

\$75,000 in fiscal year 1996 shall be used for the commissioner of human services to provide a matching grant for community collaborative projects for children and youth developed by a regional organization established under Minnesota Statutes, section 116N.08, to receive rural development challenge grants. The regional organization must include a broad cross-section of public and private sector community representatives to develop programs, services or facilities to address specific community needs of children and youth. The regional organization must also provide a two-to-one match of nonstate dollars for this grant.

#### **INDIAN CHILD WELFARE GRANTS.**

\$100,000 is appropriated from the general fund to the commissioner of human services for the purposes of providing compliance grants to an Indian child welfare defense corporation, pursuant to Minnesota Statutes, section 257.3571, subdivision 2a, to be available until June 30, 1997.

#### **Sec. 18. EFFECTIVE DATE.**

Sections 1 to 17 are effective the day following final enactment.

Presented to the governor March 30, 1996

Signed by the governor April 2, 1996, 12:44 p.m.

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### **CHAPTER 417—S.F.No. 1919**

*An act relating to reemployment insurance; making technical and administrative changes; amending Minnesota Statutes 1994, sections 268.04, subdivisions 2, 4, and by adding a subdivision; 268.06, subdivisions 5 and 24; 268.07; 268.072, subdivisions 2, 3, and 5; 268.073, subdivisions 3, 4, and 7; 268.074, subdivision 4; 268.08, as amended; 268.09, subdivision 2; 268.12, by adding a subdivision; 268.16, subdivision 4; 268.164, subdivisions 1 and 2; and 268.23; Minnesota Statutes 1995 Supplement, sections 268.041; 268.06, subdivision 20; 268.09, subdivision 1; 268.105, by adding a subdivision; 268.161, subdivision 9; and 268.18, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1994, sections 268.04, subdivi-*

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sions 18 and 24; 268.10, subdivision 1; and 268.231; Minnesota Statutes 1995 Supplement, section 268.10, subdivision 2; Laws 1994, chapter 503, section 5.

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

Section 1. Minnesota Statutes 1994, section 268.04, subdivision 2, is amended to read:

Subd. 2. **BASE PERIOD.** "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's a claimant's benefit year; except: (a) if during the base period an individual a claimant received workers' compensation for temporary disability under chapter 176 or a similar law of the United States, or if an individual a claimant whose own serious illness caused a loss of work for which the individual claimant received compensation due to the illness from some other source or under a law of this state other than chapter 176 or a similar law of the United States, the individual's claimant's base period shall be lengthened to the extent stated as follows:

(1) if an individual a claimant was compensated, as described above, for a loss of work of seven to 13 weeks, the original base period shall be extended to include one calendar quarter preceding the original base period; or

(2) if an individual a claimant was compensated, as described above, for a loss of work of 14 to 26 weeks, the original base period shall be extended to include two calendar quarters preceding the original base period; or

(3) if an individual a claimant was compensated, as described above, for a loss of work of 27 to 39 weeks, the original base period shall be extended to include the first three calendar quarters preceding the original base period; or

(4) if an individual a claimant was compensated, as described above, for a loss of work of 40 to 52 weeks, the original base period shall be extended to include the first four quarters preceding the original base period; or

(b) if the commissioner finds that, during the base period described above, the individual claimant subject to clause (a) has insufficient wage credits to establish a valid claim reemployment insurance account, the individual claimant may request a determination of validity a reemployment insurance account using an alternate base period of the last four completed calendar quarters preceding the first day of an individual's a claimant's benefit year. This alternate base period may be used by an individual a claimant only once during any five calendar year period to establish a valid claim reemployment insurance account.

In no instance shall the base period be extended to include more than four additional calendar quarters.

No base period, extended base period, or alternate base period under paragraph (b) shall include wage credits upon which a claim was established and benefits were paid with respect to that valid claim reemployment insurance account.

Sec. 2. Minnesota Statutes 1994, section 268.04, subdivision 4, is amended to read:

Subd. 4. **BENEFIT YEAR.** "Benefit year" with respect to any individual claimant means the period of 52 calendar weeks beginning with the first day of the first week with

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respect to which the individual files a valid claim for benefits claimant establishes a re-employment insurance account. For individuals claimants with a claim reemployment insurance account established effective January 1, April 1, July 1, or October 1, the benefit year will be a period of 53 weeks beginning with the first week with respect to which the individual files a valid claim for benefits claimant establishes a reemployment insurance account. A benefit year, once established, can be withdrawn if benefits have not been paid, and benefit credit has not been claimed, unless otherwise provided under federal law or regulation.

Sec. 3. Minnesota Statutes 1994, section 268.04, is amended by adding a subdivision to read:

Subd. 5a. **CLAIMANT.** "Claimant" means an individual who has made an application for a reemployment insurance account and has established or is actively pursuing the establishment of a reemployment insurance account.

Sec. 4. Minnesota Statutes 1995 Supplement, section 268.041, is amended to read:

**268.041 DETERMINATIONS OF COVERAGE.**

An official, designated by the commissioner, upon the commissioner's own motion or upon application of an employing unit, shall determine if an employing unit is an employer within the meaning of this chapter or as to whether services performed for it constitute employment within the meaning of this chapter, or whether the remuneration for services constitutes wages as defined in section 268.04, subdivision 25, and shall notify the employing unit of the determination. The determination shall be final unless the employing unit, within 30 days after the mailing of notice of the determination to the employing unit's last known address, files a written appeal from it. Proceedings on the appeal shall be conducted in accordance with section 268.105. The commissioner may at any time upon the commissioner's own motion correct any error of the department resulting in an erroneous determination under this section, except for those matters that have been appealed to the court of appeals and heard on the merits. The commissioner shall issue a redetermination which shall be final unless the employing unit, within 30 days after the mailing of notice of the redetermination to the employing unit's last known address, files a written appeal from it. Proceedings on the appeal shall be conducted in accordance with section 268.105.

Sec. 5. Minnesota Statutes 1994, section 268.06, subdivision 5, is amended to read:

Subd. 5. **BENEFITS CHARGED AS AND WHEN PAID.** (a) Benefits paid to an individual claimant pursuant to a valid claim reemployment insurance account shall be charged against the account of the individual's claimant's base period employer as and when paid, except that benefits paid to an individual claimant who earned base period wages for part-time employment shall not be charged to an employer that is liable for payments in lieu of contributions or to the experience rating account of an employer if the employer: (1) provided regularly scheduled part-time employment to the individual claimant during the individual's claimant's base period; (2) during the individual's claimant's benefit year, continues to provide the individual claimant with regularly scheduled employment approximating 90 percent of the employment provided the claimant by that employer in the base period, or, for a fire department or firefighting corporation or operator of a life support transportation service, continues to provide employment for a volunteer firefighter or volunteer ambulance service personnel on the same basis that employ-

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ment was provided in the base period; and (3) is an interested party involved employer because of the individual's claimant's loss of other employment. The relief of charges shall terminate effective the first week in the claimant's benefit year that the employer fails to meet the provisions of clause (2). The amount of benefits ~~so~~ chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to an individual claimant as the base period wage credits of the individual claimant earned from such employer bear to the total amount of base period wage credits of the individual claimant earned from all the individual's claimant's base period employers.

In making computations under this provision, the amount of wage credits if not a multiple of \$1, shall be computed to the nearest multiple of \$1.

Benefits shall not be charged to an employer that is liable for payments in lieu of contributions or to the experience rating account of an employer for unemployment (1) that is directly caused by a major natural disaster declared by the president pursuant to section 102(2) of the Disaster Relief Act of 1974 (United States Code, title 42, section 5122(2)), if the unemployed individual claimant would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's claimant's receipt of unemployment insurance benefits, or (2) that is directly caused by the condemnation of property by a governmental agency, a fire, flood, or act of God where 70 percent or more of the employees employed in the affected location become unemployed as a result and the employer substantially reopens its operations in that same area within 360 days 18 months of the closure of the business due to condemnation of property by a governmental agency, fire, flood, or act of God. Benefits shall be charged to the employer's account where the unemployment is caused by the willful act of the employer or a person acting on behalf of the employer.

(b) Benefits paid a claimant whose separation from employment was required by a law or Minnesota administrative rule mandating a background check, or whose separation from employment was required by law or Minnesota administrative rule because of a criminal conviction, shall not be charged to an employer that is liable for payments in lieu of contributions or to the experience rating account of an employer.

This paragraph shall be retroactive to the date the law or Minnesota administrative rule mandating a background check is effective or to the date the law or Minnesota administrative rule requiring a separation for a criminal conviction is effective.

(c) Benefits paid by another state as a result of the transferring of wage credits under a federally required combined wage agreement shall not be charged to an employer that is liable for payments in lieu of contributions or to the experience rating account of an employer.

(d) Notwithstanding paragraph (a), benefits paid to a claimant shall not be charged to the experience rating account of an employer if the claimant's base period wage credits paid by that employer are less than \$500. This paragraph shall be in effect until August 1, 1998.

Sec. 6. Minnesota Statutes 1995 Supplement, section 268.06, subdivision 20, is amended to read:

Subd. 20. **PROTEST, REVIEW, REDETERMINATION, APPEAL.** A review of the charges made to an employer's account as set forth in the notice of charges referred

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to in subdivision 18 and a review of an employer's contribution rate as set forth in the notice of the employer's rate for any calendar year as provided in subdivision 19, may be had by the employer by filing with the commissioner a written protest setting forth reasons therefor within 30 days from the date of the mailing of the notice of charges or contribution rate to the employer. The date shall appear on the notice. Upon receipt of the protest, the commissioner shall refer the matter to an official designated by the commissioner to review the charges appearing on the notice appealed from or the computations of the protesting employer's rate, as the case may be, to determine whether or not there has been any clerical error or error in computation in either case. The official shall either affirm or make a redetermination rectifying the charges or rate as the case may be, and a notice of the affirmation or redetermination shall immediately be mailed to the employer. If the employer is not satisfied with the affirmation or redetermination, the employer may appeal by filing a written notice with the department within ten 30 days after the date of mailing appearing upon the redetermination. Proceedings on the appeal shall be conducted in accordance with section 268.105. The commissioner may at any time upon the commissioner's own motion correct any clerical error of the department resulting in charges against an employer's account or any error in the computation or the assignment of an employer's contribution rate.

Sec. 7. Minnesota Statutes 1994, section 268.06, subdivision 24, is amended to read:

Subd. 24. **VOLUNTARY CONTRIBUTIONS.** Notwithstanding any inconsistent provisions of law any employer who has been assigned a contribution rate pursuant to subdivisions 4, 6, and 8 may, for the calendar year 1967, or any calendar year thereafter, upon the voluntary payment of an amount equivalent to any portion or all of the benefits charged to the employer's account during the period ending June 30 of the preceding year used for the purpose of computing an employer's experience ratio as authorized by said subdivisions 4, 6, and 8, obtain a cancellation of benefits charged to the account during such period equal to such payment so voluntarily made. Upon the payment of such voluntary contribution, plus a surcharge of 25 percent of such benefit charged, within the applicable period prescribed by the provisions of this subdivision, the commissioner shall cancel the benefits equal to such payment, excluding the 25 percent surcharge, so voluntarily made and compute a new experience ratio for such employer. The employer then shall be assigned the contribution rate applicable to the category within which the recomputed experience ratio is included. Such voluntary payments may be made only during the 30-day period immediately following the date of mailing to the employer of the notice of contribution rate as prescribed in this section; provided that the commissioner may extend this period if the commissioner finds that the employer's failure to make such payment within such 30-day period was for good cause; and provided further that notwithstanding any of the foregoing provisions of this subdivision, in no event shall any new experience ratio be computed for any employer or a contribution rate be reduced as a result of any such voluntary payment which is made after the expiration of the 120-day period commencing with the first day of the calendar year for which such rate is effective. Voluntary contributions made within the required time limits will not be refunded unless a request is made in writing at the time of payment that the department refund the voluntary contribution if it does not result in a lower rate.

When all or a part of the benefits charged to an employer's account are for the unemployment of 75 percent or more of the employees in an employing unit and the unemployment is caused by closure of the business by the condemnation of property by a govern-

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mental agency, or damages to the unit by fire, flood, wind or other act of God, the employer may obtain a cancellation of benefits incurred because of that unemployment in the manner provided by this subdivision without being subject to the surcharge of 25 percent otherwise required.

**Sec. 8. [268.062] NOTICE TO WORKERS.**

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

Sec. 9. Minnesota Statutes 1994, section 268.07, is amended to read:

**268.07 BENEFITS PAYABLE REEMPLOYMENT INSURANCE ACCOUNT.**

Subdivision 1. **PAID FROM THE FUND APPLICATION; DETERMINATION.** All benefits provided herein shall be payable from the fund and shall be paid through employment offices, in accordance with such rules as the commissioner may prescribe. (a) An application for reemployment insurance benefits may be made in person, by mail, by telephone, or by electronic transmission as the commissioner shall require. The commissioner may by rule adopt other requirements for an application.

(b) An official, designated by the commissioner, shall promptly examine each application for benefits to determine the base period, the benefit year, the weekly benefit amount payable, if any, and the maximum benefit amount payable, if any. The determination shall be known as the determination of reemployment insurance account. A written determination of reemployment insurance account must be promptly mailed to the claimant and all base period employers.

(c) If a base period employer failed to provide wage information for the claimant as required in section 268.121, the commissioner shall accept a claimant certification as to wage credits, based upon the claimant's records, and issue a determination of reemployment insurance account.

(d)(1) The commissioner may, at any time within 24 months from the establishment of a reemployment insurance account, reconsider any determination of reemployment insurance account and make a redetermination if the commissioner finds that the determination was incorrect for any reason. A written redetermination of reemployment insurance account shall be promptly mailed to the claimant and all base period employers.

(2) If a redetermination of reemployment insurance account reduces the weekly or maximum benefit amount payable, any benefits paid greater than the claimant was entitled is an overpayment of those benefits subject to section 268.18, except when, in the absence of fraud, a redetermination is due to an error or omission by an employer in providing wage information as required in section 268.121.

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

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

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

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

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

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

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

(d) On or before June 30 of each year, the commissioner shall determine the average weekly wage for purposes of paragraph (c) paid by employers subject to sections 268.03 to 268.231 in the following manner:

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

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

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

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

(f) Any eligible individual shall be entitled during The maximum benefit amount payable for any benefit year to a total amount of benefits shall equal to one-third of the

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individual's claimant's total base period wage credits rounded to the next lower dollar, not to exceed 26 times the individual's claimant's weekly benefit amount.

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

Subd. 2a. **EXCEPTION.** Notwithstanding the provisions of subdivision 2, if the commissioner finds that an individual has earned wage credits in seasonal employment, benefits shall be payable only if the commissioner finds that the individual has earned wage credits in 15 or more calendar weeks equal to or in excess of 30 times the individual's weekly benefit amount, in employment which is not seasonal, in addition to any wage credits in seasonal employment. For the purposes of this subdivision, "seasonal employment" means employment with a single employer in the recreation or tourist industry which is available with the employer for 15 consecutive weeks or less each calendar year.

Subd. 3. **WHEN WAGE CREDITS ARE NOT AVAILABLE SECOND ACCOUNT PROHIBITED.** (1) (a) To establish a second benefit year reemployment insurance account following the expiration of an immediately preceding a benefit year on a preceding reemployment insurance account, an individual a claimant must have sufficient wage credits and weeks of employment to establish a claim reemployment insurance account under the provisions of subdivision 2 and must have performed services after the establishment of the expired benefit year preceding reemployment insurance account. The services performed must have been in insured work and the wages paid for those services must equal not less than ten times the weekly benefit amount of the second benefit year reemployment insurance account. A claim filed reemployment insurance account established sufficiently in advance of anticipated unemployment to make the limitations of this clause paragraph ineffective shall be invalid not be allowed. It is the purpose of this provision that an individual a claimant cannot establish more than one benefit year reemployment insurance account as a result of one separation from employment.

(2) (b) No employer who provided 90 percent or more of the wage credits in a claimant's base period shall be charged for benefits based upon earnings of the claimant wages paid during a subsequent base period unless the employer has employed the claimant performed services for the employer in any part of the subsequent base period.

(3) Wages paid by an employing unit may not be used for benefit purposes by any claimant who (a) individually, jointly, or in combination with the claimant's spouse, parent, or child owns or controls directly or indirectly 25 percent or more interest in the employing unit; or (b) is the spouse, parent, or minor child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employing unit; and (c) is not permanently separated from employment.

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This clause is effective when the individual has been paid four times the individual's weekly benefit amount in the current benefit year.

(4) Wages paid in seasonal employment, as defined in subdivision 2a, are not available for benefit purposes during weeks in which there is no seasonal employment available with the employer.

(5) No employer shall be charged for benefits if the employer is a base period employer on a second claim solely because of the transition from a base period consisting of the 52-week period preceding the claim date to a base period as defined in section 268.04, subdivision 2.

Subd. 3a. **RIGHT OF APPEAL.** (a) A determination or redetermination of a reemployment insurance account shall be final unless a claimant or base period employer within 15 days after the mailing of the determination or redetermination to the last known address files a written appeal. Every determination or redetermination of a reemployment insurance account shall contain a prominent statement indicating in clear language the method of appealing, the time within which the appeal must be made, and the consequences of not appealing. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(b) Any claimant or base period employer may appeal from a determination or redetermination of a reemployment insurance account on the issue of whether an employing unit is an employer within the meaning of this chapter or whether services performed constitute employment within the meaning of this chapter. Proceedings on the appeal shall be conducted in accordance with section 268.105.

Subd. 3b. **LIMITATIONS.** (a) A reemployment insurance account shall be established the Sunday of the calendar week in which the application for reemployment insurance benefits was made. If an individual attempted to make an application for a reemployment insurance account, but was prevented from making an application by the department of economic security, the reemployment insurance account shall be established the Sunday of the calendar week the individual first attempted to make an application.

(b) A reemployment insurance account, once established, may be withdrawn if benefits have not been paid, and benefit credit has not been claimed.

(c) A reemployment insurance account shall not be established prior to the Sunday following the expiration of the benefit year on a prior reemployment insurance account.

(d) All benefits shall be payable from the Minnesota reemployment insurance fund only for weeks occurring during the benefit year.

Sec. 10. Minnesota Statutes 1994, section 268.072, subdivision 2, is amended to read:

Subd. 2. **NOTICE OF CLAIM.** An individual filing a new claim for Upon application for a reemployment insurance account, the claimant shall, at the time of filing the claim, disclose whether or not the individual claimant owes child support obligations. If any individual the claimant discloses that the individual claimant owes child support obligations, and is determined to be eligible for establishes a reemployment insurance account, the commissioner shall notify the child support agency that the individual claimant has been determined to be eligible for established a reemployment insurance account.

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Sec. 11. Minnesota Statutes 1994, section 268.072, subdivision 3, is amended to read:

Subd. 3. **WITHHOLDING OF BENEFITS.** The commissioner shall deduct and withhold from any reemployment insurance payable to an individual claimant that owes child support obligations:

(a) The amount specified by the individual claimant to the commissioner to be deducted and withheld under this section, if neither clause (b) or (c) is applicable; or

(b) The amount determined pursuant to an agreement submitted to the commissioner under section 454 (20) (B) (i) of the Social Security Act by the child support agency, unless (c) is applicable; or

(c) Any amount otherwise required to be so deducted and withheld from the unemployment compensation pursuant to "legal process" as defined in section 462(e) of the Social Security Act, properly served upon the commissioner.

Sec. 12. Minnesota Statutes 1994, section 268.072, subdivision 5, is amended to read:

Subd. 5. **EFFECT OF PAYMENTS.** Any amount deducted and withheld under subdivision 3 shall for all purposes be treated as if it were paid to the individual claimant as reemployment insurance and paid by the individual claimant to the public agency responsible for child support enforcement in satisfaction of the individual's claimant's child support obligations.

Sec. 13. Minnesota Statutes 1994, section 268.073, subdivision 3, is amended to read:

Subd. 3. **ELIGIBILITY CONDITIONS.** ~~An individual~~ A claimant is eligible to receive additional benefits under this section for any week during the individual's claimant's benefit year if the commissioner finds that:

(1) the individual's claimant's unemployment is the result of a reduction in operations as provided under subdivision 1;

(2) the individual claimant is unemployed and meets the eligibility requirements for the receipt of unemployment benefits under section 268.08;

(3) the individual claimant is not subject to a disqualification for benefits under section 268.09; for the purpose of this subdivision, the disqualifying conditions set forth in section 268.09, and the requalifying requirements thereunder, apply to the receipt of additional benefits under this section;

(4) the individual claimant has exhausted all rights to regular benefits payable under section 268.07, is not entitled to receive extended benefits under section 268.071, and is not entitled to receive reemployment insurance benefits under any other state or federal law for the week in which the individual claimant is claiming additional benefits;

(5) the individual claimant has made a claim for additional benefits with respect to any week the individual claimant is claiming benefits in accordance with the regulations as the commissioner may prescribe with respect to claims for regular benefits; and

(6) the individual claimant has worked at least 26 weeks during the individual's claimant's base period in employment with an employer for whom the commissioner has determined there was a reduction in operations under subdivision 1.

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Sec. 14. Minnesota Statutes 1994, section 268.073, subdivision 4, is amended to read:

Subd. 4. **WEEKLY BENEFIT AMOUNT.** A claimant's weekly benefit amount under this section shall be the same as the individual's weekly benefit amount payable during the individual's current benefit year under section ~~268.08~~ 268.07.

Sec. 15. Minnesota Statutes 1994, section 268.073, subdivision 7, is amended to read:

Subd. 7. **BENEFIT CHARGES.** ~~(a) Except as otherwise provided, benefits paid to an individual a claimant under this section shall be charged to the employment experience record of the base period employer of the individual claimant to the extent regular benefits were charged to the base period employer under sections 268.06, subdivision 5, and 268.09, subdivision 1, paragraph (e).~~

~~(b) With respect to an employer who has elected to be a contributing employer under the provisions of section 268.06, subdivision 31, all benefits paid under this section which are based upon services for the contributing employer shall be charged to the contributing employer's account.~~

Sec. 16. Minnesota Statutes 1994, section 268.074, subdivision 4, is amended to read:

Subd. 4. **WEEKLY BENEFIT AMOUNT.** (a) An individual who is eligible for shared work benefits under this section shall be paid, with respect to any week of unemployment, a weekly shared work unemployment insurance benefit amount. The amount shall be equal to the individual's regular weekly benefit amount multiplied by the nearest full percentage of reduction of the individual's regular weekly hours of work as set forth in the employer's plan. The benefit payment, if not a multiple of \$1 shall be rounded to the next lower dollar.

(b) The provisions of section ~~268.07~~ 268.08, subdivision ~~2~~, paragraph ~~(g)~~ 3a, shall not apply to earnings from the shared work employer of an individual eligible for payments under this section unless the resulting payment would be less than the regular benefit payment for which the individual would otherwise be eligible without regard to shared work unemployment insurance benefits.

(c) An individual shall not be ~~disqualified~~ eligible for benefits payable under this section for any week in which paid work is performed for the shared work employer in excess of the reduced hours set forth in the approved plan.

**Sec. 17. [268.075] INCOME TAX WITHHOLDING.**

Subdivision 1. NOTIFICATION. (a) Upon application for a reemployment insurance account the claimant shall be informed that:

- (1) reemployment insurance benefits are subject to federal and state income tax;
- (2) there are requirements for filing estimated tax payments;
- (3) the claimant may elect to have federal income tax withheld from benefits;
- (4) if the claimant elects to have federal income tax withheld, the claimant may, in addition, elect to have Minnesota state income tax withheld; and

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(5) at any time during the benefit year the claimant may change a prior election.

(b) If a claimant elects to have federal income tax withheld, the commissioner shall deduct that percentage required by the Internal Revenue Code. If a claimant, in addition to federal income tax withholding, elects to have Minnesota state income tax withheld, the commissioner shall make an additional five percent deduction for Minnesota state income tax. Any amounts deducted pursuant to sections 268.072, 268.165, and 268.18 have priority over any amounts deducted under this section. Federal income tax withholding has priority over Minnesota state income tax withholding.

(c) An election to have federal income tax, or federal and Minnesota state income tax, withheld shall not be retroactive and shall only apply to benefits paid after the election.

Subd. 2. **TRANSFER OF FUNDS.** The amount of any benefits deducted under this section shall remain in the Minnesota reemployment insurance fund until transferred to the federal Internal Revenue Service, or the Minnesota department of revenue, as an income tax payment on behalf of the claimant.

Subd. 3. **CORRECTION OF ERRORS.** Any error which resulted in underwithholding under this section shall not be corrected retroactively.

Subd. 4. **FEDERAL REQUIREMENT.** The commissioner shall follow all federal requirements for the deduction and withholding of federal and Minnesota state income tax from reemployment insurance benefits.

Subd. 5. **APPLICATION.** This section applies to any payments under federal or state law as compensation, assistance, or allowance with respect to unemployment.

Sec. 18. Minnesota Statutes 1994, section 268.08, as amended by Laws 1995, chapters 54, sections 8 and 9; and 231, article 1, section 32, is amended to read:

**268.08 PERSONS ELIGIBLE TO RECEIVE BENEFITS.**

Subdivision 1. **ELIGIBILITY CONDITIONS.** ~~An individual~~ A claimant shall be eligible to receive benefits with respect to any week of unemployment only if the commissioner finds that the individual claimant:

(1) has registered for work at and thereafter has continued to report to an employment office, or agent of the office, in accordance with rules the commissioner may adopt; except that the commissioner may by rule waive or alter either or both of the requirements of this clause as to types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the purposes of sections 268.03 to 268.231. ~~The method of reporting allowed must not require an in-person appearance, and may incorporate appropriate new technology;~~

(2) has made a continued claim for benefits in accordance with rules as the commissioner may adopt person, by mail, by telephone, or by electronic transmission as the commissioner shall require. The commissioner may by rule adopt other requirements for a continued claim;

(3) was able to work and was available for work, and was actively seeking work. ~~The individual's~~ claimant's weekly benefit amount shall be reduced one-fifth for each day the

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individual claimant is unable to work or is unavailable for work. Benefits shall not be denied by application of this clause to an individual claimant who is in training with the approval of the commissioner, is a dislocated worker as defined in section 268.975, subdivision 3, who is in training approved by the commissioner, or in training approved pursuant to section 236 of the Trade Act of 1974, as amended.

An individual A claimant is deemed unavailable for work with respect to any week which occurs in a period when the individual claimant is a full-time student in attendance at, or on vacation from an established school, college, or university unless a majority of the individual's claimant's wages paid during the 52 weeks preceding the claim date establishment of a reemployment insurance account were for services performed during weeks in which the student was attending school as a full-time student.

An individual A claimant serving as a juror shall be considered as available for work and actively seeking work on each day the individual claimant is on jury duty;

(4) has been unemployed for a waiting period of one week during which the individual claimant is otherwise eligible for entitled to benefits under sections 268.03 to 268.231. ~~No individual is required to serve a waiting period of more than one week within the one-year period subsequent to filing a valid claim and commencing with the week within which the valid claim was filed; and~~

(5) has been participating in reemployment services, such as job search assistance services, if the individual claimant has been determined to be likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the commissioner, unless there is justifiable cause for the claimant's failure to participate.

Subd. 1a. **BENEFITS DUE DECEASED PERSONS.** Upon the death of any claimant for benefits, and in the event it is found by the commissioner that benefits have accrued and are due and payable to that claimant and remain wholly or partially unpaid at the time of the claimant's death, or in the event there have been issued and unpaid one or more benefit checks, those checks may, upon application therefor, be paid to the duly qualified administrator or executor of the estate of the deceased claimant. In the event that no administrator or executor is appointed to administer the estate of the deceased, if any, the benefits may, upon the order and direction of the commissioner be paid to any person designated by the commissioner in the following order: (1) the surviving spouse, (2) the surviving child or children, or (3) the surviving parent or parents.

A person seeking payment under this subdivision shall complete an affidavit on a form prescribed by the department and the payment of benefits to a person pursuant to an affidavit under this subdivision shall discharge the obligations of the department to the claimant to the extent of the payment, and no other person shall claim or assert any right with respect thereto.

Subd. 2. **WEEK OF UNEMPLOYMENT.** No week shall be counted as a week of unemployment for the purposes of this section:

(1) Unless it occurs subsequent to the filing of a valid claim for benefits establishment of a reemployment insurance account;

(2) Unless it occurs after benefits first could become payable to any individual claimant under sections 268.03 to 268.231;

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(3) With respect to which the individual claimant is receiving, has received, or has filed a claim for reemployment insurance benefits under any other law of this state, or of any other state, or the federal government, including readjustment allowances under Title V, Servicemen's Readjustment Act, 1944, but not including benefits under the Veterans Readjustment Assistance Act of 1952 or any other federal or state benefits which are merely supplementary to those provided for under sections 268.03 to 268.231; provided that if the appropriate agency of such other state or the federal government finally determines that the individual claimant is not entitled to such benefits, this provision shall not apply.

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

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, such lump sum payment shall be allocated over a period equal to the lump sum divided by the employee's claimant's regular pay while employed by such employer; provided such payment shall be applied for a period immediately following the last day of employment but not to exceed 28 calendar days provided that 50 percent of the total of any such payments in excess of eight weeks shall be similarly allocated to the period immediately following the 28 days; or

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

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer; or

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

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

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.231, the individual claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that the individual claimant is not entitled to such benefits, this provision shall not apply. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Subd. 3a. **DEDUCTIBLE EARNINGS.** Each eligible claimant who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to

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

Subd. 3b. RECEIPT OF BACK PAY. Back pay received by an individual claimant with respect to any weeks of unemployment occurring in the 104 weeks immediately preceding the payment of the back pay shall be deducted from benefits paid for those weeks.

The amount deducted shall not reduce the benefits for which the individual claimant is otherwise eligible for that week below zero. If the amount of benefits after the deduction of back pay is not a whole dollar amount, it shall be rounded to the next lower dollar.

If the back pay awarded the individual claimant is reduced by benefits paid, the amounts withheld shall be: (a) paid by the employer into the fund within 30 days of the award and are subject to the same collection procedures that apply to past due contributions under this chapter; (b) applied to benefit overpayments resulting from the payment of the back pay; (c) credited to the individual's claimant's maximum amount of benefits payable in a benefit year which includes the weeks of unemployment for which back pay was deducted. Benefit charges for those weeks shall be removed from the employer's account as of the calendar quarter in which the fund receives payment.

Payments to the fund under this subdivision are made by the employer on behalf of the individual claimant and are not voluntary contributions under section 268.06, subdivision 24.

Subd. 4. SOCIAL SECURITY AMOUNT DEDUCTED FROM BENEFITS. Any claimant aged 62 or over who has not established a valid claim reemployment insurance account based on employment subsequent to the first receipt of primary insurance benefits under Title II of the federal social security act, as amended, or similar old age benefits under any act of Congress or this state or any other state shall be required to state in writing at the time of the filing of a claim establishing a reemployment insurance account whether the claimant intends to seek Title II social security benefits for any week during which the claimant will receive unemployment benefits, and if the claimant so intends there shall be withheld from the claimant's weekly unemployment benefits an amount sufficient to cover the weekly equivalent of the social security benefit. Any claimant disclaiming such intention but who nevertheless receives such social security benefits for weeks for which the claimant previously received unemployment benefits shall be liable for repayment of such unemployment benefits and otherwise subject to the provisions of section 268.18.

Subd. 5a. SELF-EMPLOYMENT. (a) An individual A claimant who is determined to be likely to exhaust regular reemployment insurance benefits and is enrolled in a dislocated worker program shall be considered in approved training for purposes of this chapter for each week the individual claimant is engaged on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-

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employed. An individual A claimant who meets the requirements of this subdivision shall be considered unemployed for purposes of this chapter. Income earned from the self-employment activity shall not be considered for purposes of ~~section 268.07, subdivision 2, paragraph (g)~~ subdivision 3a. Under no circumstances shall more than five percent of the number of individuals claimants receiving regular reemployment insurance benefits be actively enrolled in this program at any time. This subdivision shall not apply to persons claimants claiming state or federal extended or additional benefits.

(b) This subdivision shall apply to weeks beginning after April 18, 1995, or weeks beginning after approval of this subdivision by the United States Department of Labor whichever date is later. This subdivision shall have no force or effect for any purpose as of the end of the week preceding the date when federal law no longer authorizes the provisions of this subdivision, unless such date is a Saturday in which case this subdivision shall have no force and effect for any purpose as of that date.

**Subd. 6. SERVICES PERFORMED FOR STATE, MUNICIPALITIES, OR CHARITABLE CORPORATION.** Benefits based on service in employment defined in section 268.04, subdivision 12, clauses (7), (8) and (9), are payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that:

(a) Benefits based upon service performed in an instructional, research, or principal administrative capacity for an educational institution, shall not be paid for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the ~~individual's claimant's~~ contract, to any individual claimant if the individual claimant performs the services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual claimant will perform services in any such capacity for an educational institution in the second of the academic years or terms;

(b) ~~With respect to service performed in any capacity other than those capacities described in clause (a) of this subdivision, including instructional assistants, for an educational institution, benefits shall not be paid on the basis of these services to any individual for any week which commences during a period between two successive academic years or terms if the individual performs the services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms. An individual~~ With respect to employment in any capacity other than those described in paragraph (a), including educational assistants, benefits shall not be paid based upon wage credits earned with any educational institution for any week which commences during a period between two successive academic years or terms if the claimant was employed in the first academic year or term by any educational institution and there is reasonable assurance that the claimant will be employed under similar terms and conditions by any educational institution in the second academic year or term. A claimant who has an agreement for a definite period of employment between academic years or terms shall be eligible for any weeks within that period the educational institution fails to provide employment. If benefits are denied to any individual claimant under this clause paragraph and the individual claimant was not offered an opportunity to perform the services employment in the second of the academic years or term, the individual claimant shall be entitled to a retroactive payment of benefits for each week in

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which the individual claimant filed a timely continued claim for benefits, but the continued claim was denied solely because of this elause paragraph;

(c) With respect to services described in elause paragraph (a) or (b), benefits payable on the basis of the services shall not be paid to any individual claimant for any week which commences during an established and customary vacation period or holiday recess if the individual claimant performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual claimant will perform the services in the period immediately following the vacation period or holiday recess;

(d) With respect to services described in elause paragraph (a) or (b), benefits shall not be payable on the basis of services in any capacity specified in elauses paragraphs (a), (b), and (c) to any individual claimant who performed those services in an educational institution while in the employ of an educational service agency. For purposes of this elause paragraph, "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions; and

(e) With respect to services to state and local government, or nonprofit organizations covered by section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, if services are provided to or on behalf of an educational institution, benefits must be denied under the same circumstances as described in elauses paragraphs (a) to (d).

Subd. 7. **PROFESSIONAL ATHLETES.** Benefits shall not be paid to an individual claimant on the basis of any service substantially all of which consist of participating in sports or athletic events or training or preparing to so participate for any week which commences during the period between two successive sport seasons (or similar periods) if such individual the claimant performed such service in the first of such seasons (or similar period) and there is a reasonable assurance that such individual the claimant will perform such service in the later of such seasons (or similar periods).

Subd. 8. **ILLEGAL ALIENS.** (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual a claimant who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provision of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

(b) Any data or information required of individuals claimants applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual a claimant whose application for benefits would otherwise be approved, no determination that benefits to such individual claimant are not payable because of alien status shall be made except upon a preponderance of the evidence.

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Subd. 9. **SERVICES FOR CERTAIN CONTRACTORS.** Benefits based upon services performed for an employer are subject to subdivision 6, clauses paragraphs (b) and (c) if:

(a) the employment was provided pursuant to a contract between the employer and a public or private school;

(b) the contract was for services which the public or private school could have had performed by its employees;

(c) the employment was not as defined in section 268.04, subdivision 12, clauses (7), (8), and (9); and

(d) the individual is claimant was notified in writing of the provisions of this subdivision while employed in 1983 or prior to or at the time of commencing the employment.

Subd. 10. **SEASONAL EMPLOYMENT.** (a) If the commissioner finds that a claimant has earned wage credits in seasonal employment, benefits shall be payable only if the commissioner finds that the claimant has earned wage credits in 15 or more calendar weeks equal to or in excess of 30 times the claimant's weekly benefit amount, in employment which is not seasonal, in addition to any wage credits in seasonal employment. For purposes of this subdivision, "seasonal employment" means employment with a single employer in the recreation or tourist industry which is available with the employer for 15 consecutive weeks or less each calendar year.

(b) Wages paid in seasonal employment are not available for benefit purposes during weeks in which there is no seasonal employment available with the employer.

Subd. 11. **BUSINESS OWNERS.** Wages paid by an employing unit may not be used for benefit purposes by any claimant who:

(1) individually, jointly, or in combination with the claimant's spouse, parent, or child owns or controls directly or indirectly 25 percent or more interest in the employing unit, or is the spouse, parent, or minor child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employing unit; and

(2) is not permanently separated from employment.

This subdivision is effective when the claimant has been paid four times the claimant's weekly benefit amount in the current benefit year.

Sec. 19. Minnesota Statutes 1995 Supplement, section 268.09, subdivision 1, is amended to read:

Subdivision 1. **DISQUALIFYING CONDITIONS.** An individual A claimant separated from any employment under paragraph (a), (b), or (d) shall be disqualified for waiting week credit and benefits. For separations under paragraphs (a) and (b), the disqualification shall continue until four calendar weeks have elapsed following the individual's claimant's separation and the individual claimant has earned eight times the individual's claimant's weekly benefit amount in insured work.

(a) **VOLUNTARY LEAVE.** The individual claimant voluntarily and without good cause attributable to the employer discontinued employment with such employer. For the purpose of this paragraph, a separation from employment by reason of its temporary na-

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ture or for inability to pass a test or for inability to meet performance standards necessary for continuation of employment shall not be deemed voluntary.

A separation shall be for good cause attributable to the employer if it occurs as a consequence of sexual harassment. 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 employee's claimant's submission to such conduct or communication is made a term or condition of the employment, (2) the employee's claimant's submission to or rejection of such conduct or communication is the basis for decisions affecting employment, or (3) such conduct or communication has the purpose or effect of substantially interfering with an individual's a claimant's work performance or creating an intimidating, hostile, or offensive working environment and the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

(b) **DISCHARGE FOR MISCONDUCT.** The individual claimant was discharged for misconduct, not amounting to gross misconduct connected with work employment or for misconduct which interferes with and adversely affects employment.

(c) **EXCEPTIONS TO DISQUALIFICATION.** An individual A claimant shall not be disqualified under paragraphs (a) and (b) under any of the following conditions:

(1) the individual claimant voluntarily discontinued employment to accept employment offering substantially better conditions or substantially higher wages or both;

(2) the individual claimant is separated from employment due to personal, serious illness provided that such individual has the claimant made reasonable efforts to retain employment.

An individual A claimant who is separated from employment due to the individual's claimant's illness of chemical dependency which has been professionally diagnosed or for which the individual claimant has voluntarily submitted to treatment and who fails to make consistent efforts to maintain the treatment the individual claimant knows or has been professionally advised is necessary to control that illness has not made reasonable efforts to retain employment.

(3) the individual claimant accepts work employment from a base period employer which involves a change in location of work employment so that said work employment would not have been deemed to be suitable work employment under the provisions of subdivision 2 and within a period of 13 weeks from the commencement of said work employment voluntarily discontinues employment due to reasons which would have caused the work employment to be unsuitable under the provision of said subdivision 2;

(4) the individual claimant left employment because of reaching mandatory retirement age and was 65 years of age or older;

(5) the individual claimant is terminated by the employer because the individual claimant gave notice of intention to terminate employment within 30 days. This exception shall be effective only through the calendar week which includes the date of intended termination, provided that this exception shall not result in the payment of benefits for any week for which the individual claimant receives the individual's claimant's normal wage or salary which is equal to or greater than the weekly benefit amount;

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(6) the individual claimant is separated from employment due to the completion of an apprenticeship program, or segment thereof, approved pursuant to chapter 178;

(7) the individual claimant voluntarily leaves part-time employment with a base period employer while continuing full-time employment if the individual claimant attempted to return to part-time employment after being separated from the full-time employment, and if substantially the same part-time employment with the base period employer was not available for the individual claimant;

(8) the individual claimant is separated from employment based solely on a provision in a collective bargaining agreement by which an individual claimant has vested discretionary authority in another to act on behalf of the individual claimant;

(9) except as provided in paragraph (d), separations from part-time employment will not be disqualifying when the claim is based on claimant has sufficient full-time employment to establish a valid claim reemployment insurance account from which the claimant has been separated for nondisqualifying reasons; or

(10) the individual claimant accepts employment which represents a substantial departure from the individual's claimant's customary occupation and experience and would not be deemed suitable work employment as defined under subdivision 2, paragraphs (a) and (b), and within a period of 30 days from the commencement of that work employment voluntarily discontinues the employment due to reasons which would have caused the work employment to be unsuitable under the provisions of subdivision 2 or, if in commission sales, because of a failure to earn gross commissions averaging an amount equal to or in excess of the individual's weekly benefit amount. Other provisions notwithstanding, applying this provision precludes the use of these wage credits to clear a disqualification.

(d) **DISCHARGE FOR GROSS MISCONDUCT.** The individual claimant was discharged for gross misconduct connected with work employment or gross misconduct which interferes with and adversely affects the individual's claimant's employment. For a separation under this clause, the commissioner shall impose a total disqualification for the benefit year and cancel all of the wage credits from the last employer from whom the individual claimant was discharged for gross misconduct connected with work employment.

For the purpose of this paragraph "gross misconduct" is defined as misconduct involving assault and battery or the malicious destruction of property or arson or sabotage or embezzlement or any other act, including theft, the commission of which amounts to a felony or gross misdemeanor. For an employee of a facility, as defined in section 626.5572, gross misconduct also includes misconduct involving an act of patient or resident abuse, financial exploitation, or recurring or serious neglect, as defined in section 626.5572 and applicable rules.

If an individual claimant is convicted of a felony or gross misdemeanor for the same act or acts of misconduct for which the individual claimant was discharged, the misconduct is conclusively presumed to be gross misconduct if it was connected with the individual's work claimant's employment.

(e) **LIMITED OR NO CHARGE OF BENEFITS.** Benefits paid subsequent to an individual's claimant's separation under any of the foregoing paragraphs, excepting

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paragraphs (c)(3), (c)(5), and (c)(8), shall not be used as a factor in determining the future contribution rate of the employer from whose employment ~~such individual the claimant~~ separated.

~~Benefits paid subsequent to an individual's failure to accept an offer of suitable re-employment or to accept reemployment which offered substantially the same or better hourly wages and conditions of work as were previously provided by that employer, but was deemed unsuitable under subdivision 2, shall not be used as a factor in determining the future contribution rate of the employer whose offer of reemployment was not accepted or whose offer of reemployment was refused solely due to the distance of the available work from the individual's residence, the individual's own serious illness, the individual's other employment at the time of the offer, or if the individual is in training with the approval of the commissioner.~~

~~Benefits paid by another state as a result of Minnesota transferring wage credits under the federally required combined wage agreement shall not be directly charged to either the taxpaying or reimbursing employer.~~

(f) **ACTS OR OMISSIONS.** ~~An individual~~ A claimant who was employed by an employer shall not be disqualified for benefits under this subdivision for any acts or omissions occurring after separation from employment with the employer.

(g) **DISCIPLINARY SUSPENSIONS.** ~~An individual~~ A claimant shall be disqualified for waiting week credit and benefits for the duration of any disciplinary suspension of 30 days or less resulting from the individual's ~~claimant's~~ own misconduct. Disciplinary suspensions of more than 30 days shall constitute a discharge from employment.

Sec. 20. Minnesota Statutes 1994, section 268.09, subdivision 2, is amended to read:

Subd. 2. **FAILURE TO APPLY FOR OR ACCEPT SUITABLE WORK EMPLOYMENT OR REEMPLOYMENT.** ~~An individual~~ A claimant shall be disqualified for waiting week credit and benefits during the week of occurrence and until four calendar weeks have elapsed following the refusal or failure and the ~~individual claimant~~ has earned eight times the individual's ~~claimant's~~ weekly benefit amount in insured work if the commissioner finds that the ~~individual claimant~~ has failed, without good cause, either (1) to apply for available, suitable work employment of which advised by an employer, the employment office, or the commissioner; or (2) to accept suitable work employment, or suitable reemployment with a former employer, when offered, or to accept an offer of suitable reemployment from either a base period employer or an employer who provided employment following the base period but prior to the claim date.

Failure to apply or accept shall include avoidance of an offer of suitable employment. Avoidance shall include, but is not limited to, a claimant's refusal to respond or failure to monitor potential offers communicated by voice mail, electronic messaging, or other technology. Avoidance shall be found only if the communication included a definite starting date and time, location, wage level, and type of employment to be performed.

(a) In determining whether or not any work employment is suitable for an individual a claimant, the commissioner shall consider the degree of risk involved to health, safety, and morals, physical fitness and prior training, experience, length of unemployment and prospects of securing local work employment in the individual's ~~claimant's~~ customary occupation, and the distance of the available work employment from the individual's claimant's residence.

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(b) Notwithstanding any other provisions of sections 268.03 to 268.231, no work employment shall be deemed suitable, and benefits shall not be denied thereunder to any otherwise eligible individual claimant for refusing to accept new work employment under any of the following conditions:

(1) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) if the wages, hours, or other conditions of the work employment offered are substantially less favorable to the individual claimant than those prevailing for similar work employment in the locality;

(3) if as a condition of being employed the individual claimant would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(4) if the individual claimant is in training with the approval of the commissioner.

(c) Benefits paid subsequent to a claimant's avoidance or failure to accept an offer of suitable reemployment or reemployment which offered substantially the same or better hourly wages and conditions of employment as were previously provided by that employer, but was deemed unsuitable under paragraph (a) or because the claimant was in training with the approval of the commissioner, shall not be used as a factor in determining the future contribution rate of the employer whose offer was avoided or not accepted.

This paragraph shall not apply when the failure or avoidance merely delayed acceptance of the offer and the claimant later began full-time employment with the employer, or when the employment was temporary in nature and the claimant accepted other temporary employment from the employer within 30 days of the date of refusal or avoidance.

#### **Sec. 21. [268.101] DETERMINATIONS ON DISQUALIFICATION AND ELIGIBILITY.**

Subdivision 1. NOTIFICATION. (a) Upon application for a reemployment insurance account each claimant shall report the name of all employers and the reasons for no longer working for all employers during the claimant's last 30 days of employment.

(b) Upon establishment of a reemployment insurance account, the commissioner shall notify all employers the claimant was employed by during the claimant's last 30 days of employment prior to making an application and all base period employers and determined successors to those employers under section 268.06, subdivision 22. An employer so notified shall have ten days after the mailing of the notice to make a protest in a manner prescribed by the commissioner raising any issue of disqualification or any issue of eligibility. An employer so notified shall be informed of the effect that failure to timely protest may have on the employer charges. A protest made more than ten days after mailing of the notice shall be considered untimely.

(c) Each claimant shall report any employment, loss of employment, and offers of employment received, for those weeks the claimant made continued claims for benefits. Each claimant who stops making continued claims during the benefit year and later commences making continued claims during that same benefit year shall report the name of any employer the claimant worked for during the period between the making of continued claims, up to a period of the last 30 days of employment, and the reason the claimant

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stopped working for the employer. The claimant shall report any offers of employment during the period between the making of continued claims. Those employers from which the claimant has reported a loss of employment or an offer of employment pursuant to this paragraph shall be notified. An employer so notified shall have ten days after the mailing of the notice to make a protest in a manner prescribed by the commissioner raising any issue of disqualification or any issue of eligibility. An employer so notified shall be informed of the effect that failure to timely protest may have on the employer charges. A protest made more than ten days after mailing of the notice shall be considered untimely.

Subd. 2. DISQUALIFICATION DETERMINATION. (a) The commissioner shall promptly determine any issue of disqualification raised by a timely protest made by an employer, and mail to the claimant and that employer at the last known address a determination of disqualification or a determination of nondisqualification, as is appropriate. The determination shall set forth the effect on employer charges.

(b) The commissioner shall promptly determine any issue of disqualification raised by information obtained from a claimant pursuant to subdivision 1, paragraph (a) or (c), and mail to the claimant and employer at the last known address a determination of disqualification or a determination of nondisqualification, as is appropriate.

(c) The commissioner shall promptly determine any issue of disqualification raised by an untimely protest made by an employer and mail to the claimant and that employer at the last known address a determination of disqualification or a determination of nondisqualification as is appropriate. Notwithstanding section 268.09, any disqualification imposed as a result of determination issued pursuant to this paragraph shall commence the Sunday two weeks following the week in which the untimely protest was made. Notwithstanding any provisions to the contrary, any relief of employer charges as a result of a determination issued pursuant to this paragraph shall commence the Sunday two weeks following the week in which the untimely protest was made.

(d) If any time within 24 months from the establishment of a reemployment insurance account the commissioner finds that a claimant failed to report any employment, loss of employment, or offers of employment received which were required to be provided by the claimant under this section, the commissioner shall promptly determine any issue of disqualification on that loss of employment or offer of employment and mail to the claimant and involved employer at the last known address a determination of disqualification or a determination of nondisqualification, as is appropriate. The determination shall set forth the effect on employer charges.

This paragraph shall not apply if the involved employer was notified and given the opportunity to protest pursuant to subdivision 1, paragraph (b) or (c).

(e) A determination of disqualification or a determination of nondisqualification shall be final unless a written appeal is filed by the claimant or notified employer within 15 days after mailing of the determination to the last known address. The determination shall contain a prominent statement indicating in clear language the method of appealing, the time within which an appeal must be made, and the consequences of not appealing. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(f) An issue of disqualification for purposes of this section shall include any question of denial of benefits under section 268.09, any question of an exception to disqualification under section 268.09, subdivision 1, paragraph (c), any question of benefit charge

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to an employer, and any question of an otherwise imposed disqualification for which a claimant has had requalifying earnings.

(g) Notwithstanding the requirements of this subdivision, the commissioner is not required to mail to a claimant a determination of nondisqualification where the claimant has had requalifying earnings sufficient to satisfy any otherwise potential disqualification.

**Subd. 3. ELIGIBILITY DETERMINATION.** (a) The commissioner shall promptly determine any issue of eligibility raised by a timely protest made by an employer and mail to the claimant and that employer at the last known address a determination of eligibility or a determination of ineligibility, as is appropriate.

(b) The commissioner shall promptly determine any issue of eligibility raised by information obtained from a claimant and mail to the claimant and any involved employer at the last known address a determination of eligibility or a determination of ineligibility, as is appropriate.

(c) The commissioner shall promptly determine any issue of eligibility raised by an untimely protest made by an employer and mail to the claimant and that employer at the last known address a determination of eligibility or a determination of ineligibility, as is appropriate. Any denial of benefits imposed as a result of determination issued pursuant to this paragraph shall commence the Sunday two weeks following the week in which the untimely protest was made.

(d) If any time within 24 months from the establishment of a reemployment insurance account the commissioner finds the claimant failed to provide requested information regarding the claimant's eligibility for benefits, the commissioner shall determine the issue of eligibility and mail to the claimant and any involved employer at the last known address a determination of eligibility or a determination of ineligibility, as is appropriate.

This paragraph shall not apply if the involved employer was notified, was aware, or should have been aware of the issue of eligibility at the time of notification, and was given the opportunity to protest pursuant to subdivision 1, paragraph (b) or (c).

(e) A determination of eligibility or determination of ineligibility shall be final unless a written appeal is filed by the claimant or notified employer within 15 days after mailing of the determination to the last known address. The determination shall contain a prominent statement indicating in clear language the method of appealing, the time within which an appeal must be made, and the consequences of not appealing. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(f) An issue of eligibility for purposes of this section shall include any question of denial of benefits under sections 268.071, 268.072, 268.073, 268.074, and 268.08.

**Subd. 4. AMENDED DETERMINATION.** Unless an appeal has been filed, the commissioner, on the commissioner's own motion, upon finding that an error has occurred in the issuing of a determination of disqualification or nondisqualification or a determination of eligibility or ineligibility, may issue an amended determination. Any amended determination shall be mailed to the claimant and any involved employer at the last known address. Any amended determination shall be final unless a written appeal is filed by the claimant or notified employer within 15 days after mailing of the amended

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determination to the last known address. Proceedings on the appeal shall be conducted in accordance with section 268.105.

Subd. 5. **PROMPT PAYMENT.** If a determination or amended determination awards benefits, the benefits shall be promptly paid regardless of any appeal period or any appeal having been filed.

Subd. 6. **OVERPAYMENT.** A determination or amended determination which holds a claimant disqualified or ineligible for benefits for periods a claimant has been paid benefits is an overpayment of those benefits subject to section 268.18.

Sec. 22. Minnesota Statutes 1995 Supplement, section 268.105, is amended by adding a subdivision to read:

Subd. 3a. **DECISIONS.** (a) If a reemployment insurance judge's decision or the commissioner's decision awards benefits, the benefits shall be promptly paid regardless of any appeal period or any appeal having been filed.

(b) If a reemployment insurance judge's decision modifies or reverses a determination awarding benefits, any benefits paid pursuant to the determination is an overpayment of those benefits subject to section 268.18.

(c) Except as provided in paragraph (d), if a commissioner's decision modifies or reverses a reemployment insurance judge's decision awarding benefits, any benefits paid pursuant to the reemployment insurance judge's decision is an overpayment of those benefits subject to section 268.18.

(d) If a reemployment insurance judge's decision affirms a determination on an issue of disqualification awarding benefits or the commissioner affirms a reemployment insurance judge's decision on an issue of disqualification awarding benefits, the decision, if finally reversed, shall result in a disqualification from benefits only for weeks following the week in which the decision reversing the award of benefits was issued and benefits paid for that week and previous weeks shall neither be deemed overpaid nor shall the benefits paid be considered in determining the employer's future contribution rate under section 268.06.

(e) If the commissioner, pursuant to subdivision 3, remands a matter to a reemployment insurance judge for the taking of additional evidence, the prior reemployment insurance judge's decision shall continue to be enforced until new findings of fact and decision are made by a reemployment insurance judge.

Sec. 23. Minnesota Statutes 1994, section 268.12, is amended by adding a subdivision to read:

Subd. 9a. **TESTIMONIAL POWERS.** (1) In the discharge of the duties imposed by sections 268.03 to 268.23, the commissioner, appeal referee, or any duly authorized representative of the commissioner, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of these sections;

(2) Witnesses, other than interested parties or officers and employees of an employment unit which is an interested party, subpoenaed pursuant to this subdivision or sections

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268.03 to 268.23, shall be allowed fees the same as witness fees in civil actions in district court, which fees need not be paid in advance of the time of giving of testimony, and such fees of witnesses so subpoenaed shall be deemed part of the expense of administering these sections;

(3) In case of contumacy by, or refusal to obey, a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commissioner, or referee, or any duly authorized representative of the commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear before the commissioner, the chair of an appeal tribunal, referee, or any duly authorized representative of the commissioner, there to produce evidence if so ordered or there to give testimony relative to the matter under investigation or in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

Sec. 24. Minnesota Statutes 1994, section 268.16, subdivision 4, is amended to read:

Subd. 4. **COMPROMISE AGREEMENTS.** The commissioner, or any officer or employee of the state department of economic security authorized in writing by the commissioner, is authorized to enter into an agreement in writing with any employer relating to the liability of such employer in respect to delinquent contributions, reimbursements, interest, penalties, and costs. The commissioner may also enter into an agreement, with respect to liability for delinquent contributions, interest, penalties and costs, with any employer who has never paid any contributions to the fund and such failure to pay contributions was, in the opinion of the commissioner, due to an honest belief on the part of such employer that the employer was not covered by sections 268.03 to 268.231. Any agreements made under this subdivision shall be subject to the approval of the attorney general.

If such agreements are approved by the commissioner and the attorney general, the same shall be final and conclusive; and, except upon a showing of fraud or malfeasance or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee or agent of the state; and, in any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside or destroyed.

(a) The commissioner, or an authorized representative, may compromise in whole or in part any action, determination, or decision which affects an employer and which has become final during the preceding 24 months.

(b) The commissioner, or an authorized representative, may at any time compromise delinquent employer contributions, reimbursements, interest, penalties, and costs under this section.

(c) Any compromise under paragraphs (a) and (b) shall be by written agreement signed by the employing unit and the commissioner or authorized representative.

The department shall enter into a compromise agreement only if it is in the best interest of the state of Minnesota. The written agreement must set forth the reason and all the terms of the agreement. Any agreements under this section must be approved by an attor-

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ney who is a regularly salaried employee of the department and who has been designated by the commissioner for that purpose.

Sec. 25. Minnesota Statutes 1995 Supplement, section 268.161, subdivision 9, is amended to read:

Subd. 9. **PERSONAL LIABILITY.** Any officer, director, or employee of a corporation or any manager, governor, member, or employee of a limited liability company which is an employer under sections 268.03 to 268.231, who

(1) either individually or jointly with others, have or should have had control of, supervision over, or responsibility for the filing of the tax reports or the making of payments under this chapter, and

(2) willfully fails to file the reports or to make payments as required, shall be personally liable for contributions or reimbursement, including interest, penalties, and costs in the event the ~~corporation~~ employer does not pay to the department those amounts for which the employer is liable.

For purposes of this subdivision, "willfulness" means that the facts demonstrate that the responsible party used or allowed the use of corporate or company assets to pay other creditors knowing that the payments required under this chapter were unpaid. An evil motive or intent to defraud is not necessary to satisfy the willfulness requirement.

Any partner of a limited liability partnership, or professional limited liability partnership, shall be jointly and severally liable for contributions or reimbursement, including interest, penalties, and costs in the event the employer does not pay to the department those amounts for which the employer is liable.

Any personal representative of the estate of a decedent or fiduciary who voluntarily distributes the assets filed therein without reserving a sufficient amount to pay the contributions, interest, and penalties due pursuant to this chapter shall be personally liable for the deficiency.

The personal liability of any person as provided herein shall survive dissolution, reorganization, receivership, or assignment for the benefit of creditors. For the purposes of this subdivision, all wages paid by the ~~corporation~~ employer shall be considered earned from the person determined to be personally liable.

An official designated by the commissioner shall make an initial determination as to the personal liability under this section. The determination shall be final unless the person found to be personally liable shall within 30 days after mailing of notice of determination to the person's last known address file a written protest. Upon receipt of the protest, the official shall reexamine the personal liability determination and either affirm or redetermine the assessment of personal liability and a notice of the affirmation or redetermination shall be mailed to the person's last known address. The affirmation or redetermination shall become final unless a written appeal is filed within ~~ten~~ 30 days of the date of mailing. Proceedings on the appeal shall be conducted in accordance with section 268.105.

Sec. 26. Minnesota Statutes 1994, section 268.164, subdivision 1, is amended to read:

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

Subdivision 1. **UNEMPLOYMENT CLEARANCE REQUIRED.** The state or a political subdivision of the state 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 applicant owes the state delinquent contributions, reimbursements, or benefit overpayments. The commissioner may not notify the licensing authority unless the applicant owes \$500 or more to the reemployment insurance fund. A licensing authority that has received a notice from the commissioner may issue, transfer, or renew, or not revoke the applicant's license only if (a) the commissioner issues an unemployment tax clearance certificate; and (b) the commissioner or the applicant forwards a copy of the clearance to the licensing authority.

Sec. 27. Minnesota Statutes 1994, section 268.164, subdivision 2, is amended to read:

Subd. 2. **ISSUANCE OF CLEARANCE.** The commissioner may issue an unemployment tax clearance certificate only if (a) the applicant does not owe the state any delinquent contributions, reimbursements, or benefit overpayments; or (b) the applicant has entered into a payment agreement to liquidate the delinquent contributions, reimbursements, or benefit overpayments and is current with all the terms of that payment agreement.

For the purposes of this section, "applicant" means: (a) 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 (b) an officer of a corporation, manager of a limited liability company, or a member of a partnership, or an individual who is liable for the delinquent contributions, reimbursements, or benefit overpayments, either for the entity for which the license is at issue or for another entity for which the liability was incurred, or personally as a licensee. In the case of a license transfer, "applicant" means both the transferor and the transferee of the license. "Applicant" also means any holder of a license.

Sec. 28. **[268.167] GARNISHMENT FOR DELINQUENT TAXES AND BENEFIT OVERPAYMENTS.**

(a) The commissioner or an authorized representative may, within six years after the date of assessment of the tax or determination of benefit overpayment, or if a lien has been filed under section 268.161, within the statutory period for enforcement of the lien, give notice to any employer that an employee of that employer owes delinquent unemployment taxes or reimbursements including penalties, interest, and costs, or has an unpaid benefit overpayment. The commissioner can proceed under this subdivision only if the tax or benefit overpayment is uncontested or if the time for appeal has expired. The commissioner shall not proceed under this subdivision until the expiration of 30 days after mailing to the debtor employee, at the debtor's last known address, a written notice of garnishment. The notice shall list:

- (1) the amount of taxes, reimbursements, interest, penalties, costs, or benefit overpayment due from the debtor;
- (2) demand for immediate payment; and
- (3) the commissioner's intention to serve a garnishment on the debtor's employer pursuant to this subdivision.

New language is indicated by underline, deletions by strikeout.

The effect of the notice shall expire 180 days after it has been mailed to the debtor provided that the notice may be renewed by mailing a new notice which is in accordance with this subdivision. The renewed notice shall have the effect of reinstating the priority of the original claim. The notice to the debtor shall be in substantially the same form as that provided in section 571.72. The notice shall further inform the debtor of the wage exemptions contained in section 550.37, subdivision 14. If no statement of exemption is received by the commissioner within 30 days from the mailing of the notice, the commissioner may proceed under this subdivision. The notice to the debtor's employer may be served by mail or by delivery by an employee of the commissioner and shall be in substantially the same form as provided in section 571.75. Upon receipt of the notice, the employer shall retain the earnings due or to become due to the employee, the total amount shown by the notice, subject to the provisions of section 571.922. The employer shall continue to retain each pay period until the notice is released by the commissioner under section 268.161, subdivision 8. Upon receipt of notice by the employer, the claim of the commissioner shall have priority over any subsequent garnishments or wage assignments. The commissioner may arrange between the employer and employee for retaining a portion of the total amount due the employee each pay period, until the total amount shown by the notice plus accrued interest has been retained.

The "earnings due" any employee is defined in accordance with section 571.921. The maximum garnishment allowed under this subdivision for any one pay period shall be decreased by any amounts payable pursuant to a garnishment action with respect to which the employer was served prior to being served with the notice of delinquency, and any amounts covered by any irrevocable and previously effective assignment of wages; the employer shall give notice to the commissioner of the amounts and the facts relating to such assignment within ten days after the service of the notice of delinquency on the form provided by the commissioner as noted in this subdivision.

(b) If the employee ceases to be employed by the employer before the full amount set forth in a notice of garnishment plus accrued interest has been retained, the employer shall immediately notify the commissioner in writing of the termination date of the employee and the total amount retained. No employer may discharge or otherwise discipline any employee by the reason of the fact that the commissioner has proceeded under this subdivision. If an employer discharges an employee in violation of this provision, the employee shall have the same remedy as provided in section 571.927, subdivision 2.

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

(d) Paragraphs (a) to (c), except provisions imposing a liability on the employer for failure to retain or remit, shall apply to cases in which the employer is the United States or any instrumentality thereof or this state or any political subdivision thereof.

(e) The commissioner shall refund to the employee excess amounts retained from the employee under this subdivision. If any excess results from payments by the employer because of willful failure to retain or remit as prescribed in paragraph (c), the excess attributable to the employer's payment shall be refunded to the employer.

(f) Employers required to retain delinquent amounts under this subdivision shall not be required to compute any additional interest, costs, or other charges to be retained.

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(g) The collection remedy provided to the commissioner by this subdivision shall have the same legal effect as if it were a levy made pursuant to section 268.161.

Sec. 29. Minnesota Statutes 1995 Supplement, section 268.18, subdivision 1, is amended to read:

Subdivision 1. **ERRONEOUS PAYMENTS.** (a) Any claimant for benefits who, by reason of the claimant's own mistake or through the error of any individual engaged in the administration of sections 268.03 to 268.231 or because of a determination or, redetermination, or amended determination issued pursuant to section ~~268.10, subdivision 2 268.07 or 268.101,~~ has received any sum as benefits to which the claimant was not entitled under these sections, shall promptly return those benefits in cash to the nearest office of the Minnesota department of economic security. If the claimant fails to return the benefits, the department of economic security shall, as soon as it discovers the erroneous payment, determine the amount due and notify the individual to return it.

(b) Unless the claimant files a written appeal with the department of economic security within 15 days after the mailing of the notice of determination to the claimant's last known address or personal delivery of the notice, the determination shall become final. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(c) The commissioner of the department of economic security is authorized to deduct from any future benefits payable to the claimant under these sections in either the current or any subsequent benefit year an amount equivalent to the overpayment determined, except that no single deduction shall exceed 50 percent of the amount of the payment from which the deduction is made, or the overpayment may be collected the same as contributions or reimbursements under section 268.161. If a claimant has been overpaid benefits under the law of another state due to error and that state certifies to the department the facts involved and that the individual is liable under its law to repay the benefits and requests the department to recover the overpayment, the commissioner is authorized to deduct from future benefits payable to the claimant in either the current or any subsequent benefit year an amount equivalent to the amount of overpayment determined by that state, except that no single deduction shall exceed 50 percent of the amount of the payment from which the deduction is made. Benefits paid for weeks more than three years prior to the discovery of error are not erroneous payments.

(d) Notwithstanding paragraph (a), the commissioner shall waive recovery of an overpayment if a reemployment insurance judge or the commissioner's representative determines the overpayment resulted from an administrative failure to identify that a claimant's wage credits were not earned in covered employment.

Sec. 30. Minnesota Statutes 1994, section 268.23, is amended to read:

**268.23 SEVERABLE.**

In the event that the United States department of labor shall determine that any provision of sections 268.03 to 268.231, or any other provision of Minnesota Statutes relating to reemployment insurance, is not in conformity with various provisions of the Federal Internal Revenue Code or the Social Security Act then such provision shall have no force or effect for any purpose but if any such provision of sections 268.03 to 268.231, or the application thereof to any person or circumstances, is held invalid, the remainder of said sections and the application of such provision to other persons or circumstances shall not be affected thereby.

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**Sec. 31. REVISOR INSTRUCTION.**

In the next edition of Minnesota Statutes, the revisor shall change the phrase "268.03 to 268.231" to "268.03 to 268.23", wherever it appears.

**Sec. 32. REPEALER.**

(a) Minnesota Statutes 1994, section 268.04, subdivisions 18 and 24, are repealed.

(b) Minnesota Statutes 1994, section 268.10, subdivision 1, and Minnesota Statutes 1995 Supplement, section 268.10, subdivision 2, are repealed.

(c) Minnesota Statutes 1994, section 268.231, is repealed.

(d) Laws 1994, chapter 503, section 5, is repealed.

**Sec. 33. EFFECTIVE DATE.**

Sections 1 to 3, 5, 7 to 16, 18 to 22, 29, and 32 are effective July 1, 1996.

Sections 4, 6, 24 to 28, 30, and 31 are effective the day following final enactment.

Section 17 is effective December 31, 1996.

Presented to the governor March 30, 1996

Signed by the governor April 2, 1996, 12:45 p.m.

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**CHAPTER 418—S.F.No. 2116**

*An act relating to alcoholic beverages; modifying eligibility for manufacturer and wholesaler licenses; clarifying requirements for selling or furnishing alcoholic beverages; allowing bed and breakfast facilities to furnish wine to guests without a license under certain circumstances; abolishing state licenses for importation of sacramental wine; exempting certain types of wine tastings from statutory restrictions; allowing off-sale retailers to offer samples of distilled spirits; allowing brewers to furnish beer directly to retailers for tastings; allowing off-sale retailers to sell distilled spirits in 50 milliliter bottles; allowing on-sale retailers to prohibit the carrying of alcoholic beverages onto the licensed premises; specifying items that may be sold in municipal liquor stores; removing references to nonintoxicating malt liquor from statute, rules, and local licenses; authorizing on-sale licenses for tour boats on the St. Croix and Mississippi rivers; requiring establishments selling alcoholic beverages to post certain signs; directing commissioners of public safety and health to design the signs; providing for division of tour boat license fees; authorizing additional on-sale licenses in West St. Paul and Eagan; authorizing seasonal on-sale license in Wadena; repealing special law restricting on-sale licenses in Thief River Falls; amending Minnesota Statutes 1994, sections 340A.301, subdivision 2; 340A.316; 340A.404, subdivision 8; 340A.408, subdivision 4; 340A.410, by adding a subdivision; 340A.413, subdivision 4; 340A.418, subdivision 2; 340A.510; and 340A.601, subdivision 1; Minnesota Statutes 1995 Supplement, sections 340A.401; and 340A.404, subdivision 10; Laws 1994, chapter 611, section 32; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 1994, sections 144.3871; and 340A.410, subdivision 4a; Laws 1974, chapter 452.*

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

Section 1. Minnesota Statutes 1994, section 340A.301, subdivision 2, is amended to read:

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