lower whole dollar, unless specifically provided otherwise by law.

History: *2009 c 78 art 4 s 2*

268.035 DEFINITIONS.

Subdivision 1. **Scope.** The words, terms, and phrases in this section, for the purposes of the Minnesota Unemployment Insurance Law, have the meaning stated.

Subd. 2. **Agricultural employment.** (a) "Agricultural employment" means the same as "agricultural labor" defined under United States Code, title 26, section 3306, subparagraph (k), of the Federal Unemployment Tax Act and Code of Federal Regulations, title 26, section 31.3121(g)-1.

(b) For the purposes of this chapter, the term "crew leader" means an individual who:

(1) furnishes workers to be employed in agricultural employment for another person; and

(2) pays the wages to the worker.

(c) For the purposes of this chapter, a worker who is a member of a crew furnished by a crew leader for another person is an employee of the crew leader if:

(1)(i) the crew leader holds a valid certificate of registration under United States Code, title 29, section 1802, the Migrant and Seasonal Agricultural Worker Protection Act; or (ii) substantially all of the members of the crew operate or maintain any mechanized equipment that is provided by the crew leader; and

(2) the crew leader has not entered into a written agreement with the other person under which the worker is designated as an employee of the other person.

If a worker furnished by a crew leader for another person is not an employee of the crew leader under clauses (1) and (2), the worker is an employee of the other person and the wages paid to the worker are considered paid by the other person.

Subd. 2a. **Applicant.** "Applicant" means an individual who has filed an application for unemployment benefits and has established or is pursuing the establishment of a benefit account.

Subd. 3. **Back pay.** "Back pay" means a payment by an employer to an employee or former employee for lost wages.

Subd. 4. **Base period.** (a) "Base period," unless otherwise provided in this subdivision, means the most recent four completed calendar quarters before the effective date of an applicant's application for unemployment benefits if the application has an effective date occurring after the month following the most recent completed calendar quarter. The base period under this paragraph is as follows:

If the application for unemployment benefits is effective on or between these dates:	The base period is the prior:
February 1 - March 31	January 1 - December 31
May 1 - June 30	April 1 - March 31
August 1 - September 30	July 1 - June 30
November 1 - December 31	October 1 - September 30

(b) If an application for unemployment benefits has an effective date that is during the month following the most recent completed calendar quarter, then the base period is the first four of the most recent five completed calendar quarters before the effective date of an applicant's application for unemployment benefits. The base period under this paragraph is as follows:

If the application for unemployment benefits is effective on or between these dates:	The base period is the prior:
January 1 - January 31	October 1 - September 30
April 1 - April 30	January 1 - December 31
July 1 - July 31	April 1 - March 31
October 1 - October 31	July 1 - June 30

(c) Regardless of paragraph (a), a base period of the first four of the most recent five completed calendar quarters must be used if the applicant would have more wage credits under that base period than under a base period of the four most recent completed calendar quarters.

(d) If the applicant has insufficient wage credits to establish a benefit account under a base period of the four most recent completed calendar quarters, or a base period of the first four of the most recent five completed calendar quarters, but during either base period the applicant received workers' compensation for temporary disability under chapter 176 or a similar federal law or similar law of another state, or if the 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:

(1) if an applicant was compensated for a loss of work of seven to 13 weeks during a base period referred to in paragraph (a) or (b), then the base period is the first four of the most recent six completed calendar quarters before the effective date of the application for unemployment benefits;

(2) if an applicant was compensated for a loss of work of 14 to 26 weeks during a base period referred to in paragraph (a) or (b), then the base period is the first four of the most recent seven completed calendar quarters before the effective date of the application for unemployment benefits;

(3) if an applicant was compensated for a loss of work of 27 to 39 weeks during a base period referred to in paragraph (a) or (b), then the base period is the first four of the most recent eight completed calendar quarters before the effective date of the application for unemployment benefits; and

(4) if an applicant was compensated for a loss of work of 40 to 52 weeks during a base period referred to in paragraph (a) or (b), then the base period is the first four of the most recent nine completed calendar quarters before the effective date of the application for unemployment benefits.

(e) No base period under this subdivision may include wage credits upon which a prior benefit account was established.

Subd. 5. [Renumbered subd 26a]

Subd. 6. **Benefit year.** "Benefit year" means the period of 52 calendar weeks beginning the date a benefit account is effective. For a benefit account established effective any January 1, April 1, July 1, or October 1, the benefit year will be a period of 53 calendar weeks.

Subd. 7. **Calendar quarter.** "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31.

Subd. 8. [Renumbered subd 2a]

Subd. 8a. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 9. MS 2006 [Repealed, 2007 c 135 art 3 s 42]

Subd. 9a. **Construction; independent contractor.** For purposes of this chapter, section 181.723 determines whether a worker is an independent contractor or an employee when performing public or private sector commercial or residential building construction or improvement services.

Subd. 10. **Corporation.** "Corporation" includes associations, joint-stock companies, and insurance companies. This definition is not exclusive.

Subd. 11. **Covered agricultural employment.** (a) "Covered agricultural employment" means agricultural employment performed for a person who:

(1) during any calendar quarter in the current or the prior calendar year paid wages of $20,000 or more to employees; or

(2) in the current or the prior calendar year employed four or more employees who each worked for some portion of a day in 20 calendar weeks, regardless of whether they were employed during the same weeks.

(b) Employment of an officer or shareholder of a family farm corporation and employment of an individual 16 years of age or under is included in covered agricultural employment only if the employer is an employer under United States Code, title 26, section 3306(a)(2) of the Federal Unemployment Tax Act.

Subd. 12. **Covered employment.** (a) "Covered employment" means an employee's entire employment during the calendar quarter if:

(1) 50 percent or more of the employment during the quarter is performed in Minnesota;

(2) 50 percent or more of the employment during the quarter is not performed in Minnesota or any other state, or Canada, but some of the employment is performed in Minnesota and the employee's residence is in Minnesota during 50 percent or more of the calendar quarter;

(3) the employment during the quarter is performed outside the United States and Canada, by an employee who is a United States citizen in the employ of an American employer, if the employer's principal place of business in the United States is located in Minnesota. For the purposes of this clause, an "American employer" is defined under the Federal Unemployment Tax Act, United States Code, title 26, chapter 23, section 3306, subsection (j)(3); or

(4) the employment during the quarter is performed by an officer or member of the crew of an American vessel operating on navigable waters within, or within and without, the United States, and the office from which the operations of the vessel and controlled is in Minnesota.

(b) "Covered employment" includes covered agricultural employment under subdivision 11.

(c) For the purposes of section 268.095, "covered employment" includes employment covered under an unemployment insurance program:

(1) of any other state;

(2) established by an act of Congress; or

(3) the law of Canada.

(d) The percentage of employment performed under paragraph (a) is determined by the amount of hours worked.

(e) Covered employment does not include any employment defined as "noncovered employment" under subdivision 20.

Subd. 12a. **Department.** "Department" means the Department of Employment and Economic Development.

Subd. 12b. [Renumbered subd 12d]

Subd. 12c. **Determination.** "Determination" means a document sent to an applicant or employer by mail or electronic transmission that is an initial department ruling on a specific issue. All documents that

are determinations under this chapter use that term in the title of the document and are appealable to an unemployment law judge under section 268.105, subdivision 1.

Subd. 12d. [Renumbered subd 12f]

Subd. 12e. **Earnings.** "Earnings" means all compensation to which the applicant has a legal claim and is earned income under state and federal law for income tax purposes.

Subd. 12f. **Electronic transmission.** "Electronic transmission" means a communication that is sent online, by telephone, or by facsimile transmission.

Subd. 13. **Employee.** "Employee" means:

(1) every individual who is performing or has performed services for an employer in employment; or

(2) each individual employed to perform or assist in performing the work of any agent or employee of the employer is considered to be an employee of that employer whether the individual was hired or paid directly by that employer or by the agent or employee, provided the employer had actual or constructive knowledge of the work.

Subd. 14. **Employer.** "Employer" means any person that has had one or more employees during the current or the prior calendar year including any person that has elected, under section 268.042, to be subject to the Minnesota Unemployment Insurance Law and a joint venture composed of one or more employers.

An employee leasing company, professional employer organization, or similar person that has been assigned a tax account under section 268.046 is an employer for purposes of this chapter.

Subd. 15. **Employment.** (a) "Employment" means service performed by:

(1) an individual who is an employee under the common law of employer-employee and not an independent contractor;

(2) an officer of a corporation;

(3) a member of a limited liability company who is an employee under the common law of employer-employee;

(4) an individual who is an employee under the Federal Insurance Contributions Act, United States Code, title 26, chapter 21, sections 3121(d)(3)(A) and 3121(d)(3)(D); or

(5) product demonstrators in retail stores or other locations to aid in the sale of products. The person that pays the wages is the employer.

(b) Employment does not include service as a juror.

(c) Construction industry employment is defined in subdivision 9a. Trucking and messenger/courier industry employment is defined in subdivision 25b. Rules on determining worker employment status are described under Minnesota Rules, chapter 3315.

Subd. 16. **Family farm corporation.** "Family farm corporation" has the meaning given to it in section 500.24, subdivision 2.

Subd. 17. **Filing; filed.** "Filing" or "filed" means the personal delivery of an application, appeal, or other required action to the commissioner or any of the commissioner's agents, or if done by mail, deposited in

the United States mail properly addressed to the department with postage prepaid, in which case it is considered filed on the day indicated by the cancellation mark of the United States Postal Service.

If an application, appeal, or other required action is made by electronic transmission, it is considered filed on the day received by the department.

Subd. 18. [Renumbered subd 25a]

Subd. 19. **High quarter.** "High quarter" means the calendar quarter in an applicant's base period with the highest amount of wage credits.

Subd. 19a. **Immediate family member.** "Immediate family member" means an individual's spouse, parent, stepparent, grandparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.

Subd. 20. **Noncovered employment.** "Noncovered employment" means:

(1) employment for the United States government or an instrumentality thereof, including military service;

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

(3) employment for a foreign government;

(4) employment covered under the federal Railroad Unemployment Insurance Act;

(5) employment for a church or convention or association of churches, or a nonprofit organization operated primarily for religious purposes that is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(6) employment for an elementary or secondary school with a curriculum that includes religious education that is operated by a church, a convention or association of churches, or a nonprofit organization that is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(7) employment for Minnesota or a political subdivision, or a nonprofit organization, 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 required by the order;

(8) employment for Minnesota or a political subdivision, or a nonprofit organization, 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 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;

(9) employment for Minnesota or a political subdivision, or a nonprofit organization, of an individual receiving work relief or work training as part of an unemployment work relief or work training program financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof. This clause does not apply to programs that require unemployment benefit coverage for the participants;

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

(11) employment as a member of the Minnesota National Guard or Air National Guard;

(12) employment for Minnesota or a political subdivision, or instrumentality thereof, of an individual serving on a temporary basis in case of fire, flood, tornado, or similar emergency;

(13) employment as an election official or election worker for Minnesota or a political subdivision, if the compensation for that employment was less than $1,000 in a calendar year;

(14) employment for Minnesota that is a major policy-making or advisory position in the unclassified service;

(15) employment for Minnesota in an unclassified position established under section 43A.08, subdivision 1a;

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

(17) domestic employment in a private household, local college club, or local chapter of a college fraternity or sorority, if the wages paid in any calendar quarter in either the current or prior calendar year to all individuals in domestic employment totaled less than $1,000.

"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;

(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;

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

(20) employment for a school, college, or university, by a student who is enrolled and whose primary relation to the school, college, or university is as a student. This does not include an individual whose primary relation to the school, college, or university is as an employee who also takes courses;

(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 does not apply to employment in a program established for or on behalf of an employer or group of employers;

(22) employment of a foreign college or university student who works on a seasonal or temporary basis under the J-1 visa summer work travel program described in Code of Federal Regulations, title 22, section 62.32;

(23) 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 under Laws 1990, chapter 570, article 6, section 3;

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

(27) employment as an insurance salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission. The word "insurance" includes an annuity and an optional annuity;

(28) employment as an officer of a township mutual insurance company or farmer's mutual insurance company under chapter 67A;

(29) employment of a corporate officer, if the officer directly or indirectly, including through a subsidiary or holding company, owns 25 percent or more of the employer corporation, and employment of a member of a limited liability company, if the member directly or indirectly, including through a subsidiary or holding company, owns 25 percent or more of the employer limited liability company;

(30) employment as a real estate salesperson, other than a corporate officer, if all the wages from the employment is solely by way of commission;

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

(32) 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;

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

(34) employment in "agricultural employment" unless it is "covered agricultural employment" under subdivision 11;

(35) if employment during one-half or more of any pay period was covered employment, all the employment for the pay period is 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 is 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; or

(36) employment of a foreign agricultural worker who works on a seasonal or temporary basis under the H-2A visa temporary agricultural employment program described in Code of Federal Regulations, title 20, part 655.

Subd. 20a. [Renumbered subd 21b]

Subd. 20b. **Nonprofit organization.** "Nonprofit organization" means an organization described in United States Code, title 26, section 501(c)(3), and is exempt from income tax under section 501(a).

Subd. 21. **Person.** "Person" means:

(1) an individual or any type of organization or entity, resident or nonresident, for profit or nonprofit, religious, charitable or educational, including any receiver or trustee in a bankruptcy, successor of any of the foregoing, or legal representative of a deceased individual; and

(2) any government entity, state or federal, foreign or domestic, or Indian Tribe, including any subdivision or instrumentality thereof owned wholly or in part.

Subd. 21a. [Renumbered subd 21c]

Subd. 21b. **Preponderance of the evidence.** "Preponderance of the evidence" means evidence in support of a fact that is more convincing and has a greater probability of truth than the evidence opposing the fact.

Subd. 21c. **Reemployment assistance training.** (a) An applicant is in "reemployment assistance training" when:

(1)(i) a reasonable opportunity for suitable employment for the applicant does not exist in the labor market area and additional training will assist the applicant in obtaining suitable employment;

(ii) the curriculum, facilities, staff, and other essentials are adequate to achieve the training objective;

(iii) the training is vocational or short term academic training directed to an occupation or skill that will substantially enhance the employment opportunities available to the applicant in the applicant's labor market area;

(iv) the training course is full time by the training provider; and

(v) the applicant is making satisfactory progress in the training;

(2) the applicant can provide proof of enrollment in one or more programs offered by an adult basic education consortium under section 124D.518. Programs may include but are not limited to:

(i) general educational development diploma preparation;

(ii) local credit completion adult high school diploma preparation;

(iii) state competency-based adult high school diploma preparation;

(iv) basic skills enhancement training focused on math, functional literacy, reading, or writing;

(v) computer skills training; or

(vi) English as a second language instruction;

(3) the applicant can provide proof of enrollment in an English as a second language program taught by a licensed instructor;

(4) the applicant can provide proof of enrollment in an over-the-road truck driving training program offered by a college or university within the Minnesota state system; or

(5) the applicant can provide proof of enrollment in a program funded under section 116L.99.

(b) Full-time training provided through the dislocated worker program, the Trade Act of 1974, as amended, or the North American Free Trade Agreement is "reemployment assistance training," if that training course is in accordance with the requirements of that program.

(c) Apprenticeship training provided in order to meet the requirements of an apprenticeship program under chapter 178 is "reemployment assistance training."

(d) An applicant is in reemployment assistance training only if the training course has actually started or is scheduled to start within 30 calendar days.

Subd. 21d. **Staffing service.** A "staffing service" is an employer whose business involves employing individuals directly for the purpose of furnishing temporary assignment workers to support or supplement the workforce of the business that is a client of the staffing service.

Subd. 22. **State and United States.** "State" and "United States" includes, in addition to the states of the United States, the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands.

Subd. 23. **State's average annual and average weekly wage.** (a) On or before June 30 of each year, the commissioner must calculate, from wage detail reports under section 268.044, the state's average annual wage and the state's average weekly wage in the following manner:

(1) the sum of the total monthly covered employment reported by all employers for the prior calendar year is divided by 12 to calculate the average monthly covered employment;

(2) the sum of the total wages paid for all covered employment reported by all employers for the prior calendar year is divided by the average monthly covered employment to calculate the state's average annual wage; and

(3) the state's average annual wage is divided by 52 to calculate the state's average weekly wage.

(b) For purposes of calculating the amount of taxable wages under subdivision 24, the state's average annual wage applies to the calendar year following the calculation.

(c) For purposes of calculating the state's maximum weekly unemployment benefit amount available on any benefit account under section 268.07, subdivision 2a, the state's average weekly wage applies to the one-year period beginning the last Sunday in October of the calendar year of the calculation.

(d) For purposes of calculating the wage credits necessary to establish a benefit account under section 268.07, subdivision 2, the state's average weekly wage applies to the one-year period beginning the last Sunday in October of the calendar year of the calculation.

Subd. 23a. **Suitable employment.** (a) Suitable employment means employment in the applicant's labor market area that is reasonably related to the applicant's qualifications. In determining whether any employment is suitable for an applicant, the degree of risk involved to the health and safety, physical fitness, prior training, experience, length of unemployment, prospects for securing employment in the applicant's customary occupation, and the distance of the employment from the applicant's residence is considered.

(b) In determining what is suitable employment, primary consideration is given to the temporary or permanent nature of the applicant's separation from employment and whether the applicant has favorable prospects of finding employment in the applicant's usual or customary occupation at the applicant's past wage level within a reasonable period of time.

If prospects are unfavorable, employment at lower skill or wage levels is suitable if the applicant is reasonably suited for the employment considering the applicant's education, training, work experience, and current physical and mental ability.

The total compensation must be considered, including the wage rate, hours of employment, method of payment, overtime practices, bonuses, incentive payments, and fringe benefits.

(c) When potential employment is at a rate of pay lower than the applicant's former rate, consideration must be given to the length of the applicant's unemployment and the proportion of difference in the rates. Employment that may not be suitable because of lower wages during the early weeks of the applicant's unemployment may become suitable as the duration of unemployment lengthens.

(d) For an applicant seasonally unemployed, suitable employment includes temporary work in a lower skilled occupation that pays average gross weekly wages equal to or more than 150 percent of the applicant's weekly unemployment benefit amount.

(e) If a majority of the applicant's weeks of employment in the base period includes part-time employment, part-time employment in a position with comparable skills and comparable hours that pays comparable wages is suitable employment.

Full-time employment is not suitable employment for an applicant if a majority of the applicant's weeks of employment in the base period includes part-time employment.

(f) To determine suitability of employment in terms of shifts, the arrangement of hours in addition to the total number of hours is to be considered. Employment on a second, third, rotating, or split shift is suitable employment if it is customary in the occupation in the labor market area.

(g) Employment is not suitable if:

(1) the position offered is vacant because of a labor dispute;

(2) the wages, hours, or other conditions of employment are less favorable than those prevailing for similar employment in the labor market area; or

(3) as a condition of becoming employed, the applicant would be required to join a company union or to resign from or refrain from joining any labor organization.

(h) A job assignment with a staffing service is suitable only if 25 percent or more of the applicant's wage credits are from job assignments with clients of a staffing service and the job assignment meets the definition of suitable employment under paragraph (a).

Subd. 24. **Taxable wages.** (a) "Taxable wages" means those wages paid to an employee in covered employment each calendar year up to an amount equal to 60 percent of the state's average annual wage, rounded to the nearest $1,000.

(b) Taxable wages includes the amount of wages paid for covered employment by the employer's predecessor when there has been an experience rating history transfer under section 268.051, subdivision 4.

Subd. 25. **Taxes.** "Taxes" means the money payments required by the Minnesota Unemployment Insurance Law to be paid into the trust fund by an employer on account of paying wages to employees in covered employment.

Subd. 25a. [Renumbered subd 25c]

Subd. 25b. **Trucking and messenger/courier industries; independent contractors.** In the trucking and messenger/courier industries, an operator of a car, van, truck, tractor, or truck-tractor that is licensed and registered by a governmental motor vehicle agency is an employee unless each of the following factors is present, and if each factor is present, the operator is an independent contractor:

(1) the individual owns the equipment or holds it under a lease arrangement;

(2) the individual is responsible for the maintenance of the equipment;

(3) the individual is responsible for the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses. The individual may be paid the carrier's fuel surcharge and incidental costs, including, but not limited to, tolls, permits, and lumper fees;

(4) the individual is responsible for supplying the necessary personal services to operate the equipment;

(5) the individual's compensation is based on factors related to the work performed, such as a percentage of any schedule of rates, and not on the basis of the hours or time expended;

(6) the individual enters into a written contract that specifies the relationship to be that of an independent contractor and not that of an employee; and

(7) the individual substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper.

Subd. 25c. **Trust fund.** "Trust fund" means the Minnesota unemployment insurance trust fund established by section 268.194.

Subd. 26. **Unemployed.** An applicant is "unemployed" in any week that:

(1) the applicant performs less than 32 hours of service in employment, covered employment, noncovered employment, self-employment, or volunteer work; and

(2) any earnings with respect to that week are less than the applicant's weekly unemployment benefit amount.

Subd. 26a. **Unemployment benefits.** "Unemployment benefits" means the money payments portion of the Minnesota unemployment insurance program available to an applicant.

Subd. 27. **Wage credits.** "Wage credits" mean the amount of wages paid within an applicant's base period for covered employment.

Subd. 28. **Wage detail report.** "Wage detail report" means the report on each employee in covered employment required from an employer on a calendar quarter basis under section 268.044.

Subd. 29. **Wages.** (a) "Wages" means all compensation for employment, including commissions; bonuses, awards, and prizes; severance payments; standby pay; 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 housing, utilities, meals, exchanges of services, and any other goods and services provided to compensate an employee, 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 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) the value of any special discount or markdown allowed to an employee on goods purchased from or services supplied by the employer where the purchases are optional and do not constitute regular or systematic payment for services;

(5) customary and reasonable directors' fees paid to individuals who are not otherwise employed by the corporation of which they are directors;

(6) the payment to employees for reimbursement of meal expenses when employees are required to perform work after their regular hours;

(7) the payment into a trust or plan for purposes of providing legal or dental services if provided for all employees generally or for a class or classes of employees;

(8) the value of parking facilities provided or paid for by an employer, in whole or in part, if provided for all employees generally or for a class or classes of employees;

(9) royalties to an owner of a franchise, license, copyright, patent, oil, mineral, or other right;

(10) advances or reimbursements for traveling or other ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer. Traveling and other reimbursed expenses must be identified either by making separate payments or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment;

(11) residual payments to radio, television, and similar artists that accrue after the production of television commercials, musical jingles, spot announcements, radio transcriptions, film sound tracks, and similar activities;

(12) the income to a former employee resulting from the exercise of a nonqualified stock option;

(13) supplemental unemployment benefit payments under a plan established by an employer, if the payment is not wages under the Federal Unemployment Tax Act. The payments are wages unless made solely for the supplementing of weekly state or federal unemployment benefits. Supplemental unemployment benefit payments may not be assigned, nor may any consideration be required from the applicant, other than a release of claims in order to be excluded from wages;

(14) 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;

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

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

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

(b) Nothing in this subdivision excludes 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.

(c) Wages includes the total payment to the operator and supplier of a vehicle or other equipment where the payment combines compensation for personal services as well as compensation for the cost of operating and hiring the equipment in a single payment. This paragraph does not apply if:

(1) there is a preexisting written agreement providing for allocation of specific amounts; or

(2) at the time of each payment there is a written acknowledgment indicating the separate allocated amounts.

(d) Wages includes payments made for services as a caretaker. Unless there is a contract or other proof to the contrary, compensation is considered as being equally received by a married couple where the employer makes payment to only one spouse, or by all tenants of a household who perform services where two or more individuals share the same dwelling and the employer makes payment to only one individual.

(e) Wages includes payments made for services by a migrant family. Where services are performed by a married couple or a family and an employer makes payment to only one individual, each worker is considered as having received an equal share of the compensation unless there is a contract or other proof to the contrary.

(f) Wages includes advances or draws against future earnings, when paid, unless the payments are designated as a loan or return of capital on the books of the employer at the time of payment.

(g) Wages includes payments made by a subchapter "S" corporation, as organized under the Internal Revenue Code, to or on behalf of officers and shareholders that are reasonable compensation for services performed for the corporation.

For a subchapter "S" corporation, wages does not include:

(1) a loan for business purposes to an officer or shareholder evidenced by a promissory note signed by an officer before the payment of the loan proceeds and recorded on the books and records of the corporation as a loan to an officer or shareholder;

(2) a repayment of a loan or payment of interest on a loan made by an officer to the corporation and recorded on the books and records of the corporation as a liability;

(3) a reimbursement of reasonable corporation expenses incurred by an officer and documented by a written expense voucher and recorded on the books and records of the corporation as corporate expenses; and

(4) a reasonable lease or rental payment to an officer who owns property that is leased or rented to the corporation.

Subd. 30. **Wages paid.** (a) "Wages paid" means the amount of wages:

(1) that have been actually paid; or

(2) that have been credited to or set apart so that payment and disposition is under the control of the employee.

(b) Wage payments delayed beyond the regularly scheduled pay date are "wages paid" on the missed pay date. Back pay is "wages paid" on the date of actual payment. Any wages earned but not paid with no scheduled date of payment are "wages paid" on the last day of employment.

(c) Wages paid does not include wages earned but not paid except as provided for in this subdivision.

Subd. 31. **Week.** "Week" means calendar week, ending at midnight Saturday.

Subd. 32. **Weekly unemployment benefit amount.** "Weekly unemployment benefit amount" means the amount of unemployment benefits computed under section 268.07, subdivision 2a.

History: *1998 c 265 s 4; 1999 c 107 s 2-15,66; 2000 c 343 s 4; 2001 c 175 s 3-8,52; 1Sp2003 c 3 art 2 s 1,2,20; 2004 c 183 s 4-12; 2005 c 112 art 2 s 2-7; 2007 c 128 art 1 s 1,2; art 2 s 1; art 3 s 1-3; art 4 s 2-4; art 5 s 2; art 6 s 5-13; 2009 c 1 s 1; 2009 c 15 s 1-4; 2009 c 78 art 4 s 3-7; 2009 c 89 s 3; 2010 c 347 art 2 s 1-4,27; 2011 c 84 art 1 s 1-4; art 2 s 1-3; 2012 c 187 art 1 s 43; 2012 c 201 art 3 s 1,2; 2014 c 251 art 1 s 1; art 2 s 1-6,24; 1Sp2015 c 1 art 6 s 1-4; 2016 c 189 art 9 s 1,2; art 10 s 1-4,7; 2017 c 35 art 2 s 1,2; art 3 s 2-4,23; 1Sp2019 c 7 art 4 s 1,2; art 6 s 1; art 7 s 1; art 8 s 7; 1Sp2021 c 10 art 4 s 1; 2024 c 120 art 2 s 8*

268.04 Subdivision 1. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 2. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 3. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 4. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 5. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 5a. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 6. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 7. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 8. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 9. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 10. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 11. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 12. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 12a. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 13. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 14. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 15. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 16. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 17. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 18. MS 1994 [Repealed 1996 c 417 s 32; 1998 c 265 s 46]

Subd. 19. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 20. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 21. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 22. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 22a. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 23. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 24. MS 1994 [Repealed 1996 c 417 s 32; 1998 c 265 s 46]

Subd. 25. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 25a. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 25b. MS 1997 Supp [Repealed 1998 c 265 s 46]

Subd. 26. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 27. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 28. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 29. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 30. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 31. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 32. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 33. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 34. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 35. MS 1996 [Repealed 1998 c 265 s 46]

Subd. 36. MS 1996 [Repealed 1998 c 265 s 46]

268.041 [Renumbered 268.043]

268.042 EMPLOYERS COVERAGE.

Subdivision 1. **Employer registration.** (a) Each employer must, upon or before the submission of its first wage detail report under section 268.044, register with the commissioner for a tax account or a reimbursable account, by electronic transmission in a format prescribed by the commissioner. The employer must provide all required information for registration, including the actual physical street and city address of the employer.

(b) Within 30 calendar days, each employer must notify the commissioner by electronic transmission, in a format prescribed, of a change in legal entity, of the transfer, sale, or acquisition of a business conducted in Minnesota, in whole or in part, if the transaction results in the creation of a new or different employer or

affects the establishment of employer accounts, the assignment of tax rates, or the transfer of experience rating history.

(c) Except as provided in subdivision 3, any person that is or becomes an employer with covered employment within any calendar year is subject to this chapter the entire calendar year.

(d) Within 30 calendar days of the termination of business, an employer that has been assigned a tax account or reimbursable account must notify the commissioner by electronic transmission, in a format prescribed by the commissioner, if that employer does not intend or expect to pay wages to any employees in covered employment during the current or the next calendar year. Upon notification, the employer is no longer required to file wage detail reports under section 268.044, subdivision 1, paragraph (d), and the employer's account must be terminated.

(e) An employer that has its account terminated regains its previous tax account under section 268.045, with the experience rating history of that account, if the employer again commences business and again pays wages in covered employment if:

(1) less than 14 calendar quarters have elapsed in which no wages were paid for covered employment;

(2) the experience rating history regained contains taxable wages; and

(3) the experience rating history has not been transferred to a successor under section 268.051, subdivision 4.

Subd. 2. MS 1997 Supp [Repealed, 1998 c 265 s 46]

Subd. 3. **Election to have noncovered employment considered covered employment.** (a) Any employer that has employment performed for it that is noncovered employment under section 268.035, subdivision 20, may file with the commissioner, by electronic transmission in a format prescribed by the commissioner, an election that all employees in that class of employment, in one or more distinct establishments or places of business, is considered covered employment for not less than two calendar years. The commissioner has discretion on the approval of any election. Upon the approval of the commissioner, sent by mail or electronic transmission, the employment constitutes covered employment beginning the calendar quarter after the date of approval or beginning a later calendar quarter if requested by the employer. The employment ceases to be considered covered employment as of the first day of January of any calendar year only if at least 30 calendar days before the first day of January the employer has filed with the commissioner, by electronic transmission in a format prescribed by the commissioner, a notice to that effect.

(b) The commissioner must terminate any election agreement under this subdivision upon 30 calendar days' notice sent by mail or electronic transmission, if the employer is delinquent on any taxes due or reimbursements due the trust fund.

Subd. 4. MS 2014 [Repealed, 1Sp2015 c 1 art 6 s 18]

History: *Ex1936 c 2 s 9,11; 1937 c 306 s 6,8; 1939 c 443 s 9; 1941 c 554 s 8,10; 1943 c 650 s 8; 1945 c 376 s 8,10; 1947 c 432 s 8-10; 1947 c 600 s 2; 1949 c 605 s 10; 1953 c 97 s 13,14; 1965 c 45 s 41,45; 1969 c 9 s 64; 1969 c 854 s 9,10; 1971 c 942 s 13; 1979 c 181 s 16; 1983 c 372 s 35,36; 1986 c 444; 1989 c 209 art 2 s 1; 1996 c 417 s 31; 1997 c 66 s 61,79; 1998 c 265 s 5,6,33-35,45; 1999 c 107 s 16; 2001 c 175 s 9,52; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 13,14; 2005 c 112 art 2 s 8; 2007 c 128 art 4 s 5; art 6 s 14,15; 2009 c 78 art 4 s 8; 2012 c 201 art 3 s 3; 2017 c 35 art 3 s 5*

268.0425 ELECTRONIC TRANSACTION PRESUMPTION.

If any electronic transaction is done under this chapter using an identification number or code assigned an employer by the commissioner, the transaction is presumed as done by that employer unless a preponderance of the available evidence shows that it was not done by that employer.

History: *2004 c 183 s 15,86; 1Sp2019 c 7 art 8 s 7*

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 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.

History: *1995 c 54 s 2; 1996 c 417 s 4; 1997 c 66 s 79; 1998 c 265 s 7; 2004 c 183 s 16; 2005 c 112 art 2 s 9; 2007 c 128 art 1 s 3; 2009 c 78 art 4 s 9; 2023 c 33 s 7*

268.0435 MS 2006 [Repealed, 2007 c 128 art 1 s 23]

268.044 WAGE REPORTING.

Subdivision 1. **Wage detail report.** (a) Each employer must submit, under the account provided for in section 268.045 or 268.046, a quarterly wage detail report by electronic transmission, in a format prescribed by the commissioner. The report must include for each employee in covered employment during the calendar quarter, the employee's name, Social Security number, the total wages paid to the employee, and total number of paid hours worked. For employees exempt from the definition of employee in section 177.23, subdivision 7, clause (6), the employer must report 40 hours worked for each week any duties were performed by a full-time employee and must report a reasonable estimate of the hours worked for each week duties were performed by a part-time employee. In addition, the wage detail report must include the number of employees employed during the payroll period that includes the 12th day of each calendar month and, if required by the commissioner, the report must be broken down by business location and, if section 268.046, subdivision 1, paragraph (b), or subdivision 2, paragraph (b), applies, by separate unit. The report is due and must be received by the commissioner on or before the last day of the month following the end of the calendar quarter. The commissioner may delay the due date on a specific calendar quarter in the event the department is unable to accept wage detail reports electronically.

(b) The employer may report the wages paid to the next lower whole dollar amount.

(c) An employer need not include the name of the employee or other required information on the wage detail report if disclosure is specifically exempted from being reported by federal law.

(d) A wage detail report must be submitted for each calendar quarter even though no wages were paid, unless the employer has notified the commissioner, under section 268.042, subdivision 1, of termination of business.

Subd. 1a. **Electronic transmission of report required.** Each employer must submit the quarterly wage detail report by electronic transmission in a format prescribed by the commissioner. The commissioner has the discretion to accept wage detail reports that are submitted by any other means or the commissioner may return the report submitted by other than electronic transmission to the employer, and reports returned are considered as not submitted and the late fees under subdivision 2 may be imposed.

Subd. 2. **Failure to timely file report; late fees.** (a) Any employer that fails to submit the quarterly wage detail report when due must pay a late fee of $10 per employee, computed based upon the highest of:

(1) the number of employees reported on the last wage detail report submitted;

(2) the number of employees reported in the corresponding quarter of the prior calendar year; or

(3) if no wage detail report has ever been submitted, the number of employees listed at the time of employer registration.

The late fee is canceled if the wage detail report is received within 30 calendar days after a demand for the report is sent to the employer by mail or electronic transmission. A late fee assessed an employer may not be canceled more than twice each 12 months. The amount of the late fee assessed may not be less than $250.

(b) If the wage detail report is not received in a manner and format prescribed by the commissioner within 30 calendar days after demand is sent under paragraph (a), the late fee assessed under paragraph (a) doubles and a renewed demand notice and notice of the increased late fee will be sent to the employer by mail or electronic transmission.

(c) Late fees due under this subdivision may be canceled, in whole or in part, under section 268.067.

Subd. 3. **Missing or erroneous information.** (a) Any employer that submits the wage detail report, but fails to include all required employee information or enters erroneous information, is subject to an administrative service fee of $25 for each employee for whom the information is partially missing or erroneous.

(b) Any employer that submits the wage detail report, but fails to include an employee, is subject to an administrative service fee equal to two percent of the total wages for each employee for whom the information is completely missing.

(c) An administrative service fee under this subdivision must be canceled under section 268.067 if the commissioner determines that the failure or error by the employer occurred because of ignorance or inadvertence.

Subd. 4. **Fees.** The fees provided for in subdivisions 2 and 3 are in addition to interest and other penalties imposed by this chapter and are collected in the same manner as delinquent taxes and credited to the contingent account.

History: *1Sp1982 c 1 s 42; 1986 c 444; 1987 c 362 s 24; 1987 c 370 art 2 s 16; 1987 c 385 s 26; 1997 c 66 s 64,79,80; 1997 c 74 s 1; 1Sp1997 c 5 s 7; 1998 c 265 s 8; 1Sp2003 c 3 art 2 s 3,4; 2004 c 183 s 17-21; 2005 c 112 art 1 s 2,3; art 2 s 10,42; 2007 c 128 art 3 s 4,5; art 6 s 17-19; 2009 c 78 art 4 s 10; 2012 c 201 art 3 s 4; 1Sp2019 c 7 art 7 s 2; art 8 s 1*

268.045 EMPLOYER TAX OR REIMBURSABLE ACCOUNTS.

Subdivision 1. **Account for each employer.** The commissioner must maintain (1) a tax account for each taxpaying employer and (2) a reimbursable account for each nonprofit or government employer that has elected under section 268.052 or 268.053 to be liable for reimbursements, except as provided in section 268.046. The commissioner must assess the tax account for all the taxes due under section 268.051 and credit the tax account with all taxes paid. The commissioner must charge the reimbursable account for any unemployment benefits determined chargeable under section 268.047 and credit the reimbursable account with the payments made.

Subd. 2. MS 2004 [Repealed, 2005 c 112 art 1 s 16]

Subd. 3. MS 2004 [Repealed, 2005 c 112 art 1 s 16]

Subd. 4. MS 2004 [Repealed, 2005 c 112 art 1 s 16]

History: *Ex1936 c 2 s 4; 1937 c 306 s 2; 1939 c 443 s 3; 1941 c 554 s 3; 1943 c 650 s 2; 1945 c 376 s 3; 1947 c 32 s 1-8; 1947 c 432 s 3-5,11; 1947 c 600 s 7; 1949 c 526 s 1; 1949 c 605 s 3-6,17,18; 1951 c 442 s 2; 1953 c 97 s 5,6,8; 1953 c 288 s 1; 1955 c 380 s 2-4,6; 1957 c 25 s 1; 1957 c 873 s 2; 1959 c 702 s 2-4; 1965 c 45 s 40; 1965 c 741 s 6-11; 1967 c 573 s 3; 1967 c 617 s 1; 1967 c 856 s 1; 1969 c 3 s 1; 1969 c 567 s 3; 1969 c 854 s 6; 1971 c 860 s 1; 1971 c 942 s 3-6; 1973 c 254 s 3; 1973 c 599 s 2-4; 1975 c 336 s 6-10; 1977 c 4 s 4,5; 1977 c 297 s 6-11; 1977 c 430 s 25 subd 1; 1977 c 455 s 82; 1978 c 674 s 60; 1979 c 181 s 4-8; 1980 c 508 s 2-7; 1Sp1982 c 1 s 5-12; 1983 c 216 art 1 s 87; 1983 c 247 s 112; 1983 c 372 s 9-15; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1986 c 451 s 1; 1987 c 242 s 1; 1987 c 362 s 9-12; 1987 c 385 s 10-18; 1989 c 65 s 3-5; 1989 c 209 art 2 s 1; 1992 c 484 s 4-7; 1994 c 483 s 1; 1994 c 488 s 8; 1995 c 54 s 3-7; 1996 c 417 s 5-7,31; 1997 c 66 s 19,26,79; 1998 c 265 s 9; 1999 c 107 s 17; 2000 c 343 s 4; 2001 c 175 s 10; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 22; 2005 c 112 art 1 s 4; 2007 c 128 art 6 s 20; 2009 c 78 art 4 s 50*

268.046 TAX AND REIMBURSABLE ACCOUNTS ASSIGNED TO EMPLOYEE LEASING COMPANIES, PROFESSIONAL EMPLOYER ORGANIZATIONS, OR SIMILAR PERSON.

Subdivision 1. **Tax accounts assigned.** (a) Any person that contracts with a taxpaying employer to have that person obtain the taxpaying employer's workforce and provide workers to the taxpaying employer for a fee is, as of the effective date of the contract, assigned for the duration of the contract the taxpaying employer's account under section 268.045. That tax account must be maintained by the person separate and distinct from every other tax account held by the person and identified in a manner prescribed by the commissioner. The tax account is, for the duration of the contract, considered that person's account for all purposes of this chapter. The workers obtained from the taxpaying employer and any other workers provided by that person to the taxpaying employer, including officers of the taxpaying employer as defined in section 268.035, subdivision 20, clause (29), whose wages paid by the person are considered paid in covered employment under section 268.035, subdivision 24, for the duration of the contract between the taxpaying employer and the person, must, under section 268.044, be reported on the wage detail report under that tax account, and that person must pay any taxes due at the tax rate computed for that account under section 268.051, subdivision 2.

(b) Any workers of the taxpaying employer who are not covered by the contract under paragraph (a) must be reported by the taxpaying employer as a separate unit on the wage detail report under the tax account assigned under paragraph (a). Taxes and any other amounts due on the wages reported by the taxpaying employer under this paragraph may be paid directly by the taxpaying employer.

(c) If the taxpaying employer that contracts with a person under paragraph (a) does not have a tax account at the time of the execution of the contract, an account must be registered for the taxpaying employer under section 268.042 and the new employer tax rate under section 268.051, subdivision 5, must be assigned. The tax account is then assigned to the person as provided for in paragraph (a).

(d) A person that contracts with a taxpaying employer under paragraph (a) must, within 30 calendar days of the execution or termination of a contract, notify the commissioner by electronic transmission, in a format prescribed by the commissioner, of that execution or termination. The taxpaying employer's name, the account number assigned, and any other information required by the commissioner must be provided by that person.

(e) Any contract subject to paragraph (a) must specifically inform the taxpaying employer of the assignment of the tax account under this section and the taxpaying employer's obligation under paragraph (b). If there is a termination of the contract, the tax account is, as of the date of termination, immediately assigned to the taxpaying employer.

Subd. 2. **Nonprofit and government reimbursable accounts assigned.** (a) Any person that contracts with a nonprofit or government employer that is a reimbursing employer to have that person obtain the nonprofit or government employer's workforce and provide workers to the nonprofit or government employer for a fee, is, as of the effective date of the contract, assigned for the duration of the contract the nonprofit or government employer's account under section 268.045. That reimbursable account must be maintained by the person separate and distinct from every other account held by the person and identified in a manner prescribed by the commissioner. That reimbursable account is, for the duration of the contract, considered that person's account for all purposes of this chapter. The workers obtained from the nonprofit or government employer and any other workers provided by that person to the nonprofit or government employer must, under section 268.044, be reported on the wage detail report under that reimbursable account, and that person must pay any reimbursements due.

(b) Any workers of the nonprofit or government employer who are not covered by the contract under paragraph (a) must be reported by the nonprofit or government employer as a separate unit on the wage detail report under the reimbursable account assigned under paragraph (a). Reimbursements and any other amounts due on the wages reported by the nonprofit or government employer under this paragraph may be paid directly by the nonprofit or government employer.

(c) If the nonprofit or government employer that contracts with a person under paragraph (a) does not have an account at the time of the execution of the contract, an account must be registered for the nonprofit or government employer under section 268.042. The reimbursable account is then assigned to the person as provided for in paragraph (a).

(d) A person that contracts with a nonprofit or government employer under paragraph (a) must, within 30 calendar days of the execution or termination of a contract, notify the commissioner of that execution or termination by electronic transmission, in a format prescribed by the commissioner. The nonprofit or government employer's name, the account number assigned, and any other information required by the commissioner must be provided by that person.

(e) Any contract subject to paragraph (a) must specifically inform the nonprofit or government employer of the assignment of the reimbursable account under this section and the nonprofit or government employer's obligation under paragraph (b). If there is a termination of the contract, the reimbursable account is, as of the date of termination, immediately assigned to the nonprofit or government employer.

Subd. 3. **Penalties; application.** (a) Any person that violates the requirements of this section and any taxpaying employer that violates subdivision 1, paragraph (b), or any nonprofit or government employer that violates subdivision 2, paragraph (b), is subject to the penalties under section 268.184, subdivision 1a. Penalties are credited to the trust fund.

(b) Section 268.051, subdivision 4, does not apply to contracts under this section. This section does not limit or prevent the application of section 268.051, subdivision 4, to any other transactions or acquisitions involving the taxpaying employer. This section does not limit or prevent the application of section 268.051, subdivision 4a.

(c) An assignment of an account upon the execution of a contract under this section and a termination of a contract with the corresponding assignment of the account is not a separation from employment of any worker covered by the contract. Nothing under this subdivision causes the person to be liable for any amounts past due under this chapter from the taxpaying employer or the nonprofit or government employer.

(d) An exemption from registration under section 79.255, subdivision 9, does not determine the application of this section.

History: *2005 c 112 art 1 s 5; 2007 c 128 art 6 s 21; 2010 c 347 art 2 s 5; 2011 c 76 art 1 s 39; 2012 c 201 art 2 s 1; art 3 s 15; 2015 c 21 art 1 s 63; 2016 c 189 art 10 s 7; 2017 c 35 art 1 s 1; art 3 s 24; 1Sp2019 c 7 art 8 s 2*

268.047 EFFECT ON EMPLOYER OF UNEMPLOYMENT BENEFITS PAID.

Subdivision 1. **General rule.** Unemployment benefits paid to an applicant, including extended and shared work benefits, will be 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 has elected to be liable for reimbursements 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 the reimbursable account of a nonprofit or government employer that has elected to be liable for reimbursements is 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.

Subd. 2. **Exceptions for all employers.** Unemployment benefits paid will not be 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 has elected to be liable for reimbursements when:

(1) the applicant was discharged from the employment because of aggravated employment misconduct as determined under section 268.095. This exception applies 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 terminates effective the first week that the employer fails to meet the benefit year employment requirements. This exception applies 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 terminates 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 does 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;

(8) the unemployment benefits were determined overpaid unemployment benefits subject to section 268.18;

(9) the applicant was employed as a replacement worker, for a period of six months or longer, for an employee who is in the military reserve and was called for active duty during the time the applicant worked as a replacement, and the applicant was laid off because the employee returned to employment after active duty; or

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

Subd. 3. **Exceptions for taxpaying employers.** Unemployment benefits paid will not be 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 applies to unemployment benefits paid for periods after the applicant's quitting the employment and, if the applicant is rehired by the employer, continues only until the beginning of the week the applicant is rehired; or

(3) the employer discharged the applicant from employment because of employment misconduct as determined under section 268.095. This exception applies to unemployment benefits paid for periods after the applicant's discharge from employment and, if the applicant is rehired by the employer, continues only until the beginning of the week the applicant is rehired.

Subd. 4. **Limitation on exceptions.** (a) Regardless of subdivisions 2 and 3, an exception under those subdivisions will be limited according to section 268.101, subdivision 2, paragraph (b).

(b) Regardless of subdivision 2, clause (8), an exception under that clause does not apply if the overpaid unemployment benefits resulted because the employer or any employee, officer, or agent of the employer:

(1) failed to respond timely or adequately to a request for information under section 268.101, subdivision 1, paragraph (b); and

(2) has established a pattern of failing to respond timely or adequately to requests for information under section 268.101, subdivision 1, paragraph (b).

The employer must pay the trust fund the amount of the overpaid unemployment benefits that will be used in computing the future tax rate of taxpaying employers or charged to the reimbursable account of a nonprofit or government employer under subdivision 1. The procedure for required payment is under section 268.184, subdivision 1.

This paragraph is enacted to conform to the requirements of Public Law 112-40, section 252. A "pattern" for purposes of this paragraph is a prior failure to respond to the greater of two requests for information, or two percent of all requests for information in the most recent six months.

Subd. 5. **Notice of unemployment benefits paid.** (a) The commissioner must notify each employer at least quarterly by mail or electronic transmission of the unemployment benefits paid each applicant that will be used in computing the future tax rate of a taxpaying employer, or that have been charged to the reimbursable account of a nonprofit or government employer that has elected to be liable for reimbursements.

(b) A notice under this subdivision is not subject to appeal. The commissioner may at any time upon the commissioner's own motion correct any error that resulted in an incorrect notice under paragraph (a) and issue a corrected notice.

History: *1997 c 66 s 10,16,79; 1998 c 265 s 10-12; 1999 c 107 s 18-21,66; 2000 c 343 s 4; 2001 c 175 s 11; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 23; 2007 c 128 art 1 s 4,5; art 6 s 22,23; 2008 c 300 s 10,11; 2009 c 78 art 4 s 11,12,50; 2012 c 201 art 1 s 1; 1Sp2019 c 7 art 7 s 3; art 8, s 7*

268.048 [Expired, 1997 c 80 s 3]

268.05 [Renumbered 268.194]

268.051 EMPLOYERS TAXES.

Subdivision 1. **Payments.** (a) Unemployment insurance taxes accrue and become payable by each employer for each calendar year on the taxable wages that the employer paid to employees in covered employment, except for:

(1) nonprofit organizations that elect to make reimbursements as provided in section 268.053; and

(2) the state of Minnesota and political subdivisions that make reimbursements, unless they elect to pay taxes as provided in section 268.052.

Each employer must pay taxes quarterly, at the employer's assigned tax rate under subdivision 6, on the taxable wages paid to each employee. The commissioner must compute the tax due from the wage detail report required under section 268.044 and notify the employer of the tax due. The taxes must be paid to the trust fund and must be received by the department on or before the last day of the month following the end of the calendar quarter.

(b) If for any reason the wages on the wage detail report under section 268.044 are adjusted for any quarter, the commissioner must recompute the taxes due for that quarter and assess the employer for any amount due or credit the employer as appropriate.

Subd. 1a. **Payments by electronic payment required.** (a) Every employer that reports 50 or more employees in any calendar quarter on the wage detail report required under section 268.044 must make any payments due under this chapter and section 116L.20 by electronic payment.

(b) All third-party processors, paying on behalf of a client company, must make any payments due under this chapter and section 116L.20 by electronic payment.

(c) Regardless of paragraph (a) or (b), the commissioner has the discretion to accept payment by other means.

Subd. 2. **Computation of tax rates; additional assessments.** (a) For each calendar year the commissioner must compute the tax rate of each taxpaying employer that qualifies for an experience rating by adding the base tax rate to the employer's experience rating along with assigning any appropriate additional assessment under paragraph (c).

(b) The base tax rate for the calendar year and any additional assessments under this subdivision are determined based upon the amount in the trust fund on March 31 of the prior year as a percentage of total wages paid in covered employment. The base tax rate is:

(1) one-tenth of one percent if the trust fund is equal to or more than 0.75 percent;

(2) two-tenths of one percent if the trust fund is less than 0.75 percent but equal to or more than 0.65 percent;

(3) three-tenths of one percent if the trust fund is less than 0.65 percent but equal to or more than 0.55 percent;

(4) four-tenths of one percent if the trust fund is less than 0.55 percent, but has a positive balance; or

(5) five-tenths of one percent if the trust fund has a negative balance and is borrowing from the federal unemployment trust fund in order to pay unemployment benefits as provided for under section 268.194, subdivision 6.

(c) In addition to the base tax rate, there is an additional assessment for the calendar year on the quarterly unemployment taxes due from every taxpaying employer if the amount in the trust fund on March 31 of the prior year is less than 0.55 percent of total wages paid in covered employment. The assessment is as follows:

(1) a five percent assessment if the trust fund is less than 0.55 percent but equal to or more than 0.45 percent;

(2) a ten percent assessment if the trust fund is less than 0.45 percent but equal to or more than 0.35 percent; or

(3) a 14 percent assessment if the trust fund is less than 0.35 percent.

(d) For the purposes of this subdivision, the trust fund does not include any money borrowed from the federal unemployment trust fund provided for in section 268.194, subdivision 6.

(e) For the purposes of this subdivision, total wages paid in covered employment are those wages paid to all employees in covered employment during the calendar year before the March 31 date used in paragraph (b).

(f) The base tax rate and any additional assessments are assessed on all taxpaying employers to cover a portion of the costs to the trust fund for unemployment benefits paid that do not affect any single employer's future experience rating because:

(1) the employer's experience rating is limited by the maximum under subdivision 3, paragraph (b);

(2) the employer has ceased doing business; or

(3) the unemployment benefits paid have been determined not to be used in computing the employer's experience rating under section 268.047, subdivision 2 or 3.

Subd. 2a. **Unemployment insurance tax reduction.** (a) If the balance in the trust fund on December 31 of any calendar year is four percent or more above the amount equal to an average high cost multiple of 1.0, future unemployment taxes payable must be reduced by all amounts above 1.0. The amount of tax reduction for any taxpaying employer is the same percentage of the total amount above 1.0 as the percentage of taxes paid by the employer during the calendar year is of the total amount of taxes that were paid by all employers during the year except taxes paid by employers assigned a tax rate equal to the maximum experience rating plus the applicable base tax rate.

(b) For purposes of this subdivision, "average high cost multiple" has the meaning given in Code of Federal Regulations, title 20, section 606.3, as amended through December 31, 2015. An amount equal to an average high cost multiple of 1.0 is a federal measure of adequate reserves in relation to the state's current economy. The commissioner must calculate and publish, as soon as possible following December 31 of any calendar year, the trust fund balance on December 31 along with the amount an average high cost multiple of 1.0 equals. Actual wages paid must be used in the calculation and estimates may not be used.

(c) The unemployment tax reduction under this subdivision does not apply to employers that were assigned a tax rate equal to the maximum experience rating plus the applicable base tax rate for the year. Computations under paragraph (a) are not subject to the rounding requirement of section 268.034. The refund provisions of section 268.057, subdivision 7, do not apply.

(d) The unemployment tax reduction under this subdivision applies to taxes paid between March 1 and December 15 of the year following the December 31 computation under paragraph (a).

(e) If there was an experience rating history transfer under subdivision 4, the successor employer must receive that portion of the predecessor employer's tax reduction equal to that portion of the experience rating history transferred. The predecessor employer retains that portion of tax reduction not transferred to the successor. This paragraph applies to that portion of the tax reduction that remains unused at the time of notice of acquisition is provided under subdivision 4, paragraph (e).

Subd. 3. **Computation of a taxpaying employer's experience rating.** (a) On or before each December 15, the commissioner must compute an experience rating for each taxpaying employer who has been required to file wage detail reports for the 12 calendar months ending on the prior June 30. The experience rating computed is applicable for the following calendar year.

The experience rating is the ratio obtained by dividing 125 percent of the total unemployment benefits required under section 268.047 to be used in computing the employer's tax rate during the 48 calendar months ending on the prior June 30, by the employer's total taxable payroll for that same period.

(b) The experience rating is computed to the nearest one-hundredth of a percent, to a maximum of 8.90 percent.

(c) The use of 125 percent of unemployment benefits paid under paragraph (a), rather than 100 percent of the amount of unemployment benefits paid, is done in order for the trust fund to recover from all taxpaying employers a portion of the costs of unemployment benefits paid that do not affect any individual employer's future experience rating because of the reasons set out in subdivision 2, paragraph (f).

Subd. 4. **Experience rating history transfer.** (a) The experience rating history of the predecessor employer is transferred to the successor employer when:

(1) a taxpaying employer acquires all of the organization, trade or business, or workforce of another taxpaying employer; and

(2) there is 25 percent or more common ownership or there is substantially common management or control between the predecessor and successor.

(b) A portion of the experience rating history of the predecessor employer is transferred to the successor employer when:

(1) a taxpaying employer acquires a portion, but less than all, of the organization, trade or business, or workforce of another taxpaying employer; and

(2) there is 25 percent or more common ownership or there is substantially common management or control between the predecessor and successor.

The successor employer acquires, as of the date of acquisition, that percentage of the predecessor employer's experience rating history equal to that percentage of the employment positions it has obtained, and the predecessor employer retains that percentage of the experience rating history equal to the percentage of the employment positions it has retained.

(c) Paragraphs (a) and (b) do not require concurrent ownership, management, or control of the predecessor and successor for there to be a transfer, or partial transfer, of the experience rating history.

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

(e) Each successor employer must notify the commissioner of the acquisition by electronic transmission, in a format prescribed by the commissioner, within 30 calendar days of the date of acquisition. Any successor employer that fails to notify the commissioner is subject to the penalties under section 268.184, subdivision 1a, if the successor's assigned tax rate under subdivision 2 or 5 was lower than the predecessor's assigned tax rate at the time of the acquisition. Payments made toward the penalties are credited to the trust fund.

(f) If the successor employer under paragraphs (a) and (b) had an experience rating at the time of the acquisition, the transferred experience rating history of the predecessor is combined with the successor's experience rating history for purposes of recomputing a tax rate.

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

(h) The commissioner, upon notification of an employer, or upon the commissioner's own motion if the employer fails to provide the required notification, must determine if an employer is a successor within the meaning of this subdivision. The commissioner must, after determining the issue of succession or nonsuccession, recompute the tax rate under subdivision 6 of all employers affected. The commissioner must send the recomputed tax rate to all affected employers by mail or electronic transmission. Any affected employer may appeal the recomputed tax rate in accordance with the procedures in subdivision 6, paragraph (c).

(i) The "experience rating history" for purposes of this subdivision and subdivision 4a means the amount of unemployment benefits paid and the taxable wages that are being used and would be used in computing the current and any future experience rating.

For purposes of this chapter, an "acquisition" means anything that results in the successor employer obtaining, in any way or manner, all, or a portion of, the organization, trade or business, or workforce of the predecessor employer.

(j) Regardless of the ownership, management, or control requirements 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 histories of the corporations are combined as of the date of acquisition or merger for the purpose of recomputing a tax rate.

Subd. 4a. **Actions that avoid taxes.** (a) If the commissioner determines that any action was done, in whole or in part, to avoid:

(1) an experience rating history;

(2) the transfer of an experience rating history; or

(3) the assignment of a tax rate for new employers under subdivision 5, paragraph (a) or (b), the commissioner, to insure that the trust fund receives all the taxes that would have been received had the action not occurred, may, effective the date of the action, transfer all or part of an experience rating history and recompute the tax rate or assign the appropriate new employer tax rate.

(b) This subdivision applies to any action between persons regardless of whether there is any commonality of ownership, management, or control between the persons. The authority granted to the commissioner under this subdivision is in addition to any other authority granted to the commissioner.

Subd. 5. **Tax rate for new employers.** (a) Each new taxpaying employer that does not qualify for an experience rating under subdivision 3 must be assigned, for the calendar year, a tax rate equal to the average experience rating for the employer's industry, plus the applicable base tax rate and any additional assessments under subdivision 2, paragraph (c). The tax rate assigned may not be less than one percent.

(b) The employer's industry, except for construction, is determined by the first two digits of the North American Industrial Classification System (NAICS). The construction industry is determined to five digits. For each calendar year the commissioner must compute, in accordance with subdivision 3, the average industry experience rating for the employer's industry.

(c) Regardless of any law to the contrary, a taxpaying employer must be assigned a tax rate under this subdivision if the employer had no taxable wages during the experience rating period under subdivision 3.

(d) The commissioner must send to the new employer, by mail or electronic transmission, a determination of tax rate. An employer may appeal the determination of tax rate in accordance with subdivision 6, paragraph (c).

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 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.

Subd. 7. **Tax rate buydown.** (a) Any taxpaying employer that has been assigned a tax rate based upon an experience rating, and has no amounts past due under this chapter, may, upon the payment of an amount equivalent to any portion or all of the unemployment benefits used in computing the experience rating plus a surcharge of 25 percent, obtain a cancellation of unemployment benefits used equal to the payment made, less the surcharge. The payment is applied to the most recent unemployment benefits paid that are used in computing the experience rating. Upon the payment, the commissioner must compute a new experience rating for the employer, and compute a new tax rate.

(b) Payments for a tax rate buydown may be made only by electronic payment and must be received within 120 calendar days from the beginning of the calendar year for which the tax rate is effective.

Subd. 8. **Special assessment for interest on federal loan.** (a) If on October 31 of any year, the commissioner, in consultation with the commissioner of management and budget, determines that an interest payment will be due during the following calendar year on any loan from the federal unemployment trust fund under section 268.194, subdivision 6, a special assessment on taxpaying employers will be in effect for the following calendar year. The legislature authorizes the commissioner, in consultation with the commissioner of management and budget, to determine the appropriate level of the assessment, up to eight percent of the total quarterly unemployment taxes due based upon determined rates and assigned assessments under subdivision 2, that will be necessary to pay the interest due on the loan.

(b) The special assessment must be placed into a special account from which the commissioner must pay any interest that has accrued on any loan from the federal unemployment trust fund provided for under section 268.194, subdivision 6. If, at the end of each calendar quarter, the commissioner, in consultation with the commissioner of management and budget, determines that the balance in this special account, including interest earned on the special account, is more than is necessary to pay the interest on any loan, the commissioner must immediately pay to the trust fund the amount in excess of that necessary to pay the interest on any loan.

Subd. 9. **Assessments, fees, and surcharges; treatment.** Any assessment, fee, or surcharge is subject to the same collection procedures that apply to past due taxes.

History: *Ex1936 c 2 s 4; 1937 c 306 s 2; 1939 c 443 s 3; 1941 c 554 s 3; 1943 c 650 s 2; 1945 c 376 s 3; 1947 c 32 s 1-8; 1947 c 432 s 3-5,11; 1947 c 600 s 7; 1949 c 526 s 1; 1949 c 605 s 3-6,17,18; 1951 c 442 s 2; 1953 c 97 s 5,6,8; 1953 c 288 s 1; 1955 c 380 s 2-4,6; 1957 c 25 s 1; 1957 c 873 s 2; 1959 c 702 s 2-4; 1965 c 45 s 40; 1965 c 741 s 6-11; 1967 c 573 s 3; 1967 c 617 s 1; 1967 c 856 s 1; 1969 c 3 s 1; 1969 c 567 s 3; 1969 c 854 s 6; 1971 c 860 s 1; 1971 c 942 s 3-6; 1973 c 254 s 3; 1973 c 599 s 2-4; 1975 c 336 s 6-10; 1977 c 4 s 4,5; 1977 c 297 s 6-11; 1977 c 430 s 25 subd 1; 1977 c 455 s 82; 1978 c 674 s 60; 1979*

c 181 s 4-8; 1980 c 508 s 2-7; 1Sp1982 c 1 s 5-12; 1983 c 216 art 1 s 87; 1983 c 247 s 112; 1983 c 372 s 9-15; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1986 c 451 s 1; 1987 c 242 s 1; 1987 c 362 s 9-12; 1987 c 385 s 10-18; 1989 c 65 s 3-5; 1989 c 209 art 2 s 1; 1992 c 484 s 4-7; 1994 c 483 s 1; 1994 c 488 s 8; 1995 c 54 s 3-7; 1996 c 417 s 5-7,31; 1997 c 66 s 11-15,17,18,20,21,79; 1998 c 265 s 13; 1999 c 107 s 23-28,66; 2000 c 343 s 4; 2001 c 175 s 12-15; 2002 c 380 art 1 s 1; 1Sp2003 c 3 art 1 s 1-6; art 2 s 20; 2004 c 183 s 24-30; 2005 c 112 art 1 s 6-9; art 2 s 11; 2007 c 128 art 1 s 6-8; art 2 s 2; art 3 s 6-10; art 6 s 24,25; 2008 c 300 s 51; 2009 c 78 art 4 s 13,14,50; 2009 c 101 art 2 s 109; 2010 c 347 art 2 s 6-8; 2011 c 84 art 1 s 5; art 2 s 4,5; 2012 c 201 art 2 s 2,3; 2013 c 85 art 4 s 3; 2014 c 251 art 1 s 2; 1Sp2015 c 1 art 6 s 5; 2016 c 81 s 1; 2016 c 189 art 11 s 1; 2017 c 35 art 2 s 3; art 3 s 6; 1Sp2019 c 7 art 4 s 3; 2023 c 33 s 8

268.0511 MS 2006 [Repealed, 2007 c 128 art 1 s 23]

268.052 PAYMENT TO TRUST FUND BY STATE AND POLITICAL SUBDIVISIONS.

Subdivision 1. **Payments.** In lieu of taxes payable on a quarterly basis, the state of Minnesota or its political subdivisions must reimburse the trust fund the amount of unemployment benefits charged to its reimbursable account under section 268.047. Reimbursements in the amount of unemployment benefits charged to the reimbursable account during a calendar quarter must be received by the department on or before the last day of the month following the month that the notice of unemployment benefits paid is sent under section 268.047, subdivision 5. Past due reimbursements are subject to the same interest charges and collection procedures that apply to past due taxes.

Subd. 2. **Election by state or political subdivision to be taxpaying employer.** (a) The state or political subdivision may elect to be a taxpaying employer if a notice of election is filed. The election is effective at the beginning of the next calendar quarter. Upon election, the state or political subdivision must be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the election and unless or until it qualifies for an experience rating under section 268.051, subdivision 3.

An election is for a minimum period of eight calendar quarters following the effective date of the election and continue unless a notice terminating the election is filed. The termination is effective at the beginning of the next calendar quarter.

(b) The method of payments to the trust fund under subdivisions 3 and 4 applies to all taxes paid by or due from the state or political subdivision that elects to be taxpaying employers under this subdivision.

(c) A notice of election or a notice terminating election must be filed by electronic transmission in a format prescribed by the commissioner.

Subd. 3. **Method of payment by state.** To discharge its liability, the state and its wholly owned instrumentalities must pay the trust fund as follows:

(1) Every self-sustaining department, institution and wholly owned instrumentality must pay the trust fund in accordance with subdivision 1. For the purposes of this clause a "self-sustaining department, institution or wholly owned instrumentality" is one where the dedicated income and revenue substantially offsets its cost of operation.

(2) Every partially self-sustaining department, institution and wholly owned instrumentality must pay the trust fund that same proportion of the amount that has been charged to its employer account as the proportion of the total of its income and revenue is to its annual cost of operation.

(3) Every department, institution or wholly owned instrumentality that is not self-sustaining must pay the trust fund to the extent funds are available from appropriated funds.

(4) The departments, institutions and wholly owned instrumentalities, including the University of Minnesota, that have money available must pay the trust fund in accordance with subdivision 1. If an applicant was paid during the base period from a special account provided by law, the payment to the trust fund must be made from the special account with the approval of the Department of Administration and the amounts are appropriated.

(5) For those departments, institutions and wholly owned instrumentalities that cannot pay the trust fund, the commissioner must certify on November 1 of each calendar year to the commissioner of management and budget the unpaid balances. Upon receipt of the certification, the commissioner of management and budget must include the unpaid balances in the biennial budget submitted to the legislature.

Subd. 4. **Method of payment by political subdivision.** A political subdivision or instrumentality thereof is authorized and directed to pay its liabilities by money collected from taxes or other revenues. Every political subdivision authorized to levy taxes except school districts may include in its tax levy the amount necessary to pay its liabilities. School districts may levy according to section 126C.43, subdivision 2. If the taxes authorized to be levied cause the total amount of taxes levied to exceed any limitation upon the power of a political subdivision to levy taxes, the political subdivision may levy taxes in excess of the limitations in the amounts necessary to meet its liability. The expenditures authorized must not be included in computing the cost of government as defined in any home rule charter. The governing body of a municipality, for the purpose of meeting its liabilities, in the event of a deficit, may issue its obligations payable in not more than two years, in an amount that may cause its indebtedness to exceed any statutory or charter limitations, without an election, and may levy taxes in the manner provided in section 475.61.

Subd. 5. **Considered an election.** If the state of Minnesota or its political subdivisions choose not to be a taxpaying employer under subdivision 2, the state or its political subdivision are considered, for purposes of the Minnesota unemployment insurance program, to have elected to be liable for reimbursements under subdivision 1.

History: *Ex1936 c 2 s 4; 1937 c 306 s 2; 1939 c 443 s 3; 1941 c 554 s 3; 1943 c 650 s 2; 1945 c 376 s 3; 1947 c 32 s 1-8; 1947 c 432 s 3-5,11; 1947 c 600 s 7; 1949 c 526 s 1; 1949 c 605 s 3-6,17,18; 1951 c 442 s 2; 1953 c 97 s 5,6,8; 1953 c 288 s 1; 1955 c 380 s 2-4,6; 1957 c 25 s 1; 1957 c 873 s 2; 1959 c 702 s 2-4; 1965 c 45 s 40; 1965 c 741 s 6-11; 1967 c 573 s 3; 1967 c 617 s 1; 1967 c 856 s 1; 1969 c 3 s 1; 1969 c 567 s 3; 1969 c 854 s 6; 1971 c 860 s 1; 1971 c 942 s 3-6; 1973 c 254 s 3; 1973 c 599 s 2-4; 1975 c 336 s 6-10; 1977 c 4 s 4,5; 1977 c 297 s 6-11; 1977 c 430 s 25 subd 1; 1977 c 455 s 82; 1978 c 674 s 60; 1979 c 181 s 4-8; 1980 c 508 s 2-7; 1Sp1982 c 1 s 5-12; 1983 c 216 art 1 s 87; 1983 c 247 s 112; 1983 c 372 s 9-15; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1986 c 451 s 1; 1987 c 242 s 1; 1987 c 362 s 9-12; 1987 c 385 s 10-18; 1989 c 65 s 3-5; 1989 c 209 art 2 s 1; 1992 c 484 s 4-7; 1994 c 483 s 1; 1994 c 488 s 8; 1995 c 54 s 3-7; 1996 c 417 s 5-7,31; 1997 c 66 s 22-24,27,79,80; 1999 c 107 s 29,66; 2000 c 343 s 4; 2001 c 175 s 16-18; 2002 c 379 art 1 s 61; 1Sp2003 c 3 art 2 s 5,20; 1Sp2003 c 9 art 5 s 27,28; 2004 c 183 s 32,33; 2005 c 112 art 2 s 12; 2007 c 128 art 6 s 26-30; 2009 c 78 art 3 s 1; art 4 s 50; 2009 c 101 art 2 s 109; 2010 c 347 art 2 s 9; 1Sp2019 c 7 art 8 s 7*

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, must be treated the same as the state of Minnesota, or a political subdivision of the state, for all purposes of the Minnesota Unemployment Insurance 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 reimbursements, fails to make the required payments within 90 calendar days of the notice of delinquency, the commissioner must terminate the election to make reimbursements as of the beginning of the next calendar year, unless all past due reimbursements, 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 must 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.

History: *2001 c 175 s 19; 1Sp2003 c 3 art 2 s 20; 2007 c 128 art 6 s 31; 2009 c 78 art 4 s 50*

268.053 PAYMENT TO TRUST FUND BY NONPROFIT ORGANIZATIONS.

Subdivision 1. **Election.** (a) Any nonprofit organization that has employees in covered employment must pay taxes on a quarterly basis in accordance with section 268.051 unless it elects to make reimbursements to the trust fund the amount of unemployment benefits charged to its reimbursable account under section 268.047.

The organization may elect to make reimbursements for a period of not less than 24 calendar months 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 reimbursements until it files a notice terminating its election before the beginning of the calendar quarter the termination is to be effective.

A nonprofit organization that has been making reimbursements that files a notice of termination of election must be assigned the new employer tax rate under section 268.051, subdivision 5, until it qualifies for an experience rating under section 268.051, subdivision 3.

(c) Any nonprofit organization that has been paying taxes may elect to make reimbursements by filing a notice of election. The election is effective at the beginning of the next calendar quarter. The election is not terminable by the organization for 24 calendar months.

(d) 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.

(e) A notice of election or notice terminating election must be filed by electronic transmission in a format prescribed by the commissioner.

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

Subd. 3. **Payments.** (a) Reimbursements, in the amount of unemployment benefits charged to the reimbursable account, during a calendar quarter, must be received by the department on or before the last day of the month following the month that the notice of unemployment benefits paid is sent under section 268.047, subdivision 5.

(b) Past due reimbursements are subject to the same interest charges and collection procedures that apply to past due taxes.

(c) If any nonprofit organization is delinquent in making reimbursements, the commissioner may terminate the organization's election to make reimbursements as of the beginning of the next calendar year, and the termination is effective for that and the following calendar year. A nonprofit organization that has its election terminated under this paragraph must be assigned the new employer tax rate under section 268.051, subdivision 5, until the organization qualifies for an experience rating under section 268.051, subdivision 3.

Subd. 4. **Application.** For purposes of this section, a nonprofit organization is an organization, or group of organizations, described in United States Code, title 26, section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a).

Subd. 5. **Compromise.** The compromise authority set out in section 268.067 applies to this section.

History: *Ex1936 c 2 s 4; 1937 c 306 s 2; 1939 c 443 s 3; 1941 c 554 s 3; 1943 c 650 s 2; 1945 c 376 s 3; 1947 c 32 s 1-8; 1947 c 432 s 3-5,11; 1947 c 600 s 7; 1949 c 526 s 1; 1949 c 605 s 3-6,17,18; 1951 c 442 s 2; 1953 c 97 s 5,6,8; 1953 c 288 s 1; 1955 c 380 s 2-4,6; 1957 c 25 s 1; 1957 c 873 s 2; 1959 c 702 s 2-4; 1965 c 45 s 40; 1965 c 741 s 6-11; 1967 c 573 s 3; 1967 c 617 s 1; 1967 c 856 s 1; 1969 c 3 s 1; 1969 c 567 s 3; 1969 c 854 s 6; 1971 c 860 s 1; 1971 c 942 s 3-6; 1973 c 254 s 3; 1973 c 599 s 2-4; 1975 c 336 s 6-10; 1977 c 4 s 4,5; 1977 c 297 s 6-11; 1977 c 430 s 25 subd 1; 1977 c 455 s 82; 1978 c 674 s 60; 1979 c 181 s 4-8; 1980 c 508 s 2-7; 1Sp1982 c 1 s 5-12; 1983 c 216 art 1 s 87; 1983 c 247 s 112; 1983 c 372 s 9-15; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1986 c 451 s 1; 1987 c 242 s 1; 1987 c 362 s 9-12; 1987 c 385 s 10-18; 1989 c 65 s 3-5; 1989 c 209 art 2 s 1; 1992 c 484 s 4-7; 1994 c 483 s 1; 1994 c 488 s 8; 1995 c 54 s 3-7; 1996 c 417 s 5-7,31; 1997 c 66 s 25,79,80; 1999 c 107 s 30; 2000 c 343 s 2-4; 2001 c 175 s 20,21; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 34-36; 2005 c 112 art 2 s 13; 2007 c 128 art 1 s 9; art 6 s 32,33; 2009 c 78 art 3 s 2; art 4 s 50; 2010 c 347 art 2 s 10; 2023 c 33 s 9*

268.054 MS 1997 Supp [Repealed, 1998 c 265 s 46]

268.057 COLLECTION OF TAXES.

Subdivision 1. **Amount computed presumed correct.** Any amount due from an employer, as computed by the commissioner, is presumed to be correctly determined and assessed, and the burden is upon the employer to show its incorrectness. A statement by the commissioner of the amount due is admissible in evidence in any court or administrative proceeding and is prima facie evidence of the facts in the statement.

Subd. 2. **Priority of payments.** (a) Any payment received from a taxpaying employer must be applied in the following order:

(1) unemployment insurance taxes; then

(2) special assessment for interest on any federal loan; then

(3) workforce development assessment; then

(4) interest on past due taxes; then

(5) penalties, late fees, administrative service fees, and costs.

(b) Paragraph (a) is the priority used for all payments received from a taxpaying employer, regardless of how the employer may designate the payment to be applied, except when:

(1) there is an outstanding lien and the employer designates that the payment made should be applied to satisfy the lien;

(2) the payment is for back pay withheld from an applicant under section 268.085, subdivision 6, paragraph (b);

(3) the payment is specifically designated by the employer to be applied to an outstanding overpayment of unemployment benefits of an applicant;

(4) a court or administrative order directs that the payment be applied to a specific obligation;

(5) a preexisting payment plan provides for the application of payment; or

(6) the commissioner, under the compromise authority of section 268.067, agrees to apply the payment to a different priority.

Subd. 3. **Estimating the tax due.** Only if an employer fails to make all necessary records available for an audit under section 268.186, paragraph (b), and the commissioner has reason to believe the employer has not reported all the required wages on the quarterly wage detail reports under section 268.044, may the commissioner then estimate the amount of tax due and assess the employer the estimated amount due.

Subd. 4. **Costs.** (a) Any employer, and any applicant subject to section 268.18, subdivision 2, that fails to pay any amount when due under this chapter is liable for any filing fees, recording fees, sheriff fees, costs incurred by referral to any public or private collection agency, or litigation costs, including attorney fees, incurred in the collection of the amounts due.

(b) If any tendered payment of any amount due is not honored when presented to a financial institution for payment, any costs assessed the department by the financial institution and a fee of $25 must be assessed to the person.

(c) Costs and fees collected under this subdivision are credited to the administration account.

Subd. 5. **Interest on amounts past due.** If any amounts due from an employer under this chapter or section 116L.20, except late fees under section 268.044, are not received on the date due, the commissioner must assess interest on any amount that remains unpaid. Interest is assessed at the rate of one percent per month or any part of a month. Interest is not assessed on unpaid interest. Interest collected under this subdivision is credited to the contingent account.

Subd. 6. **Interest on judgments.** Regardless of section 549.09, if judgment is entered upon any past due amounts from an employer under this chapter or section 116L.20, the unpaid judgment bears interest at the rate specified in subdivision 5 until the date of payment.

Subd. 7. **Credit adjustments, refunds.** (a) If an employer makes an application for a credit adjustment of any amount paid under this chapter or section 116L.20 within four years of the date that the payment was due, in a manner and format prescribed by the commissioner, and the commissioner determines that the payment or any portion was erroneous, the commissioner must make an adjustment and issue a credit without interest. If a credit cannot be used, the commissioner must refund, without interest, the amount erroneously

paid. The commissioner, on the commissioner's own motion, may make a credit adjustment or refund under this subdivision.

Any refund returned to the commissioner is considered unclaimed property under chapter 345.

(b) If a credit adjustment or refund is denied in whole or in part, a determination of denial must be sent to the employer by mail or electronic transmission. The determination of denial is final unless an employer files an appeal within 45 calendar days after sending. Proceedings on the appeal are conducted in accordance with section 268.105.

Subd. 8. MS 1998 [Repealed, 1999 c 107 s 67]

Subd. 9. MS 1998 [Repealed, 1999 c 107 s 67]

Subd. 10. **Priorities under legal dissolutions or distributions.** In the event of any distribution of an employer's assets according to an order of any court, including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceeding, taxes then or thereafter due must be paid in full before all other claims except claims for wages of not more than $1,000 per former employee, earned within six months of the commencement of the proceedings. In the event of an employer's adjudication in bankruptcy under federal law, taxes then or thereafter due are entitled to the priority provided in that law for taxes due any state.

History: *Ex1936 c 2 s 14; 1941 c 554 s 13; 1943 c 650 s 9; 1945 c 376 s 13; 1949 c 605 s 12,13; 1951 c 55 s 1; 1953 c 97 s 17; 1969 c 9 s 65; 1969 c 567 s 3; 1969 c 854 s 13; 1973 c 254 s 3; 1973 c 720 s 73 subds 2,3; 1975 c 108 s 1; 1975 c 302 s 3,4; 1975 c 336 s 22,23; 1977 c 430 s 25 subd 1; 1978 c 618 s 2; 1978 c 674 s 60; 1980 c 508 s 11-13; 3Sp1981 c 2 art 1 s 33; 1Sp1982 c 1 s 34,35; 1983 c 372 s 39; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 362 s 26; 1987 c 385 s 28-30; 1989 c 65 s 12; 1989 c 209 art 2 s 1; 1993 c 67 s 11; 1994 c 483 s 1; 1995 c 54 s 13-15; 1996 c 417 s 24,31; 1997 c 66 s 66-69,79,80; 1998 c 265 s 14-17,44; 1999 c 107 s 31,32,66; 2000 c 343 s 4; 1Sp2003 c 3 art 2 s 6,20; 2004 c 183 s 37; 2005 c 112 art 2 s 14; 2007 c 128 art 1 s 10; art 6 s 34-40; 2009 c 78 art 4 s 15,16,50; 2011 c 84 art 2 s 6; 2014 c 251 art 1 s 3; art 2 s 7; 1Sp2019 c 7 art 5 s 1; 2023 c 69 s 10*

268.058 LIEN, LEVY, SETOFF, AND CIVIL ACTION.

Subdivision 1. **Lien.** (a) Any amount due under this chapter or section 116L.20, from an applicant or an employer, becomes a lien upon all the property, within this state, both real and personal, of the person liable, from the date of assessment. The term "date of assessment" means the date the obligation was due.

(b) The lien is not enforceable against any purchaser, mortgagee, pledgee, holder of a Uniform Commercial Code security interest, mechanic's lien, or judgment lien creditor, until a notice of lien has been filed with the county recorder of the county where the property is situated, or in the case of personal property belonging to a nonresident person in the Office of the Secretary of State. When the notice of lien is filed with the county recorder, the fee for filing and indexing is as provided in sections 272.483 and 272.484.

(c) Notices of liens, lien renewals, and lien releases, in a form prescribed by the commissioner, may be filed with the county recorder or the secretary of state by mail, personal delivery, or by electronic transmission into the computerized filing system of the secretary of state. The secretary of state must, on any notice filed with that office, transmit the notice electronically to the appropriate county recorder. The filing officer, whether the county recorder or the secretary of state, must endorse and index a printout of the notice as if the notice had been mailed or delivered.

(d) County recorders and the secretary of state must enter information on lien notices, renewals, and releases into the central database of the secretary of state. For notices filed electronically with the county recorders, the date and time of receipt of the notice and county recorder's file number, and for notices filed electronically with the secretary of state, the secretary of state's recording information, must be entered into the central database before the close of the working day following the day of the original data entry by the commissioner.

(e) The lien imposed on personal property, even though properly filed, is not enforceable against a purchaser of tangible personal property purchased at retail or personal property listed as exempt in sections 550.37, 550.38, and 550.39.

(f) A notice of lien filed has priority over any security interest arising under chapter 336, article 9, that is perfected prior in time to the lien imposed by this subdivision, but only if:

(1) the perfected security interest secures property not in existence at the time the notice of lien is filed; and

(2) the property comes into existence after the 45th calendar day following the day the notice of lien is filed, or after the secured party has actual notice or knowledge of the lien filing, whichever is earlier.

(g) The lien is enforceable from the time the lien arises and for ten years from the date of filing the notice of lien. A notice of lien may be renewed before expiration for an additional ten years.

(h) The lien is enforceable by levy under subdivision 2 or by judgment lien foreclosure under chapter 550.

(i) The lien may be imposed upon property defined as homestead property in chapter 510 but may be enforced only upon the sale, transfer, or conveyance of the homestead property.

(j) The commissioner may sell and assign to a third party the commissioner's right of redemption in specific real property for liens filed under this subdivision. The assignee is limited to the same rights of redemption as the commissioner, except that in a bankruptcy proceeding, the assignee does not obtain the commissioner's priority. Any proceeds from the sale of the right of redemption are credited to the contingent account.

Subd. 2. **Levy.** (a) If any amount due under this chapter or section 116L.20, from an applicant or an employer, is not paid when due, the amount may be collected by the commissioner by direct levy upon all property and rights of property of the person liable for the amount due except that exempt from execution under section 550.37. The term "levy" includes the power of distraint and seizure by any means.

(b) In addition to a direct levy, the commissioner may issue a warrant to the sheriff of any county who must proceed within 60 calendar days to levy upon the property or rights to property of the delinquent person within the county, except that exempt under section 550.37. The sheriff must sell that property necessary to satisfy the total amount due, together with the commissioner's and sheriff's costs. The sales are governed by the law applicable to sales of like property on execution of a judgment.

(c) Notice and demand for payment of the total amount due must be mailed to the delinquent person at least ten calendar days before action being taken under paragraphs (a) and (b).

(d) If the commissioner has reason to believe that collection of the amount due is in jeopardy, notice and demand for immediate payment may be made. If the total amount due is not paid, the commissioner may proceed to collect by direct levy or issue a warrant without regard to the ten calendar day period.

(e) In executing the levy, the commissioner must have all of the powers provided in chapter 550 or any other law that provides for execution against property in this state. The sale of property levied upon and the time and manner of redemption is as provided in chapter 550. The seal of the court is not required. The levy may be made whether or not the commissioner has commenced a legal action for collection.

(f) Where any assessment has been made by the commissioner, the property seized for collection of the total amount due must not be sold until any determination of liability has become final. No sale may be made unless a portion of the amount due remains unpaid for a period of more than 30 calendar days after the determination of liability becomes final. Seized property may be sold at any time if:

(1) the delinquent person consents in writing to the sale; or

(2) the commissioner determines that the property is perishable or may become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense.

(g) Where a levy has been made to collect the amount due and the property seized is properly included in a formal proceeding commenced under sections 524.3-401 to 524.3-505 and maintained under full supervision of the court, the property may not be sold until the probate proceedings are completed or until the court orders.

(h) The property seized must be returned if the owner:

(1) gives a surety bond equal to the appraised value of the owner's interest in the property, as determined by the commissioner, or

(2) deposits with the commissioner security in a form and amount the commissioner considers necessary to insure payment of the liability.

(i) If a levy or sale would irreparably injure rights in property that the court determines superior to rights of the state, the court may grant an injunction to prohibit the enforcement of the levy or to prohibit the sale.

(j) Any person who fails or refuses to surrender without reasonable cause any property or rights to property subject to levy is personally liable in an amount equal to the value of the property or rights not so surrendered, but not exceeding the amount due.

(k) If the commissioner has seized the property of any individual, that individual may, upon giving 48 hours notice to the commissioner and to the court, bring a claim for equitable relief before the district court for the release of the property upon terms and conditions the court considers equitable.

(l) Any person in control or possession of property or rights to property upon which a levy has been made who surrenders the property or rights to property, or who pays the amount due is discharged from any obligation or liability to the person liable for the amount due with respect to the property or rights to property.

(m) The notice of any levy may be served personally or by mail.

(n) The commissioner may release the levy upon all or part of the property or rights to property levied upon if the commissioner determines that the release will facilitate the collection of the liability, but the release does not prevent any subsequent levy. If the commissioner determines that property has been wrongfully levied upon, the commissioner must return:

(1) the specific property levied upon, at any time; or

(2) an amount of money equal to the amount of money levied upon, at any time before the expiration of nine months from the date of levy.

(o) Regardless of section 52.12, a levy upon a person's funds on deposit in a financial institution located in this state, has priority over any unexercised right of setoff of the financial institution to apply the levied funds toward the balance of an outstanding loan or loans owed by the person to the financial institution. A claim by the financial institution that it exercised its right to setoff before the levy must be substantiated by evidence of the date of the setoff, and verified by an affidavit from a corporate officer of the financial institution. For purposes of determining the priority of any levy under this subdivision, the levy is treated as if it were an execution under chapter 550.

Subd. 3. **Right of setoff.** (a) Upon certification by the commissioner to the commissioner of management and budget, or to any state agency that disburses its own funds, that a person, applicant, or employer has a liability under this chapter or section 116L.20, and that the state has purchased personal services, supplies, contract services, or property from that person, the commissioner of management and budget or the state agency must set off and pay to the commissioner an amount sufficient to satisfy the unpaid liability from funds appropriated for payment of the obligation of the state otherwise due the person. No amount may be set off from any funds exempt under section 550.37 or funds due an individual who receives assistance under chapter 256.

(b) All funds, whether general or dedicated, are subject to setoff.

Regardless of any law to the contrary, the commissioner has first priority to setoff from any funds otherwise due from the department to a delinquent person.

Subd. 4. **Collection by civil action.** (a) Any amount due under this chapter or section 116L.20, from an applicant or employer, may be collected by civil action in the name of the state of Minnesota. Civil actions brought under this subdivision must be heard as provided under section 16D.14. In any action, judgment must be entered in default for the relief demanded in the complaint without proof, together with costs and disbursements, upon the filing of an affidavit of default.

(b) Any person that is not a resident of this state and any resident person removed from this state, is considered to appoint the secretary of state as its agent for the acceptance of process in any civil action. The commissioner must file process with the secretary of state, together with a payment of a fee of $15 and that service is considered sufficient service and has the same force and validity as if served personally within this state. Notice of the service of process, together with a copy of the process, must be sent by certified mail to the person's last known address. An affidavit of compliance with this subdivision, and a copy of the notice of service must be appended to the original of the process and filed in the court.

(c) No court filing fees, docketing fees, or release of judgment fees may be assessed against the state for actions under this subdivision.

Subd. 5. **Injunction forbidden.** No injunction or other legal action to prevent the determination, assessment, or collection of any amounts due under this chapter or section 116L.20, from an applicant or employer, are allowed.

History: *1Sp1982 c 1 s 36; 1983 c 372 s 40-44; 1985 c 281 s 1; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 385 s 31-34; 1989 c 209 art 2 s 1; 1991 c 291 art 18 s 1; 1992 c 484 s 14; 1993 c 67 s 12; 1993 c 137 s 8; 1994 c 483 s 1; 1994 c 488 s 7; 1995 c 54 s 16,17; 1996 c 417 s 25,31; 1997 c 66 s 67,79,80; 1998 c 265 s 44; 1999 c 107 s 33,66; 2000 c 343 s 4; 2001 c 195 art 2 s 10; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 38; 2007 c 128 art 6 s 41; 2009 c 78 art 4 s 50; 2009 c 101 art 2 s 109*

268.059 GARNISHMENT FOR DELINQUENT TAXES AND UNEMPLOYMENT BENEFIT OVERPAYMENTS.

Subdivision 1. **Notice.** The commissioner may give notice to any employer that an employee owes any amounts due under this chapter or section 116L.20, and that the obligation should be withheld from the employee's wages. The commissioner may proceed only if the amount due is uncontested or if the time for any appeal has expired. The commissioner may not proceed until 30 calendar days after sending to the debtor employee, by mail or electronic transmission, a notice of intent to garnish wages and exemption notice. That notice must list:

(1) the amount 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 expires 180 calendar days after it has been sent to the debtor provided that the notice may be renewed by sending a new notice that is in accordance with this section. The renewed notice has the effect of reinstating the priority of the original notice. The exemption notice must be in substantially the same form as in section 571.72. The notice must inform the debtor of the right to claim exemptions contained in section 550.37, subdivision 14. If no claim of exemption is received by the commissioner within 30 calendar days after sending of the notice, the commissioner may proceed with the garnishment. The notice to the debtor's employer may be served by mail or electronic transmission and must be in substantially the same form as in section 571.75.

Subd. 2. **Employer action.** (a) Upon receipt of the garnishment notice, the employer must 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 must 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 has 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 must be decreased by any amounts payable under any other garnishment action served before the garnishment notice, and any amounts covered by any irrevocable and previously effective assignment of wages; the employer must give notice to the commissioner of the amounts and the facts relating to the assignment within ten calendar 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 must remit to the commissioner, on a form and in the manner prescribed by the commissioner, the amount withheld during each pay period.

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 must immediately notify the commissioner in writing or by electronic transmission, as prescribed by the commissioner, 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 has the same remedy as provided in section 571.927, subdivision 2.

(b) This section applies if the employer is the state of Minnesota or any political subdivision.

(c) The commissioner must refund to the employee any excess amounts withheld from the employee.

(d) An employer that fails or refuses to comply with this section is jointly and severally liable for the total amount due from the employee. Any amount due from the employer under this paragraph may be collected in the same manner as any other amounts due from an employer under this chapter.

History: *1996 c 417 s 28; 1997 c 66 s 70,79; 1998 c 265 s 18; 2000 c 343 s 4; 2000 c 499 s 1; 2001 c 175 s 22; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 39,40; 2007 c 128 art 6 s 42; 2009 c 78 art 4 s 50*

268.06 Subdivision 1. [Renumbered 268.051, subdivision 1]

Subd. 2. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 3. MS 1967 [Repealed, 1969 c 854 s 14]

Subd. 3a. [Renumbered 268.051, subd 5]

Subd. 4. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 5. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 6. [Renumbered 268.051, subd 3]

Subd. 7. MS 1945 [Repealed, 1949 c 605 s 15]

Subd. 8. [Renumbered 268.051, subd 2]

Subd. 8a. [Renumbered 268.051, subd 8]

Subd. 9. MS 1945 [Repealed, 1949 c 605 s 15]

Subd. 10. MS 1945 [Repealed, 1949 c 605 s 15]

Subd. 11. MS 1949 [Repealed, 1953 c 97 s 7]

Subd. 12. MS 1949 [Repealed, 1953 c 97 s 7]

Subd. 13. MS 1949 [Repealed, 1953 c 97 s 7]

Subd. 14. MS 1949 [Repealed, 1953 c 97 s 7]

Subd. 15. MS 1949 [Repealed, 1953 c 97 s 7]

Subd. 16. MS 1949 [Repealed, 1953 c 97 s 7]

Subd. 17. MS 1945 [Repealed, 1949 c 605 s 15]

Subd. 18. [Renumbered 268.047, subd 5]

Subd. 19. [Renumbered 268.051, subd 6]

Subd. 20. [Renumbered 268.051, subd 6, paras (c) and (d)]

Subd. 21. [Renumbered 268.045]

Subd. 22. [Renumbered 268.051, subd 4]

Subd. 23. MS 1953 [Repealed, 1955 c 380 s 5]

Subd. 24. [Renumbered 268.051, subd 7]

Subd. 25. [Renumbered 268.052, subdivision 1]

Subd. 26. [Renumbered 268.052, subd 3]

Subd. 27. [Renumbered 268.052, subd 4]

Subd. 28. [Renumbered 268.053]

Subd. 29. [Renumbered 268.045, para (d)]

Subd. 30. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 31. [Renumbered 268.052, subd 2]

Subd. 32. MS 1982 [Repealed, 1983 c 372 s 48]

Subd. 33. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 34. [Renumbered 268.054]

268.061 MS 1986 [Repealed, 1988 c 689 art 2 s 269]

268.062 [Renumbered 268.068]

268.0625 REVOCATIONS OF BUSINESS LICENSES.

Subdivision 1. **Notice of debt to licensing authority.** The state of Minnesota or a political subdivision may not issue, transfer, or renew, and must revoke a license for the conduct of any profession, trade, or business, if the commissioner notifies the licensing authority that the licensee, applicant, or employer owes any amount due under this chapter or section 116L.20, of $500 or more. A licensing authority that has received a notice may issue, transfer, renew, or not revoke the license only if the licensing authority has received a copy of the debt clearance certificate issued by the commissioner.

Subd. 2. **Debt clearance certificate.** The commissioner may issue a debt clearance certificate only if:

(1) the licensee has fully paid any amounts due under this chapter or section 116L.20; or

(2) the licensee has entered into an agreement to pay the total amount due and is current with all the terms of that agreement.

Subd. 3. **Definition.** For the purposes of this section, "licensee" means:

(1) an individual if the license is issued to or in the name of an individual, or the corporation, limited liability company, or partnership if the license is issued to or in the name of a corporation, limited liability company, or partnership; or

(2) an officer of a corporation, manager of a limited liability company, or a member of a partnership, or an individual who is liable for amounts due under this chapter or section 116L.20, either for the entity

that the license is at issue or for another entity that the liability was incurred, or personally as a licensee. "Licensee" includes both the transferor and the transferee of the license and any holder of a license.

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 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.

Subd. 5. **Licensing authority; duties.** Upon request, the licensing authority must provide the commissioner with a list of all licensees, including the name, address, business name and address, Social Security number, and business identification number. The commissioner may request a list of the licensees no more than once each calendar year. Regardless of section 268.19, the commissioner may release information necessary to accomplish this section.

History: *1987 c 385 s 37; 1994 c 488 s 8; 1995 c 54 s 20; 1996 c 417 s 26,27; 1997 c 66 s 79,80; 1999 c 107 s 34; 2000 c 343 s 4; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 41; 2007 c 128 art 2 s 3; art 6 s 43; 2009 c 78 art 4 s 17; 2014 c 251 art 2 s 8; 2023 c 33 s 10*

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 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.

History: *1Sp1982 c 1 s 36; 1983 c 372 s 40-44; 1985 c 281 s 1; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 385 s 31-34; 1989 c 209 art 2 s 1; 1991 c 291 art 18 s 1; 1992 c 484 s 14;*

1993 c 67 s 12; 1993 c 137 s 8; 1994 c 483 s 1; 1994 c 488 s 7; 1995 c 54 s 16,17; 1996 c 417 s 25,31; 1997 c 66 s 79; 1998 c 265 s 19; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 42; 2007 c 128 art 1 s 11; 2009 c 78 art 4 s 50; 2023 c 33 s 11

268.064 LIABILITY FOR DEBTS UPON ACQUISITION.

Subdivision 1. **Acquisition of organization, trade, business, or assets.** Any person who acquires all or part of the organization, trade, business or assets from an employer, is jointly and severally liable, in an amount not to exceed the reasonable value of that part of the organization, trade, business or assets acquired, for any amounts due and unpaid by the employer. The amount of liability is, in addition, a lien against the property or assets acquired and is before all other unrecorded liens. This section does not apply to sales in the normal course of the employer's business.

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 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.

Subd. 3. **Statement of amount due.** Before the date of acquisition, the commissioner must furnish the acquiring person with a statement of the amounts due and unpaid under this chapter or section 116L.20 upon the request of the potential acquiring person and the release of the obligor. No release is required after the date of acquisition.

Subd. 4. MS 1998 [Repealed by amendment, 1999 c 107 s 35]

History: *1987 c 385 s 35; 1989 c 65 s 13; 1995 c 54 s 18; 1997 c 66 s 79,80; 1998 c 265 s 20,44; 1999 c 107 s 35; 2004 c 183 s 43,44; 2007 c 128 art 6 s 44; 2009 c 78 art 4 s 50; 2023 c 33 s 12*

268.065 LIABILITY OF AMOUNTS DUE FROM SUBCONTRACTORS AND EMPLOYEE LEASING FIRMS.

Subdivision 1. **Subcontractors.** A contractor who contracts with any subcontractor must guarantee the payment of all amounts that are due or become due from the subcontractor with respect to taxable wages paid on the contract by:

(1) withholding sufficient money on the contract; or

(2) requiring the subcontractor to provide a sufficient bond guaranteeing the payment of all amounts that may become due.

The contractor may make a request for verification that the subcontractor has paid the taxes due 60 calendar days after the due date for filing the wage detail report that includes the final wages paid for employment performed under the contract. If the subcontractor has paid the amounts due for the period covered by the contract, the commissioner may release the contractor from its liability.

The words "contractor" and "subcontractor" include individuals, partnerships, firms, or corporations, or other association of persons engaged in the construction industry.

Subd. 2. **Employee leasing company, professional employer organization, or similar person.** (a) A person whose work force consists of 50 percent or more of workers provided by an employee leasing company, professional employer organization, or similar person for a fee, is jointly and severally liable for

the unpaid amounts that are due under this chapter or section 116L.20 on the wages paid on the contract with the employee leasing company, professional employer organization, or similar person.

(b) An exemption from registration under section 79.255, subdivision 9, does not determine the application of this section.

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 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.

History: *1987 c 385 s 36; 1989 c 65 s 14; 1995 c 54 s 19; 1997 C 66 S 79,80; 1998 c 265 s 44; 1999 c 107 s 36; 2004 c 183 s 45,46; 2005 c 112 art 1 s 10; 2007 c 128 art 2 s 4; art 6 s 45; 2009 c 78 art 4 s 50; 2017 c 35 art 1 s 2; 2023 c 33 s 13*

268.066 CANCELLATION OF AMOUNTS DUE FROM AN EMPLOYER.

(a) The commissioner must cancel as uncollectible any amounts due from an employer under this chapter or section 116L.20, that remain unpaid six years after the amounts have been first determined due, except where the delinquent amounts are secured by a notice of lien, a judgment, are in the process of garnishment, or are under a payment plan.

(b) The commissioner may cancel at any time as uncollectible any amount due, or any portion of an amount due, from an employer under this chapter or section 116L.20, that (1) are uncollectible due to death or bankruptcy, or (2) the Collection Division of the Department of Revenue under section 16D.04 was unable to collect.

(c) The commissioner may cancel at any time any interest, penalties, or fees due from an employer, or any portions due, if the commissioner determines that it is not in the public interest to pursue collection of the amount due. This paragraph does not apply to unemployment insurance taxes or reimbursements due.

History: *1987 c 385 s 39; 1996 c 305 art 1 s 58; 1997 c 66 s 79; 1998 c 265 s 21; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 47; 2007 c 128 art 3 s 11; 2009 c 78 art 3 s 3*

268.067 COMPROMISE.

(a) The commissioner may compromise in whole or in part any action, determination, or decision that affects only an employer and not an applicant. This paragraph applies if it is determined by a court of law, or a confession of judgment, that an applicant, while employed, wrongfully took from the employer $500 or more in money or property.

(b) The commissioner may at any time compromise any unemployment insurance tax or reimbursement due from an employer under this chapter or section 116L.20.

(c) Any compromise involving an amount over $10,000 must be authorized by an attorney licensed to practice law in Minnesota who is an employee of the department designated by the commissioner for that purpose.

(d) Any compromise must be in the best interest of the state of Minnesota.

History: *Ex1936 c 2 s 14; 1941 c 554 s 13; 1943 c 650 s 9; 1945 c 376 s 13; 1949 c 605 s 12,13; 1951 c 55 s 1; 1953 c 97 s 17; 1969 c 9 s 65; 1969 c 567 s 3; 1969 c 854 s 13; 1973 c 254 s 3; 1973 c 720 s 73 subds 2,3; 1975 c 108 s 1; 1975 c 302 s 3,4; 1975 c 336 s 22,23; 1977 c 430 s 25 subd 1; 1978 c 618 s 2;*

1978 c 674 s 60; 1980 c 508 s 11-13; 3Sp1981 c 2 art 1 s 33; 1Sp1982 c 1 s 34,35; 1983 c 372 s 39; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 362 s 26; 1987 c 385 s 28-30; 1989 c 65 s 12; 1989 c 209 art 2 s 1; 1993 c 67 s 11; 1994 c 483 s 1; 1995 c 54 s 13-15; 1996 c 417 s 24,31; 1997 c 66 s 79; 1998 c 265 s 22; 1999 c 107 s 37,66; 1Sp2003 c 3 art 2 s 7; 2004 c 183 s 48; 2007 c 128 art 3 s 24; art 6 s 46; 2009 c 78 art 3 s 4

268.0675 NO ELECTION OF REMEDY.

Use of any remedy under this chapter for the collection of any amount due from an employer or an applicant does not constitute an election of remedy to the exclusion of any other available remedy.

History: *1999 c 107 s 38; 2000 c 343 s 4; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 49; 2007 c 128 art 6 s 47*

268.068 NOTICE TO WORKERS.

Each employer must post and maintain printed statements of an individual's right to apply for unemployment benefits in places readily accessible to workers in the employer's service. The printed statements must be supplied by the commissioner at no cost to an employer.

History: *1996 c 417 s 8; 1997 c 66 s 79; 1999 c 107 s 39; 2000 c 343 s 4; 2007 c 128 art 6 s 48*

268.069 PAYMENT OF UNEMPLOYMENT BENEFITS.

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

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

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

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

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

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

Subd. 2. **Unemployment benefits paid from state funds.** Unemployment benefits are paid from state funds and are not considered paid from any special insurance plan, nor as paid by an employer. An application for unemployment benefits is not considered a claim against an employer but is considered a request for unemployment benefits from the trust fund. The commissioner has the responsibility for the proper payment of unemployment benefits regardless of the level of interest or participation by an applicant or an employer in any determination or appeal. An applicant's entitlement to unemployment benefits must be determined based upon that information available without regard to a burden of proof. Any agreement between an applicant and an employer is not binding on the commissioner in determining an applicant's entitlement. There is no presumption of entitlement or nonentitlement to unemployment benefits.

Subd. 3. **Common law.** There is no equitable or common law denial or allowance of unemployment benefits.

History: *1997 c 66 s 28; 1998 c 265 s 45; 1999 c 107 s 40,66; 2000 c 343 s 4; 1Sp2003 c 3 art 2 s 20; 2005 c 112 art 2 s 15; 2007 c 128 art 3 s 24; art 5 s 3; art 6 s 49,50; 2009 c 78 art 3 s 5; art 4 s 18; 2012 c 201 art 3 s 5; 2018 c 182 art 1 s 64; 1Sp2019 c 7 art 8 s 3*

268.07 BENEFIT ACCOUNT.

Subdivision 1. **Application for unemployment benefits; determination of benefit account.** (a) An application for unemployment benefits may be filed in person, by mail, or by electronic transmission as the commissioner may 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 is not an application for unemployment benefits.

(b) The commissioner must 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 must determine the weekly unemployment benefit amount available, if any, and the maximum amount of unemployment benefits available, if any. The determination, which is a document separate and distinct from a document titled a determination of eligibility or determination of ineligibility issued under section 268.101, must be titled determination of benefit account. A determination of benefit account must be sent to the applicant and all base period employers, by mail or electronic transmission.

(c) If a base period employer did not provide wage detail information for the applicant as required under section 268.044, the commissioner may accept an applicant certification of 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 an amended determination if the commissioner finds that the wage credits listed in the determination were incorrect for any reason. An amended determination of benefit account must be promptly sent to the applicant and all base period employers, by mail or electronic transmission. This subdivision does not apply to documents titled determinations of eligibility or determinations of ineligibility issued under section 268.101.

(e) If 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 entitled is an overpayment of unemployment benefits. A determination or amended determination issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

Subd. 2. **Benefit account requirements.** (a) Unless paragraph (b) applies, to establish a benefit account an applicant must have wage credits of at least 5.3 percent of the state's average annual wage rounded down to the next lower $100.

(b) To establish a new benefit account following the expiration of the benefit year on a prior benefit account, an applicant must have performed actual work in subsequent covered employment and have been paid wages in one or more completed calendar quarters that started after the effective date of the prior benefit account. The wages paid for that employment must be at least enough to meet the requirements of paragraph (a). A benefit account under this paragraph may not be established effective earlier than the Sunday following

the end of the most recent completed calendar quarter in which the requirements of paragraph (a) were met. An applicant may not establish a second benefit account as a result of one loss of employment.

Subd. 2a. MS 1994 [Repealed by amendment, 1996 c 417 s 9]

Subd. 2a. **Weekly unemployment benefit amount and maximum amount of unemployment benefits available.** (a) If an applicant has established a benefit account under subdivision 2, the weekly unemployment benefit amount available during the applicant's benefit year is the higher of:

(1) 50 percent of the applicant's average weekly wage during the base period, to a maximum of 66-2/3 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 43 percent of the state's average weekly wage.

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

(b) The state's maximum weekly benefit amount, computed in accordance with section 268.035, subdivision 23, applies to a benefit account established effective on or after the last Sunday in October. Once established, an applicant's weekly unemployment benefit amount is not affected by the last Sunday in October change in the state's maximum weekly unemployment benefit amount.

(c) The maximum amount of unemployment benefits available on any benefit account is the lower of:

(1) 33-1/3 percent of the applicant's total wage credits; or

(2) 26 times the applicant's weekly unemployment benefit amount.

Subd. 3. MS 2009 Supp [Repealed by amendment, 2010 c 347 art 2 s 11]

Subd. 3a. **Right of appeal.** (a) A determination or amended determination of benefit account is final unless an applicant or base period employer within 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.

Subd. 3b. **Limitations on applications and benefit accounts.** (a) An application for unemployment benefits is effective the Sunday of the calendar week that the application was filed. An application for unemployment benefits may be backdated one calendar week before the Sunday of the week the application was actually filed if the applicant requests the backdating within seven calendar days of the date the application is filed. An application may be backdated only if the applicant was unemployed during 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 application is effective the Sunday of the calendar week the individual first attempted to file an application.

(b) A benefit account established under subdivision 2 is effective the date the application for unemployment benefits was effective.

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

(1) the applicant has not been paid any unemployment benefits on that benefit account; and

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

A benefit account may be withdrawn after the expiration of the benefit year, and the new work requirements of subdivision 2, paragraph (b), do not apply if the applicant was not paid any unemployment benefits on the benefit account that is being withdrawn.

A determination or amended determination of eligibility or ineligibility issued under section 268.101, that was sent before the withdrawal of the benefit account, remains in effect and is not voided by the withdrawal of the benefit account.

(d) An application for unemployment benefits is not allowed before the Sunday following the expiration of the benefit year on a prior benefit account. Except as allowed under paragraph (c), an applicant may establish only one benefit account each 52 calendar weeks. This paragraph applies to benefit accounts established under any federal law or the law of any other state.

Subd. 4. MS 1949 [Repealed, 1951 c 442 s 3]

Subd. 4. MS 1980 [Repealed, 1Sp1982 c 1 s 43]

Subd. 5. MS 1974 [Repealed, 1975 c 336 s 25]

Subd. 6. MS 1945 [Repealed, 1947 c 32 s 9]

History: *(4337-25) Ex1936 c 2 s 5; 1937 c 306 s 3; 1939 c 443 s 4; 1941 c 554 s 4; 1943 c 650 s 3; 1945 c 376 s 4; 1947 c 432 s 6; 1949 c 605 s 7,8; 1951 c 442 s 3; 1953 c 587 s 1; 1955 c 816 s 1; 1957 c 780 s 1; 1965 c 741 s 12,13; 1967 c 573 s 4; 1969 c 854 s 7; 1971 c 408 s 1; 1971 c 942 s 7,8; Ex1971 c 10 s 1; 1973 c 599 s 5; 1975 c 104 s 1; 1975 c 336 s 11; 1977 c 4 s 6; 1977 c 297 s 12; 1979 c 284 s 1; 1Sp1982 c 1 s 13-15; 1983 c 372 s 17,18; 1985 c 248 s 70; 1986 c 444; 1987 c 242 s 2; 1987 c 362 s 13-15; 1987 c 385 s 19; 1989 c 65 s 6,7; 1989 c 209 art 2 s 1; 1990 c 516 s 3; 1992 c 484 s 8; 1996 c 417 s 9,31; 1997 c 66 s 29-32,79; 1998 c 265 s 23; 1998 c 408 s 3; 1999 c 107 s 41,66; 2000 c 343 s 4; 2001 c 175 s 23-26; 1Sp2003 c 3 art 1 s 7; art 2 s 8,20; 2004 c 183 s 50-52; 2005 c 112 art 2 s 16; 2007 c 128 art 1 s 12; art 2 s 5,6; art 3 s 12; 2009 c 15 s 5,6; 2009 c 78 art 3 s 6; art 4 s 19-21; 2010 c 347 art 2 s 11; 2011 c 84 art 1 s 6,7; 2012 c 201 art 3 s 6; 2013 c 85 art 4 s 4; 2014 c 251 art 2 s 24; 1Sp2015 c 1 art 6 s 6,7; 2016 c 189 art 11 s 2; 2017 c 35 art 2 s 4; art 3 s 7,8,23; 1Sp2019 c 7 art 6 s 2; 2023 c 33 s 14*

268.071 [Renumbered 268.115]

268.072 [Renumbered 268.155]

268.073 Subdivision 1. [Renumbered 268.125, subdivision 1]

Subd. 2. [Renumbered 268.125, subd 2]

Subd. 3. [Renumbered 268.125, subd 3]

Subd. 4. [Renumbered 268.125, subd 4]

Subd. 5. [Renumbered 268.125, subd 5]

Subd. 6. MS 1992 [Repealed, 1994 c 503 s 7]

Subd. 7. MS 1996 [Repealed, 1997 c 66 s 81]

268.074 [Renumbered 268.135]

268.075 [Renumbered 268.145]

268.08 Subdivision 1. [Renumbered 268.085, subdivision 1]

Subd. 1a. [Renumbered 268.087]

Subd. 2. [Renumbered 268.085, subd 2]

Subd. 2a. [Renumbered 268.085, subd 13]

Subd. 3. [Renumbered 268.085, subd 3]

Subd. 3a. [Renumbered 268.085, subd 5]

Subd. 3b. [Renumbered 268.085, subd 6]

Subd. 4. [Renumbered 268.085, subd 4]

Subd. 5. MS 1977 Supp [Repealed, 1977 c 297 s 22]

Subd. 5a. MS 1996 [Repealed, 1998 c 265 s 46]

Subd. 6. [Renumbered 268.085, subd 7]

Subd. 7. [Renumbered 268.085, subd 11]

Subd. 8. [Renumbered 268.085, subd 12]

Subd. 9. [Renumbered 268.085, subd 8]

Subd. 10. [Renumbered 268.085, subd 10]

Subd. 11. [Renumbered 268.085, subd 9]

268.081 MS 1992 [Repealed, 1993 c 4 s 34]

268.084 PASSWORD; PRESUMPTION.

(a) Each applicant must be issued a password for the purpose of filing continued requests for unemployment benefits, accessing information, and engaging in other transactions with the department.

(b) If a password assigned to an applicant is used in the filing of a continued request for unemployment benefits under section 268.0865 or any other type of transaction, the applicant is presumed to have been the individual using that password and presumed to have received any unemployment benefit payment issued. This presumption may be rebutted by a preponderance of the evidence showing that the applicant assigned the password was not the individual who used that password in the transaction.

(c) The commissioner must notify each applicant of this section.

History: *1Sp2003 c 3 art 2 s 9; 2007 c 128 art 3 s 24; art 6 s 51; 2009 c 78 art 4 s 22; 2014 c 251 art 2 s 24*

268.085 ELIGIBILITY REQUIREMENTS; PAYMENTS THAT AFFECT BENEFITS.

Subdivision 1. **Eligibility conditions.** An applicant may be eligible to receive unemployment benefits for any week if:

(1) the applicant has filed a continued request for unemployment benefits for that week under section 268.0865;

(2) the week for which unemployment benefits are requested is in the applicant's benefit year;

(3) the applicant was unemployed as defined in section 268.035, subdivision 26;

(4) the applicant was available for suitable employment as defined in subdivision 15. The applicant's weekly unemployment benefit amount is reduced one-fifth for each day the applicant is unavailable for suitable employment. This clause does not apply to an applicant who is in reemployment assistance training, or each day the applicant is on jury duty or serving as an election judge;

(5) the applicant was actively seeking suitable employment as defined in subdivision 16. This clause does not apply to an applicant who is in reemployment assistance training or who was on jury duty throughout the week;

(6) the applicant has served a nonpayable period of one week that the applicant is otherwise eligible for some amount of unemployment benefits. This clause does not apply if the applicant would have been eligible for 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

(7) the applicant has been participating in reemployment assistance services, such as development of, and adherence to, a work search plan, if the applicant has been directed to participate by the commissioner. This clause does not apply if the applicant has good cause for failing to participate. "Good cause" is a reason that would have prevented a reasonable person acting with due diligence from participating.

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

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

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

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

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

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

(6) with respect to which the applicant 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 establish a benefit account under federal law or the law of any other state, this clause does not apply.

Subd. 3. **Vacation and sick payments that delay unemployment benefits.** (a) An applicant is not eligible to receive unemployment benefits for any week the applicant is receiving, has received, or will receive vacation pay, sick pay, or personal time off pay, also known as "PTO."

This paragraph does not apply:

(1) upon a permanent separation from employment; or

(2) to payments from a vacation fund administered by a union or a third party not under the control of the employer.

(b) Payments under this subdivision are applied to the period immediately following the later of the date of separation from employment or the date the applicant first becomes aware that the employer will be making a payment. The date the payment is actually made or received, or that an applicant must agree to a release of claims, does not affect the application of this subdivision.

(c) This subdivision applies to all the weeks of payment. The number of weeks of payment is determined as follows:

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

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

The "last level of regular weekly pay" includes commissions, bonuses, and overtime pay if that is part of the applicant's ongoing regular compensation.

(d) Under this subdivision, if the payment with respect to a week is equal to or more than the applicant's weekly unemployment benefit amount, the applicant is ineligible for benefits for that week. If the payment with respect to a week is less than the applicant's weekly unemployment benefit amount, unemployment benefits are reduced by the amount of the payment.

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 trust fund paid in whole or in part by an employer.

(b) This subdivision does 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 available for suitable employment, as required under subdivision 1, clause (4), must be determined under section 268.101, subdivision 2. If the applicant later receives compensation as a result of the pending claim, the applicant is subject to paragraph (a) and the unemployment benefits paid are overpaid unemployment benefits under section 268.18, subdivision 1.

(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 are reduced by the amount of that compensation payment.

Subd. 3b. **Separation, severance, or bonus payments that delay unemployment benefits.** (a) An applicant is not eligible to receive unemployment benefits for any week the applicant is receiving, has received, or will receive separation pay, severance pay, bonus pay, or any other payments paid by an employer because of, upon, or after separation from employment. This subdivision applies if the payment is:

(1) considered wages under section 268.035, subdivision 29; or

(2) subject to the Federal Insurance Contributions Act (FICA) tax imposed to fund Social Security and Medicare.

(b) Payments under this subdivision are applied to the period immediately following the later of the date of separation from employment or the date the applicant first becomes aware that the employer will be making a payment. The date the payment is actually made or received, or that an applicant must agree to a release of claims, does not affect the application of this paragraph.

(c) This subdivision does not apply to earnings under subdivision 5, back pay under subdivision 6, or vacation pay, sick pay, or personal time off pay under subdivision 3.

(d) This subdivision applies to all the weeks of payment. The number of weeks of payment is determined in accordance with subdivision 3, paragraph (c).

(e) Under this subdivision, if the payment with respect to a week is equal to or more than the applicant's weekly unemployment benefit amount, the applicant is ineligible for benefits for that week. If the payment with respect to a week is less than the applicant's weekly unemployment benefit amount, unemployment benefits are reduced by the amount of the payment.

Subd. 3c. **Pension or retirement payment offset.** (a) An applicant is not eligible to receive unemployment benefits for any week the applicant is receiving, has received, will receive, or has applied for pension, retirement, or annuity payments from any plan contributed to by a base period employer including the United States government. The base period employer is considered to have contributed to the plan if the contribution is excluded from the definition of wages under section 268.035, subdivision 29.

(b) If the pension, retirement, or annuity payment is paid in a lump sum, an applicant is not considered to have received a payment if:

(1) the applicant immediately deposits that payment in a qualified pension plan or account; or

(2) that payment is an early distribution for which the applicant paid an early distribution penalty under the Internal Revenue Code, United States Code, title 26, section 72(t)(1).

(c) This subdivision does not apply to Social Security benefits under subdivision 4 or 4a.

(d) This subdivision applies to all the weeks of payment.

If the payment is made in a lump sum, that sum is divided by the applicant's last level of regular weekly pay from the employer to determine the weeks of payment.

The "last level of regular weekly pay" includes commissions, bonuses, and overtime pay if that is part of the applicant's ongoing regular compensation.

(e) Under this subdivision, if the payment with respect to a week is equal to or more than the applicant's weekly unemployment benefit amount, the applicant is ineligible for benefits for that week. If the payment

with respect to a week is less than the applicant's weekly unemployment benefit amount, unemployment benefits are reduced by the amount of the payment.

Subd. 4. MS 2021 [Repealed, 1Sp2021 c 10 art 4 s 9]

Subd. 4a. **Social Security disability benefits.** (a) An applicant who is receiving, has received, or has filed for primary Social Security disability benefits for any week is ineligible for unemployment benefits for that week, unless:

(1) the Social Security Administration approved the collecting of primary Social Security disability benefits each month the applicant was employed during the base period; or

(2) the applicant provides a statement from an appropriate health care professional who is aware of the applicant's Social Security disability claim and the basis for that claim, certifying that the applicant is available for suitable employment.

(b) If an applicant meets the requirements of paragraph (a), clause (1) or (2), there is no deduction from the applicant's weekly benefit amount for any Social Security disability benefits.

(c) Information from the Social Security Administration is conclusive, absent specific evidence showing that the information was erroneous.

(d) This subdivision does not apply to Social Security survivor benefits.

Subd. 5. **Deductible earnings.** (a) If the applicant has earnings, including holiday pay, with respect to any week, from employment, covered employment, noncovered employment, self-employment, or volunteer work, equal to or in excess of the applicant's weekly unemployment benefit amount, the applicant is ineligible for unemployment benefits for that week.

(b) If the applicant has earnings, including holiday pay, with respect to any week, that is less than the applicant's weekly unemployment benefit amount, from employment, covered employment, noncovered employment, self-employment, or volunteer work, 50 percent of the earnings are deducted from the weekly unemployment benefit amount.

(c) No deduction is made from an applicant's weekly unemployment benefit amount for earnings from service in the National Guard or a United States military reserve unit or from direct service as a volunteer firefighter or volunteer ambulance service personnel. This exception to paragraphs (a) and (b) does not apply to on-call or standby pay provided to a volunteer firefighter or volunteer ambulance service personnel. No deduction is made for jury duty pay or for pay as an election judge.

(d) The applicant may report deductible earnings on continued requests for unemployment benefits at the next lower whole dollar amount.

(e) Deductible earnings does not include any money that is a deductible payment under subdivision 3.

Subd. 6. **Receipt of back pay.** (a) Back pay received by an applicant within 24 months of the establishment of the benefit account with respect to any week must be deducted from unemployment benefits paid for that week, and the applicant is overpaid the unemployment benefits under section 268.18, subdivision 1.

If the back pay is not paid with respect to a specific period, the back pay must 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 and not paid the applicant must be:

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

(2) when received by the trust fund:

(i) an overpayment of unemployment benefits must be created which, under section 268.047, subdivision 2, clause (8), clears the employer's tax or reimbursable account of any effect; and

(ii) the back pay must then be applied to the unemployment benefit overpayment, eliminating any effect on the applicant.

(c) The following must result when applying paragraph (b):

(1) an employer neither overpays nor underpays the employer's proper portion of the unemployment benefit costs; and

(2) the applicant is placed in the same position as never having been paid the unemployment benefits.

(d) This subdivision applies to payments labeled front pay, settlement pay, and other terms describing or dealing with wage loss.

Subd. 7. **School employees; between terms denial.** (a) Wage credits from employment with an educational institution or institutions may not 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 an 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 an educational institution or institutions in the following academic year or term.

This paragraph applies to the period between two regular but not successive terms if there is an agreement for that schedule between the applicant and the educational institution.

This paragraph does not apply if the subsequent employment is substantially less favorable than the employment of the prior academic year or term, or the employment prior to the vacation period or holiday recess.

(b) Paragraph (a) does not apply to any week during the period between two successive academic years or terms if an applicant worked in a capacity other than instructional, research, or principal administrative capacity.

(c) Paragraph (a) applies to a 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, including applicants who worked in a capacity other than instructional, research, or principal administrative capacity.

(d) This subdivision applies 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 entity established and operated for the purpose of providing services to one or more educational institutions.

(e) This subdivision applies to employment with Minnesota, a political subdivision, or a nonprofit organization, if the services are provided to or on behalf of an educational institution or institutions.

(f) Paragraph (a) applies beginning the Sunday of the week that there is a reasonable assurance of employment.

(g) Employment and a reasonable assurance with multiple education institutions must be aggregated for purposes of application of this subdivision.

(h) 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 is not considered substantially less favorable employment.

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

(j) An "educational institution" is a school, college, university, or other educational entity operated by Minnesota, a political subdivision or instrumentality thereof, or a nonprofit organization.

(k) An "instructional, research, or principal administrative capacity" does not include an educational assistant.

Subd. 8. MS 2022 [Repealed, 2023 c 55 art 1 s 37]

Subd. 9. **Business owners.** (a) Wage credits from an employer may not be used for unemployment benefit purposes by any applicant who:

(1) individually, jointly, or in combination with the applicant's spouse, parent, or child owns or controls directly or indirectly 25 percent or more interest in the employer; or

(2) is the spouse, parent, or minor child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employer.

This subdivision is effective when the applicant has been paid five times the applicant's weekly unemployment benefit amount in the current benefit year. This subdivision does not apply if the applicant had wages paid in covered employment of $7,500 or more from the employer covered by this subdivision in each of the 16 calendar quarters prior to the effective date of the benefit account and all taxes due on those wages have been paid.

(b) An officer of a taxpaying employer referred to in section 268.046, subdivision 1, is subject to the limitations of this subdivision.

Subd. 10. MS 2006 [Repealed, 2007 c 128 art 1 s 23]

Subd. 11. **Athletes and coaches.** (a) Unemployment benefits must not be paid to an applicant on the basis of any wage credits from employment that consists of coaching or participating in sports or athletic events or training or preparing to participate for any week during the period between two successive sport seasons, or similar periods, if:

(1) the applicant was so employed in the prior season or similar period, and

(2) there is a reasonable assurance that the applicant will be so employed in the following season or similar period.

(b) This subdivision applies to a coach employed by an educational institution whose only employment with the educational institution is as a coach. Subdivision 7 applies to a coach who has other employment with an educational institution in addition to coaching at the educational institution. Employment with multiple educational institutions, or employment coaching multiple sports, must be aggregated for purposes of application of this subdivision.

Subd. 12. **Aliens.** (a) An alien is ineligible for unemployment benefits for any week the alien is not authorized to work in the United States under federal law. Information from the Bureau of Citizenship and Immigration Services is conclusive, absent specific evidence that the information was erroneous. Under the existing agreement between the United States and Canada, this paragraph does not apply to an applicant who is a Canadian citizen and has returned to and is living in Canada each week unemployment benefits are requested.

(b) An alien's wage credits may not be used for unemployment benefit purposes unless the alien was:

(1) lawfully admitted for permanent residence at the time of the employment;

(2) lawfully present for the purposes of the employment; or

(3) permanently residing in the United States under color of law at the time of the employment.

(c) Information required of applicants applying for unemployment benefits to determine eligibility because of their alien status must be required of all applicants.

Subd. 13. **Suspension from employment.** (a) An applicant who has been suspended from employment without pay for 30 calendar days or less, as a result of employment misconduct or aggravated employment misconduct as defined under section 268.095, is ineligible for unemployment benefits beginning the Sunday of the week that the applicant was suspended and continuing for the duration of the suspension.

(b) A suspension from employment without pay that is of indefinite duration or is for more than 30 calendar days is considered, at the time the suspension begins, a discharge from employment subject to section 268.095.

(c) A suspension from employment with pay, regardless of duration, is not a separation from employment and the applicant is ineligible for unemployment benefits for the duration of the suspension with pay.

Subd. 13a. **Leave of absence.** (a) An applicant on a voluntary leave of absence is ineligible for unemployment benefits for the duration of the leave of absence. An applicant on an involuntary leave of absence is not ineligible under this subdivision.

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. A medical leave of absence is not presumed to be voluntary.

(b) A period of vacation requested by the applicant, paid or unpaid, is 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, is an involuntary leave of absence.

(c) A leave of absence is a temporary stopping of work that has been approved by the employer. A leave of absence is not a quit or a discharge from employment. Section 268.095 does not apply to a leave of absence.

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

(e) This subdivision applies 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.

Subd. 13b. **Labor dispute.** (a) An applicant who has stopped working because of a labor dispute at the establishment where the applicant is employed is ineligible for unemployment benefits:

(1) until the end of the calendar week that the labor dispute was in active progress if the applicant is participating in or directly interested in the labor dispute; or

(2) until the end of the calendar week that the labor dispute began if the applicant is not participating in or directly interested in the labor dispute.

Participation includes any failure or refusal by an applicant, voluntarily or involuntarily, to accept and perform available and customary work at the establishment.

(b) An applicant who has stopped working because of a jurisdictional controversy between two or more labor organizations at the establishment where the applicant is employed is ineligible for unemployment benefits until the end of the calendar week that the jurisdictional controversy was in progress.

(c) An applicant is not ineligible for unemployment benefits under this subdivision if:

(1) the applicant stops working because of an employer's intentional failure to observe the terms of the safety and health section of a union contract or failure to comply with an official citation for a violation of federal or state laws involving occupational safety and health;

(2) the applicant stops working because of a lockout; or

(3) the applicant is discharged before the beginning of a labor dispute.

(d) A quit from employment by the applicant during the time that the labor dispute is in active progress at the establishment does not terminate the applicant's participation in or direct interest in the labor dispute for purposes of this subdivision.

(e) For the purpose of this subdivision, the term "labor dispute" has the same definition as provided in section 179.01, subdivision 7.

Subd. 13c. **Offers of suitable employment.** (a) An applicant is ineligible for all unemployment benefits for eight calendar weeks if the applicant, without good cause:

(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 suitable 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.

(d) The period of ineligibility under this subdivision begins the Sunday of the week the applicant failed to apply for, failed to accept, or avoided suitable employment without good cause.

(e) This subdivision applies to offers of suitable employment that occur before the effective date of the benefit account and that occur during the benefit year.

(f) This subdivision only applies to offers of suitable employment that are covered employment under section 268.035, subdivision 12.

Subd. 14. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

Subd. 15. **Available for suitable employment defined.** (a) "Available for suitable employment" means an applicant is ready, willing, and able to accept suitable employment. 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) Unless the applicant is in reemployment assistance training, to be "available for suitable employment," a student who has regularly scheduled classes must be willing to discontinue classes to accept suitable employment when:

(1) class attendance restricts the applicant from accepting suitable employment; and

(2) the applicant is unable to change the scheduled class or make other arrangements that excuse the applicant from attending class.

(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 must be available for daytime employment, if suitable employment is performed during the daytime, even though the applicant previously worked the night shift.

Subd. 16. **Actively seeking suitable employment defined.** (a) "Actively seeking suitable employment" means those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. Limiting the search to positions that are not available or are above the applicant's training, experience, and qualifications is not "actively seeking suitable employment."

(b) To be "actively seeking suitable employment" an applicant must, when reasonable, contact those employers from whom the applicant was laid off because of lack of work and request suitable employment.

(c) If reasonable prospects of suitable employment in the applicant's usual or customary occupation do not exist, the applicant must actively seek other suitable employment to be "actively seeking suitable employment." This applies to an applicant who is seasonally unemployed.

(d) Actively seeking a suitable job assignment or other employment with a staffing service is actively seeking suitable employment.

(e) An applicant who is seeking employment only through a union is actively seeking suitable employment if the applicant is in an occupation where hiring in that locality is done through the union. If the applicant is a union member who is restricted to obtaining employment among signatory contractors in the construction industry, seeking employment only with those signatory contractors is actively seeking employment. The applicant must be a union member in good standing, registered with the union for employment, and in compliance with other union rules to be "actively seeking suitable employment."

History: *(4337-26) Ex1936 c 2 s 6,7; 1937 c 43 s 2; 1937 c 306 s 4; 1937 c 401 s 1; 1939 c 443 s 5,6; 1941 c 554 s 5,6; 1943 c 650 s 4,5; 1945 c 376 s 5,6; 1947 c 432 s 7; 1949 c 605 s 9; 1953 c 97 s 9; 1953 c 699 s 10; 1965 c 741 s 14-17; 1967 c 342 s 1; 1967 c 573 s 5; 1969 c 6 s 34; 1969 c 42 s 1; 1971 c 942 s 9-11; 1973 c 23 s 1; 1973 c 599 s 6-9; 1974 c 477 s 1; 1975 c 104 s 2; 1975 c 336 s 13-16; 1975 c 359 s 23; 1976 c 163 s 59; 1976 c 271 s 78; 1977 c 4 s 7,8; 1977 c 242 s 1; 1977 c 297 s 15-19; 1978 c 612 s 1; 1978 c 618 s 1; 1979 c 24 s 1; 1979 c 181 s 9-13,19; 1980 c 508 s 8,9; 1982 c 619 s 1; 1Sp1982 c 1 s 23-28; 1983 c 290 s 168; 1983 c 372 s 20-24,26,27; 1985 c 248 s 44; 1986 c 444; 1987 c 362 s 18-20; 1987 c 384 art 1 s 55; 1987 c 385 s 20-24; 1989 c 65 s 8; 1989 c 209 art 2 s 1; 1989 c 282 art 2 s 169; 1990 c 516 s 4; 1991 c 265 art 11 s 22; 1992 c 484 s 10-12; 1993 c 67 s 3-7; 1994 c 488 s 2-4,8; 1995 c 54 s 8,9; 1995 c 229 art 3 s 15; 1995 c 231 art 1 s 32; 1996 c 417 s 18-20,31; 1997 c 66 s 36-54,79; 1998 c 265 s 24-29,44,45; 1999 c 107 s 42,44,66; 2000 c 343 s 4; 2000 c 478 art 2 s 7; 2000 c 488 art 2 s 17; 2001 c 175 s 27-35,38-41,52; 1Sp2003 c 3 art 1 s 8; art 2 s 11-14,20; 2004 c 183 s 53-65,86; 2005 c 112 art 2 s 17-21,27,41; 2005 c 115 s 1; 2007 c 128 art 1 s 13-15; art 2 s 7; art 3 s 13-15,24; art 6 s 52-61; 2008 c 300 s 12-14; 2009 c 15 s 7; 2009 c 78 art 3 s 7-9; art 4 s 23-27; 2010 c 347 art 2 s 12-14; 2011 c 6 s 1; 2011 c 84 art 1 s 8; 2012 c 201 art 2 s 4; art 3 s 7,8; 2014 c 251 art 1 s 4; art 2 s 9-11,24; 1Sp2015 c 1 art 6 s 8,9; 2016 c 189 art 9 s 3; art 10 s 5-7; 2017 c 35 art 1 s 3; art 2 s 5,6; art 3 s 9-11,23; 2018 c 182 art 1 s 65; 1Sp2019 c 7 art 7 s 4-8; 1Sp2021 c 10 art 4 s 2,3,9; 2023 c 55 art 1 s 30*

268.086 Subdivision 1. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

Subd. 2. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

Subd. 3. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

Subd. 4. MS 2004 [Repealed, 2005 c 112 art 2 s 42]

Subd. 5. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

Subd. 6. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

Subd. 7. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

Subd. 8. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

Subd. 9. MS 2008 [Repealed, 2009 c 78 art 4 s 51]

268.0865 CONTINUED REQUEST FOR UNEMPLOYMENT BENEFITS.

Subdivision 1. **Continued request for unemployment benefits defined.** A continued request for unemployment benefits is a certification by an applicant, done on a weekly basis, that the applicant is unemployed and meets the ongoing eligibility requirements for unemployment benefits under section 268.085. A continued request must include information on possible issues of ineligibility in accordance with section 268.101, subdivision 1, paragraph (c).

Subd. 2. **Filing continued requests for unemployment benefits.** (a) The commissioner must designate to each applicant one of the following methods for filing a continued request:

(1) by electronic transmission under subdivision 3; or

(2) by mail under subdivision 4.

(b) The method designated by the commissioner is the only method allowed for filing a continued request by that applicant. An applicant may ask that the other allowed method be designated and the commissioner must consider inconvenience to the applicant as well as administrative capacity in determining whether to allow an applicant to change the designated method for filing a continued request for unemployment benefits.

Subd. 3. **Continued request for unemployment benefits by electronic transmission.** (a) A continued request for unemployment benefits by electronic transmission must be filed to that electronic mail address, telephone number, or Internet address prescribed by the commissioner for that applicant. In order to constitute a continued request, all information asked for, including information authenticating that the applicant is sending the transmission, must be provided in the format required. If all of the information asked for is not provided, the communication does not constitute a continued request for unemployment benefits.

(b) The continued request by electronic transmission must be filed within four calendar weeks following the week for which payment is requested on the day of the week and during the time of day designated for the applicant.

(c) If the continued request by electronic transmission is not filed within four calendar weeks following the week for which payment is requested, the electronic continued request will not be accepted and the applicant is ineligible for unemployment benefits for the period covered by the continued request, unless the applicant shows good cause for failing to file the continued request by electronic transmission within the time period required.

Subd. 4. **Continued request for unemployment benefits by mail.** (a) A continued request for unemployment benefits by mail must be on a form prescribed by the commissioner. The form, in order to constitute a continued request, must be totally completed and signed by the applicant. The form must be filed by mail, in an envelope with postage prepaid, and sent to the address designated within four calendar weeks following the week for which payment is requested.

(b) If the continued request form is not filed within four calendar weeks following the week for which payment is requested, the form will not be accepted and the applicant is ineligible for unemployment benefits unless the applicant shows good cause for failing to file the form by mail within the time period required.

(c) If the applicant has been designated to file a continued request for unemployment benefits by mail, an applicant may submit the form by facsimile transmission within four calendar weeks following the week for which payment is requested. A form submitted by facsimile transmission must be sent only to the telephone number assigned for that purpose.

(d) An applicant who has been designated to file a continued request by mail may personally deliver a continued request form only to the location to which the form was otherwise designated to be mailed.

Subd. 5. **Good cause defined.** (a) "Good cause" for purposes of this section is a reason that would have prevented a reasonable person acting with due diligence from filing a continued request for unemployment benefits within the time periods required.

(b) "Good cause" does not include forgetfulness, loss of the continued request form if filing by mail, having returned to work, having an appeal pending, or inability to file a continued request for unemployment benefits by the method designated if the applicant was aware of the inability and did not make diligent effort to have the method of filing a continued request changed by the commissioner. "Good cause" does not include having previously made an attempt to file a continued request for unemployment benefits but where the communication was not considered a continued request because the applicant failed to submit all required information.

History: *2009 c 78 art 4 s 28; 2014 c 251 art 2 s 12,13; 2016 c 189 art 9 s 4,5; 2017 c 35 art 3 s 12*

268.087 UNEMPLOYMENT BENEFITS DUE DECEASED PERSONS.

If unemployment benefits are due and payable at the time of an applicant's death, those benefits must, upon application, be paid to the personal representative of the estate of the deceased. In the event that no personal representative is appointed, the unemployment benefits must, upon application be paid in the following order: (1) the surviving spouse, (2) the surviving child or children, or (3) the surviving parent or parents.

An individual seeking payment must complete an application prescribed by the commissioner and the payment of unemployment benefits discharges the obligations to the applicant and no other individual may claim or assert any right to those unemployment benefits.

History: *(4337-26) Ex1936 c 2 s 6; 1937 c 43 s 2; 1937 c 306 s 4; 1939 c 443 s 5; 1941 c 554 s 5; 1943 c 650 s 4; 1945 c 376 s 5; 1949 c 605 s 9; 1953 c 97 s 9; 1953 c 699 s 10; 1965 c 741 s 14-16; 1969 c 6 s 34; 1971 c 942 s 9,10; 1973 c 599 s 6-8; 1975 c 104 s 2; 1975 c 336 s 13-15; 1975 c 359 s 23; 1976 c 163 s 59; 1976 c 271 s 78; 1977 c 4 s 7; 1977 c 297 s 15-18; 1978 c 612 s 1; 1979 c 24 s 1; 1979 c 181 s 9,10,19; 1980 c 508 s 8; 1Sp1982 c 1 s 23-25; 1983 c 290 s 168; 1983 c 372 s 20-24; 1985 c 248 s 44; 1986 c 444; 1987 c 362 s 18; 1987 c 384 art 1 s 55; 1987 c 385 s 20-22; 1989 c 209 art 2 s 1; 1989 c 282 art 2 s 169; 1990 c 516 s 4; 1991 c 265 art 11 s 22; 1992 c 484 s 10; 1993 c 67 s 3,4; 1994 c 488 s 2,3,8; 1995 c 54 s 8,9; 1995 c 231 art 1 s 32; 1996 c 417 s 18,31; 1997 c 66 s 36-42; 1998 c 265 s 24,45; 1999 c 107 s 66; 2000 c 343 s 4; 2007 c 128 art 6 s 68*

268.088 BENEFITS PAID DURING CERTAIN VOLUNTARY UNEMPLOYMENT.

(a) An applicant who elects to become temporarily unemployed in order to avoid the layoff of another employee with the applicant's employer due to lack of work is not ineligible for benefits under the leave of absence provisions of section 268.085, subdivision 13a, nor ineligible under the quit provisions of section 268.095, if:

(1) the election is authorized under a collective bargaining agreement or written employer policy;

(2) the employer has accepted the applicant's election;

(3) the employer provides a written certification that is provided to the department that the applicant's election prevented another employee with the employer from being laid off due to lack of work; and

(4) both the applicant and the employer, at the time of the election, expect the applicant's unemployment from the employer to be temporary.

(b) In addition to the requirements of paragraph (a), for unemployment benefits to be payable, an applicant must meet all the other benefit eligibility requirements under this chapter, including being available for suitable employment with a different employer.

History: *2009 c 78 art 3 s 10*

268.09 Subdivision 1. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 1a. [Renumbered 268.095, subdivision 1]

Subd. 2. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 2a. [Renumbered 268.095, subd 2]

Subd. 3. [Renumbered subd 18]

Subd. 4. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 5. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 6. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 7. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 8. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 9. [Renumbered 268.095, subd 3]

Subd. 10. [Renumbered 268.095, subd 4]

Subd. 11. [Renumbered 268.095, subd 5]

Subd. 12. [Renumbered 268.095, subd 6]

Subd. 13. [Renumbered 268.095, subd 7]

Subd. 14. [Renumbered 268.095, subd 8]

Subd. 15. [Renumbered 268.095, subd 9]

Subd. 16. [Renumbered 268.095, subd 10]

Subd. 17. [Renumbered 268.095, subd 11]

Subd. 18. [Renumbered 268.095, subd 12]

268.095 INELIGIBILITY BECAUSE OF QUIT OR DISCHARGE.

Subdivision 1. **Quit.** An applicant who quit employment is ineligible for all unemployment benefits according to subdivision 10 except when:

(1) the applicant quit the employment because of a good reason caused by the employer as defined in subdivision 3;

(2) the applicant quit the employment to accept other covered employment that provided equal to or better terms and conditions of employment, but the applicant did not work long enough at the second employment to have sufficient subsequent wages paid to satisfy the period of ineligibility that would otherwise be imposed under subdivision 10 for quitting the first employment;

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

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

(5) the employment was part time and the applicant also had full-time employment in the base period, from which full-time employment the applicant separated because of reasons for which the applicant would not be ineligible, and the wage credits from the full-time employment are 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 because of lack of work within 30 calendar days. An applicant who quit employment within 30 calendar days of a notified date of layoff because of lack of work is ineligible for unemployment benefits through the end of the week that includes the scheduled date of layoff;

(7) the applicant quit the employment (i) because the applicant's serious illness or injury made it medically necessary that the applicant quit; or (ii) in order to provide necessary care because of the illness, injury, or disability of an immediate family member of the applicant. This exception only applies if the applicant informs the employer of the medical problem and requests accommodation and no reasonable accommodation is made available.

If the applicant's serious illness is substance use disorder, this exception does not apply if the applicant was previously diagnosed with substance use disorder or had treatment for substance use disorder, and since that diagnosis or treatment has failed to make consistent efforts to control the substance use disorder.

This exception raises an issue of the applicant's being available for suitable employment under section 268.085, subdivision 1, that the commissioner must determine;

(8) the applicant's loss of child care for the applicant's minor child caused the applicant to quit the employment, provided the applicant made reasonable effort to obtain other child care and requested time off or other accommodation from the employer and no reasonable accommodation is available.

This exception raises an issue of the applicant's being available for suitable employment under section 268.085, subdivision 1, that the commissioner must determine;

(9) the applicant quit because domestic abuse, sexual assault, or harassment or stalking of the applicant or an immediate family member of the applicant, necessitated the applicant's quitting the employment.

For purposes of this subdivision:

(i) "domestic abuse" has the meaning given in section 518B.01;

(ii) "sexual assault" means an act that would constitute a violation of sections 609.342 to 609.3453 or 609.352; and

(iii) "harassment" or "stalking" means an act that would constitute a violation of section 609.749; or

(10) the applicant quit in order to relocate to accompany a spouse:

(i) who is in the military; or

(ii) whose job was transferred by the spouse's employer to a new location making it impractical for the applicant to commute.

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) When determining if an applicant quit, the theory of a constructive quit does not apply.

(c) 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, has quit the employment.

(d) A notice of quitting in the future does not constitute a quit at the time the notice is given. An employee who seeks to withdraw a previously submitted notice of quitting in the future has quit the employment, as of the intended date of quitting, if the employer does not agree that the notice may be withdrawn.

(e) An applicant has quit employment with a staffing service if, within five calendar days after completion of a suitable job assignment from a staffing service, the applicant:

(1) fails without good cause to affirmatively request an additional suitable job assignment;

(2) refuses without good cause an additional suitable job assignment offered; or

(3) accepts employment with the client of the staffing service. Accepting employment with the client of the staffing service meets the requirements of the exception to ineligibility under subdivision 1, clause (2).

This paragraph applies only if, at the time of beginning of employment with the staffing service, 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" is a reason that would compel an average, reasonable worker, who would otherwise want an additional suitable job assignment with the staffing service (1) to fail to contact the staffing service, or (2) to refuse an offered assignment.

Subd. 3. **Good reason caused by the employer defined.** (a) A good reason caused by the employer for quitting is a reason:

(1) that is directly related to the employment and for which the employer is responsible;

(2) that is adverse to the worker; and

(3) that would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment.

(b) The analysis required in paragraph (a) must be applied to the specific facts of each case.

(c) If an applicant was subjected to adverse working conditions by the employer, the applicant must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions before that may be a good reason caused by the employer for quitting.

(d) A reason for quitting employment is not a good reason caused by the employer for quitting if the reason for quitting occurred because of the applicant's employment misconduct.

(e) Notification of discharge in the future, including a layoff because of lack of work, is not a good reason caused by the employer for quitting.

(f) An applicant has a good reason caused by the employer for quitting if it results from sexual harassment of which the employer was aware, or should have been aware, and the employer failed to take timely and appropriate action. Sexual harassment means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other conduct or communication of a sexual nature when:

(1) the applicant's submission to the conduct or communication is made a term or condition of the employment;

(2) the applicant's submission to or rejection of the conduct or communication is the basis for decisions affecting employment; or

(3) the conduct or communication has the purpose or effect of substantially interfering with an applicant's work performance or creating an intimidating, hostile, or offensive working environment.

(g) The definition of a good reason caused by the employer for quitting employment provided by this subdivision is exclusive and no other definition applies.

Subd. 4. **Discharge.** An applicant who was discharged from employment by an employer is ineligible for all unemployment benefits according to subdivision 10 only if:

(1) the applicant was discharged because of employment misconduct as defined in subdivision 6; or

(2) the applicant was discharged because of aggravated employment misconduct as defined in subdivision 6a.

Subd. 4a. [Renumbered subd 6a]

Subd. 5. **Discharge defined.** (a) A discharge from employment occurs when any words or actions by an employer would lead a reasonable employee to believe that the employer will no longer allow the employee to work for the employer in any capacity. A layoff because of lack of work is a discharge.

(b) A suspension from employment without pay that is of an indefinite duration or is for more than 30 calendar days is considered a discharge at the time the suspension begins.

(c) When determining if an applicant was discharged, the theory of a constructive discharge does not apply.

(d) An employee who gives notice of intention to quit the employment and is not allowed by the employer to work the entire notice period is discharged from the employment as of the date the employer will no longer allow the employee to work. If the discharge occurs within 30 calendar days before the intended date of quitting, then, as of the intended date of quitting, the separation from employment is a quit from employment subject to subdivision 1.

(e) The end of a job assignment with the client of a staffing service is a discharge from employment with the staffing service unless subdivision 2, paragraph (e), applies.

Subd. 6. **Employment misconduct defined.** (a) Employment misconduct means any intentional, negligent, or indifferent conduct, on the job or off the job, that is a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee.

(b) Regardless of paragraph (a), the following is not employment misconduct:

(1) conduct that was a consequence of the applicant's mental illness or impairment;

(2) conduct that was a consequence of the applicant's inefficiency or inadvertence;

(3) simple unsatisfactory conduct;

(4) conduct an average reasonable employee would have engaged in under the circumstances;

(5) conduct that was a consequence of the applicant's inability or incapacity;

(6) good faith errors in judgment if judgment was required;

(7) absence because of illness or injury of the applicant, with proper notice to the employer;

(8) absence, with proper notice to the employer, in order to provide necessary care because of the illness, injury, or disability of an immediate family member of the applicant;

(9) conduct that was a consequence of the applicant's substance use disorder, unless the applicant was previously diagnosed with substance use disorder or had treatment for substance use disorder, and since that diagnosis or treatment has failed to make consistent efforts to control the substance use disorder; or

(10) conduct that was a consequence of the applicant, or an immediate family member of the applicant, being a victim of domestic abuse, sexual assault, or harassment or stalking. For the purposes of this subdivision, "domestic abuse," "sexual assault," and "harassment" or "stalking" have the meanings given them in subdivision 1.

(c) Regardless of paragraph (b), clause (9), conduct in violation of sections 169A.20, 169A.31, 169A.50 to 169A.53, or 171.177 that adversely affects the employment is employment misconduct.

(d) If the conduct for which the applicant was discharged involved only a single incident, that is an important fact that must be considered in deciding whether the conduct rises to the level of employment misconduct under paragraph (a). This paragraph does not require that a determination under section 268.101 or decision under section 268.105 contain a specific acknowledgment or explanation that this paragraph was considered.

(e) The definition of employment misconduct provided by this subdivision is exclusive and no other definition applies.

Subd. 6a. **Aggravated employment misconduct defined.** (a) The commission of any act, on the job or off the job, that would amount to a gross misdemeanor or felony is aggravated employment misconduct if the act had a significant adverse effect on the employment.

A criminal charge or conviction is not necessary to determine aggravated employment misconduct under this paragraph. If an applicant is convicted of a gross misdemeanor or felony, the applicant is presumed to have committed the act.

(b) For an employee of a facility as defined in section 626.5572, aggravated employment misconduct includes an act of patient or resident abuse, financial exploitation, or recurring or serious neglect, as defined in section 626.5572 and applicable rules.

(c) The definition of aggravated employment misconduct provided by this subdivision is exclusive and no other definition applies.

Subd. 7. **Act or omissions after separation.** An applicant may not be held ineligible for unemployment benefits under this section for any acts or omissions occurring after the applicant's separation from employment with the employer. A layoff because of lack of work is considered a separation from employment.

Subd. 8. [Renumbered 268.085, subd 13c]

Subd. 9. [Renumbered 268.035, subd 23a]

Subd. 10. **Ineligibility duration.** (a) Ineligibility from the payment of all unemployment benefits under subdivisions 1 and 4 is for the duration of the applicant's unemployment and until the end of the calendar week that the applicant had total wages paid for actual work performed in subsequent covered employment sufficient to meet one-half of the requirements of section 268.07, subdivision 2, paragraph (a).

(b) Ineligibility imposed under subdivisions 1 and 4 begins on the Sunday of the week that the applicant became separated from employment.

(c) In addition to paragraph (a), if the applicant was discharged from employment because of aggravated employment misconduct, wage credits from that employment are canceled and cannot be used for purposes of a benefit account under section 268.07, subdivision 2.

Subd. 11. **Application.** (a) This section and section 268.085, subdivision 13c, apply to 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.

(b) Paragraph (a) also applies to employment covered under an unemployment insurance program of any other state or established by an act of Congress.

Subd. 12. [Renumbered 268.085, subd 13b]

History: *(4337-27) Ex1936 c 2 s 7; 1937 c 401 s 1; 1939 c 443 s 6; 1941 c 554 s 6; 1943 c 650 s 5; 1945 c 376 s 6; 1947 c 432 s 7; 1965 c 741 s 17; 1967 c 342 s 1; 1967 c 573 s 5; 1969 c 42 s 1; 1971 c 942 s 11; 1973 c 23 s 1; 1973 c 599 s 9; 1974 c 477 s 1; 1975 c 336 s 16; 1977 c 4 s 8; 1977 c 242 s 1; 1977 c 297 s 19; 1978 c 618 s 1; 1979 c 181 s 11-13; 1980 c 508 s 9; 1982 c 619 s 1; 1Sp1982 c 1 s 26-28; 1983 c 372 s 26,27; 1986 c 444; 1987 c 362 s 19,20; 1987 c 385 s 23,24; 1989 c 65 s 8; 1989 c 209 art 2 s 1; 1992 c 484 s 11,12; 1993 c 67 s 5-7; 1994 c 488 s 4,8; 1995 c 229 art 3 s 15; 1996 c 417 s 19,20,31; 1997 c 66 s 43-54,79; 1998 c 265 s 25-29,44,45; 1999 c 107 s 44,66; 2000 c 343 s 4; 2000 c 478 art 2 s 7; 2001 c 175 s 38-41,52; 1Sp2003 c 3 art 2 s 11-14,20; 2004 c 183 s 62-65,86; 2005 c 112 art 2 s 24-29; 2007 c 128 art 1 s 16,17; art 5 s 4-6,9; art 6 s 69-73; 2009 c 15 s 8,9; 2009 c 78 art 3 s 11,12; art 4 s 29,30; 2010 c 347 art 2 s 15-17; 2011 c 84 art 1 s 9; 2012 c 201 art 3 s 9; 2014 c 239 art 2 s 4,5; 2014 c 251 art 2 s 14; 2014 c 275 art 1 s 87; 1Sp2015 c 1 art 6 s 10; 2016 c 189 art 9 s 6,7; art 11 s 3; 2017 c 35 art 1 s 4; art 3 s 13,14,23; 2017 c 83 art 3 s 18; 1Sp2019 c 5 art 2 s 29; 1Sp2019 c 7 art 7 s 9,10; 2022 c 98 art 4 s 51*

268.10 Subdivision 1. MS 1994 [Repealed, 1996 c 417 s 32]

Subd. 2. MS 1995 Supp [Repealed, 1996 c 417 s 32]

Subd. 3. MS 1994 [Repealed, 1996 c 417 s 32]

Subd. 4. MS 1994 [Repealed, 1996 c 417 s 32]

Subd. 5. MS 1994 [Repealed, 1996 c 417 s 32]

Subd. 6. MS 1994 [Repealed, 1996 c 417 s 32]

Subd. 7. MS 1994 [Repealed, 1996 c 417 s 32]

Subd. 8. MS 1994 [Repealed, 1996 c 417 s 32]

Subd. 9. MS 1994 [Repealed, 1996 c 417 s 32]

Subd. 10. MS 1994 [Repealed, 1996 c 417 s 32]

268.101 DETERMINATIONS ON ISSUES OF INELIGIBILITY.

Subdivision 1. **Notification.** (a) In an application for unemployment benefits, each applicant must 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 six calendar months before the date of the application. If the reason reported for no longer working for any of those employers is other than a layoff because of lack of work, that raises an issue of ineligibility that the department must determine. An applicant must report any offers of employment refused during the eight calendar weeks before the date of the application for unemployment benefits and the name of the employer that made the offer. An applicant's failure to report the name of an employer, or giving an incorrect reason for no longer working for an employer, or failing to disclose an offer of employment that was refused, is a violation of section 268.183.

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

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

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

(d) The purpose for requiring the applicant to report the name of employers and the reason for no longer working for those employers, or offers of employment refused, under paragraphs (a) and (c) is for the commissioner to obtain information from an applicant raising all issues that may result in the applicant being

ineligible for unemployment benefits under section 268.095, because of a quit or discharge, or the applicant being ineligible for unemployment benefits under section 268.085, subdivision 13c. If the reason given by the applicant for no longer working for an employer is other than a layoff because of lack of work, that raises an issue of ineligibility and the applicant is 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 any required information, the applicant is ineligible for unemployment benefits under section 268.085, subdivision 2, until the applicant provides this required information.

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 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.

Subd. 2a. MS 2010 [Expired, 2010 c 347 art 2 s 18]

Subd. 3. MS 2006 [Repealed by amendment, 2007 c 128 art 5 s 7]

Subd. 3a. **Direct hearing.** Regardless of any provision of the Minnesota Unemployment Insurance Law, the commissioner or an unemployment law judge may, before a determination being made under this chapter, refer any issue of ineligibility, or any other issue under this chapter, directly for hearing in accordance with section 268.105, subdivision 1. The status of the issue is the same as if a determination had been made and an appeal filed.

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 45 calendar days after sending. Proceedings on the appeal are conducted in accordance with section 268.105.

Subd. 5. **Unemployment benefit payment.** If a determination or amended determination allows unemployment benefits to an applicant, the unemployment benefits must be paid regardless of any appeal period or any appeal having been filed.

Subd. 6. **Overpayment.** A determination or amended determination that holds an applicant ineligible for unemployment benefits for periods an applicant has been paid benefits is an overpayment of those unemployment benefits. A determination or amended determination issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

Subd. 7. [Renumbered 268.19, subd 2]

History: *1996 c 417 s 21; 1997 c 66 s 55-58,79; 1998 c 265 s 30; 1999 c 107 s 45,66; 2000 c 343 s 4; 2001 c 175 s 42,43,52; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 66-69; 2005 c 112 art 2 s 30-32,41; 2007 c 128 art 2 s 8; art 5 s 7; 2008 c 277 art 1 s 54; 2008 c 300 s 51; 2009 c 78 art 4 s 31,32,50; 2010 c 347 art 2 s 18; 2016 c 189 art 11 s 4; 2017 c 35 art 1 s 5; art 3 s 23; 2018 c 182 art 1 s 66; 2023 c 33 s 15,16*

268.103 APPEALS BY ELECTRONIC TRANSMISSION.

Subdivision 1. **In commissioner's discretion.** (a) The commissioner may allow an appeal to be filed by electronic transmission. If the commissioner allows an appeal to be filed by electronic transmission, that must be clearly set out on the determination or decision subject to appeal.

(b) The commissioner may restrict the manner and format under which an appeal by electronic transmission may be filed. Restrictions to a specific facsimile transmission number or electronic address must be clearly set out on the determination or decision subject to appeal.

(c) All information requested by the commissioner when an appeal is filed by electronic transmission must be supplied or the communication does not constitute an appeal.

(d) Subject to subdivision 2, this section applies to requests for reconsideration under section 268.105, subdivision 2.

Subd. 2. **Applicant's appeal.** (a) The commissioner must allow an applicant to file an appeal by mail even if an appeal by electronic transmission is allowed.

(b) A written statement delivered or mailed to the department that could reasonably be interpreted to mean that an involved applicant is in disagreement with a specific determination or decision is considered an appeal. No specific words need be used for the written statement to be considered an appeal.

Subd. 2a. **Employer-agent appeals filed online.** (a) If an agent files an appeal on behalf of an employer, the appeal must be filed online. The appeal must be filed through the electronic address provided on the determination being appealed. Use of another method of filing does not constitute an appeal. This paragraph does not apply to:

(1) an employee filing an appeal on behalf of an employer; or

(2) an attorney licensed to practice law who is directly representing the employer on appeal.

(b) All information requested when the appeal is filed must be supplied or the communication does not constitute an appeal.

Subd. 3. MS 2002 [Repealed by amendment, 2004 c 183 s 70]

Subd. 4. MS 2006 [Repealed, 2007 c 128 art 1 s 23]

History: *1997 c 66 s 59; 1999 c 107 s 46; 2004 c 183 s 70; 2005 c 112 art 2 s 33; 2007 c 128 art 6 s 74,75; 2009 c 78 art 3 s 13,17; art 4 s 33; 2012 c 201 art 3 s 10; 2014 c 251 art 1 s 5*

268.105 APPEALS.

Subdivision 1. **Hearing by unemployment law judge.** (a) Upon a timely appeal to a determination having been filed or upon a referral for direct hearing under section 268.101, subdivision 3a, the chief unemployment law judge must set a time and date for a de novo due process hearing and send notice to any applicant and any employer, by mail or electronic transmission, not less than ten calendar days before the date of the hearing.

(b) The department may adopt rules on procedures for hearings under Minnesota Rules, chapter 3310. The rules need not conform to common law or statutory rules of evidence and other technical rules of procedure.

(c) The chief unemployment law judge has discretion regarding the method by which the hearing is conducted.

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 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.

Subd. 1b. **Unemployment law judges.** (a) Only employees of the department who are attorneys licensed to practice law in Minnesota may serve as the chief unemployment law judge, senior unemployment law judges who are supervisors, or unemployment law judges. The commissioner must designate a chief unemployment law judge.

(b) The chief unemployment law judge must assign an unemployment law judge to conduct a hearing and may transfer to another judge any proceedings pending before an unemployment law judge.

(c) A full-time unemployment law judge must be paid a salary within a range directly tied to the salary set under section 15A.083, subdivision 7, for a workers' compensation judge. The salary paid within that range to any single unemployment law judge is based on experience and performance.

Subd. 2. **Request for reconsideration.** (a) Any party, or the commissioner, may within 45 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 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.

Subd. 2a. MS 2004 [Repealed by amendment, 2005 c 112 art 2 s 34]

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 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.

Subd. 3a. **Effect of decisions.** (a) If an unemployment law judge's decision allows unemployment benefits to an applicant, the benefits must be paid regardless of any request for reconsideration or petition to the Minnesota Court of Appeals.

(b) If an unemployment law judge's decision modifies or reverses a determination that allowed unemployment benefits, or on reconsideration the decision modifies or reverses a prior decision that allowed benefits, any benefits paid are an overpayment of those benefits. A decision that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the benefits must be repaid.

(c) If an unemployment law judge's decision on reconsideration under subdivision 2 allows unemployment benefits under section 268.095 because of a quit or discharge and the judge's decision is reversed by the Minnesota Court of Appeals or the Supreme Court of Minnesota, the applicant cannot be held ineligible for any of the benefits paid before the date of the court's reversal. The effect of the court's reversal is:

(1) that the applicant may only be held ineligible for future unemployment benefits; and

(2) the application of section 268.047, subdivision 3, in computing the future tax rate of a taxpaying employer.

(d) If an unemployment law judge, on reconsideration under subdivision 2, orders the taking of additional evidence, the judge's prior decision must continue to be enforced until new findings of fact and decision are made by the judge.

Subd. 4. MS 2012 [Repealed, 2014 c 251 art 2 s 25]

Subd. 5. **Use of evidence; data privacy.** (a) All testimony at any hearing must be recorded. A copy of any recorded testimony and exhibits offered or received into evidence at the hearing must, upon request, be furnished to a party at no cost:

(1) during the time period for filing a request for reconsideration;

(2) while a request for reconsideration is pending;

(3) during the time for filing a petition under subdivision 7; or

(4) while a petition is pending.

Regardless of any law to the contrary, recorded testimony and other evidence may later be made available only under a district court order. A subpoena is not considered a district court order.

(b) Testimony obtained at a hearing may not be used or considered for any purpose, including impeachment, in any civil, administrative, or contractual proceeding, except by a local, state, or federal human rights agency with enforcement powers, unless the proceeding is initiated by the department. This paragraph does not apply to criminal proceedings.

Subd. 5a. **No collateral estoppel.** No findings of fact or decision or order issued by an unemployment law judge may be held conclusive or binding or used as evidence in any separate or subsequent action in any other forum, be it contractual, administrative, or judicial, except proceedings provided for under this chapter, regardless of whether the action involves the same or related parties or involves the same facts.

Subd. 6. **Representation; fees.** (a) In any proceeding under subdivision 1 or 2, an applicant or employer may be represented by any authorized representative.

Except for services provided by an attorney-at-law, no person may charge an applicant a fee of any kind for advising, assisting, or representing an applicant in a hearing, on reconsideration, or in a proceeding under subdivision 7.

(b) An applicant may not be charged fees, costs, or disbursements of any kind in a proceeding before an unemployment law judge, the Minnesota Court of Appeals, or the Supreme Court of Minnesota.

(c) No attorney fees may be awarded, or costs or disbursements assessed, against the department as a result of any proceedings under this section.

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 45 calendar days of the sending of the unemployment law judge's decision on reconsideration under subdivision 2. Three days are added to the 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.

History: *1995 c 54 s 11; 1996 c 417 s 22,31; 1997 c 66 s 60; 1998 c 265 s 31,44; 1999 c 107 s 47,66; 2000 c 343 s 4; 2001 c 175 s 44; 1Sp2003 c 3 art 2 s 15; 2004 c 183 s 71; 2005 c 112 art 2 s 34; 2007 c 128 art 1 s 18; art 2 s 9,10; art 3 s 18,24; art 6 s 76-79; 2009 c 78 art 4 s 34-38,50; 2010 c 347 art 2 s 19; 2014 c 251 art 2 s 15-19,24; 2014 c 271 art 1 s 1; 1Sp2015 c 1 art 6 s 11,12; 2017 c 35 art 2 s 7; art 3 s 23; 1Sp2019 c 7 art 8 s 4,7; 2023 c 33 s 17-20; 2023 c 69 s 11*

268.11 [Renumbered 268.042]

268.115 MS 1974 [Expired]

268.115 EXTENDED UNEMPLOYMENT BENEFITS.

Subdivision 1. **Definitions.** The terms in this subdivision have, for purposes of the Minnesota Unemployment Insurance Law, the following meanings:

(1) "Extended unemployment benefit period" means a period that lasts for a minimum of 13 weeks and that:

(i) begins with the third week after there is a state "on" indicator; and

(ii) ends with the third week after there is a state "off" indicator.

No extended unemployment benefit period may begin before the 14th week following the end of a prior extended unemployment benefit period.

(2) There is a "state 'on' indicator" for a week if:

(i) for that week and the prior 12 weeks, the rate of insured unemployment:

(a) equaled or exceeded 120 percent of the average of the rates for the corresponding 13-week period ending in each of the prior two calendar years, and was five percent or more; or

(b) equaled or exceeded six percent; or

(ii) The United States Secretary of Labor determines that the average rate of seasonally adjusted total unemployment in Minnesota for the most recent three months for which data is published equals or exceeds 6.5 percent and this rate equals or exceeds 110 percent of the rate of the corresponding three-month period in either of the prior two calendar years.

(3) There is a "state 'off' indicator" for a week if under clause (2) the requirements for a "state 'on' indicator" are not satisfied.

(4) "Rate of insured unemployment," means the percentage derived by dividing the average weekly number of applicants filing continued requests for regular unemployment benefits in the most recent 13-week period by the average monthly covered employment for the first four of the most recent six completed calendar quarters before the end of that 13-week period.

(5) "Regular unemployment benefits" means unemployment benefits available to an applicant other than extended unemployment benefits and additional unemployment benefits.

(6) "Eligibility period" for an applicant means the period consisting of the weeks remaining in the applicant's benefit year within the extended unemployment benefit period and, if the benefit year ends within the extended unemployment benefit period, any weeks in the extended unemployment benefit period.

(7) "Exhaustee" means an applicant who, in the eligibility period:

(i) the benefit year having not expired has received the maximum amount of regular unemployment benefits that were available under section 268.07;

(ii) the benefit year having expired, has insufficient wage credits to establish a new benefit account; or

(iii) has no right to any type of unemployment benefits under any other state or federal laws and is not receiving unemployment benefits under the law of Canada.

Subd. 2. MS 1998 [Repealed by amendment, 1999 c 107 s 48]

Subd. 3. **Requirements for extended unemployment benefits.** If an extended unemployment benefit period is in effect, an applicant is paid extended unemployment benefits from the trust fund for any week in the applicant's eligibility period if the applicant:

(1) is an "exhaustee";

(2) has satisfied the same requirements as those for regular unemployment benefits under section 268.069;

(3) has wage credits of not less than 40 times the weekly unemployment benefit amount; and

(4) is not subject to a denial of extended unemployment benefits under subdivision 9.

Subd. 4. **Weekly extended unemployment benefit amount.** The weekly extended unemployment benefit amount is the same as the weekly unemployment benefit amount of regular unemployment benefits.

Subd. 5. **Maximum amount of extended unemployment benefits.** The maximum amount of extended unemployment benefits available to an applicant is 50 percent of the maximum amount of regular unemployment benefits available in the benefit year. If the total rate of unemployment computed under subdivision 1, clause (2)(ii), equaled or exceeded eight percent, the maximum amount of extended unemployment benefits available is 80 percent of the maximum amount of regular unemployment benefits available in the benefit year.

Subd. 6. **Public announcement.** Whenever an extended unemployment benefit period is to begin as a result of a state "on" indicator, or an extended unemployment benefit period is to end as a result of a state "off" indicator the commissioner must make an appropriate public announcement.

Subd. 7. **Federal law.** This section is enacted to conform to the requirements of United States Code, title 26, section 3304, the Federal-State Extended Unemployment Compensation Act of 1970 as amended and the applicable federal regulations.

Subd. 8. **Interstate applicants.** An applicant residing in a state other than Minnesota is eligible for only the first two weeks of extended unemployment benefits if the applicant's benefit account was established under the interstate benefit payment plan and no extended unemployment benefit period is in effect for the week in that state.

Subd. 9. **Denial provisions.** (a) An applicant is denied extended unemployment benefits for any week in the applicant's eligibility period if during that week the applicant failed to accept any offer of suitable employment, failed to apply for any suitable employment that the applicant was referred to by the commissioner, or failed to actively seek suitable employment.

The denial continues until the applicant has been employed in covered employment in each of four subsequent weeks, whether or not consecutive, and had earnings from that covered employment of not less than four times the applicant's weekly unemployment benefit amount.

(b) For the purpose of this subdivision "suitable employment" means any employment that is within the applicant's capabilities and that has a gross average weekly wage that exceeds the applicant's weekly unemployment benefit amount. The employment must pay wages not less than the higher of the federal minimum wage without regard to any exemption, or the applicable state minimum wage.

(c) No applicant may be denied extended unemployment benefits for failure to accept an offer of or apply for any suitable employment if:

(1) the position was not offered to the applicant in writing;

(2) the position was not listed with the job service; or

(3) the applicant furnishes satisfactory evidence that prospects for obtaining employment in the applicant's customary occupation within a reasonably short period are good. If the evidence is satisfactory, the determination of whether any employment is suitable is made in accordance with the definition of suitable employment in section 268.035, subdivision 23a.

(d) For the purpose of this subdivision an applicant is "actively seeking suitable employment" only if the applicant has engaged in a systematic and sustained effort to obtain employment, and the applicant furnishes tangible evidence of that effort.

Subd. 10. **Job service referral.** The job service must refer any applicant who is filing continued requests for extended unemployment benefits to any employment that is suitable under subdivision 9.

History: *1971 c 61 s 1; 1974 c 355 s 58; 1975 c 1 s 1; 1975 c 336 s 12; 1977 c 297 s 13,14; 1Sp1982 c 1 s 16-21; 1983 c 372 s 19; 1985 c 248 s 70; 1986 c 444; 1987 c 362 s 16; 1992 c 484 s 9; 1993 c 13 art 1 s 33; 1997 c 66 s 33-35,79,80; 1998 c 265 s 44,45; 1999 c 107 s 48,66; 2000 c 343 s 4; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 72; 2007 c 128 art 3 s 24; art 6 s 80; 2008 c 300 s 51; 2009 c 78 art 4 s 39,50; 2011 c 84 art 2 s 7; 2012 c 201 art 3 s 11*

268.12 Subdivision 1. MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

Subd. 1a. MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

Subd. 2. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 3. MS 1982 [Repealed, 1983 c 268 s 2]

Subd. 4. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 5. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 6. MS 1988 [Repealed, 1989 c 343 s 7]

Subd. 7. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 8. [Renumbered 268.186]

Subd. 9. MS 1994 [Repealed, 1995 c 54 s 29]

Subd. 9a. [Renumbered 268.188]

Subd. 10. MS 1994 [Repealed, 1995 c 54 s 29]

Subd. 11. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 12. [Renumbered 268.19]

Subd. 13. MS 1994 [Repealed, 1995 c 54 s 29]

Subd. 14. 1947 c 600 s 6 [Repealed, 1949 c 605 s 15]

268.121 [Renumbered 268.044]

268.125 ADDITIONAL UNEMPLOYMENT BENEFITS.

Subdivision 1. **Additional unemployment benefits; when available.** Additional unemployment benefits are available if:

(1) MS 2008 [Expired, 2008 c 300 s 15]

(2)(i) at a facility that had 100 or more employees, the employer reduced operations, resulting within a one-month period in the layoff of 50 percent or more of the facility's work force, including reductions caused as a result of a major natural disaster declared by the president;

(ii) the employer has no expressed plan to resume operations that would lead to the reemployment of those employees in the immediate future; and

(iii) the seasonally adjusted unemployment rate in the county that the facility is located was ten percent or more during the month of the reduction or any of the three months before or after the month of the reduction; or

(3) the applicant stopped working because of a lockout. The term "lockout" has the meaning given in section 179.01, subdivision 9. This clause does not apply to professional athletes who are locked out by a professional sports team.

Subd. 2. MS 2008 [Expired, 2008 c 300 s 16]

Subd. 3. **Eligibility conditions.** (a) An applicant is eligible to receive additional unemployment benefits for any week during the applicant's benefit year if:

(1) the applicant was laid off from employment as a result of a reduction under subdivision 1, clause (2), or was laid off because of lack of work from that employer during the three-month period before, or the three-month period after, the month of the reduction under subdivision 1, clause (2);

(2) the applicant meets the same eligibility requirements that are required for regular unemployment benefits under section 268.069;

(3) the applicant has exhausted regular unemployment benefits under section 268.07, is not entitled to receive extended unemployment benefits under section 268.115, and is not entitled to receive unemployment benefits under any other state or federal law for that week; and

(4) a majority of the applicant's wage credits were from the employer that had a reduction in operations under subdivision 1, clause (2).

(b) An applicant who stopped working because of a lockout is eligible to receive additional unemployment benefits for any week if:

(1) the applicant meets the eligibility requirements under section 268.069;

(2) the applicant has exhausted regular unemployment benefits under section 268.07 or the law of another state;

(3) the applicant is not eligible for extended unemployment benefits or unemployment benefits under any federal law; and

(4) the lockout is in active progress.

Section 268.085, subdivision 1, clause (2), does not apply to this paragraph.

Subd. 4. **Weekly unemployment benefit amount.** An applicant's weekly additional unemployment benefit amount is the same as the applicant's weekly regular unemployment benefit amount under section 268.07.

Subd. 5. **Maximum amount of unemployment benefits.** (a) For an applicant who qualifies for additional unemployment benefits under subdivision 1, clause (2), the maximum amount of additional unemployment benefits available in the applicant's benefit year is one-half of the applicant's maximum amount of regular unemployment benefits available under section 268.07, subdivision 2. Extended unemployment benefits paid and unemployment benefits paid under any federal law other than regular unemployment benefits must be deducted from the maximum amount of additional unemployment benefits available.

(b) For an applicant who qualifies for additional unemployment benefits under subdivision 1, clause (3), the applicant may receive additional unemployment benefits for up to 26 weeks so long as the lockout is in active progress.

Subd. 6. MS 2008 [Expired, 2008 c 300 s 18]

History: *1987 c 362 s 17; 1994 c 488 s 8; 1994 c 503 s 1-3; 1996 c 417 s 13-15; 1997 c 66 s 79; 2Sp1997 c 2 s 18,19; 1998 c 265 s 32; 1999 c 107 s 49-51,66; 2000 c 343 s 4; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 73; 2007 c 128 art 5 s 8; art 6 s 81,82; 2008 c 300 s 15-18; 2009 c 78 art 4 s 40; 2013 c 85 art 4 s 5-8*

268.13 Subdivision 1. (a) [Renumbered 268.042, subd 4]

(b) [Renumbered 268.131, subdivision 1, para (a)]

(c) [Renumbered 268.131, subdivision 1, para (b)]

Subd. 2. [Renumbered 268.194, subd 3a]

Subd. 3. MS 1996 [Repealed, 1998 c 265 s 46]

Subd. 4. [Renumbered 268.131, subd 2]

Subd. 5. MS 1996 [Repealed, 1998 c 265 s 46]

268.131 COMBINED WAGE ARRANGEMENTS FOR WORK IN MULTIPLE STATES.

(a) In accordance with the requirements of the Federal Unemployment Tax Act, the commissioner must participate with other states for the payment of unemployment benefits on the basis of combining an applicant's wages from multiple states for the purposes of collecting unemployment benefits from a single state. The commissioner may only pay unemployment benefits from the trust fund under this section if:

(1) there are reimbursements to the trust fund, by the other state, for unemployment benefits paid from the trust fund based upon wages and employment covered under the laws of the other state; and

(2) the applicant is combining Minnesota wage credits with the wages paid in covered employment from another state.

(b) Under this section, the wages paid an applicant from employment covered under an unemployment insurance program of another state are considered wages from covered employment for the purpose of determining the applicant's rights to unemployment benefits under the Minnesota Unemployment Insurance Law.

History: *(4337-31) Ex1936 c 2 s 11; 1937 c 306 s 8; 1939 c 443 s 9; 1941 c 554 s 10; 1943 c 650 s 8; 1945 c 376 s 10; 1947 c 432 s 8-10; 1965 c 45 s 45; 1969 c 9 s 64; 1971 c 942 s 13; 1979 c 181 s 16; 1986 c 444; 1989 c 209 art 2 s 1; 1996 c 417 s 31; 1997 c 66 s 79; 1998 c 265 s 33-35,45; 1999 c 107 s 66; 2000 c 343 s 4; 2001 c 175 s 45,52; 1Sp2003 c 3 art 2 s 20; 2007 c 128 art 2 s 11; art 3 s 24; 2009 c 78 art 4 s 50; 2017 c 35 art 3 s 15*

268.133 UNEMPLOYMENT BENEFITS WHILE IN ENTREPRENEURIAL TRAINING.

Unemployment benefits are available to dislocated workers participating in the converting layoffs into Minnesota businesses (CLIMB) program under section 116L.17, subdivision 11. Applicants participating in CLIMB are considered in reemployment assistance training under section 268.035, subdivision 21c. All requirements under section 268.069, subdivision 1, must be met, except the commissioner may waive:

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

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

History: *2013 c 85 art 4 s 9; 1Sp2021 c 10 art 4 s 4*

268.135 MS 2008 [Repealed, 2009 c 27 s 2]

268.136 SHARED WORK.

Subdivision 1. **Shared work plan requirements.** An employer may submit a proposed shared work plan for an employee group to the commissioner for approval in a manner and format set by the commissioner. The proposed shared work plan must include:

(1) a certified statement that the normal weekly hours of work of all of the proposed participating employees were full time or regular part time but are now reduced, or will be reduced, with a corresponding reduction in pay, in order to prevent layoffs;

(2) the name and Social Security number of each participating employee;

(3) the number of layoffs that would have occurred absent the employer's ability to participate in a shared work plan;

(4) a certified statement that each participating employee was first hired by the employer at least three months before the proposed shared work plan is submitted and is not a seasonal, temporary, or intermittent worker;

(5) the hours of work each participating employee will work each week for the duration of the shared work plan, which must be at least 50 percent of the normal weekly hours but no more than 80 percent of the normal weekly hours, except that the plan may provide for a uniform vacation shutdown of up to two weeks;

(6) a certified statement that any health benefits and pension benefits provided by the employer to participating employees will continue to be provided under the same terms and conditions as though the participating employees' hours of work each week had not been reduced;

(7) a certified statement that the terms and implementation of the shared work plan is consistent with the employer's obligations under state and federal law;

(8) an acknowledgment that the employer understands that unemployment benefits paid under a shared work plan will be used in computing the future tax rate of a taxpaying employer or charged to the reimbursable account of a nonprofit or government employer;

(9) the proposed duration of the shared work plan, which must be at least two months and not more than one year, although a plan may be extended for up to an additional year upon approval of the commissioner;

(10) a starting date beginning on a Sunday at least 15 calendar days after the date the proposed shared work plan is submitted; and

(11) a signature of an owner or officer of the employer who is listed as an owner or officer on the employer's account under section 268.045.

Subd. 2. **Approval by commissioner.** (a) The commissioner must promptly review a proposed shared work plan and notify the employer, by mail or electronic transmission, within 15 days of receipt, whether

the proposal satisfies the requirements of this section and has been approved. If the proposal does not comply with this section, the commissioner must specifically state why the proposal is not in compliance. If a proposed shared work plan has been approved, it must be implemented according to its terms.

(b) The commissioner may not approve a proposed shared work plan if the commissioner has cause to believe the proposal was submitted for a purpose other than preventing layoffs due to lack of work.

(c) The commissioner may not approve a proposed shared work plan if the employer has any unemployment tax or reimbursements, including any interest, fees, or penalties, due but unpaid.

(d) A shared work plan that has been approved by the commissioner is considered a contract that is binding on the employer and the department. This contract may be canceled or modified under subdivision 5.

Subd. 2a. **Notice to participating employee.** The employer must provide written notification to each participating employee that the employer has submitted a proposed shared work plan. The notification must be provided to the employee no later than the time the commissioner notifies the employer that a proposed shared work plan has been approved. The notification must inform the employee of the proposed terms of the shared work plan along with notice to the employee of the employee's right to apply for unemployment benefits.

Subd. 3. **Applicant requirements.** (a) An applicant, in order to be paid unemployment benefits under this section, must meet all of the requirements under section 268.069, subdivision 1. The following provisions of section 268.085 do not apply to an applicant in an approved shared work plan:

(1) deductible earnings under subdivision 5;

(2) the restriction under subdivision 2, clause (5), if the applicant works exactly 32 hours in a week;

(3) the requirement of being available for suitable employment under subdivision 1, clause (4), but only if the applicant is (i) available for the normal hours of work per week with the shared work employer, or (ii) is in a training program when not working; and

(4) the requirement of actively seeking suitable employment under subdivision 1, clause (5).

(b) An applicant is ineligible for unemployment benefits under this section for any week, if the applicant works more than 32 hours in a week in employment with one or more employer.

Subd. 4. **Amount of unemployment benefits available.** (a) The weekly benefit amount and maximum amount of unemployment benefits available are computed according to section 268.07, except that the amount of benefits available is a reduced amount in direct proportion to the reduction in hours set out in the shared work plan from the lesser of (1) 40 hours per week; or (2) the normal weekly hours.

(b) Regardless of paragraph (a), if the applicant works more hours or less hours in a week for the shared work employer than provided for in the shared work plan, the amount of unemployment benefits available is in direct proportion to the reduction in hours actually worked from the lesser of (1) 40 hours per week; or (2) the normal weekly hours.

Subd. 5. **Cancellation; modification.** (a) An employer may cancel a shared work plan at any time upon seven calendar days' notice to the commissioner in a manner and format prescribed by the commissioner. The cancellation must be signed by an owner or officer of the employer.

(b) An employer may request that the commissioner allow modification of the shared work plan as to the hours of work each participating employee will work each week. The request must be sent in a manner and form prescribed by the commissioner. The request must be signed by an owner or officer of the employer. The commissioner must notify the employer as soon as possible if the modification is allowed.

(c) An employer that cancels or requests modification of a shared work plan must provide written notice to each participating employee of the cancellation or requested modification at the time notice is sent to the commissioner.

(d) If an employer cancels a shared work plan before the expiration date provided for in subdivision 1, a new shared work plan may not be approved for that employer under this section for at least 60 calendar days.

(e) The commissioner may immediately cancel any shared work plan if the commissioner determines the plan was based upon false information or the employer has failed to adhere to the terms of the shared work plan. The commissioner must immediately send written notice of cancellation to the employer. An employer that receives notice of cancellation must provide written notice to each participating employee of the cancellation.

History: *2009 c 27 s 1; 2010 c 347 art 2 s 20; 2013 c 85 art 4 s 10-15; 1Sp2015 c 1 art 6 s 13; 1Sp2021 c 10 art 4 s 5; 2023 c 25 s 149*

268.14 Subdivision 1. [Renumbered 268.198, subdivision 1]

Subd. 2. [Renumbered 268.198, subd 2]

Subd. 3. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 4. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 5. [Renumbered 268.198, subd 3]

Subd. 6. [Expired]

268.145 INCOME TAX WITHHOLDING.

Subdivision 1. **Notification.** (a) Upon filing an application for unemployment benefits, the applicant must be informed that:

(1) unemployment benefits are subject to federal and state income tax;

(2) there are requirements for filing estimated tax payments;

(3) the applicant may elect to have federal income tax withheld from unemployment benefits;

(4) if the applicant elects to have federal income tax withheld, the applicant may, in addition, elect to have Minnesota state income tax withheld; and

(5) at any time during the benefit year the applicant may change a prior election.

(b) If an applicant elects to have federal income tax withheld, the commissioner must deduct ten percent for federal income tax. If an applicant also elects to have Minnesota state income tax withheld, the commissioner must make an additional five percent deduction for state income tax. Any amount deducted under section 268.085 has priority over any amounts deducted under this section. Federal income tax withholding has priority over state income tax withholding.

(c) An election to have income tax withheld may not be retroactive and only applies to unemployment benefits paid after the election.

Subd. 2. **Transfer of funds.** The amount of any unemployment benefits deducted under this section remains in the trust fund until transferred to the federal Internal Revenue Service, or the Department of Revenue, as an income tax payment on behalf of the applicant.

Subd. 3. **Correction of errors.** Any error that resulted in underwithholding or overwithholding under this section will not be corrected retroactively.

Subd. 4. **Federal requirement.** The commissioner must follow all federal requirements for the deduction and withholding of income tax from unemployment benefits.

Subd. 5. **Effect of payments.** Any amount deducted under this section is considered as unemployment benefits paid to the applicant.

History: *1996 c 417 s 17; 1997 c 66 s 79; 1998 c 254 art 1 s 73; 1999 c 107 s 53,66; 2000 c 343 s 4; 1Sp2001 c 4 art 2 s 23; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 77; 2005 c 112 art 2 s 35; 2007 c 128 art 6 s 84-86; 2008 c 300 s 51; 2009 c 78 art 4 s 42,50; 1Sp2019 c 7 art 8 s 5*

268.15 Subdivision 1. [Renumbered 268.196, subdivision 1]

Subd. 2. [Renumbered 268.196, subd 2]

Subd. 3. [Renumbered 268.196, subd 3]

Subd. 4. MS 1980 [Repealed, 2Sp1981 c 1 s 8]

268.155 CHILD SUPPORT DEDUCTED FROM UNEMPLOYMENT BENEFITS.

Subdivision 1. **Definitions.** As used in this section:

(1) "Child support obligations" means obligations that are being enforced by a child support agency in accordance with a plan described in United States Code, title 42, sections 454 and 455, of the Social Security Act that has been approved by the secretary of health and human services under part D of title IV of the Social Security Act. This does not include any type of spousal maintenance or foster care payments; and

(2) "Child support agency" means the public agency responsible for child support enforcement, including federally approved comprehensive Tribal IV-D programs.

Subd. 2. **Notice upon application.** In an application for unemployment benefits, the applicant must disclose if child support obligations are owed and, if so, in what state and county. If child support obligations are owed, the commissioner must, if the applicant establishes a benefit account, notify the child support agency.

Subd. 3. **Withholding of unemployment benefits.** The commissioner must deduct and withhold from any unemployment benefits payable to an applicant who owes child support obligations:

(1) the amount required under a proper order of a court or administrative agency; or

(2) if clause (1) is not applicable, the amount determined under an agreement under United States Code, title 42, section 454(20)(B)(i), of the Social Security Act; or

(3) if clause (1) or (2) is not applicable, the amount specified by the applicant.

Subd. 4. **Payment.** Any amount deducted and withheld must be paid to the child support agency, but will for all purposes be treated as if it were paid to the applicant as unemployment benefits and paid by the applicant to the child support agency in satisfaction of the applicant's child support obligations.

Subd. 5. **Payment of costs.** The child support agency must pay the costs incurred by the commissioner in the implementation and administration of this section and sections 518A.50 and 518A.53.

Subd. 6. [Renumbered subd 5]

History: *1Sp1982 c 1 s 22; 1986 c 444; 1987 c 384 art 2 s 67; 1994 c 488 s 8; 1996 c 417 s 10-12; 1997 c 66 s 79,80; 1997 c 203 art 6 s 92; 1999 c 107 s 54,66; 2000 c 343 s 4; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2007 c 128 art 6 s 87; 2009 c 78 art 4 s 50; 2015 c 78 art 1 s 35*

268.16 Subdivision 1. [Renumbered 268.057, subd 5]

Subd. 1a. [Renumbered 268.057, subd 6]

Subd. 2. [Renumbered 268.057, subdivision 1]

Subd. 3. MS 1980 [Repealed, 1Sp1982 c 1 s 43]

Subd. 3a. [Renumbered 268.057, subd 4]

Subd. 4. [Renumbered 268.067]

Subd. 5. [Renumbered 268.057, subd 10]

Subd. 6. [Renumbered 268.057, subd 7]

Subd. 7. [Renumbered 268.057, subd 8]

Subd. 8. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 9. [Renumbered 268.057, subd 9]

268.161 Subdivision 1. [Renumbered 268.058, subdivision 1]

Subd. 1a. [Renumbered 268.058, subd 2]

Subd. 2. [Renumbered 268.058, subd 6]

Subd. 3. MS 1996 [Repealed, 1997 c 66 s 81]

Subd. 4. [Renumbered 268.058, subd 5]

Subd. 5. [Renumbered 268.058, subd 4]

Subd. 6. [Renumbered 268.057, subd 2]

Subd. 7. [Renumbered 268.057, subd 3]

Subd. 8. [Renumbered 268.058, subd 3]

Subd. 9. [Renumbered 268.063]

268.162 [Renumbered 268.064]

268.163 [Renumbered 268.065]

268.164 [Renumbered 268.0625]

268.165 MS 1996 [Repealed, 1997 c 66 s 81]

268.166 [Renumbered 268.066]

268.167 [Renumbered 268.059]

268.17 [Renumbered 268.192]

268.18 UNEMPLOYMENT BENEFIT OVERPAYMENTS.

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

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

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 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.

Subd. 2a. [Renumbered subd 3a]

Subd. 2b. **Interest.** On any unemployment benefits obtained by misrepresentation, and any penalty amounts assessed under subdivision 2, the commissioner must assess interest on any amount that remains unpaid beginning 30 calendar days after the date of a determination of overpayment penalty. Interest is assessed at the rate of one percent per month or any part of a month. A determination of overpayment penalty

must state that interest will be assessed. Interest is not assessed on unpaid interest. Interest collected under this subdivision is credited to the trust fund.

Subd. 3. [Renumbered 268.182]

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

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

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

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

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

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

(c) The commissioner may cancel at any time any overpayment, including penalties and interest, that the commissioner determines is uncollectible because of death or bankruptcy.

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

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

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

Subd. 5. MS 1996 [Repealed, 1997 c 66 s 81]

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

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

Subd. 6. [Renumbered 268.184]

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

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

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

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

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

History: *(4337-36) Ex1936 c 2 s 16; 1941 c 554 s 15; 1951 c 442 s 11; 1953 c 97 s 18; 1969 c 567 s 3; 1973 c 254 s 3; 1975 c 336 s 24; 1977 c 4 s 10; 1977 c 430 s 25 subd 1; 1979 c 181 s 17,18; 1Sp1982 c 1 s 37-40; 1983 c 216 art 1 s 42,87; 1983 c 372 s 45,46; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 385 s 40-45; 1988 c 712 s 3; 1989 c 209 art 2 s 1; 1990 c 566 s 8; 1992 c 484 s 15; 1994 c 483 s 1; 1995 c 54 s 21-24; 1996 c 417 s 29,31; 1997 c 66 s 71-73,79; 1998 c 265 s 36,45; 1999 c 107 s 55,66; 2000 c 343 s 4; 2001 c 175 s 46; 1Sp2003 c 3 art 2 s 16,17,20; 2004 c 183 s 78-81; 2004 c 206 s 52; 2005 c 112 art 2 s 36-38; 2007 c 128 art 1 s 19; art 2 s 12-14; art 6 s 88,89; 2009 c 78 art 3 s 14; art 4 s 43,44,50; 2009 c 101 art 2 s 109; 2012 c 201 art 1 s 2; art 2 s 5,6; art 3 s 12; 2014 c 251 art 1 s 6; art 2 s 24; 2016 c 189 art 9 s 8; 2017 c 35 art 3 s 16-18,24; 1Sp2019 c 7 art 5 s 2; art 8 s 6; 2023 c 33 s 21*

268.182 FRAUD; CRIMINAL PENALTY.

Subdivision 1. **Criminal penalties.** (a) An individual has committed fraud and is guilty of theft and must be sentenced under section 609.52 if the individual obtains, or attempts to obtain, or aids or abets any other individual to obtain, by an intentional false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent means, unemployment benefits that the individual is not entitled to under this chapter, or under federal law.

(b) Any employer or any officer or agent of an employer or any other individual has committed fraud and is guilty of a crime, if in order to avoid or reduce any payment required from an employer under this chapter or section 116L.20, or to prevent or reduce the payment of unemployment benefits to an applicant:

(1) makes a false statement or representation knowing it to be false;

(2) knowingly fails to disclose a material fact, including notification required under section 268.051, subdivision 4; or

(3) knowingly advises or assists an employer in violating clause (1) or (2).

The individual is guilty of a gross misdemeanor if the underpayment is $500 or less. The individual is guilty of a felony if the underpayment exceeds $500.

Subd. 2. [Renumbered 268.183]

History: *Ex1936 c 2 s 16; 1941 c 554 s 15; 1951 c 442 s 11; 1953 c 97 s 18; 1969 c 567 s 3; 1973 c 254 s 3; 1975 c 336 s 24; 1977 c 4 s 10; 1977 c 430 s 25 subd 1; 1979 c 181 s 17,18; 1Sp1982 c 1 s 37-40; 1983 c 216 art 1 s 42,87; 1983 c 372 s 45,46; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 385 s 40-45; 1988 c 712 s 3; 1989 c 209 art 2 s 1; 1990 c 566 s 8; 1992 c 484 s 15; 1994 c 483 s 1; 1995 c 54 s 21-24; 1996 c 417 s 29,31; 1997 c 66 s 74,79; 1998 c 265 s 37; 1999 c 107 s 56,66; 2000 c 343 s 4; 2004 c 183 s 82; 2004 c 206 s 52; 2005 c 112 art 2 s 39; 2007 c 128 art 2 s 15; art 6 s 90; 2016 c 189 art 11 s 5; 2017 c 35 art 3 s 19,24*

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

History: *2017 c 35 art 3 s 19,24; 2023 c 33 s 22*

268.184 EMPLOYER MISREPRESENTATION AND MISREPORTING; ADMINISTRATIVE PENALTIES.

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 100 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 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.

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 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.

History: *Ex1936 c 2 s 16; 1941 c 554 s 15; 1951 c 442 s 11; 1953 c 97 s 18; 1969 c 567 s 3; 1973 c 254 s 3; 1975 c 336 s 24; 1977 c 4 s 10; 1977 c 430 s 25 subd 1; 1979 c 181 s 17,18; 1Sp1982 c 1 s 37-40; 1983 c 216 art 1 s 42,87; 1983 c 372 s 45,46; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 385 s 40-45; 1988 c 712 s 3; 1989 c 209 art 2 s 1; 1990 c 566 s 8; 1992 c 484 s 15; 1994 c 483 s 1; 1995 c 54 s 21-24; 1996 c 417 s 29,31; 1997 c 66 s 76,79; 1998 c 265 s 38; 1999 c 107 s 56,66; 2000 c 343 s 4; 2001 c 175 s 47; 2004 c 183 s 83; 2005 c 112 art 1 s 11-13; 2007 c 128 art 2 s 16,17; 2009 c 78 art 4 s 50; 2010 c 347 art 2 s 21; 2011 c 84 art 2 s 8,9; 2012 c 201 art 1 s 3; art 3 s 13,15; 2013 c 85 art 4 s 17; 2014 c 251 art 2 s 20,21; 2017 c 35 art 3 s 20,24; 2023 c 33 s 23,24; 1Sp2025 c 6 art 4 s 26*

268.186 RECORDS; AUDITS.

Subdivision 1. **Employer records; audits.** (a) Each employer must keep true and accurate records on individuals performing services for the employer, containing the information the commissioner may require under Minnesota Rules, part 3315.1010. The records must be kept for a period of not less than four years in addition to the current calendar year.

(b) For the purpose of administering this chapter, the commissioner has the power to audit, examine, or cause to be supplied or copied, any books, correspondence, papers, records, or memoranda that are the

property of, or in the possession of, an employer or any other person at any reasonable time and as often as may be necessary. Subpoenas may be issued under section 268.188, as necessary, for an audit.

An employer, or other person, that refuses to allow an audit of its records by the department, or that fails to make all necessary records available for audit in Minnesota upon request of the commissioner, may be assessed an administrative penalty of $500. The penalty collected is credited to the trust fund.

(c) An employer, or other person, that fails to provide a weekly breakdown of money earned by an applicant upon request of the commissioner, information necessary for the detection of applicant misrepresentation under section 268.18, subdivision 2, may be assessed an administrative penalty of $100. Any notice requesting a weekly breakdown must clearly state that a $100 penalty may be assessed for failure to provide the information. The penalty collected is credited to the trust fund.

Subd. 2. **Department records; destruction.** (a) The commissioner may make summaries, compilations, duplications, or reproductions of any records pertaining to this chapter that the commissioner considers advisable for the preservation of the information.

(b) Regardless of any law to the contrary, the commissioner may destroy any records that are no longer necessary for the administration of this chapter. In addition, the commissioner may destroy any record from which the information has been electronically captured and stored.

History: *Ex1936 c 2 s 10; 1937 c 306 s 7; 1939 c 441 s 42; 1939 c 443 s 8,10; 1941 c 554 s 9; 1943 c 650 s 7; 1945 c 376 s 9; 1947 c 600 s 3-6; 1949 c 605 s 15; 1949 c 739 s 8; 1951 c 442 s 6-10; 1951 c 713 s 29; 1953 c 97 s 15; 1953 c 603 s 1; 1953 c 612 s 1; 1955 c 847 s 22; 1957 c 883 s 7; 1965 c 45 s 42-44; 1965 c 741 s 18; 1967 c 770 s 1; 1969 c 9 s 63; 1969 c 310 s 2; 1969 c 567 s 1,3; 1969 c 854 s 11,12; 1969 c 1129 art 8 s 7; 1971 c 942 s 12; 1973 c 254 s 1,3; 1973 c 492 s 14; 1974 c 241 s 1; 1975 c 315 s 19; 1975 c 336 s 20,21; 1977 c 172 s 2; 1977 c 237 s 1; 1977 c 297 s 20; 1977 c 305 s 31; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1979 c 181 s 15; 1980 c 615 s 37; 1981 c 311 s 39; 1982 c 424 s 130; 1982 c 545 s 23,24; 1Sp1982 c 1 s 31,32; 1983 c 216 art 1 s 87; 1983 c 247 s 114; 1983 c 260 s 58; 1983 c 312 art 8 s 2; 1983 c 372 s 37,38; 1984 c 544 s 89; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 165 s 1; 1987 c 312 art 1 s 26 subd 2; 1987 c 362 s 23; 1987 c 385 s 25; 1989 c 65 s 11; 1989 c 209 art 2 s 1; 1990 c 516 s 6,7; 1991 c 202 s 16; 1993 c 67 s 10; 1994 c 483 s 1; 1994 c 488 s 8; 1995 c 54 s 12; 1996 c 417 s 23,31; 1996 c 440 art 1 s 47; 1997 c 66 s 62,79; 1998 c 265 s 44; 1999 c 107 s 57,66; 2000 c 343 s 4; 1Sp2003 c 1 art 2 s 77; 2004 c 183 s 84; 2007 c 128 art 6 s 91; 2009 c 78 art 3 s 15; 2014 c 251 art 1 s 7; 2014 c 271 art 1 s 2; 2018 c 182 art 1 s 67*

268.188 SUBPOENAS; OATHS.

(a) The commissioner or an unemployment law judge has authority to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of individuals and the production of documents and other personal property necessary in connection with the administration of the Minnesota unemployment insurance program.

(b) Individuals subpoenaed, other than applicants or officers and employees of an employer that is the subject of the inquiry, are paid witness fees the same as witness fees in civil actions in district court. The fees need not be paid in advance.

(c) The subpoena is enforceable through the district court in Ramsey County.

History: *Ex1936 c 2 s 10; 1937 c 306 s 7; 1939 c 441 s 42; 1939 c 443 s 8,10; 1941 c 554 s 9; 1943 c 650 s 7; 1945 c 376 s 9; 1947 c 600 s 3-6; 1949 c 605 s 15; 1949 c 739 s 8; 1951 c 442 s 6-10; 1951 c 713 s 29; 1953 c 97 s 15; 1953 c 603 s 1; 1953 c 612 s 1; 1955 c 847 s 22; 1957 c 883 s 7; 1965 c 45 s 42-44;*

1965 c 741 s 18; 1967 c 770 s 1; 1969 c 9 s 63; 1969 c 310 s 2; 1969 c 567 s 1,3; 1969 c 854 s 11,12; 1969 c 1129 art 8 s 7; 1971 c 942 s 12; 1973 c 254 s 1,3; 1973 c 492 s 14; 1974 c 241 s 1; 1975 c 315 s 19; 1975 c 336 s 20,21; 1977 c 172 s 2; 1977 c 237 s 1; 1977 c 297 s 20; 1977 c 305 s 31; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1979 c 181 s 15; 1980 c 615 s 37; 1981 c 311 s 39; 1982 c 424 s 130; 1982 c 545 s 23,24; 1Sp1982 c 1 s 31,32; 1983 c 216 art 1 s 87; 1983 c 247 s 114; 1983 c 260 s 58; 1983 c 312 art 8 s 2; 1983 c 372 s 37,38; 1984 c 544 s 89; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 165 s 1; 1987 c 312 art 1 s 26 subd 2; 1987 c 362 s 23; 1987 c 385 s 25; 1989 c 65 s 11; 1989 c 209 art 2 s 1; 1990 c 516 s 6,7; 1991 c 202 s 16; 1993 c 67 s 10; 1994 c 483 s 1; 1994 c 488 s 8; 1995 c 54 s 12; 1996 c 417 s 23,31; 1996 c 440 art 1 s 47; 1997 c 66 s 63,79; 1998 c 265 s 44; 1999 c 107 s 58,66; 2001 c 175 s 52; 2004 c 206 s 52; 2007 c 128 art 3 s 19; 1Sp2015 c 1 art 6 s 14

268.19 DATA PRIVACY.

Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

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

(2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;

(3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;

(4) the public authority responsible for child support in Minnesota or any other state in accordance with section 518A.83;

(5) human rights agencies within Minnesota that have enforcement powers;

(6) the Department of Revenue to the extent necessary for its duties under Minnesota laws;

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

(8) the Department of Labor and Industry, the Department of Commerce, and the Bureau of Criminal Apprehension for uses consistent with the administration of their duties under Minnesota law;

(9) the Department of Human Services and the Office of Inspector General and its agents within the Department of Human Services, including county fraud investigators, for investigations related to recipient or provider fraud and employees of providers when the provider is suspected of committing public assistance fraud;

(10) the Department of Human Services for the purpose of evaluating medical assistance services, supporting program improvement, and administering section 256B.0562;

(11) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program and other cash assistance programs, the Supplemental

Nutrition Assistance Program, and the Supplemental Nutrition Assistance Program Employment and Training program by providing data on recipients and former recipients of Supplemental Nutrition Assistance Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 142E, or medical programs under chapter 256B or 256L or formerly codified under chapter 256D;

(12) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(13) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

(14) the United States Immigration and Customs Enforcement has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(15) the Department of Health for the purposes of epidemiologic investigations;

(16) the Department of Corrections for the purposes of case planning and internal research for preprobation, probation, and postprobation employment tracking of offenders sentenced to probation and preconfinement and postconfinement employment tracking of committed offenders;

(17) the Office of Higher Education for purposes of supporting program improvement, system evaluation, and research initiatives including the Statewide Longitudinal Education Data System;

(18) the Family and Medical Benefits Division of the Department of Employment and Economic Development to be used as necessary to administer chapter 268B; and

(19) the executive director or interim executive director of the Minnesota Secure Choice Retirement Program established under chapter 187 for the purposes of assisting with communication with employers and to verify employer compliance with chapter 187.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department in the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Subd. 1a. **Wage detail data.** (a) Wage and employment data gathered under section 268.044 may be disseminated to and used, without the consent of the subject of the data, by an agency of another state that is designated as the performance accountability and consumer information agency for that state under Code of Federal Regulations, volume 20, part 663.510(c), in order to carry out the requirements of the Workforce Investment Act of 1998, United States Code, title 29, sections 2842 and 2871.

(b) The commissioner may enter into a data exchange agreement with an employment and training service provider under section 116L.17, or the Workforce Investment Act of 1998, United States Code, title 29, section 2864, under which the commissioner, with the consent of the subject of the data, may furnish data on the quarterly wages paid and number of hours worked on those individuals who have received employment and training services from the provider. With the initial consent of the subject of the data, this

data may be shared for up to three years after termination of the employment and training services provided to the individual without execution of an additional consent. This data is furnished solely for the purpose of evaluating the employment and training services provided. The data subject's ability to receive service is not affected by a refusal to give consent under this paragraph. The consent form must state this fact.

Subd. 2. **Employer information; absolute privilege.** (a) Regardless of any provision of law to the contrary, an employer may provide the commissioner with information on an applicant so that the commissioner can determine an applicant's entitlement to unemployment benefits under the Minnesota Unemployment Insurance Law.

(b) The commissioner may disseminate an employer's name and address and the name and address of any employer's unemployment insurance processing agent in order to administer the Minnesota unemployment insurance program.

(c) Information obtained under the Minnesota Unemployment Insurance Law, in order to determine an applicant's entitlement to unemployment benefits, are absolutely privileged and may not be made the subject matter or the basis for any civil proceeding, administrative, or judicial.

History: *Ex1936 c 2 s 10; 1937 c 306 s 7; 1939 c 441 s 42; 1939 c 443 s 8,10; 1941 c 554 s 9; 1943 c 650 s 7; 1945 c 376 s 9; 1947 c 600 s 3-6; 1949 c 605 s 15; 1949 c 739 s 8; 1951 c 442 s 6-10; 1951 c 713 s 29; 1953 c 97 s 15; 1953 c 603 s 1; 1953 c 612 s 1; 1955 c 847 s 22; 1957 c 883 s 7; 1965 c 45 s 42-44; 1965 c 741 s 18; 1967 c 770 s 1; 1969 c 9 s 63; 1969 c 310 s 2; 1969 c 567 s 1,3; 1969 c 854 s 11,12; 1969 c 1129 art 8 s 7; 1971 c 942 s 12; 1973 c 254 s 1,3; 1973 c 492 s 14; 1974 c 241 s 1; 1975 c 315 s 19; 1975 c 336 s 20,21; 1977 c 172 s 2; 1977 c 237 s 1; 1977 c 297 s 20; 1977 c 305 s 31; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1979 c 181 s 15; 1980 c 615 s 37; 1981 c 311 s 39; 1982 c 424 s 130; 1982 c 545 s 23,24; 1Sp1982 c 1 s 31,32; 1983 c 216 art 1 s 87; 1983 c 247 s 114; 1983 c 260 s 58; 1983 c 312 art 8 s 2; 1983 c 372 s 37,38; 1984 c 544 s 89; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 165 s 1; 1987 c 312 art 1 s 26 subd 2; 1987 c 362 s 23; 1987 c 385 s 25; 1989 c 65 s 11; 1989 c 209 art 2 s 1; 1990 c 516 s 6,7; 1991 c 202 s 16; 1993 c 67 s 10; 1994 c 483 s 1; 1994 c 488 s 8; 1995 c 54 s 12; 1996 c 417 s 21,23,31; 1996 c 440 art 1 s 47; 1997 c 66 s 55-58,79; 1998 c 265 s 30; 1998 c 273 s 13; 1998 c 371 s 11; 1999 c 107 s 45,66; 2000 c 343 s 4; 2000 c 468 s 25; 2001 c 175 s 52; 1Sp2003 c 3 art 2 s 20; 1Sp2003 c 4 s 1; 1Sp2003 c 8 art 2 s 16; 1Sp2003 c 14 art 1 s 106; 2004 c 183 s 85; 2004 c 206 s 52; 2004 c 269 art 1 s 10; 2004 c 290 s 31,32; 2005 c 112 art 2 s 41; 1Sp2005 c 1 art 4 s 74; 2007 c 13 art 1 s 25; 2007 c 54 art 6 s 13; 2007 c 128 art 3 s 20; art 6 s 92,93; 2007 c 129 s 50; 2008 c 315 s 16; 2008 c 366 art 5 s 6; 2012 c 201 art 3 s 15; 2013 c 82 s 19; 2013 c 99 art 2 s 24; 2013 c 135 art 3 s 22; 2014 c 228 art 3 s 3; 2016 c 149 s 1; 2016 c 158 art 2 s 116; 1Sp2019 c 9 art 1 s 42; 2022 c 98 art 9 s 5; 2023 c 59 art 1 s 8; 2023 c 61 art 1 s 58; 2024 c 80 art 5 s 7; art 8 s 68; 2025 c 35 art 3 s 16; 2025 c 37 art 9 s 16; 2026 c 127 art 6 s 19; 2026 c 128 art 11 s 3*

268.192 PROTECTION OF RIGHTS.

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 the Minnesota Unemployment Insurance Law is void. Any agreement by an employee to pay all or any portion of an employer's taxes, is void. No employer may 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 request for unemployment benefits. Any employer or officer or agent of any employer who violates any portion of this subdivision is, for each offense, guilty of a misdemeanor.

Subd. 1a. **Agreements not allowed.** An employer may not make an agreement that in exchange for the employer agreeing not to contest the payment of unemployment benefits, including agreeing not to provide information to the department, an employee will:

(1) quit the employment;

(2) take a leave of absence;

(3) leave the employment temporarily or permanently; or

(4) withdraw a grievance or appeal of a termination.

An agreement that violates this subdivision has no effect under this chapter.

Subd. 2. **No assignment of unemployment benefits; exemptions.** Any assignment, pledge, or encumbrance of unemployment benefits is void. Unemployment benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Any waiver of this subdivision is void.

History: *Ex1936 c 2 s 15; 1941 c 554 s 14; 1986 c 444; 1989 c 209 art 2 s 1; 1996 c 417 s 31; 1997 c 66 s 79; 1998 c 265 s 39; 1999 c 107 s 59; 2000 c 343 s 4; 2001 c 175 s 48,52; 1Sp2003 c 3 art 2 s 20; 2007 c 128 art 3 s 24; art 6 s 94; 2012 c 201 art 2 s 7*

268.193 POSTSECONDARY UNEMPLOYMENT INSURANCE AID.

Subdivision 1. **Postsecondary institutions.** For the purposes of this section, "eligible postsecondary institution" means:

(1) the University of Minnesota;

(2) a postsecondary institution governed by the Board of Trustees of the Minnesota State Colleges and Universities; or

(3) a Tribal college, which includes Leech Lake Tribal College, White Earth Tribal College, or Red Lake Nation Tribal College.

Subd. 2. **Unemployment insurance aid.** Eligible postsecondary institutions are eligible to receive unemployment insurance aid under this section. For each fiscal year, an eligible entity's aid is the difference between fiscal year 2022's unemployment insurance costs and the current year's unemployment insurance costs, as reflected in the unemployment insurance employer accounts maintained by the state. If the total eligible unemployment insurance aid for a fiscal year is greater than the annual appropriation for that year, the Board of Trustees of the Minnesota State Colleges and Universities must proportionately reduce the aid payment to each eligible entity.

History: *2023 c 41 art 2 s 29; 2026 c 116 s 64*

268.194 UNEMPLOYMENT INSURANCE TRUST FUND.

Subdivision 1. **Establishment.** There is established as a special state trust fund, separate and apart from all other public money or funds of this state, an unemployment insurance trust fund, that is administered by the commissioner exclusively for the payment of unemployment benefits. This trust fund consists of:

(1) all taxes collected;

(2) interest earned upon any money in the trust fund;

(3) reimbursements paid by nonprofit organizations, and the state and political subdivisions;

(4) tax rate buydown payments under section 268.051, subdivision 7;

(5) money received as a loan from the federal unemployment trust fund in accordance with United States Code, title 42, section 1321, of the Social Security Act;

(6) money received under a combined wage arrangement with the federal government or any other state;

(7) money received from the federal government for unemployment benefits paid under a federal program;

(8) money recovered on overpaid unemployment benefits;

(9) all money credited to the account under this chapter;

(10) all money credited to the account of Minnesota in the federal unemployment trust fund under United States Code, title 42, section 1103, of the Social Security Act, also known as the Reed Act; and

(11) all money received for the trust fund from any other source.

Subd. 2. **Commissioner of management and budget to be custodian; separate accounts.** (a) The commissioner of management and budget is the treasurer and custodian of the trust fund, and must administer the trust fund in accordance with the directions of the commissioner. The commissioner of management and budget must maintain within the trust fund three separate accounts:

(1) a clearing account;

(2) an unemployment trust fund account; and

(3) an unemployment benefit payment account.

All money payable to the trust fund, upon receipt by the commissioner, must be forwarded to the commissioner of management and budget who must immediately deposit the money in the clearing account. All money in the clearing account, after clearance, must be deposited to the credit of Minnesota's account in the federal unemployment trust fund. Tax refunds payable under section 268.057 may be paid from the clearing account or the unemployment benefit payment account.

(b) The unemployment benefit payment account consists of all money requisitioned from Minnesota's account in the federal unemployment trust fund for the payment of unemployment benefits. Money in the clearing and unemployment benefit payment accounts may be deposited by the commissioner of management and budget, under the direction of the commissioner, in any depository bank that general funds of Minnesota may be deposited, but no public deposit insurance charge or premium may be paid out of the trust fund. Money in the clearing and unemployment benefit payment accounts must be maintained in separate accounts on the books of the depository bank. This money must be secured by the depository bank to the same extent and in the same manner as required by the general depository law of Minnesota.

Subd. 3. **Exclusive use.** (a) Money requisitioned from Minnesota's account in the federal unemployment trust fund must be used exclusively for the payment of unemployment benefits and for tax refunds under section 268.057, except that money credited to Minnesota's account under United States Code, title 42, section 1103 of the Social Security Act, also known as the Reed Act, may be used for the payment of expenses of administration. The commissioner may requisition from the federal unemployment trust fund the amounts necessary for the payment of unemployment benefits and tax refunds for a reasonable future period. Upon

receipt the commissioner of management and budget must deposit the money in the unemployment benefit payment account.

(b) Expenditures of money in the unemployment benefit payment account and tax refunds from the clearing account are not subject to any provisions of law requiring specific appropriations or other formal release by state officers.

Subd. 3a. [Renumbered subd 4]

Subd. 4. **Reimbursements.** The commissioner is authorized to make to other state or federal agencies and to receive from other state or federal agencies, reimbursements from or to the trust fund, in accordance with combined wage arrangements entered into under section 268.131.

Money received under a combined wage arrangement must be placed directly in the unemployment benefit payment account of the trust fund.

Subd. 5. **Reed Act money.** (a) Money credited to the account of Minnesota in the federal unemployment trust fund under United States Code, title 42, section 1103, of the Social Security Act, also known as the Reed Act, may be requisitioned and used for (1) the payment of unemployment benefits, or (2) expenses incurred for the administration of the Minnesota unemployment insurance program according to a specific appropriation by the legislature. Any money used for the payment of unemployment benefits may be restored for appropriation and use for administrative expenses upon request of the governor to the United States Secretary of Labor.

(b) Reed Act money may be used for expenses in the administration of the Minnesota unemployment insurance program provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law that:

(1) specifies the amounts and the purposes for which the money is appropriated;

(2) limits the period within which the money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(3) limits the amount that may be obligated to an amount that does not exceed the amount by which the aggregate of the amounts transferred to the account of Minnesota under the Reed Act exceeds the aggregate of the amounts used under this subdivision and charged against the amounts transferred to the account of Minnesota. For the purposes of this subdivision, amounts used for administration are chargeable against the transferred amounts at the time of the obligation.

(c) Reed Act money requisitioned for the payment of expenses of administration remain a part of the trust fund. The commissioner must account for the use of this money in accordance with the standards established by the United States Secretary of Labor. If any money is not spent for the purpose for which it was appropriated, or, if it remains unspent at the end of the period specified by the law appropriating the money, it must be returned for credit to Minnesota's account in the federal unemployment trust fund.

Subd. 6. **Borrowing federal funds.** (a) The governor is authorized, if necessary, to borrow funds from the federal unemployment trust fund in accordance with United States Code, title 42, section 1321 of the Social Security Act in order to pay unemployment benefits.

(b) Any amount transferred to the trust fund under the terms of any loan must be repayable as provided in United States Code, title 42, sections 1101(d)(1), 1103(b)(2), and 1322 of the Social Security Act.

(c) Interest payable on any loan is paid in accordance with section 268.051, subdivision 8, paragraph (b).

History: *Ex1936 c 2 s 3,11; 1937 c 306 s 8; 1937 c 452 s 1; 1939 c 443 s 2,9; 1941 c 554 s 2,10; 1943 c 650 s 8; 1945 c 376 s 2,10; 1947 c 432 s 8-10; 1949 c 605 s 2; 1953 c 97 s 3,4; 1957 c 883 s 2-5; 1961 c 517 s 1; 1965 c 45 s 45; 1969 c 9 s 64; 1969 c 310 s 1; 1969 c 567 s 3; 1971 c 942 s 13; 1975 c 302 s 1; 1979 c 181 s 16; 1Sp1982 c 1 s 4; 1983 c 216 art 1 s 87; 1983 c 372 s 8; 1985 c 248 s 70; 1Sp1985 c 13 s 300; 1986 c 444; 1989 c 209 art 2 s 1; 1994 c 488 s 8; 1996 c 417 s 31; 1997 c 66 s 79,80; 1998 c 265 s 33-35,40-42,45; 1999 c 107 s 60,66; 2000 c 343 s 4; 2001 c 175 s 52; 1Sp2003 c 3 art 2 s 20; 2004 c 206 s 52; 2007 c 128 art 1 s 20; art 3 s 21,22; art 6 s 95-97; 2008 c 300 s 51; 2009 c 78 art 4 s 50; 2009 c 101 art 2 s 109; 2012 c 201 art 3 s 14; 1Sp2015 c 1 art 6 s 15; 2017 c 35 art 3 s 21,22*

268.196 ADMINISTRATION ACCOUNT.

Subdivision 1. **Administration account.** (a) There is created in the state treasury a special account to be known as the administration account. All money deposited into this account is continuously available to the commissioner for administering the Minnesota unemployment insurance program, and does not lapse at any time. The administration account consists of all money:

(1) received from the federal government to:

(i) administer the Minnesota unemployment insurance program;

(ii) administer any federal unemployment insurance program; and

(iii) assist any other state in administering that state's unemployment insurance program;

(2) received for services or facilities supplied to the federal government or any other state;

(3) credited to this account under this chapter;

(4) received for losses sustained by this account or by reason of damage to equipment or supplies; and

(5) received from the sale of any equipment or supplies that are no longer necessary for the administration of the Minnesota unemployment insurance program.

(b) All money in this account must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for the other special accounts in the state treasury. The commissioner of management and budget, as treasurer and custodian of this account, is liable for the faithful performance of duties in connection with this account.

(c) All money in this account may only be spent for the administration of the Minnesota unemployment insurance program.

Subd. 2. **State to replace money wrongfully used.** If any money received under United States Code, title 42, section 501 of the Social Security Act is found by the United States Secretary of Labor to have been spent for purposes other than for the proper administration of the Minnesota unemployment insurance program, the commissioner must, at the earliest opportunity, submit to the legislature a request for the appropriation of that amount.

Subd. 3. MS 2006 [Renumbered 268.199]

Subd. 4. MS 2006 [Renumbered 268.211]

History: *Ex1936 c 2 s 13; 1941 c 554 s 12; 1945 c 376 s 12; 1953 c 97 s 16; 1957 c 883 s 8-10; 1963 c 721 s 1; 1965 c 45 s 46; 1969 c 399 s 1; 1969 c 567 s 3; 1973 c 254 s 3; 1973 c 492 s 14; 1973 c 720 s 73 subd 1; 1974 c 497 s 1; 1975 c 302 s 2; 1Sp1982 c 1 s 33; 1983 c 216 art 1 s 87; 1986 c 444; 1987 c 362 s 25; 1987 c 385 s 27; 1989 c 209 art 2 s 1; 1994 c 488 s 8; 1996 c 417 s 31; 1997 c 7 art 1 s 106; 1997 c 66 s 79,80; 1998 c 265 s 43; 1999 c 107 s 61,66; 2000 c 343 s 4; 2001 c 175 s 52; 1Sp2003 c 3 art 2 s 20; 2004 c 206 s 52; 2007 c 128 art 1 s 21; art 3 s 23; 2007 c 135 art 2 s 26; 2008 c 300 s 51; 2009 c 78 art 4 s 45,46; 2009 c 101 art 2 s 109; 2014 c 251 art 2 s 22*

268.198 [Renumbered 268.26]

268.199 CONTINGENT ACCOUNT.

(a) There is created in the state treasury a special account, to be known as the contingent account, that does not lapse nor revert to any other fund or account. This account consists of all money collected under this chapter that is required to be placed in this account and any interest earned on the account. All money in this account is appropriated and available for administration of the Minnesota unemployment insurance program unless otherwise appropriated by session law.

(b) All money in this account must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for the other special accounts in the state treasury.

History: *Ex1936 c 2 s 13; 1941 c 554 s 12; 1945 c 376 s 12; 1953 c 97 s 16; 1957 c 883 s 8-10; 1963 c 721 s 1; 1965 c 45 s 46; 1969 c 399 s 1; 1969 c 567 s 3; 1973 c 254 s 3; 1973 c 492 s 14; 1973 c 720 s 73 subd 1; 1974 c 497 s 1; 1975 c 302 s 2; 1Sp1982 c 1 s 33; 1983 c 216 art 1 s 87; 1986 c 444; 1987 c 362 s 25; 1987 c 385 s 27; 1989 c 209 art 2 s 1; 1994 c 488 s 8; 1996 c 417 s 31; 1997 c 7 art 1 s 106; 1997 c 66 s 79,80; 1998 c 265 s 43; 1999 c 107 s 61,66; 2000 c 343 s 4; 2001 c 175 s 52; 1Sp2003 c 3 art 2 s 20; 2004 c 206 s 52; 2007 c 128 art 1 s 21; art 3 s 23; 2007 c 135 art 2 s 26; 2008 c 300 s 51; 2009 c 78 art 4 s 47*

268.20 REPRESENTATION IN COURT.

In any civil action to enforce the provisions of the Minnesota Unemployment Insurance Law, the commissioner may be represented by the attorney general.

History: *(4337-37) Ex1936 c 2 s 17; 1941 c 554 s 16; 1989 c 209 art 2 s 1; 1996 c 417 s 31; 2001 c 175 s 52; 1Sp2003 c 3 art 2 s 20; 2007 c 128 art 6 s 98*

268.21 NONLIABILITY OF STATE.

(a) Unemployment benefits are payable only to the extent provided in this chapter and to the extent that money is available in the trust fund and neither the state nor the commissioner is liable for any amount in excess of the money available in the trust fund.

(b) No person may make any demand, bring any suit, or other proceeding to recover from the state or the commissioner any sum alleged to be due on a benefit account after the expiration of two years from the effective date of the benefit account.

History: *(4337-38) Ex1936 c 2 s 18; 1941 c 554 s 17; 1989 c 209 art 2 s 1; 1994 c 488 s 8; 1996 c 417 s 31; 1997 c 66 s 77; 1998 c 265 s 44; 1999 c 107 s 63; 2000 c 343 s 4; 1Sp2003 c 3 art 2 s 20; 2007 c 128 art 6 s 99*

268.211 UNEMPLOYMENT INSURANCE BENEFITS TELEPHONE SYSTEM.

The commissioner must ensure that any automated telephone system used for unemployment insurance benefits provides an option for any caller to speak to an unemployment insurance specialist. An individual who calls any of the publicized telephone numbers seeking information about applying for unemployment benefits or on the status of a benefit account must have the option to speak on the telephone to a specialist who can provide direct assistance or can direct the caller to the individual or office that is able to respond to the caller's needs.

History: *Ex1936 c 2 s 13; 1941 c 554 s 12; 1945 c 376 s 12; 1953 c 97 s 16; 1957 c 883 s 8-10; 1963 c 721 s 1; 1965 c 45 s 46; 1969 c 399 s 1; 1969 c 567 s 3; 1973 c 254 s 3; 1973 c 492 s 14; 1973 c 720 s 73 subd 1; 1974 c 497 s 1; 1975 c 302 s 2; 1Sp1982 c 1 s 33; 1983 c 216 art 1 s 87; 1986 c 444; 1987 c 362 s 25; 1987 c 385 s 27; 1989 c 209 art 2 s 1; 1994 c 488 s 8; 1996 c 417 s 31; 1997 c 7 art 1 s 106; 1997 c 66 s 79,80; 1998 c 265 s 43; 1999 c 107 s 61,66; 2000 c 343 s 4; 2001 c 175 s 52; 1Sp2003 c 3 art 2 s 20; 2004 c 206 s 52; 2007 c 128 art 1 s 21; art 3 s 23; 2007 c 135 art 2 s 26; 2008 c 300 s 51; 2009 c 78 art 4 s 48*

268.215 DAY OF THE WEEK AND DATE REQUIREMENT.

(a) Every determination issued under this chapter must indicate the day of the week and the date, for example, Tuesday, August 1, 2006, that the determination is final and no longer subject to an appeal.

(b) Every decision issued by an unemployment law judge under section 268.105, subdivision 1a, must indicate the day of the week and the date, for example, Tuesday, August 1, 2006, that the decision is final and no longer subject to reconsideration.

History: *2007 c 128 art 2 s 18; 2014 c 251 art 2 s 23*

268.22 SAVING CLAUSE.

The legislature reserves the right to amend or repeal all or any part of the Minnesota Unemployment Insurance Law at any time; and there is no vested private right of any kind against amendment or repeal. All the rights, privileges, immunities conferred, or acts done exist subject to the power of the legislature to amend or repeal these sections at any time.

History: *(4337-39) Ex1936 c 2 s 19; 1941 c 554 s 18; 1991 c 199 art 2 s 1; 1996 c 417 s 31; 2001 c 175 s 52; 1Sp2003 c 3 art 2 s 20; 2007 c 128 art 6 s 100*

268.23 SEVERABLE.

If the United States Department of Labor or a court of competent jurisdiction determines that any provision of the Minnesota Unemployment Insurance Law is not in conformity with, or is inconsistent with, the requirements of federal law, the provision has no force or effect. If only a portion of the provision, or the application to any person or circumstances, is determined not in conformity, or determined inconsistent, the remainder of the provision and the application of the provision to other persons or circumstances are not affected.

History: *(4337-40) Ex1936 c 2 s 20; 1941 c 554 s 19; 1949 c 605 s 14; 1965 c 45 s 47; 1991 c 199 art 2 s 1; 1996 c 417 s 30,31; 1999 c 107 s 64,66; 2000 c 343 s 4; 2001 c 175 s 52; 1Sp2003 c 3 art 2 s 20; 2007 c 128 art 6 s 101; 2013 c 85 art 4 s 16*

268.231 MS 1994 [Repealed, 1996 c 417 s 32]

268.24 MS 1986 [Repealed, 1987 c 385 s 50]

268.25 MS 1996 [Repealed, 1998 c 265 s 46]

268.26 Subdivision 1. MS 2003 Supp [Repealed, 2004 c 206 s 53]

Subd. 2. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 3. MS 2002 [Repealed, 2004 c 206 s 53]

268.29 [Renumbered 299A.72]

268.30 [Renumbered 116L.30]

268.31 MS 1992 [Repealed, 1994 c 632 art 4 s 84]

268.315 MS 1992 [Repealed, 1994 c 632 art 4 s 84]

268.32 MS 1992 [Repealed, 1994 c 632 art 4 s 84]

268.33 MS 1992 [Repealed, 1994 c 632 art 4 s 84]

268.34 MS 1992 [Repealed, 1994 c 632 art 4 s 84]

268.35 MS 1992 [Repealed, 1994 c 632 art 4 s 84]

268.36 MS 1992 [Repealed, 1994 c 632 art 4 s 84]

268.361 Subdivision 1. [Renumbered 116L.361, subdivision 1]

Subd. 2. [Renumbered 116L.361, subd 2]

Subd. 3. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 4. [Renumbered 116L.361, subd 3]

Subd. 4a. [Renumbered 116L.361, subd 4]

Subd. 5. [Renumbered 116L.361, subd 5]

Subd. 6. [Renumbered 116L.361, subd 6]

Subd. 7. [Renumbered 116L.361, subd 7]

268.362 [Renumbered 116L.362]

268.3625 [Renumbered 116L.3625]

268.363 [Renumbered 116L.363]

268.364 Subdivision 1. [Renumbered 116L.364, subdivision 1]

Subd. 2. [Renumbered 116L.364, subd 2]

Subd. 3. [Renumbered 116L.364, subd 3]

Subd. 4. [Renumbered 116L.364, subd 4]

Subd. 5. MS 1988 [Repealed by amendment, 1989 c 328 art 7 s 4]

Subd. 6. [Renumbered 116L.364, subd 5]

268.365 Subdivision 1. MS 1992 [Repealed, 1993 c 369 s 146]

Subd. 2. [Renumbered 116L.365, subdivision 1]

Subd. 3. [Renumbered 116L.365, subd 2]

Subd. 4. [Renumbered 116L.365, subd 3]

268.366 [Renumbered 116L.366]

268.3661 MS 2002 [Repealed, 2004 c 206 s 53]

268.367 MS 1994 [Repealed, 1996 c 339 s 10]

268.37 MS 1996 [Repealed, 1998 c 273 s 15]

268.371 MS 1996 [Repealed, 1998 c 273 s 15]

268.38 Subdivision 1. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 2. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 3. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 4. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 5. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 6. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 7. MS 1997 Supp [Repealed, 1998 c 273 s 15]

Subd. 8. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 9. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 10. [Deleted, 1995 c 233 art 2 s 56]

Subd. 11. MS 1994 [Repealed, 1996 c 339 s 10]

Subd. 12. MS 1996 [Repealed, 1998 c 273 s 15]

Subd. 13. [Renumbered 119A.43, subd 11]

268.39 MS 1996 [Repealed, 1997 c 200 art 4 s 23]

268.40 [Expired]

268.41 [Expired]

268.42 [Expired]

268.43 [Expired]

268.52 [Renumbered 119A.374]

268.53 Subdivision 1. [Renumbered 119A.375, subdivision 1]

Subd. 1a. [Renumbered 119A.375, subd 2]

Subd. 2. [Renumbered 119A.375, subd 3]

Subd. 3. [Renumbered 119A.375, subd 4]

Subd. 4. [Renumbered 119A.375, subd 5]

Subd. 5. [Renumbered 119A.375, subd 6]

Subd. 6. [Renumbered 119A.375, subd 7]

Subd. 7. [Renumbered 119A.375, subd 8]

268.54 [Renumbered 119A.376]

268.55 MS 1996 [Repealed, 1998 c 273 s 15]

268.551 MS 2002 [Repealed, 2004 c 206 s 53]

268.552 MS 2002 [Repealed, 2004 c 206 s 53]

268.56 Subdivision 1. [Renumbered 116L.56, subdivision 1]

Subd. 2. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 3. [Renumbered 116L.56, subd 2]

Subd. 4. [Renumbered 116L.56, subd 3]

268.561 Subdivision 1. [Renumbered 116L.561, subdivision 1]

Subd. 2. [Renumbered 116L.561, subd 2]

Subd. 3. [Renumbered 116L.561, subd 3]

Subd. 4. [Renumbered 116L.561, subd 4]

Subd. 5. [Renumbered 116L.561, subd 5]

Subd. 6. [Renumbered 116L.561, subd 6]

Subd. 7. [Renumbered 116L.561, subd 7]

Subd. 8. [Renumbered 116L.561, subd 8]

Subd. 9. [Renumbered 116L.561, subd 9]

Subd. 10. MS 2002 [Repealed, 2004 c 206 s 53]

268.60 [Renumbered 116L.60]

268.61 Subdivision 1. [Renumbered 116L.61, subdivision 1]

Subd. 2. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 3. [Renumbered 116L.61, subd 2]

Subd. 4. [Renumbered 116L.61, subd 3]

Subd. 5. [Renumbered 116L.61, subd 4]

Subd. 6. [Renumbered 116L.61, subd 5]

268.62 [Renumbered 116L.62]

268.63 [Renumbered 116L.63]

268.64 [Renumbered 116L.64]

268.65 Subdivision 1. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 2. MS 2003 Supp [Repealed, 2004 c 206 s 53]

Subd. 3. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 4. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 5. MS 2002 [Repealed, 2004 c 206 s 53]

268.66 [Renumbered 116L.66]

268.665 Subdivision 1. [Renumbered 116L.665, subdivision 1]

Subd. 2. [Renumbered 116L.665, subd 2]

Subd. 3. [Renumbered 116L.665, subd 3]

Subd. 3a. [Renumbered 116L.665, subd 4]

Subd. 4. [Renumbered 116L.665, subd 5]

Subd. 5. [Renumbered 116L.665, subd 6]

Subd. 6. [Renumbered 116L.665, subd 7]

268.666 Subdivision 1. [Renumbered 116L.666, subdivision 1]

Subd. 2. [Renumbered 116L.666, subd 2]

Subd. 3. [Renumbered 116L.666, subd 3]

Subd. 4. [Renumbered 116L.666, subd 4]

Subd. 5. MS 2002 [Repealed, 2004 c 206 s 53]

268.671 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

268.6715 MS 2000 [Repealed, 2001 c 79 s 8]

268.672 MS 2000 [Repealed, 2001 c 79 s 8]

268.673 MS 2000 [Repealed, 2001 c 79 s 8]

268.674 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 2]

268.675 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 2]

268.6751 MS 2000 [Repealed, 2001 c 79 s 8]

268.676 MS 1996 [Repealed, 1997 c 200 art 3 s 19]

268.677 MS 2000 [Repealed, 2001 c 79 s 8]

268.678 MS 1996 [Repealed, 1997 c 200 art 3 s 19]

268.679 Subdivision 1. MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 2]

Subd. 2. MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 2]

Subd. 3. MS 1996 [Repealed, 1997 c 200 art 3 s 19]

268.68 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 2]

268.681 MS 2000 [Repealed, 2001 c 79 s 8]

268.6811 MS 2000 [Repealed, 2001 c 79 s 8]

268.682 MS 2000 [Repealed, 2001 c 79 s 8]

268.683 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 2]

268.684 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 2]

268.685 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

268.686 MS 1984 [Repealed, 1Sp1985 c 9 art 2 s 104; 1Sp1985 c 14 art 9 s 78 subd 2]

268.80 MS 1983 Supp [Repealed, 1983 c 312 art 8 s 18; 1Sp1985 c 14 art 9 s 78 subd 1]

268.81 MS 1983 Supp [Repealed, 1983 c 312 art 8 s 18; 1Sp1985 c 14 art 9 s 78 subd 1]

268.82 MS 1983 Supp [Repealed, 1983 c 312 art 8 s 18; 1Sp1985 c 14 art 9 s 78 subd 1]

268.83 MS 1983 Supp [Repealed, 1983 c 312 art 8 s 18; 1Sp1985 c 14 art 9 s 78 subd 1]

268.84 MS 1984 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

268.85 MS 2000 [Repealed, 2001 c 79 s 8]

268.86 Subdivision 1. MS 1986 [Repealed, 1987 c 403 art 3 s 98]

Subd. 2. [Renumbered 116L.86, subdivision 1]

Subd. 3. MS 1986 [Repealed, 1987 c 403 art 3 s 98]

Subd. 4. MS 1986 [Repealed, 1987 c 403 art 3 s 98]

Subd. 5. MS 1986 [Repealed, 1987 c 403 art 3 s 98]

Subd. 6. [Renumbered 116L.86, subd 2]

Subd. 7. MS 1988 [Repealed, 1989 c 282 art 5 s 133]

Subd. 8. MS 2000 [Repealed, 2001 c 79 s 8]

Subd. 9. MS 1988 [Repealed, 1990 c 568 art 4 s 85]

Subd. 10. [Renumbered 116L.86, subd 3]

268.871 Subdivision 1. [Renumbered 116L.871, subdivision 1]

Subd. 1a. [Renumbered 116L.871, subd 2]

Subd. 2. MS 2000 [Repealed, 2001 c 79 s 8]

Subd. 3. [Renumbered 116L.871, subd 3]

Subd. 4. MS 2000 [Repealed, 2001 c 79 s 8]

Subd. 5. MS 1998 [Repealed, 1999 c 159 s 154]

268.872 Subdivision 1. [Renumbered 116L.872, subdivision 1]

Subd. 2. [Renumbered 116L.872, subd 2]

Subd. 3. MS 1988 [Repealed, 1990 c 568 art 4 s 85]

268.88 [Renumbered 116L.88]

268.881 [Renumbered 116L.881]

268.89 MS 2002 [Repealed, 2004 c 206 s 53]

268.90 MS 2000 [Repealed, 2001 c 79 s 8]

268.91 Subdivision 1. [Renumbered 256H.01]

Subd. 2. [Renumbered 256H.02]

Subd. 3. [Renumbered 256H.03]

Subd. 3a. [Renumbered 256H.04]

Subd. 3b. [Renumbered 256H.05]

Subd. 3c. [Renumbered 256H.06]

Subd. 3d. [Renumbered 256H.07]

Subd. 3e. [Renumbered 256H.08]

Subd. 3f. [Renumbered 256H.09]

Subd. 4. [Renumbered 256H.10]

Subd. 5. [Renumbered 256H.11]

Subd. 6. [Renumbered 256H.12]

Subd. 6a. [Renumbered 256H.13]

Subd. 7. [Renumbered 256H.14]

Subd. 8. [Renumbered 256H.15]

Subd. 9. [Renumbered 256H.16]

Subd. 10. [Renumbered 256H.17]

Subd. 11. [Renumbered 256H.18]

Subd. 12. [Renumbered 256H.19]

268.911 [Renumbered 256H.20]

268.912 [Renumbered 119A.50]

268.913 Subdivision 1. [Renumbered 119A.51, subdivision 1]

Subd. 2. [Renumbered 119A.51, subd 2]

Subd. 3. [Renumbered 119A.51, subd 3]

Subd. 4. [Renumbered 119A.51, subd 4]

Subd. 5. MS 1996 [Repealed, 1997 c 162 art 1 s 19]

Subd. 6. [Renumbered 119A.51, subd 5]

268.914 Subdivision 1. [Renumbered 119A.52]

Subd. 2. MS 1992 [Repealed, 1993 c 369 s 146]

268.915 [Renumbered 119A.53]

268.916 [Renumbered 119A.54]

268.9165 [Renumbered 119A.545]

268.917 MS 1997 Supp [Repealed, 1998 c 273 s 15]

268.918 MS 2002 [Repealed, 2004 c 206 s 53]

268.92 MS 1996 [Repealed, 1998 c 273 s 15]

268.95 Subdivision 1. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 2. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 3. MS 2002 [Repealed, 2004 c 206 s 53]

Subd. 4. MS 2003 Supp [Repealed, 2004 c 206 s 53]

268.96 [Renumbered 116L.96]

268.971 MS 2000 [Repealed, 2001 c 79 s 8]

268.975 MS 2000 [Repealed, 1Sp2001 c 4 art 2 s 41]

268.9755 MS 1994 [Repealed, 1995 c 131 s 3]

268.976 Subdivision 1. MS 2003 Supp [Repealed, 2004 c 206 s 53]

Subd. 2. [Renumbered 116L.976, subdivision 1]

Subd. 3. [Renumbered 116L.976, subd 2]

268.977 MS 1992 [Repealed, 1993 c 369 s 146]

268.9771 MS 2000 [Repealed, 1Sp2001 c 4 art 2 s 41]

268.978 MS 2000 [Repealed, 1Sp2001 c 4 art 2 s 41]

268.9781 MS 2000 [Repealed, 1Sp2001 c 4 art 2 s 41]

268.9782 MS 2000 [Repealed, 1Sp2001 c 4 art 2 s 41]

268.9783 MS 2000 [Repealed, 1Sp2001 c 4 art 2 s 41]

268.979 MS 2000 [Repealed, 1Sp2001 c 4 art 2 s 41]

268.98 MS 2000 [Repealed, 1Sp2001 c 4 art 2 s 41]