

(b) Court-ordered visitation rights of a noncustodial parent continue while the child is in the care of the designated parent, unless otherwise modified by the court. A designated parent agreement does not affect the right of a parent without physical custody to bring a custody motion under chapter 518. If a parent with legal custody is not the designated caregiver, the parent may bring a motion for temporary physical custody, which may continue until the parent with physical custody is able to resume care of the child. The court shall award that parent temporary physical custody unless it finds it would not be in the best interests of the child.

Sec. 5. INSTRUCTION TO REVISOR.

The revisor of statutes shall change the term "designated parent" or variations of the term to "designated caregiver" wherever they appear in Minnesota Statutes.

Presented to the governor April 24, 1997

Signed by the governor April 28, 1997, 10:54 a.m.

CHAPTER 66—S.F.No. 145

An act relating to reemployment insurance; making technical and administrative changes; providing civil and criminal penalties; providing for a waiver from certain waiting periods for certain individuals; amending Minnesota Statutes 1996, sections 268.0111, by adding a subdivision; 268.022, subdivision 1; 268.04, subdivisions 5, 15, 17, 25, and by adding subdivisions; 268.06, subdivisions 1, 3a, 6, 8, 8a, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, and 31; 268.07, subdivisions 2, 3, 3a, and 3b; 268.071, subdivisions 3, 6, and 9; 268.08, subdivisions 1, 2, 3, 3a, 3b, 10, and by adding a subdivision; 268.09, subdivision 3, and by adding subdivisions; 268.101, subdivisions 2, 3, 4, and by adding a subdivision; 268.105; 268.11, subdivision 3; 268.12, subdivisions 8 and 9a; 268.121; 268.14, subdivision 1; 268.16, subdivision 2; 268.161, subdivisions 4, 6, and 7; 268.167; 268.18, subdivisions 1, 2, 3, 4, 6, and by adding a subdivision; and 268.21; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1996, sections 268.026; 268.04, subdivisions 8, 13, 14, 20, 21, 32, and 35; 268.06, subdivisions 2, 4, 5, 30, and 33; 268.073, subdivision 7; 268.09, subdivisions 1, 2, 4, 5, 6, 7, and 8; 268.12, subdivisions 2, 4, 5, 7, and 11; 268.14, subdivisions 3 and 4; 268.16, subdivision 8; 268.161, subdivision 3; 268.165; and 268.18, subdivision 5.

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

Section 1. Minnesota Statutes 1996, section 268.0111, is amended by adding a subdivision to read:

Subd. 3a. DEPARTMENT. "Department" means the department of economic security.

Sec. 2. Minnesota Statutes 1996, section 268.022, subdivision 1, is amended to read:

Subdivision 1. **DETERMINATION AND COLLECTION OF SPECIAL ASSESSMENT.** (a) In addition to all other contributions, assessments, and payment obligations under chapter 268, each employer, except an employer making payments in lieu of

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contributions under section 268.06, subdivision 25, 26, 27, or 28, is liable for a special assessment levied at the rate of one-tenth of one percent per year on all taxable wages for purposes of the contribution payable under section 268.06, subdivision 2, as defined in section 268.04, subdivision 25 25b. ~~Such~~ The assessment shall become due and be paid by each employer to the department of economic security on the same schedule and in the same manner as other contributions required by section 268.06.

(b) The special assessment levied under this section shall not affect the computation of any other contributions, assessments, or payment obligations due under this chapter.

(c) Notwithstanding any provision to the contrary, if on June 30 of any year the unobligated balance of the special assessment fund under this section is greater than \$30,000,000, the special assessment for the following year only shall be levied at a rate of 1/20th of one percent on all taxable wages identified for this purpose under this subdivision.

Sec. 3. Minnesota Statutes 1996, section 268.04, subdivision 5, is amended to read:

Subd. 5. **CALENDAR QUARTER.** "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, ~~excluding any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof, as the commissioner may by rule prescribe.~~

Sec. 4. Minnesota Statutes 1996, section 268.04, is amended by adding a subdivision to read:

Subd. 12a. **INDEPENDENT CONTRACTOR/CONSTRUCTION.** A worker doing commercial or residential building construction or improvement, in the public or private sector, performing services in the course of the trade, business, profession, or occupation of the employing unit, shall be considered an employee under the law of master and servant and not an "independent contractor" under subdivision 12, clause (1)(d) unless the worker meets all the following conditions:

(1) maintains a separate business with the independent contractor's own office, equipment, materials, and other facilities;

(2) holds or has applied for a federal employer identification number;

(3) operates under contracts to perform specific services or work for specific amounts of money under which the independent contractor controls the means of performing the services or work;

(4) incurs the main expenses related to the service or work that the independent contractor performs under contract;

(5) is responsible for the satisfactory completion of work or services that the independent contractor contracts to perform and is liable for a failure to complete the work or service;

(6) receives compensation for work or service performed under a contract on a commission or per job or competitive bid basis and not on any other basis;

(7) may realize a profit or suffer a loss under contracts to perform work or service;

(8) has continuing or recurring business liabilities or obligations; and

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(9) the success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

Sec. 5. Minnesota Statutes 1996, section 268.04, subdivision 15, is amended to read:

Subd. 15. **FILING; FILED.** "Filing" or "filed" means the delivery of any document to the commissioner or any of the commissioner's agents or representatives, or the depositing of the same document in the United States mail properly addressed to the department with postage prepaid thereon, in which case the same document shall have been considered filed on the day indicated by the cancellation mark of the United States Post Office Department Postal Service.

If, where allowed, an application, protest, appeal, or other required action is made by telephone or electronic transmission, it shall be considered filed on the day received by the department.

Sec. 6. Minnesota Statutes 1996, section 268.04, subdivision 17, is amended to read:

Subd. 17. **INSURED WORK.** "Insured work" means employment for employers as defined in this section, except that for the purposes of interstate reciprocal benefit payment arrangements and the clearing satisfying of disqualifications under this law, the term "insured work" shall mean employment in include insured work under this law or a similar law of any other state or employment covered under the Railroad Unemployment Compensation Act, and United States Code, title 5, chapter 85. Periods for which an individual receives back pay are periods of insured work for benefit purposes, except for the clearing satisfying of disqualifications under this chapter.

Sec. 7. Minnesota Statutes 1996, section 268.04, is amended by adding a subdivision to read:

Subd. 22a. **STATE'S AVERAGE ANNUAL AND AVERAGE WEEKLY WAGE.** (a) On or before June 30 of each year, the commissioner shall calculate the state's average annual wage and the state's average weekly wage in the following manner:

(1) The sum of the total monthly employment reported by all employers subject to this law for the previous calendar year shall be divided by 12 to calculate the average monthly employment.

(2) The sum of the total wages reported by all employers subject to this law for the previous calendar year shall be divided by the average monthly employment to calculate the state's average annual wage.

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

(b) For purposes of contributions under section 268.06, subdivision 1, the state's average annual wage shall apply to the calendar year succeeding the calculation.

(c) For purposes of calculating the maximum weekly benefit amount payable on any reemployment insurance account under section 268.07, subdivision 2, paragraph (c), the state's average weekly wage shall apply to the 12-month period beginning July 1 of the calendar year of the calculation.

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Sec. 8. Minnesota Statutes 1996, section 268.04, subdivision 25, is amended to read:

Subd. 25. **WAGES.** "Wages" means all remuneration for services, including commissions; bonuses; back pay as of the date of payment; tips and gratuities paid to an employee by a customer of an employer and accounted for by the employee to the employer; sickness and accident disability payments, except as otherwise provided in this subdivision; and the cash value of all remuneration in any medium other than cash, except that such the term shall not include:

(a) ~~For the purpose of determining contributions payable under section 268.06, subdivision 2, that part of the remuneration which exceeds, for each calendar year, the greater of \$7,000 or that part of the remuneration which exceeds 60 percent of the average annual wage rounded to the nearest \$100 computed in accordance with the provisions of clause (j), paid to an individual by an employer or the employer's predecessor with respect to covered employment in this state or under the reemployment insurance law of any other state. Credit for remuneration reported under the reemployment insurance law of another state is limited to that state's taxable wage base. If the term "wages" as contained in the Federal Unemployment Tax Act is amended to include remuneration in excess of the amount required to be paid hereunder to an individual by an employer under the federal act for any calendar year, wages for the purposes of sections 268.03 to 268.23 shall include remuneration paid in a calendar year up to an amount equal to the dollar limitation specified in the Federal Unemployment Tax Act. For the purposes of this clause, the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government;~~

(b) ~~The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which that makes provision for employees generally or for a class or classes of employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (1) retirement or (2) medical and hospitalization expenses in connection with sickness or accident disability, or (3) death, provided the employee has not the option to receive, instead of provision for such a death benefit, any part of such the payment, or if such the death benefit is insured, any part of the insurance premium (or contributions to premiums) paid by the employer and has not the no right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such the benefit, or to receive a cash consideration in lieu of such a benefit either upon withdrawal from the plan or system providing for such benefit or upon termination of such the plan or system or policy of insurance or of employment with such the employer;~~

(e) (b) ~~The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 3101 of the federal Internal Revenue Code, or (2) of any payment required from an employee under a state reemployment insurance law, with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;~~

(d) (c) ~~Any payments made to a former employee during the period of active military service in the armed forces of the United States by such the employer, whether legally required or not;~~

(e) (d) ~~Any payment made to, or on behalf of, an employee or beneficiary (1) from or to a trust described in section 401(a) of the federal Internal Revenue Code which that is~~

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exempt from tax under section 501(a) of ~~such the~~ code at the time of ~~such the~~ payment unless ~~such the~~ payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or (2) under or to an annuity plan ~~which that~~, at the time of ~~such the~~ payment is a plan described in section 403(a) of the federal Internal Revenue Code;

(~~f~~) (e) Sickness or accident disability payments made by the employer after the expiration of six calendar months following the last calendar month in which the individual worked for the employer;

(~~g~~) (f) Disability payments made under the provisions of any workers' compensation law;

(h) (g) Sickness or accident disability payments made by a third party payer such as an insurance company;

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

(j) On or before July 1 of each year the commissioner shall determine the average annual wage paid by employers subject to sections 268.03 to 268.23 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.

The average annual wage determined shall be effective for the calendar year next succeeding the determination;

(~~k~~) (i) Nothing in this subdivision, other than clause (a), shall exclude from the term "wages" any payment made under any type of salary reduction agreement, including payments made under a cash or deferred arrangement and cafeteria plan, as defined in sections 401(k) and 125, respectively, of the federal Internal Revenue Code, to the extent that the employee has the option to receive the payment in cash.

Sec. 9. Minnesota Statutes 1996, section 268.04, is amended by adding a subdivision to read:

Subd. 25b. **TAXABLE WAGES.** (a) "Taxable wages" means those wages paid to an employee each calendar year up to an amount equal to 60 percent of the state's average annual wage, rounded to the nearest \$100.

(b) Taxable wages includes the amount of wages paid by the employer's predecessor in this state or under the reemployment insurance law of any other state. Any credit given for amounts reported under the reemployment insurance law of another state shall be limited to that state's taxable wage base.

Sec. 10. [268.047] **BENEFITS CHARGED TO EMPLOYER.**

Subdivision 1. **GENERAL RULE.** Benefits paid to a claimant pursuant to a reemployment insurance account, including extended, additional, and shared work benefits,

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shall be charged to the account of the claimant's base period employer as and when paid except as provided in subdivisions 2 and 3. The amount of benefits chargeable to each base period employer's account shall bear the same ratio to the total benefits paid to a claimant as the wage credits the claimant was paid by the employer bear to the total amount of wage credits the claimant was paid by all the claimant's base period employers.

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

Subd. 2. EXCEPTIONS TO CHARGES FOR ALL EMPLOYERS. Benefits paid to a claimant shall not be charged to the account of a contributing base period employer or to the account of a base period employer that is liable for payments in lieu of contributions under the following conditions:

(a) the claimant was discharged from the employment because of gross misconduct as determined under section 268.09, subdivision 10, clause (2). This paragraph shall apply only to benefits paid for weeks occurring subsequent to the claimant's discharge from employment;

(b) a claimant's discharge from that employment was required by a law mandating a background check, or the claimant's discharge from that employment was required by law because of a criminal conviction;

(c) the employer:

(1) provided regularly scheduled part-time employment to the claimant during the claimant's base period;

(2) during the claimant's benefit year, continues to provide the 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 a volunteer ambulance service personnel on the same basis that employment was provided in the base period; and

(3) is an involved employer because of the claimant's loss of other employment. The exception to charges shall terminate effective the first week in the claimant's benefit year that the employer fails to meet the provisions of clause (2);

(d) the claimant's unemployment:

(1) was 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 claimant would have been eligible for disaster unemployment assistance with respect to that unemployment but for the claimant's receipt of reemployment insurance benefits; or

(2) was 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 became unemployed as a result and the employer substantially reopens its operations in that same area within 18 months. Benefits shall be charged to the employer where the unemployment is caused by the willful act of the employer or a person acting on behalf of the employer;

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(e) the benefits were paid by another state as a result of the transferring of wage credits under a federally combined wage agreement provided for in section 268.13;

(f) on a second reemployment insurance account established pursuant to section 268.07, subdivision 3, where the employer provided 90 percent or more of the wage credits in the claimant's preceding base period and the claimant did not perform services for the employer during the subsequent base period;

(g) the claimant left or partially or totally lost employment because of a strike or other labor dispute at the claimant's primary place of employment if the employer was not a party to the particular strike or labor dispute; or

(h) the benefits were determined overpaid benefits under section 268.18.

Subd. 3. EXCEPTIONS TO CHARGES FOR CONTRIBUTING EMPLOYERS. Benefits paid to a claimant shall not be charged to the account of a contributing base period employer under the following conditions:

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

(b) the claimant quit the employment, unless it was determined under section 268.09, subdivisions 1a and 9, to have been because of a good reason caused by the employer. This paragraph shall apply only to benefits paid for periods occurring subsequent to the claimant's quitting the employment;

(c) the employer discharged the claimant from employment because of misconduct as determined pursuant to section 268.09, subdivisions 10 and 12. This paragraph shall apply only to benefits paid for periods occurring subsequent to the claimant's discharge from employment;

(d) the employer discharged the claimant from employment because of reasons resulting directly from the claimant's serious illness provided the employer made a reasonable effort to retain the claimant in employment in spite of the claimant's serious illness; or

(e) the claimant avoided or failed to accept an offer of suitable reemployment, or reemployment that offered substantially the same or better hourly wages or conditions of employment, or both, as were previously provided by that employer. This paragraph shall apply to benefits paid for weeks occurring after the claimant's refusal or avoidance.

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

Sec. 11. Minnesota Statutes 1996, section 268.06, subdivision 1, is amended to read:

Subdivision 1. **PAYMENTS.** (1) (a) Contributions shall accrue and become payable by each employer for each calendar year in which that the employer is subject to sections 268.03 to 268.23 with respect to wages paid (as defined in section 268.04, subdivision 25a) for employment this chapter, except for: (1) nonprofit corporations as provided in section 268.053, and (2) the state and political subdivisions as provided in section 268.052. Each employer shall pay contributions quarterly, at the employer's assigned contribution rate, on the taxable wages paid to each employee. Such The contributions shall become due and be paid by each employer to the department of economic security

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for the fund in accordance with such rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ Minnesota reemployment insurance fund on or before the last day of the month following the end of the calendar quarter. ~~No rule of the commissioner shall be put in force which will permit the payment of such contributions at a time or under conditions which will not allow the employer to take credit for such contribution against the tax imposed by section 3301 of the Internal Revenue Code.~~

(2) ~~In (b) The payment of any contribution, a fractional part of a cent shall may be disregarded unless it amounts to one-half cent or more in which case it shall be increased to one cent paid in an amount to the nearest whole dollar.~~

(3) ~~(c) When the contribution rate applied to an employer's taxable payroll for any given calendar quarter results in a computed contribution of ef for any calendar quarter is less than \$1, the contribution shall be disregarded.~~

Sec. 12. Minnesota Statutes 1996, section 268.06, subdivision 3a, is amended to read:

Subd. 3a. **RATE FOR NEW EMPLOYERS.** ~~Notwithstanding the provisions of subdivision 2, (a) Each employer, who becomes subject to this law, that does not qualify for an experience rating, except employers in the construction industry, shall pay contributions at a be assigned a contribution rate: (a) Not exceeding 5-4/10 percent, that is the higher of (1) one percent and or (2) the state's five-year benefit cost rate for the 60 consecutive month period immediately preceding July 1 of each year for each employer, except employers in the construction industry; to a maximum of 5-4/10 percent. For purposes of this clause paragraph, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 60 consecutive calendar months immediately preceding July 1 of each year by the total dollar amount of taxable wages subject to contributions under this law of all contributing employers during the same period. The This rate so determined shall be applicable for the calendar year next succeeding each the computation date.~~

(b) Each employer in the construction industry who becomes subject to this chapter that does not qualify for an experience rating shall pay contributions at a be assigned a contribution rate, not exceeding the maximum contribution rate for all employers as provided under subdivision 8, that is the higher of (1) one percent, or (2) the state's five-year benefit cost rate for construction employers for the 60 consecutive month period immediately preceding July 1 of each year to a maximum of 9.0 percent. For purposes of this clause paragraph, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants of construction industry employers during the 60 consecutive calendar months immediately preceding July 1 of each year by the total dollar amount of taxable wages of construction industry employers subject to contributions during the same period. ~~The This rate so determined shall be applicable for the calendar year next succeeding each the computation date.~~

For purposes of this subdivision an employer is in the construction industry if assigned an industrial classification the employer is within division C of the Standard Industrial Classification Manual issued by the United States Office of Management and

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Budget as determined by the tax branch of the department, except as excluded by rules adopted by the commissioner.

Sec. 13. Minnesota Statutes 1996, section 268.06, subdivision 6, is amended to read:

Subd. 6. **COMPUTATION OF EACH EMPLOYER'S EXPERIENCE RATIO RATING.** The commissioner shall compute an experience ratio rating for each employer whose account has been chargeable with benefits during the 60 consecutive calendar months immediately preceding July 1 of the preceding calendar year except that, for any employer who has not been subject to the Minnesota economic security law this chapter for a period of time sufficient to meet the 60 consecutive months requirement, the commissioner shall compute an experience ratio if the employer's account has been chargeable with benefits during at least the 12 15 consecutive calendar months immediately preceding July 1 of the preceding calendar year. Such The experience ratio rating shall be the quotient ratio obtained by dividing 1-1/4 times the total benefits charged to the employer's account during the period the account has been chargeable employer has been subject to this chapter but not less than the 12 15 or more than the 60 consecutive calendar months ending on June 30 of the preceding calendar year by the employer's total taxable payroll for the same period on which all contributions due have been paid to the department of economic security on or before October 31 of the preceding calendar year. Such The experience ratio rating shall be computed to the nearest one-tenth of a percent.

Sec. 14. Minnesota Statutes 1996, section 268.06, subdivision 8, is amended to read:

Subd. 8. **DETERMINATION COMPUTATION OF CONTRIBUTION RATES.** (a) For each calendar year the commissioner shall determine compute the contribution rate of each employer by adding the minimum contribution rate to the employer's experience ratio rating.

(b) The minimum rate for all employers shall be eight-tenths of one percent for 1988; seven-tenths of one percent for 1989; and six-tenths of one percent for 1990. The minimum contribution rate for all employers in 1991 and thereafter shall be six-tenths of one percent if the amount in the reemployment insurance fund is less than \$200,000,000 on June 30 of the preceding calendar year; or five-tenths of one percent if the fund is more than \$200,000,000 but less than \$225,000,000; or four-tenths of one percent if the fund is more than \$225,000,000 but less than \$250,000,000; or three-tenths of one percent if the fund is more than \$250,000,000 but less than \$275,000,000; or two-tenths of one percent if the fund is \$275,000,000 but less than \$300,000,000; or one-tenth of one percent if the fund is \$300,000,000 or more.

(c) The maximum contribution rate for all employers shall be 8.0 percent in 1988; 8.5 percent in 1989; 9.0 percent in 1990 and thereafter.

(d) For the purposes of this section subdivision the reemployment insurance fund shall not include any money advanced from the federal Unemployment Account in the unemployment trust fund in accordance with Title XII of the Social Security Act, as amended.

Sec. 15. Minnesota Statutes 1996, section 268.06, subdivision 8a, is amended to read:

Subd. 8a. **SOLVENCY ASSESSMENT.** (a) If the fund balance is greater than \$75,000,000 but less than \$150,000,000 on June 30 of any year, a solvency assessment

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will be in effect for the following calendar year. Each employer, except those making payments in lieu of contributions under subdivisions 25, 26, 27, and 28, shall pay a quarterly solvency assessment of ten percent multiplied by the contributions paid or due and payable for each calendar quarter in that year. Quarterly contributions and the solvency assessment payments shall be combined and will be computed notwithstanding the maximum contribution rate established in subdivision 3a or 8, by multiplying the quarterly taxable payroll by the assigned contribution rate multiplied by 1.10.

(b) If the fund balance is less than \$75,000,000 on June 30 of any year, a solvency assessment will be in effect for the following calendar year. Each employer, except those making payments in lieu of contributions under subdivisions 25, 26, 27, and 28, shall pay a quarterly solvency assessment of 15 percent multiplied by the contributions paid or due and payable for each calendar quarter in that year. Quarterly contributions and the solvency assessment payments shall be combined and will be computed notwithstanding the maximum contribution rate established in subdivision 3a or 8, by multiplying the quarterly taxable payroll by the assigned contribution rate multiplied by 1.15 rounded to the nearest one-hundredth of a percent.

Sec. 16. Minnesota Statutes 1996, section 268.06, subdivision 18, is amended to read:

Subd. 18. NOTICE TO EMPLOYER OF BENEFITS CHARGED. (a) The commissioner shall mail to the last known address of each employer a quarterly notice of the benefits which that have been charged to the employer's account, as determined by the department. Unless reviewed in the manner hereinafter provided, a written protest is filed within 30 calendar days from the date of mailing of the notice, the charges set forth in such the notice, or as modified by a redetermination, a decision of a reemployment insurance judge, or the commissioner, shall be final and shall be used in determining the contribution rates for all years in which the charges occur within the employer's experience period and shall not be subject to collateral attack by way of review of a contribution rate determination notice, application for adjustment or refund, or otherwise.

(b) Upon receipt of a protest, the commissioner shall review the charges on the notice and determine whether there has been an error in the charging of the employer's account. The commissioner shall either affirm or make a redetermination of the charges, and a notice of affirmation or redetermination shall be mailed to the employer.

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

(d) An employer may not collaterally attack, by way of a protest to a notice of benefits charged, any prior determination or decision holding that benefits shall be charged to the employer's account, that has become final.

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

Sec. 17. Minnesota Statutes 1996, section 268.06, subdivision 19, is amended to read:

Subd. 19. NOTICE OF CONTRIBUTION RATE. (a) The commissioner shall mail to the last known address of each employer notice of the employer's contribution

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rate as determined for any calendar year pursuant to this section. Such The notice shall contain the contribution rate, and the factors used in determining the individual employer's experience rating, and such other information as the commissioner may prescribe. Unless changed by the procedure provided in this subdivision a protest of the rate is made, the assigned rate as initially determined or as changed by a redetermination by the tax branch of this department, a decision of a reemployment insurance judge, or the commissioner shall be final except for fraud and shall be the rate upon which contributions shall be computed paid for the calendar year for which such the rate was assigned, and. The contribution rate shall not be subject to collateral attack for any errors, clerical or otherwise, whether by way of claim for adjustment or refund, or otherwise.

(b) If the legislature, subsequent to the mailing of the contribution rate, changes any of the factors used to determine the contribution rate of any employer for any year subsequent to the original mailing of such notice for the year, the earlier notice shall be void. The notice A new contribution rate based on the new factors shall be deemed to be the only notice of rate of contributions for that year and shall be subject to the same finality, redetermination, and review procedures as provided above computed and mailed to the employer.

Sec. 18. Minnesota Statutes 1996, 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 to in subdivision 18 and (a) 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 obtained by the employer by filing with the commissioner a written protest setting forth reasons therefor within 30 calendar days from the date of the mailing of the notice of charges or contribution rate notice 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 contribution 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 commissioner shall either affirm or make a redetermination rectifying the charges or of the 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, shall be final unless the employer may file a written appeal by filing a written notice with the department within 30 calendar days after the date of mailing appearing upon the redetermination. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(b) 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. 19. Minnesota Statutes 1996, section 268.06, subdivision 21, is amended to read:

Subd. 21. **SEPARATE ACCOUNT FOR EACH EMPLOYER ACCOUNTS.**
(1) (a) The commissioner shall maintain a separate account for each employer, except as

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provided in clause (2) this section, and shall charge the account for any benefits determined chargeable to the employer under section 268.047 and shall credit ~~an~~ the account with all the contributions paid by an employer. ~~Nothing in sections 268.03 to 268.23 shall be construed to grant any employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund, or if the employer is liable for payments in lieu of contributions, the payments made.~~

(2) (b) ~~Two or more related corporations concurrently employing the same individual employees and compensating the individual those employees through a common paymaster which is one of the corporations may apply to the commissioner to establish a joint common paymaster account or to merge their several individual accounts into a joint account that shall be the account of the common paymaster corporation. Upon approval of the application If approved, a joint account shall be maintained as if it constituted a single employer's account the separate accounts shall be maintained, but the employees compensated through the common paymaster shall be reported as employees of the common paymaster corporation. The corporations using the common paymaster account shall be jointly and severally liable for any unpaid contributions, penalties, and interest owing from the common paymaster account. The commissioner may prescribe rules as to for the establishment, maintenance and termination of joint common paymaster accounts.~~

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

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

~~The employing units in the joint account shall be jointly and severally liable for any unpaid contributions, penalties, and interest owing from the joint account.~~

Sec. 20. Minnesota Statutes 1996, section 268.06, subdivision 22, is amended to read:

Subd. 22. **EMPLOYMENT EXPERIENCE RATING RECORD TRANSFER.**
 (a) ~~When an employing unit succeeds to or acquires the organization, trade or business or substantially all the assets of another employing unit which that at the time of the acquisition was an employer subject to this law, and continues such the organization, trade or business, the experience rating record of the predecessor employer shall be transferred as of the date of acquisition to the successor employer for the purpose of computation of a contribution rate determination.~~

(b) ~~When an employing unit succeeds to or acquires a distinct severable portion of the organization, trade, business, or assets which that is less than substantially all of the employing enterprises of another employing unit, the successor employing unit shall acquire the experience rating record attributable to the portion to which it has succeeded, and the predecessor employing unit shall retain the experience rating record attributable to the portion which that it has retained, if (1) the successor continues the organization, trade, or business of the portion acquired, (2) the successor makes a written request to file~~

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an application for the transfer of the experience rating record for the severable portion acquired from the predecessor (3) and within 90 days from the date of mailing the application is mailed to the last known address of the successor the successor and predecessor employing units jointly sign and file a properly completed, written application as prescribed by the commissioner that furnishes the commissioner with sufficient information to substantiate the severable portion and to assign the appropriate total and taxable wages and benefit charges to the successor for experience rating purposes. Previously assigned contribution rates that have become final in accordance with subdivision 19 prior to the filing of the written request to file an application shall not be affected by the transfer.

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

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

(e) An official, designated by (e) The commissioner, upon the official's commissioner's own motion or upon application of an employing unit shall determine if an employing unit is a successor within the meaning of this subdivision and shall mail notice of such the determination to the last known address of the employing unit. The determination shall be final unless a written appeal is filed by the employing unit within 30 calendar days after mailing of the notice of determination. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(e) Notwithstanding subdivision 19, (f) The commissioner may shall, as the result of any determination or decision regarding succession or nonsuccession, recompute the contribution rate of all employers affected by the determination or decision for any year, including the year of the acquisition or succession and subsequent years, that is affected by the transfer or nontransfer of part or all of the experience rating record under this subdivision. This paragraph does not apply to rates that have become final in accordance with subdivision 19 prior to the filing of a written request to file an application for the transfer of a severable portion of the experience rating record as provided in paragraph (b).

(g) The experience rating record for purposes of this subdivision shall consist of those factors which make up an experience rating, without the 15-month minimum.

Sec. 21. Minnesota Statutes 1996, section 268.06, subdivision 24, is amended to read:

Subd. 24. **VOLUNTARY CONTRIBUTIONS CONTRIBUTION RATE BUY-DOWN.** Notwithstanding any inconsistent provisions of law (a) Any employer who has been assigned a contribution rate pursuant to subdivisions 4, 6, and 8 based upon an experience rating 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, plus a surcharge of 25 percent, obtain a cancellation of benefits charged

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to the account during such period equal to such the payment so voluntarily made, less the surcharge. 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 rating for such the employer, and determine a new contribution rate. The employer then shall be assigned the contribution rate applicable to the category within which the recomputed experience ratio is included.

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

(c) Voluntary contributions payments made within the time 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 within 30 calendar days after mailing of the notice of the new contribution 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 governmental 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. 22. Minnesota Statutes 1996, section 268.06, subdivision 25, is amended to read:

Subd. 25. PAYMENTS TO FUND BY STATE AND POLITICAL SUBDIVISIONS IN LIEU OF CONTRIBUTIONS. In lieu of contributions required of employers under this law, the state of Minnesota or its political subdivisions governed by this law shall pay into the reemployment insurance fund an amount equivalent to the amount of benefits charged, and as to weeks of unemployment beginning after January 1, 1979, all of the extended benefits paid based on wages paid by the state of Minnesota or such political subdivisions. If benefits paid an individual are based on wages paid by both the state of Minnesota or such political subdivisions and one or more other employers, the amount payable by the state of Minnesota or such political subdivisions to the fund shall bear the same ratio to total benefits paid to the individual as the base-period wages paid to the individual by the state of Minnesota or such political subdivisions bear to the total amount of base-period wages paid to the individual by all base-period employers. The amount of payment required under this subdivision shall be ascertained by the commis-

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sioner at least four times per year to its account. Payments in the amount of benefits charged to the account during a calendar quarter shall be made and become due on or before the last day of the month next following the month in which the notice of benefits charged is mailed to the employer. Past due payments of amounts determined due under this subdivision shall be subject to the same interest charges and collection procedures that apply to past due contributions under sections 268.16 and 268.161.

Sec. 23. Minnesota Statutes 1996, section 268.06, subdivision 26, is amended to read:

Subd. 26. **REIMBURSEMENT OF FUND BY STATE METHOD OF PAYMENT BY STATE TO FUND.** To facilitate the discharge by the state of Minnesota and its wholly owned instrumentalities of their obligations under subdivision 25 of this section, the state and its wholly owned instrumentalities shall reimburse pay the reemployment insurance fund as provided in the following clauses follows:

(1) (a) Every self-sustaining department, institution and wholly owned instrumentality of the state shall pay into the reemployment insurance fund such the amounts as the department of economic security commissioner shall certify has been paid from the fund to eligible individuals that were charged to its account. For the purposes of this clause a "self-sustaining department, institution or wholly owned instrumentality" is one in which the dedicated income and revenue substantially offsets its cost of operation.

(2) (b) Every partially self-sustaining department, institution and wholly owned instrumentality of the state shall pay into the reemployment insurance fund such the proportion of the sum which that the department of economic security commissioner certifies has been paid from the fund to eligible individuals as the total of its income and revenue bears to its annual cost of operation.

(3) (c) Every department, institution or wholly owned instrumentality of the state which is not self-sustaining shall pay to the reemployment insurance fund such sums as the department of economic security amount the commissioner certifies have has been paid from the fund to eligible individuals which were charged to their accounts to the extent funds are available from appropriated funds.

(4) (d) The departments, institutions and wholly owned instrumentalities of the state, including the University of Minnesota, which have money available shall immediately reimburse pay the reemployment insurance fund for benefits paid which were charged to their accounts upon receiving notification from the department of economic security commissioner of such the charges. If an individual to whom benefits were paid a claimant was paid by a department, institution or wholly owned instrumentality during the individual's claimant's base period from a special or administrative account or fund provided by law, the payment into the reemployment insurance fund shall be made from such the special or administrative account or fund with the approval of the department of administration and such the amounts are hereby appropriated.

(5) (e) For those departments, institutions and wholly owned instrumentalities of the state which cannot immediately reimburse pay the reemployment insurance fund for benefits that were charged to their accounts, the commissioner of economic security shall certify on November 1 of each calendar year to the department of finance as to the unpaid balances due and owing. Upon receipt of the certification the commissioner of the depart-

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ment of finance shall include ~~such~~ the unpaid balances in the biennial budget to be submitted to the legislature.

Sec. 24. Minnesota Statutes 1996, section 268.06, subdivision 27, is amended to read:

Subd. 27. **METHOD OF PAYMENT BY POLITICAL SUBDIVISION TO FUND.** ~~Effective January 1, 1974,~~ A political subdivision or instrumentality thereof is hereby authorized and directed to pay its obligations under subdivision 25 this chapter by moneys collected from taxes or other revenues. Each and Every political subdivision authorized to levy taxes may include in its tax levy the amount necessary to pay ~~such~~ its obligations. If the taxes authorized to be levied under this subdivision cause the total amount of taxes levied to exceed any limitation ~~whatsoever~~ upon the power of a political subdivision to levy taxes, ~~such~~ the political subdivision may levy taxes in excess of the limitations in ~~such~~ the amounts ~~as is~~ necessary to meet its obligation under subdivision 25 this chapter. The expenditures authorized to be made under subdivision 25 shall not be included in computing the cost of government as defined in any home rule charter of any city affected thereby. The governing body of a municipality, for the purpose of meeting its liabilities under subdivision 25 this chapter, in the event of a deficit, may issue its obligations payable in not more than two years, in an amount ~~which that~~ may cause its indebtedness to exceed any statutory or charter limitations, without an election, and may levy taxes to pay therefor in the manner provided in section 475.61.

Sec. 25. Minnesota Statutes 1996, section 268.06, subdivision 28, is amended to read:

Subd. 28. **PAYMENT TO FUND BY NONPROFIT CORPORATION AND ALLOCATION OF BENEFIT COSTS BY BASE PERIOD REIMBURSERS CORPORATIONS.** (1) ~~Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subdivision. For the purpose of this subdivision, a nonprofit organization is an organization (or group of organizations) described in section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under section 501(a) of such code. (a) Any nonprofit organization which, pursuant to section 268.04, subdivision 10, clause (9) is, or becomes, subject to this law on or after January 1, 1972, that is determined to be an employer shall pay contributions under the provisions of subdivision 1, unless it elects, in accordance with this paragraph, to pay make payments in lieu of contributions to the commissioner for the unemployment reemployment insurance fund an amount equal to the amount of regular benefits and the state share of the extended benefits charged, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election charged to the employer's account.~~

(a) (1) Any nonprofit organization which becomes subject to this law after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with the date on which such subjectivity begins that the organization was determined to be an employer by filing a written notice of its election with the commissioner not later than 30 calendar days immediately following the date of the determination of such subjectivity.

(b) (2) Any nonprofit organization which that makes an election in accordance with clause (a) will continue to be liable for payments in lieu of contributions until it files with

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the commissioner a written notice terminating its election not later than 30 calendar days prior to the beginning of the calendar year for which such the termination shall first be effective.

~~(e) (3)~~ Any nonprofit organization ~~which that~~ has been paying contributions ~~under this law for a period subsequent to January 1, 1972,~~ may change to a reimbursable basis making payments in lieu of contributions by filing with the commissioner not later than 30 calendar days prior to ~~the beginning~~ January 1 of any calendar year a written notice of election to become liable for payments in lieu of contributions. ~~Such The~~ election shall not be terminable by the organization for that and the next calendar year.

~~(d) (4)~~ The commissioner may for good cause extend the period ~~within which that~~ a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971.

~~(e) (5)~~ The commissioner, ~~in accordance with such rules as the commissioner may prescribe,~~ shall notify each nonprofit organization of any determination ~~which the commissioner may make~~ of its status as an employer and of the effective date of any election ~~which it makes~~ and of any or termination of such election. ~~Such The~~ determinations shall be final unless reviewed in accordance with the provisions of section 268.12, subdivision 13 a written appeal is filed within 30 calendar days after mailing of the determination. Proceedings on the appeal shall be conducted in accordance with section 268.105.

~~(2) (b)~~ Payments in lieu of contributions, in the amount of benefits charged to the employer's account, during a calendar quarter, shall be made at the end of each calendar quarter, or at the end of any other period as determined by the commissioner and become due on or before the last day of the month next following the month in which the notice of benefits charged is mailed to the employer. The commissioner shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits charged during such quarter or other prescribed period that is attributable to service in the employ of such organization.

~~(3) (c)~~ Past due payments of amounts in lieu of contributions shall be subject to the same interest charges and collection procedures that apply to past due contributions under sections 268.16 and 268.161.

~~(4) (d)~~ If any nonprofit organization is delinquent in making payments in lieu of contributions as required under this subdivision, the commissioner may terminate ~~such the~~ organization's election to make payments in lieu of contributions as of the beginning of the next taxable calendar year, and ~~such the~~ termination shall be effective for that and the following taxable calendar year.

~~(e)~~ For purposes of this subdivision, a nonprofit organization is an organization, or group of organizations, described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the code.

Sec. 26. Minnesota Statutes 1996, section 268.06, subdivision 29, is amended to read:

Subd. 29. **GROUP ACCOUNTS.** Two or more employers that have become are liable for payments in lieu of contributions may file a joint application apply to the com-

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missioner for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such charged based upon wage credits from all employers in the group. Each such The application shall identify and authorize a group representative to act as the group's agent for the purposes of this subdivision the account. Upon the commissioner's approval of the application If approved, the commissioner shall establish a group account for such the employers effective as of the beginning of the calendar year in which that the application is received by the commissioner and shall notify the group's representative of the effective date of the account. Such The account shall remain in effect for not less than two calendar years and thereafter until terminated at the discretion of the commissioner or upon application by the group at least 30 calendar days prior to the end of such the two year period or 30 calendar days prior to January 1 of any calendar year subsequent to such two calendar years. Each member of employer in the group shall be jointly and severally liable for payments in lieu of contributions for all benefits paid based upon wage credits earned with a from all employers in the group member during the period the group account was in effect. The commissioner shall may prescribe such rules as the commissioner deems necessary with respect to applications for the establishment, maintenance and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such account, and for the determination of the amounts that are payable under this subdivision by members of the group and the time and manner of such payments.

Sec. 27. Minnesota Statutes 1996, section 268.06, subdivision 31, is amended to read:

Subd. 31. ELECTION BY STATE OR POLITICAL SUBDIVISION TO BE A CONTRIBUTING EMPLOYER. (1) Notwithstanding the provisions of section 268.06, subdivisions 25 and 26, after December 31, 1977 an employer as defined in section 268.04, subdivision 10, clauses (14) and (15) (a) The state or political subdivision may:

(a) elect to be a contributing employer subject to the provisions of subdivisions 1, 2, 3a, 4, 5, 6, 8, 18, 19, 20 and 24 and section 268.16 beginning with January 1, 1978 for any calendar year if it files with the commissioner a written notice of its election is filed with the commissioner within 30 calendar days immediately following January 1, 1978; or of that calendar year.

(b) Elect for a subsequent calendar year, not having elected to be a contributing employer beginning with January 1, 1978, to be a contributing employer subject to the provisions of subdivisions 1, 2, 3a, 4, 5, 6, 8, 18, 19, 20 and 24 and section 268.16 if it files with the commissioner a written notice of its election within 30 days immediately following the first day of the subsequent calendar year.

An election shall continue be for a minimum period of two calendar years immediately following the effective date of the election and thereafter continue unless a written notice terminating the election is filed with the commissioner not later than 30 calendar days prior to the beginning of the calendar year for which. The termination shall first be effective at the beginning of the next calendar year.

(2) (b) The provisions of subdivisions 25, 26, and 27 as to the method of payments to the reemployment insurance fund shall apply to all contributions paid by or due from em-

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ployers electing the state or political subdivision that elects to be contributing employers under clause (4) of this subdivision.

Sec. 28. [268.069] PAYMENT OF BENEFITS.

(a) The commissioner shall pay reemployment insurance benefits from the Minnesota reemployment insurance fund to a claimant who has met each of the following requirements:

(1) the claimant has established a reemployment insurance account in accordance with section 268.07;

(2) the claimant is not subject to a disqualification from benefits under section 268.09;

(3) the claimant has met all of the eligibility requirements under section 268.08; and

(4) the claimant does not have an outstanding overpayment of benefits under section 268.18;

(b) Benefits shall not be considered as paid by an employer. The commissioner shall determine a claimant's entitlement to benefits based upon that information available and any agreement between a claimant and an employer shall not be binding on the commissioner in determining a claimant's entitlement. Any obligation on an employer as a result of benefits charged to the employer is to the fund only.

Sec. 29. Minnesota Statutes 1996, section 268.07, subdivision 2, is amended to read:

Subd. 2. **WEEKLY BENEFIT AMOUNT AND DURATION.** (a) To establish a reemployment insurance account, a claimant must have:

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

(2) minimum total base period wage credits equal to or greater than the high quarter wages wage credits 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 a claimant has sufficient wage credits and weeks worked within the base period to establish ~~established~~ a reemployment insurance account, the weekly benefit amount payable to the claimant during the claimant's benefit year shall be equal to 1/26 of the claimant's high quarter wage credits, rounded to the next lower whole dollar.

(c) Notwithstanding paragraph (b), the maximum weekly benefit amount 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 (e) paid by employers subject to sections 268.03 to 268.23 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.

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(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 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~~ reemployment insurance 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 $66\frac{2}{3}$ percent of the state's 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 state's 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 state's 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 state's 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 state's 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 state's 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 state's 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 shall be computed to the nearest whole dollar shall apply to reemployment insurance accounts established subsequent to June 30 of each year.

(f) (d) The maximum benefit amount payable for on any benefit year reemployment insurance account shall equal one-third of the claimant's total base period wage credits rounded to the next lower dollar, not to exceed 26 times the claimant's weekly benefit amount.

Sec. 30. Minnesota Statutes 1996, section 268.07, subdivision 3, is amended to read:

Subd. 3. **SECOND ACCOUNT PROHIBITED REQUIREMENTS.** (a) To establish a second reemployment insurance account following the expiration of a benefit year on a preceding reemployment insurance account, a claimant must have sufficient wage credits and ~~weeks of employment~~ to establish a reemployment insurance account under the provisions of subdivision 2 and must have performed services in covered employment after the establishment of the 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 eight times the weekly benefit amount of the ~~second preceding~~ reemployment insurance account. A reemployment insurance account established sufficiently in advance of anticipated unemployment to make the limitations of this paragraph ineffective shall not be allowed. It is the purpose of this provision ~~that to prevent a claimant cannot establish from~~ establishing more than one reemployment insurance account as a result of one separation from employment.

(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 wages paid during a subsequent

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base period unless the claimant performed services for the employer in any part of the subsequent base period.

Sec. 31. Minnesota Statutes 1996, section 268.07, subdivision 3a, is amended to read:

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 calendar 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.

Sec. 32. Minnesota Statutes 1996, section 268.07, subdivision 3b, is amended to read:

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 and a new account established only if the claimant has not been credited with a waiting week under section 268.08, subdivision 1, clause (3). A determination or amended determination pursuant to section 268.101, that was issued before the withdrawal of the reemployment insurance account, shall remain in effect and shall not be voided by the withdrawal of the reemployment insurance account. A determination of disqualification requiring subsequent earnings to satisfy the disqualification shall apply to the weekly benefit amount on the new account.

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

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

Sec. 33. Minnesota Statutes 1996, section 268.071, subdivision 3, is amended to read:

Subd. 3. **ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.** An individual A claimant shall be eligible to receive extended benefits with respect to any

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week of unemployment in the individual's claimant's eligibility period only if the commissioner finds that with respect to such that week the individual claimant:

(1) is an "exhaustee" as defined in subdivision 1, clause paragraph (9);

(2) has satisfied the requirements of this law for the receipt of regular benefits that are applicable to individuals claimants claiming extended benefits, including not being subject to a disqualification for the receipt of benefits, except that an individual disqualified for benefits pursuant to section 268.09, subdivision 1, clause (g) is not eligible for extended benefits unless the individual has, subsequent to the disciplinary suspension, earned at least four times the individual's weekly extended benefit amount; and

(3) has, during the individual's claimant's base period earned wage credits available for benefit purposes of not less than 40 times the individual's claimant's weekly benefit amount as determined pursuant to section 268.07, subdivision 2.

Sec. 34. Minnesota Statutes 1996, section 268.071, subdivision 6, is amended to read:

Subd. 6. BEGINNING AND TERMINATION OF EXTENDED BENEFIT PERIOD. (1) (a) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator the commissioner shall make an appropriate public announcement.

(2) (b) Computations required by the provisions of subdivision 1, clause paragraph (4) shall be made by the commissioner, in accordance with regulations prescribed by the United States Secretary of Labor.

(3) Except as otherwise provided, the state share of the benefits paid to an individual under this section shall be charged to the employment experience record of the base period employer of the individual to the extent regular benefits were charged to the base period employer under sections 268.06, subdivision 5, and 268.09, subdivision 1, clause (e).

(4) With respect to an employer which 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 such contributing employer shall be charged to such contributing employer's account as to weeks of unemployment beginning after January 1, 1979.

Sec. 35. Minnesota Statutes 1996, section 268.071, subdivision 9, is amended to read:

Subd. 9. ELIGIBILITY REQUIREMENTS. Notwithstanding the provisions of subdivision 2, an individual a claimant shall be ineligible for the payment of extended benefits for any week of unemployment in the individual's claimant's eligibility period if the commissioner finds that during that week the individual claimant failed to accept any offer of suitable work employment, failed to apply for any suitable work employment to which referred by the commissioner or failed to actively engage in seeking work seek employment.

Any individual claimant who has been found ineligible for extended benefits for any week by reason of this subdivision shall also be denied benefits for the week following

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the week in which the failure occurred and until the individual claimant has been employed in each of four subsequent weeks, whether or not consecutive, and has earned remuneration of not less than four times the individual's claimant's extended weekly benefit amount.

For the purpose of this subdivision "suitable work employment" means, with respect to any individual, any work employment which is within that individual's capabilities and which has a gross average weekly remuneration payable which exceeds the sum of the individual's claimant's weekly benefit amount as determined under subdivision 4 plus the amount, if any, of supplemental unemployment reemployment insurance benefits, as defined in section 501(c) (17) (D) of the Internal Revenue Code of 1954, as amended, payable to the individual claimant for that week. The work employment must pay wages not less than the higher of the federal minimum wage provided by section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended, without regard to any exemption, or the applicable state or local minimum wage.

No individual claimant shall be denied extended benefits for failure to accept an offer of or apply for any suitable work employment if: (a) the position was not offered to the individual claimant in writing or was not listed with employment service; (b) the failure could not result in a denial of benefits under the definition of suitable work employment for regular benefit claimants in section 268.09, subdivision 2 to the extent that the criteria of suitability therein are is not inconsistent with this subdivision; or (c) the individual claimant furnishes satisfactory evidence to the commissioner that prospects for obtaining work employment in the individual's claimant's customary occupation within a reasonably short period are good. If the evidence furnished is found to be satisfactory for this purpose, the determination of whether any work employment is suitable for the individual claimant shall be made in accordance with the definition of suitable work for regular benefit claimants employment in section 268.09, subdivision 2, clause 15, paragraph (a), without regard to the definition or special disqualification specified in this subdivision.

No work employment shall be found to be suitable work employment for an individual claimant which does would not accord with the labor standard provisions required by section 3304(a) (5) of the Internal Revenue Code of 1954, as amended, and set forth in be suitable employment under section 268.09, subdivision 2 15, clauses paragraph (b) (1) (2) and (3).

For the purpose of this subdivision an individual claimant is "actively seeking work employment" during any week if the individual claimant has engaged in a systematic and sustained effort to obtain work employment during the week, and the individual claimant furnishes tangible evidence of engaging in that effort during the week.

The employment service shall refer any claimant entitled to extended benefits under this section to any work employment which is suitable work employment for that individual claimant under this subdivision.

Sec. 36. Minnesota Statutes 1996, section 268.08, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY CONDITIONS.** A claimant shall be eligible to receive benefits with respect to for any week of unemployment in the claimant's benefit year only if the commissioner finds that the 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;

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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 268.23;

(2) (1) the claimant has made a continued claim for benefits in 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) (2) the claimant was able to work and was available for work employment, and was actively seeking work employment. The claimant's weekly benefit amount shall be reduced one-fifth for each day the claimant is unable to work or is unavailable for work employment.

Benefits shall not be denied by application of this clause to a 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.

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

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

(4) (3) the claimant has been unemployed for a waiting period of one week during which the claimant is otherwise entitled to benefits under sections 268.03 to 268.23; and

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

Sec. 37. Minnesota Statutes 1996, section 268.08, subdivision 2, is amended to read:

Subd. 2. **WEEK OF UNEMPLOYMENT NOT ELIGIBLE.** ~~No week shall be counted as~~ A claimant shall not be eligible to receive benefits for any week of unemployment for the purposes of this section:

(1) unless it occurs subsequent to the establishment of a reemployment insurance account;

(2) Unless it occurs after benefits first could become payable to any claimant under sections 268.03 to 268.23; which occurs in a period when the claimant is a full-time student in attendance at, or on vacation from an established school, college, or university unless a majority of the claimant's wages paid during the 52 weeks preceding the establishment of a reemployment insurance account were for services performed during weeks that the claimant was attending school as a full-time student;

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(3) in which the claimant is incarcerated. The claimant's weekly benefit amount shall be reduced by one-fifth for each day the claimant is incarcerated;

(4) in which the claimant is on a voluntary leave of absence;

(5) in which the claimant is performing services on a full-time basis, in covered employment, noncovered employment, self-employment, or volunteer work regardless of the amount of any earnings; or

(3) (6) with respect to which the 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 that are merely supplementary to those provided for under sections 268.03 to 268.23 this chapter; provided that if the appropriate agency of such other state or the federal government finally determines that the claimant is not entitled to such the benefits, this provision clause shall not apply.

Sec. 38. Minnesota Statutes 1996, section 268.08, is amended by adding a subdivision to read:

Subd. 2a. **SUSPENSION FROM EMPLOYMENT.** (a) A claimant who has been suspended from employment for 30 calendar days or less, as a result of misconduct as defined under section 268.09, subdivision 12, shall be ineligible for benefits commencing the Sunday of the week in which the claimant was suspended and continuing for the duration of the suspension.

(b) A suspension from employment for more than 30 calendar days shall be considered a discharge from employment under section 268.09, subdivision 11.

Sec. 39. Minnesota Statutes 1996, section 268.08, subdivision 3, is amended to read:

Subd. 3. **NOT ELIGIBLE DEDUCTIBLE PAYMENTS.** A claimant shall not be eligible to receive benefits for any week with respect to which the claimant is receiving, has received, or has filed a claim for remuneration payment in an amount equal to or in excess of the 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 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. This clause shall apply to the first four weeks of payment and to one-half of the total number of any additional weeks of payment. This clause shall be applied to the period immediately following the last day of employment. The number of weeks of payment shall be determined as follows:

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

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

(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 claimant contributed to the fund, annuity or insurance and all of the pension payments if the 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 the payment is less than the benefits which would otherwise be due under sections ~~268.03~~ to ~~268.23~~ claimant's weekly benefit amount, the claimant shall be entitled to receive for such that week, if otherwise eligible, benefits reduced by the amount of such remuneration the payment; provided, further, that if the appropriate agency of such this state or any other state or the federal government finally determines that the claimant is not entitled to such benefits payments, this provision subdivision 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.

Sec. 40. Minnesota Statutes 1996, section 268.08, subdivision 3a, is amended to read:

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 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. (a) If the claimant has earnings, including holiday pay, with respect to any week, from covered employment, noncovered employment, self-employment, or volunteer work, equal to or in excess of the claimant's weekly benefit amount, the claimant shall be ineligible for benefits for that week.

(b) If the claimant has earnings, including holiday pay, with respect to any week, from covered employment, noncovered employment, self-employment, or volunteer work, that is less than the claimant's weekly benefit amount, the following shall be deducted from the claimant's weekly benefit amount:

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(1) that amount in excess of \$50 if the claimant's earnings were \$200 or less, and that amount in excess of 25 percent of the claimant's earnings if those earnings were more than \$200; and

(2) that amount in excess of \$200 for earnings from service in the National Guard or a United States military reserve unit.

The resulting benefit, if not a whole dollar, shall be rounded to the next lower dollar.

(c) No deduction shall be made from a claimant's weekly benefit amount for earnings from service as a volunteer firefighter or volunteer ambulance service personnel. No deduction shall be made for jury duty pay.

Sec. 41. Minnesota Statutes 1996, section 268.08, subdivision 3b, is amended to read:

Subd. 3b. **RECEIPT OF BACK PAY.** Back pay received by a 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 that the 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 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 claimant's maximum amount of benefits payable in a benefit year which that 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 shall be considered as made by the employer on behalf of the claimant and are not voluntary contributions under section 268.06, subdivision 24.

Sec. 42. Minnesota Statutes 1996, section 268.08, subdivision 10, is amended to read:

Subd. 10. **SEASONAL EMPLOYMENT.** (a) If the commissioner finds that a claimant has earned wage credits in from 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 can establish a reemployment insurance account under section 268.07, subdivision 2, excluding the wage credits in from seasonal employment. For purposes of this subdivision, "seasonal employment" means employment with a single employer in the recreation or tourist industry which that is available with the employer for 15 consecutive weeks or less each calendar year.

(b) Wages paid in Wage credits from seasonal employment are may not available be used for benefit purposes during weeks in which there is no seasonal employment available with the employer outside the normal season.

New language is indicated by underline, deletions by strikeout.

Sec. 43. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 1a. **QUIT.** A claimant who quits employment shall be disqualified from benefits:

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

(2) unless the claimant quit the employment to accept other covered employment that provided substantially higher wages or substantially better conditions of employment or both, but the claimant did not work long enough at the other employment to have sufficient subsequent earnings to satisfy the disqualification that would otherwise be imposed;

(3) unless the claimant quit the employment within 30 calendar days of commencing the employment because the employment was unsuitable for the claimant;

(4) unless the employment was unsuitable for the claimant and the claimant quit to enter approved training;

(5) unless the employment was part time and the claimant had full-time employment in the base period, that the claimant separated from because of nondisqualifying reasons, sufficient to meet the minimum requirements to establish a reemployment insurance account under section 268.07, subdivision 2; or

(6) unless the claimant quit the employment because of the claimant's serious illness, provided that the claimant made reasonable efforts to retain that employment in spite of the serious illness.

A claimant who quit employment because of the claimant's serious illness of chemical dependency, has not made reasonable efforts to retain the employment if the claimant has previously been professionally diagnosed as chemically dependent, or has previously voluntarily submitted to treatment for chemical dependency, and has failed to make consistent efforts to maintain the treatment the claimant knows or has been professionally advised is necessary to control the chemical dependency.

Sec. 44. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 2a. **QUIT DEFINED.** A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee's. An employee who seeks to withdraw a previously submitted notice of quitting shall be considered to have quit the employment if the employer does not agree that the notice may be withdrawn.

Sec. 45. Minnesota Statutes 1996, section 268.09, subdivision 3, is amended to read:

Subd. 3. **LABOR DISPUTE.** (a) An individual A claimant who has left or partially or totally lost employment with an employer because of a strike or other labor dispute at the establishment in which where the individual claimant is or was employed shall be disqualified for from benefits:

(1) for each until the end of the calendar week during which that the strike or labor dispute is was in active progress if the claimant is participating in or directly interested in the strike or labor dispute; or

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(2) for one week following the commencement of until the end of the calendar week that the strike or labor dispute commenced if the individual claimant is not participating in or directly interested in the strike or labor dispute.

Participation includes the failure or refusal of an individual by a claimant to accept and perform available and customary work at the establishment.

(b) An individual A claimant who has left or partially or totally lost employment with an employer because of a jurisdictional controversy between two or more labor organizations at the establishment in which where the individual claimant is or was employed shall be disqualified for benefits for each until the end of the calendar week during which that the jurisdictional controversy is was in progress.

(c) For the purpose of this subdivision the term "labor dispute" shall have the same definition as provided in the Minnesota labor relations act. Nothing in this subdivision shall be deemed to deny benefits to any employee A claimant shall not be disqualified from benefits under this subdivision if:

(1) who the claimant becomes unemployed because of a strike or lockout caused by an employer's willful failure to observe the terms of the safety and health section of a union contract or failure to comply with an official citation for a violation of federal and state laws involving occupational safety and health; provided, however, that benefits paid in accordance with this provision shall not be charged to the employer's experience rating account if, following official appeal proceedings, it is held that there was no willful failure on the part of the employer; or

(2) who the claimant becomes unemployed because of a lockout; or

(3) who the claimant is dismissed discharged during the period of negotiation in any labor dispute and prior to the commencement of a strike or other labor dispute.

(d) A voluntary separation quit from employment by the claimant during the time that the strike or other labor dispute is in active progress at the establishment shall not be deemed to terminate the individual's claimant's participation in or direct interest in such the strike or other labor dispute for purposes of this subdivision.

(e) Benefits paid to an employee who has left or partially or totally lost employment because of a strike or other labor dispute at the employee's primary place of employment shall not be charged to the employer's account unless the employer was a party to the particular strike or labor dispute For the purpose of this subdivision, the term "labor dispute" shall have the same definition as provided in section 179.01, subdivision 7.

(f) Notwithstanding any other provision of this section, an individual whose last separation from employment with an employer occurred prior to the commencement of the strike or other labor dispute and was permanent or for an indefinite period, shall not be denied benefits or waiting week credit solely by reason of failure to apply for or to accept recall to work or reemployment with the employer during any week in which the strike or other labor dispute is in progress at the establishment in which the individual was employed.

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Sec. 46. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 9. GOOD REASON CAUSED BY THE EMPLOYER DEFINED. (a) A good reason caused by the employer for quitting is a reason:

(1) that is directly related to the employment and for which the employer is responsible; and

(2) that is significant and would compel an average, reasonable worker to quit.

(b) A claimant has a good reason caused by the employer for quitting if it results from 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 claimant's submission to the conduct or communication is made a term or condition of the employment;

(2) the claimant's submission to or rejection of the conduct or communication is the basis for decisions affecting employment; or

(3) the conduct or communication has the purpose or effect of substantially interfering with 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.

Sec. 47. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 10. DISCHARGE. A claimant who is discharged from employment by an employer shall not be disqualified from benefits:

(1) unless the claimant was discharged because of misconduct that interfered with and adversely affected that employment. This clause shall not apply if:

(i) the misconduct was a direct result of the claimant's serious illness provided that the claimant made reasonable efforts to retain the employment in spite of the serious illness. If the misconduct was a direct result of the claimant's chemical dependency, the claimant has not made reasonable efforts to retain employment if the claimant has previously been professionally diagnosed chemically dependent or the claimant has previously voluntarily submitted to treatment for chemical dependency and has failed to make consistent efforts to maintain the treatment the claimant knows or has been professionally advised is necessary to control the chemical dependency; or

(ii) the employment was part time and the claimant had full-time employment in the base period, that the claimant separated from because of nondisqualifying reasons, sufficient to meet the minimum requirements to establish a reemployment insurance account under section 268.07, subdivision 2;

(2) unless the claimant was discharged because of gross misconduct that interfered with and adversely affected that employment. For the purpose of this clause, "gross misconduct" means:

(i) the commission of any act that amounts to a gross misdemeanor or felony; or

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(ii) for an employee of a facility as defined in section 626.5572, gross misconduct includes an act of patient or resident abuse, financial exploitation, or recurring or serious neglect, as defined in section 626.5572 and applicable rules.

If a claimant is convicted of a gross misdemeanor or felony for the same act or acts for which the claimant was discharged, it is conclusively presumed to be gross misconduct; or

(3) if the claimant was discharged because the claimant gave notice of intention to quit the employment within 30 calendar days. This clause shall be effective only through the end of the calendar week that includes the intended date of quitting. Thereafter the separation from employment shall be considered a quit of employment by the claimant, and a disqualification, if any, shall commence with the Sunday of the week following the week that includes the intended date of quitting.

Sec. 48. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 11. DISCHARGE DEFINED. A discharge from employment occurs when any words or actions by an employer would lead a reasonable employee to believe that the employee's services are no longer desired by the employer. A layoff due to lack of work shall be considered a discharge. A suspension from employment of more than 30 calendar days shall be considered a discharge.

Sec. 49. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 12. MISCONDUCT DEFINED. Misconduct is intentional conduct showing a disregard of:

(1) the employer's interest;

(2) the standards of behavior that an employer has the right to expect of the employee; or

(3) the employee's duties and obligations to the employer. Misconduct also includes negligent conduct by an employee demonstrating a substantial lack of concern for the employment. Inefficiency, inadvertence, simple unsatisfactory conduct, or poor performance as a result of inability or incapacity are not misconduct.

Sec. 50. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 13. ACT OR OMISSIONS AFTER SEPARATION. Except as provided for under subdivision 14, a claimant shall not be disqualified from benefits for any acts or omissions occurring after the claimant's separation from employment with the employer.

Sec. 51. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 14. OFFERS OF EMPLOYMENT. (a) A claimant shall be disqualified from benefits if the claimant, without good cause:

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

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

(3) avoided an offer of suitable employment.

(b) The claimant shall not be disqualified from benefits under paragraph (a) if the claimant:

(1) was in approved training; or

(2) formerly worked for the employer and the claimant's last separation from employment with the employer occurred prior to the commencement of a strike or other labor dispute, was permanent or for an indefinite period, and the claimant failed to apply for or accept reemployment because a strike or other labor dispute was in progress at the establishment where the claimant was previously employed by that employer.

Sec. 52. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 15. SUITABLE EMPLOYMENT DEFINED. (a) Suitable employment is employment in the claimant's labor market area that is reasonably related to the claimant's qualifications. In determining whether any employment is suitable for a claimant, the degree of risk involved to the health and safety, physical fitness, prior training, experience, length of unemployment, prospects for securing local employment in the claimant's customary occupation, and the distance of the employment from the claimant's residence shall be considered.

(b) No employment shall be considered suitable if:

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

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

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

Sec. 53. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 16. DISQUALIFICATION DURATION. (a) A disqualification from the payment of benefits under subdivisions 1a, 10, and 14 shall be for the duration of the claimant's unemployment and until the end of the calendar week in which the claimant had total earnings in subsequent covered employment of eight times the claimant's weekly benefit amount.

(b) Any disqualification imposed under subdivisions 1a and 10 shall commence on the Sunday of the week in which the claimant became separated from employment. Any disqualification imposed under subdivision 14 shall commence on the Sunday of the week the claimant failed to apply for, accept, or avoided employment.

(c) Notwithstanding paragraph (a), if the claimant was discharged from employment because of gross misconduct that interfered with and adversely affected that employment the disqualification shall be for the duration of the claimant's unemployment and until the end of the calendar week in which the claimant had total earnings in subse-

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quent covered employment of 12 times the claimant's weekly benefit amount. In addition, wage credits from that employment shall be canceled and the claimant's reemployment insurance account redetermined pursuant to section 268.07, subdivision 1, paragraph (d).

Sec. 54. Minnesota Statutes 1996, section 268.09, is amended by adding a subdivision to read:

Subd. 17. APPLICATION. This section shall apply to:

(1) all covered employment, full time or part time, temporary or limited duration, permanent or indefinite duration, that occurred during the base period, the period between the end of the base period and the effective date of the reemployment insurance account, or the benefit year, except as provided for in subdivisions 1a, clause (5); and 10, clause (1)(ii); or

(2) all covered employment occurring in this state, any other state, federal employment, or employment covered under the Railroad Unemployment Compensation Act.

Sec. 55. Minnesota Statutes 1996, section 268.101, subdivision 2, is amended to read:

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~~ that 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).

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(e) A determination of disqualification or a determination of nondisqualification shall be final unless a ~~written~~ an appeal is filed by the claimant or notified employer within 15 calendar 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 (e)~~, any question of benefit charge to an employer, and any question of an otherwise imposed disqualification for which a claimant has had requalifying subsequent earnings sufficient to satisfy the disqualification.

(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 subsequent earnings sufficient to satisfy any otherwise potential disqualification.

Sec. 56. Minnesota Statutes 1996, section 268.101, subdivision 3, is amended to read:

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~~ an appeal is filed by the claimant or notified employer within 15 calendar

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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, 268.115, 268.125, 268.135, and 268.155.

Sec. 57. Minnesota Statutes 1996, section 268.101, is amended by adding a subdivision to read:

Subd. 3a. **DIRECT HEARING.** Notwithstanding subdivision 2 or 3, the commissioner may refer any issue of disqualification or any issue of eligibility directly for hearing in accordance with section 268.105, subdivision 1. The status of the issue shall be the same as if a determination had been made and an appeal filed.

Sec. 58. Minnesota Statutes 1996, section 268.101, subdivision 4, is amended to read:

Subd. 4. **AMENDED DETERMINATION.** Unless an appeal has been filed, the commissioner, on the commissioner's own motion, 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~~ written appeal is filed by the claimant or notified employer within 15 calendar days after mailing of the amended determination to the last known address. Proceedings on the appeal shall be conducted in accordance with section 268.105.

Sec. 59. **[268.103] APPEALS BY TELEPHONE; ELECTRONIC TRANSMISSION.**

Subdivision 1. **IN COMMISSIONER'S DISCRETION.** (a) Unless the statutory provision providing for an appeal requires that the appeal be in writing, the commissioner shall have the discretion to allow an appeal to be made by telephone or by electronic transmission. If the commissioner allows an appeal to be made by telephone or by electronic transmission, that shall be clearly set out on the determination or decision subject to appeal.

(b) The commissioner may restrict the conditions under which an appeal by telephone or electronic transmission may be made. Any restrictions as to days, hours, telephone number, electronic transmission address, or other conditions, shall be clearly set out on the determination or decision subject to appeal.

(c) All information requested by the commissioner when an appeal is made by telephone or by electronic transmission must be supplied or the communication will not constitute an appeal.

Subd. 2. **APPEAL IN WRITING.** An appeal may be made in writing even if an appeal by telephone or by electronic transmission is allowed.

Subd. 3. **EXCLUSIVE MEANS OF APPEAL.** A written appeal, or if allowed an appeal by telephone or electronic transmission, shall be the only manner of appeal.

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Sec. 60. Minnesota Statutes 1996, section 268.105, is amended to read:

268.105 REEMPLOYMENT INSURANCE HEARINGS; APPEALS.

Subdivision 1. **HEARING.** (a) Upon appeal the department shall set a time and place for a de novo hearing and ~~give the interested parties any involved claimant and any involved employer written notice of it, by mail, not less than ten calendar days prior to the time date of the hearing.~~

(b) The commissioner shall by rule adopt a procedure by which reemployment insurance judges hear and decide appeals, subject to further appeal to the commissioner. The rules need not conform to common law or statutory rules of evidence and other technical rules of procedure. The written report of any employee of the department of economic security, except a determination, made in the regular course of the performance of the employee's duties, shall be competent evidence of the facts contained in it.

(c) After the conclusion of the hearing, upon the evidence presented, the reemployment insurance judge shall mail findings of fact and decision to all interested involved parties. The reemployment insurance judge's decision is final unless a further appeal is filed pursuant to subdivision 3.

Subd. 2. **REEMPLOYMENT INSURANCE JUDGES.** The commissioner shall designate ~~one or more regular salaried employees of the department as impartial reemployment insurance judges to conduct hearings on appeals.~~ The commissioner or authorized representative may personally hear or transfer to another reemployment insurance judge any proceedings pending before a reemployment insurance judge. Any proceedings removed to the commissioner or authorized representative shall be heard in accordance with subdivision 1.

Subd. 3. **COMMISSIONER REVIEW.** (a) Within 30 calendar days after mailing of the reemployment insurance judge's decision, an interested any involved party may appeal in writing and obtain a review by the commissioner or an authorized representative. The commissioner within the same period of time may on the commissioner's own motion order a review of a decision.

(b) Upon review, the commissioner or authorized representative shall, on the basis of the evidence submitted at the hearing before the reemployment insurance judge, make findings of fact and decision, or remand the matter back to the a reemployment insurance judge for the taking of additional evidence and new findings and decision based on all the evidence. The commissioner may disregard the findings of fact of the reemployment insurance judge and examine the evidence and make any findings of fact as the evidence may, in the judgment of the commissioner require, and make any decision as the facts found by the commissioner require.

(c) The commissioner shall mail to all interested parties any involved party the findings of fact and decision. The decision of the commissioner is final unless judicial review is sought as provided by subdivision 7.

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.

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(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 not be deemed overpaid nor shall and the benefits paid shall not be considered in determining the employer's future contribution rate under section 268.06~~ charged to a contributing employer's account.

(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.

Subd. 4. TESTIMONIAL POWERS. In the discharge of the duties imposed by this section, the reemployment insurance judge, the commissioner, or authorized representative, may 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 the subject matter of the hearing. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued. Witnesses, other than an interested party involved claimant or involved employer or officers and employees of an interested party involved employer, subpoenaed pursuant to this section shall be allowed fees the same as witness fees in a civil action in district court. These fees shall be deemed a part of the expense of administering ~~sections 268.03 to 268.23~~ this chapter.

Subd. 5. USE OF INFORMATION. (a) All testimony at any hearing conducted pursuant to subdivision 1 shall be recorded, ~~but shall be transcribed only if the disputed claim is appealed further and is requested by a party, or as directed by the commissioner or an authorized representative.~~ A copy of any recorded testimony and exhibits received into evidence at the hearing shall, upon request, or upon directive of the commissioner, be furnished to a party at no cost. If requested, the representative of a commissioner shall make available a device for listening to the recording.

(b) Testimony obtained under subdivision 1, may not be used or considered in any civil, administrative, or contractual proceeding, except by a local, state, or federal human rights group agency with enforcement powers, unless the proceeding is initiated by the department.

(c) No findings of fact or decision issued by a reemployment insurance judge or the commissioner ~~or authorized representative~~ may be held conclusive or binding or used as evidence in any separate or subsequent action in any other forum, except proceedings

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provided for under this chapter, regardless of whether the action involves the same or related parties or involves the same facts.

Subd. 6. REPRESENTATION; FEES. In any proceeding under these sections, a party may be represented by any agent. Except for services provided by an attorney-at-law, a claimant for benefits shall not be charged fees or costs of any kind in a proceeding before a reemployment insurance judge, the commissioner or authorized representative, or by any court or any of its officers.

Subd. 7. COURT OF APPEALS; ATTORNEY FOR COMMISSIONER. (a) The court of appeals may, by writ of certiorari to the commissioner, review any decision of the commissioner provided a petition for the writ is filed and served upon the commissioner and the adverse any other involved party within 30 calendar days of the mailing of the commissioner's decision.

(b) Any interested party, except a claimant for benefits involved employer, upon the service of the writ shall furnish a cost bond to the commissioner in accordance with rule 107 of the rules of civil appellate procedure. Upon review before the court of appeals, the commissioner shall, if requested, furnish to the claimant at no cost a written transcript of the testimony received at the hearing conducted pursuant to subdivision 1.

(c) The commissioner shall be deemed to be a party to any judicial action involving any decision and shall be represented by any qualified attorney who is a regular salaried employee of the department of economic security and has been designated by the commissioner for that purpose or, at the commissioner's request, by the attorney general.

Sec. 61. Minnesota Statutes 1996, section 268.11, subdivision 3, is amended to read:

Subd. 3. ELECTION AGREEMENTS; TERMINATION POWERS OF COMMISSIONER. (1) An employing unit, not otherwise subject to sections 268.03 to 268.23 defined as an employer under this chapter, which that files with the commissioner its a written election to become an employer subject thereto for not less than two calendar years, shall, with the written approval of such election by the commissioner, become an employer subject hereto for not less than two calendar years to the same extent as all other employers, as of the date stated in such the approval and. The employing unit shall cease to be subject hereto an employer as of the first day of January of any calendar year subsequent to such two calendar years, only, if at least 30 calendar days prior to such the first day of January, if the employing unit has filed with the commissioner a written notice to that effect.

(2) Any employing unit for which that has services performed for it that do not constitute employment are performed, may file with the commissioner a written election that all such service performed by individuals in its employ, in one or more distinct establishments or places of business, shall be deemed to constitute employment for all the purposes of sections 268.03 to 268.23 this chapter for not less than two calendar years. Upon the written approval of such election by the commissioner, such the services shall be deemed to constitute employment subject to these sections from and after the date stated in such the approval. Such The services shall cease to be deemed employment subject hereto as of the first day of January of any calendar year subsequent to such two calendar years only if at least 30 calendar days prior to such the first day of January such the employing unit has filed with the commissioner a written notice to that effect.

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(3) The commissioner must terminate any election agreement under this subdivision upon 30 calendar days notice to the employer employing unit, if the employer employing unit fails to pay all contributions due under section 268.06, subdivision 1, or reimburse payments in lieu of contributions due the unemployment reemployment insurance fund in accordance with section 268.06, subdivisions 25, 26, 27, and 28.

Sec. 62. Minnesota Statutes 1996, section 268.12, subdivision 8, is amended to read:

Subd. 8. **RECORDS; REPORTS.** (1) (a) Each employing unit shall keep true and accurate records for such the periods of time and containing such the information as the commissioner may prescribe require. For the purpose of determining compliance with this chapter, or for the purpose of collection of any amounts due under this chapter, the commissioner or any authorized delegated representative of the commissioner has the power to examine, or cause to be examined or copied, any books, correspondence, papers, records, or memoranda which are relevant to making these determinations, whether the books, correspondence, papers, records, or memoranda are the property of or in the possession of the employing unit or any other person or corporation at any reasonable time and as often as may be necessary.

(2) (b) The commissioner or any other duly authorized delegated representative of the commissioner may cause to be made such make summaries, compilations, photographs, duplications, or reproductions of any records, or reports, or transcripts thereof as that the commissioner may deem considers advisable for the effective and economical preservation of the information contained therein, and such any summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceeding under this chapter, if the original record or records would have been admissible therein. Notwithstanding any restrictions contained in section 16B.50, except restrictions as to quantity, the commissioner is hereby authorized to duplicate, on equipment furnished by the federal government or purchased with funds furnished for that purpose by the federal government, records, reports, summaries, compilations, instructions, determinations, or any other written matter pertaining to the administration of the Minnesota economic security law.

(3) (c) Notwithstanding any inconsistent provisions elsewhere, the commissioner may provide for the destruction or disposition of any records, reports, transcripts, or reproductions thereof, or other papers in the commissioner's custody, which that are more than two years old, the preservation of which is no longer necessary for the establishment of contribution determining employer liability or a claimant's benefit rights or for any purpose necessary to the proper administration of this chapter, including any required audit thereof, provided, that the commissioner may provide for the destruction or disposition of any record, report, or transcript, or other paper in the commissioner's custody which has been photographed, duplicated, or reproduced.

(4) Notwithstanding the provisions of the Minnesota State Archives Act the commissioner shall with the approval of the legislative auditor destroy all benefit checks and benefit check authorization cards that are more than two years old and no person shall make any demand, bring any suit or other proceeding to recover from the state of Minnesota any sum alleged to be due on any claim for benefits after the expiration of two years from the date of filing such claim.

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Sec. 63. Minnesota Statutes 1996, section 268.12, subdivision 9a, is amended to read:

Subd. 9a. **TESTIMONIAL POWERS SUBPOENAS; OATHS.** ~~(1)~~ (a) In the discharge of the duties imposed by sections 268.03 to 268.23, the commissioner, appeal referee, or any duly authorized ~~delegated~~ 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~~ persons 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)~~ (b) ~~Witnesses~~ Persons, other than interested parties ~~claimants~~ or officers and employees of an employing unit ~~which that is an interested party the subject of the inquiry,~~ subpoenaed pursuant to this subdivision or sections 268.03 to 268.23, shall be allowed fees the same as witness fees in civil actions in district court, ~~which.~~ The 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)~~ (c) 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.

(c) The subpoena shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 64. Minnesota Statutes 1996, section 268.121, is amended to read:

268.121 WAGE REPORTING.

Beginning on April 1, 1984, Subdivision 1. WAGE DETAIL REPORT. (a) Each employer subject to this chapter shall provide the commissioner with a quarterly report of the wages paid to each employee of that employer covered by this chapter. The report must known as the wage detail report, that shall include, for each employee covered by this chapter, the employee's name, social security number, and the total wages paid to the employee, and the number of weeks in which work was performed. The report is due and must be filed at the same time as the contribution report in accordance with rules established by the commissioner for filing of quarterly contribution reports. For the purpose of this section, "wages paid" includes wages actually or constructively paid and wages overdue and delayed beyond the usual time of payment on or before the last day of the month following the end of the calendar quarter.

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

Subd. 2. FAILURE TO FILE REPORT. Any employer who fails to file the wage detail report shall pay to the department, for each month the report is delinquent, a penalty

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of one-half of one percent of total wages paid that quarter. The penalty shall not be assessed if the wage detail report is properly made and filed within 30 calendar days after a demand for the report is mailed to the employer's address of record. In no case shall the amount of the penalty, if assessed, be less than \$25. Penalties due under this subdivision may be waived where good cause for late filing is found by the commissioner.

Subd. 3. MISSING OR ERRONEOUS INFORMATION. Any employer who files the wage detail report, but knowingly fails to include any of the required information or knowingly enters erroneous information, shall be subject to a penalty of \$25 for each employee for whom the information is missing or erroneous.

Subd. 4. PENALTIES. The penalties provided for in subdivisions 2 and 3 are in addition to interest and other penalties imposed by this chapter and shall be collected in the same manner as delinquent contributions and shall be credited to the contingent account.

Sec. 65. Minnesota Statutes 1996, section 268.14, subdivision 1, is amended to read:

Subdivision 1. ACCEPTANCE OF FEDERAL ACT. A state employment service is hereby established in the department of economic security. The commissioner in the conduct of such service shall establish and maintain free public employment offices, in such that number and in such those places as may be necessary for the proper administration of sections 268.03 to 268.23 and for the purpose of performing such the functions as are within the purview of the act of Congress entitled "An act to provide for the establishment of a national employment system for the cooperation with the states in the promotion of such system and for other purposes," approved June 6, 1933, as amended. The provisions of such act of Congress are hereby accepted by this state and the department of economic security is hereby designated and constituted the agency of this state for the purposes of such act. The commissioner, pending the return of the employment service, its facilities, property, and personnel, to state control after the war emergency, may loan to the United States employment service facilities, property and personnel Wagner-Peyser Act, United States Code, title 29, chapter 4B.

Sec. 66. Minnesota Statutes 1996, section 268.16, subdivision 2, is amended to read:

Subd. 2. REPORTS; DELINQUENCIES; PENALTIES. (a) Any employer who knowingly fails to make and submit to the department commissioner any contribution report at the time the report is required by rules prescribed by the commissioner shall pay to the department a penalty in the of up to \$25 or an amount of 1-1/2 percent of contributions accrued during the period for which the report is required, for each month from and after the due date until the report is properly made and submitted to the department. In no case shall the amount of the penalty imposed hereby be less than \$5 per month. The maximum penalty imposed hereby shall be \$25 or the amount determined at the rate of 1-1/2 percent per month, whichever is greater.

(b) If any employing unit employer required by sections 268.03 to 268.23 to make and submit contribution reports shall fail fails to do so within the time prescribed by these sections or by rules under the authority thereof required, or shall make makes, willfully or otherwise, an incorrect, false or fraudulent contribution report, it the employer shall, on the written demand of the commissioner, make such the contribution report, or corrected report, within ten days after the mailing of such the written demand and at the same time pay the whole contribution, or any additional contribution, due on the basis thereof. If

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such ~~the~~ employer shall ~~fail~~ fails within that time to make ~~such the~~ report, or corrected report, ~~the~~ commissioner shall ~~make~~ a report, or corrected report, from the commissioner's own knowledge and from ~~such~~ information as the commissioner ~~can~~ may obtain through testimony, or otherwise, and assess a contribution on ~~the that~~ basis thereof, which contribution, plus any penalties and interest which thereafter accrued (less any payments theretofore made) shall be paid within ten days after the commissioner has mailed to ~~such the~~ employer a written notice of the amount thereof due and demand for its payment. Any such contribution report or assessment made by the commissioner on account of the failure of the employer to make a report or corrected report shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any subsequent action or proceeding in respect thereto. Whenever ~~such the~~ delinquent employer shall ~~file~~ files a report or corrected report, the commissioner may, on finding it substantially correct, substitute it for the commissioner's report.

(c) ~~Any employer who fails to file the wage detail report required by section 268.121 shall pay to the department for the contingent account for each month the report is delinquent a penalty of one-half of one percent of total wages paid and wages due but not paid during the period for each month the report is delinquent. The penalty shall not be assessed if the wage detail report is properly made and filed within 30 days after a demand for the report is mailed to the employer's address of record. In no case shall the amount of the penalty, if assessed, be less than \$25. Penalties due under this subdivision may be waived where good cause for late filing is found by the commissioner.~~

(d) ~~Any employer who files the wage detail report required by section 268.121, but knowingly fails to include any of the required information or knowingly enters erroneous information, shall be subject to a penalty of \$25 for each individual for whom the information is missing or erroneous.~~

(c) If the commissioner finds that any part of any employer's contribution deficiency is due to fraud with intent to avoid payment of contributions to the fund, 50 percent of the total amount of the deficiency or \$500, whichever is greater, shall be assessed as a penalty against the employer and collected in addition to the deficiency.

~~(e) (d) Any employing unit which that fails to make and submit to the commissioner any report, other than a contribution report or wage detail report, as and when required by rule, shall be subject to a penalty in the sum of \$50 payable to the department for the contingent account.~~

~~(f) (e) The penalties provided for in paragraphs (a), (c), (d), and (e) (d) are in addition to interest and any other penalties imposed by sections 268.03 to 268.23 and shall be collected as provided by section 268.161 and shall be paid to the department and credited to the contingent account.~~

(f) An employer or officer or agent of an employer is guilty of a gross misdemeanor, unless the contribution or other payment involved exceeds \$500, in which case the person is guilty of a felony, if the individual:

(1) in order to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required under this chapter:

(i) makes a false statement or representation knowing it to be false; or

(ii) knowingly fails to disclose a material fact; or

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(2) willfully fails or refuses to make any contributions or other payment at the time required.

Sec. 67. Minnesota Statutes 1996, section 268.161, subdivision 4, is amended to read:

Subd. 4. **COLLECTION BY CIVIL ACTION.** ~~(4)~~ (a) In addition to all other collection methods authorized, if, after due notice, any employer defaults in is delinquent on any payment of contributions or interest due thereon or penalties for failure to file returns a contribution report and other reports as required by sections 268.03 to 268.23 this chapter or by any rule of the commissioner, the amount due may be collected by civil action in the name of the state of Minnesota, and any money recovered shall be credited to the funds provided for under those sections. Any employer adjudged in default delinquent shall pay the costs of the action. Civil actions brought under this section to collect contributions, interest due thereon, or penalties from an employer subdivision shall be heard by the court at the earliest possible date as provided under section 16D.14. No action for the collection of contributions or, interest thereon, or penalties shall be commenced more than six years after the contributions have been reported by the employer or determined by the commissioner to be due and payable. In any action, judgment shall be entered against any defendant employer in default for the relief demanded in the complaint without proof, together with costs and disbursements, upon the filing of an affidavit of default.

~~(2)~~ (b) Any employing unit which employer that is not a resident of this state and which exercises the privilege of having one or more individuals perform service for it within this state, and any resident employing unit which exercises that privilege and thereafter removes employer removed from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any civil action under this subdivision. In instituting an action against any employing unit employer, the commissioner shall cause file process or notice to be filed with the secretary of state, together with a payment of a fee of \$15 and that service shall be considered sufficient service upon the employing unit employer, and shall be of have the same force and validity as if served upon it the employer personally within this state. The commissioner shall forthwith send notice of the service of process or notice, together with a copy thereof of the process, by certified mail, return receipt requested, to the employing unit employer at its last known address. The return receipt, The commissioner's affidavit of compliance with the provisions of this section, and a copy of the notice of service shall be appended to the original of the process and filed in the court in which the civil action is pending.

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

Sec. 68. Minnesota Statutes 1996, section 268.161, subdivision 6, is amended to read:

Subd. 6. **CONTRIBUTION OR REIMBURSEMENT PAYMENT IN LIEU OF CONTRIBUTION PRESUMED VALID.** The contribution and reimbursement payment in lieu of contribution, as assessed by the commissioner, including any penalties, shall be presumed to be valid and correctly determined and assessed, and the burden shall be upon the employer to show its incorrectness or invalidity. The A statement filed by the commissioner with the court administrator, as provided in subdivision 3, or any other cer-

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ificate by the commissioner of the amount of the contribution, reimbursement payment in lieu of contribution, interest and penalties as determined or assessed by the commissioner, shall be admissible in evidence in any court or administrative proceeding and shall establish prima facie evidence of the facts set forth therein in the statement.

Sec. 69. Minnesota Statutes 1996, section 268.161, subdivision 7, is amended to read:

Subd. 7. **CONFESSION OF JUDGMENT.** (a) Any contribution report or other form that is required to be filed with the commissioner concerning contributions or reimbursements payments in lieu of contributions due, shall contain a written declaration that it is made under the penalties of section 268.18, subdivision 3 for willfully making a false report and shall contain a confession of judgment for the amount of the contribution or reimbursement payments in lieu of contributions shown due thereon to the extent not timely paid together with any interest and penalty due under this chapter.

(b) The commissioner may, within six years after a the report or other form is filed, notwithstanding section 541.09, enter judgment on any confession of judgment contained in the contribution report or form after 20 days calendar days' notice served upon the employer by mail at the address shown in the employer's report. The judgment shall be entered by the court administrator of any county upon the filing of a photocopy or similar reproduction of that part of the contribution report or form containing of the confession of judgment along with a statement of the commissioner or agent that the contribution or reimbursement payment in lieu of contribution has not been paid.

Sec. 70. Minnesota Statutes 1996, section 268.167, is amended to read:

268.167 GARNISHMENT FOR DELINQUENT TAXES AND BENEFIT OVERPAYMENTS.

(a) The commissioner or an authorized a delegated representative may, within six years after the date of assessment of the tax, or payment in lieu of contribution, 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 reemployment insurance taxes or reimbursements payments in lieu of contributions including penalties, interest, and costs, or has an unpaid benefit overpayment. The commissioner can proceed under this subdivision section only if the tax, payment in lieu of contributions, or benefit overpayment is uncontested or if the time for any appeal has expired. The commissioner shall not proceed under this subdivision section until the expiration of 30 calendar 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 payments in lieu of contributions, 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 section.

The effect of the notice shall expire 180 calendar days after it has been mailed to the debtor provided that the notice may be renewed by mailing a new notice which is in ac-

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cordance with this subdivision section. 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 calendar days from the mailing of the notice, the commissioner may proceed under this subdivision section. 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 section 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 the assignment within ten days after the service of the notice of delinquency on the form provided by the commissioner as noted in this subdivision section.

(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 section. 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 calendar days after the expiration of such the 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 section.

(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 section. 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 section shall not be required to compute any additional interest, costs, or other charges to be retained.

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

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ployer that fails or refuses to comply with the requirements of this section shall be liable as provided in section 268.058, subdivision 3, paragraph (i).

Sec. 71. Minnesota Statutes 1996, 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 268.23~~ this chapter or because of a determination, redetermination, or amended determination issued pursuant to section 268.07 or 268.101, has received any ~~sum~~ as benefits to which that the claimant was not entitled ~~under these sections~~ to, shall promptly ~~return these~~ repay the benefits in cash to the nearest office of the Minnesota department of economic security. If the claimant fails to ~~return~~ repay the benefits, the department of economic security shall, as soon as it ~~discovers~~ discovers the erroneous payment is ~~discovered~~ discovered, determine the amount due and notify the individual claimant in writing to ~~return~~ repay the benefits.

(b) Unless the claimant files a ~~written~~ an appeal with the department of economic security within 15 calendar days after the mailing of the ~~notice of determination of overpayment~~ notice of determination of overpayment to the claimant's last known address or personal delivery of the ~~notice~~ notice, the determination shall become final. Proceedings on the appeal shall be conducted in accordance with section 268.105. A claimant may not ~~collaterally attack, by way of an appeal to an overpayment determination, any prior determination issued pursuant to section 268.07 or 268.101, or decision issued pursuant to section 268.105, that has become final.~~ collaterally attack, by way of an appeal to an overpayment determination, any prior determination issued pursuant to section 268.07 or 268.101, or decision issued pursuant to section 268.105, that has become final.

(c) If the claimant fails to ~~repay the benefits~~ repay the benefits, the commissioner of the department of economic security is ~~authorized to may~~ authorized to deduct from any future benefits payable to the claimant under these sections in ~~either~~ either the current or any subsequent benefit year an amount equivalent to the overpayment determined, except that no single deduction under this subdivision 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 ~~delinquent contributions or reimbursements under section 268.161. A determination of overpayment shall state the methods of collection the commissioner will use to recover the overpayment. If a claimant has been overpaid benefits under the law of another state due to because of an error and that state certifies to the department the facts involved and that the individual claimant is liable under its law to repay the benefits and requests the department to recover the overpayment, the commissioner is authorized to may~~ delinquent contributions or reimbursements under section 268.161. A determination of overpayment shall state the methods of collection the commissioner will use to recover the overpayment. If a claimant has been overpaid benefits under the law of another state due to because of an error and that state certifies to the department the facts involved and that the individual claimant 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 under this subdivision shall exceed 50 percent of the amount of the payment from which the deduction is made.

(d) Benefits paid for weeks more than three years prior to the discovery of error are not erroneous payments.

(e) Notwithstanding paragraph (a), the commissioner shall waive recovery of an overpayment if a ~~reemployment insurance judge~~ reemployment insurance judge or the commissioner's authorized representative under section 268.105, subdivision 3, determines the overpayment resulted from an administrative failure to identify that a claimant's wage credits were not earned in covered employment. This paragraph shall not apply to misidentification of an employee-employer relationship.

Sec. 72. Minnesota Statutes 1996, section 268.18, subdivision 2, is amended to read:

New language is indicated by underline, deletions by strikeout.

Subd. 2. **FRAUD.** (a) Any claimant who files a claim for or receives benefits by knowingly and willfully misrepresenting or, misstating any material fact or by knowingly and willfully, or failing to disclose any material fact which that would make have made the claimant ineligible for not entitled to those benefits under sections 268.03 to 268.23 is guilty of has committed fraud. After the discovery of facts by the commissioner indicating fraud in claiming or obtaining benefits under sections 268.03 to 268.23, the commissioner is hereby authorized to shall make a written determination that the claimant was ineligible for each week with reference to which not entitled to benefits that were claimed or obtained by fraud for the amount as was in excess of what the claimant would have been entitled to had the claimant not made the fraudulent statements or failed to disclose any material facts, and that the claimant must promptly repay the benefits to the department. In addition, the commissioner also may disqualify an individual from deny benefits to a claimant for one to 52 weeks in for which the claimant is otherwise eligible for entitled to benefits following the week in which the fraud was determined. A disqualification denial imposed for fraud shall not be removed by subsequent insured work or the expiration of a benefit year but shall not apply to any week more than 104 weeks after the week in which the fraud was determined. The claimant shall promptly repay in cash to the department of economic security any benefits fraudulently obtained.

(b) Unless the claimant files a written an appeal with the department of economic security within 15 calendar days after the mailing of the notice of determination of overpayment by fraud 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) If the claimant fails to repay the benefits, the commissioner is hereby authorized to may 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 disregarding the 50 percent limitation provided for in subdivision 1 or the overpayment may be collected the same as delinquent contributions or reimbursements under section 268.161. A determination of overpayment by fraud shall state the methods of collection the commissioner may use to recover the overpayment. If a claimant has been overpaid benefits under the law of another state due to because of fraud and that state certifies to the department the facts involved and that the individual claimant is liable to repay the benefits and requests the department to recover the overpayment, the commissioner is authorized to may 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 disregarding the 50 percent limitation provided for in subdivision 1.

(d) A determination of fraud may be made at any time.

Sec. 73. Minnesota Statutes 1996, section 268.18, is amended by adding a subdivision to read:

Subd. 2b. **INTEREST.** (a) On any benefits fraudulently obtained, as determined under subdivision 2, the commissioner shall have the discretion to assess interest at the rate of 1-1/2 percent per month on any overpaid amount which remains unpaid 30 calendar days after the date of the determination of overpayment by fraud. A determination of overpayment by fraud shall state that interest may be assessed.

New language is indicated by underline, deletions by strikeout.

(b) Any money received in repayment of fraudulently obtained benefits and interest thereon shall be first applied to the overpayment balance.

(c) Unpaid interest may be collected the same as delinquent contributions.

Sec. 74. Minnesota Statutes 1996, section 268.18, subdivision 3, is amended to read:

Subd. 3. FALSE REPRESENTATIONS; CONCEALMENT OF FACTS; PENALTY. (a) Whoever obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully an intentional false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent device means, benefits to which that the person is not entitled or benefits greater than that to which the person is entitled under this chapter, or under the employment security law of any state or of the federal government or of a foreign government, either personally or for any other person, ~~shall be~~ is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (2), (3)(a), (e), and (d), (4), and (5). The amount of the benefits incorrectly paid shall be the difference between the amount of benefits actually received paid and the amount ~~which that the person~~ claimant would have been entitled under state and federal law had the department been informed of all material facts.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under this chapter or under the employment security law of any state or of the federal government, or who willfully fails or refuses to make any such contributions or other payment at the time required shall be claimant, is guilty of a gross misdemeanor unless the benefit underpayment, contribution, or other payment involved exceeds \$250 \$500, in which event that case the person is guilty of a felony.

(e) Any person who willfully fails to produce or permit the inspection or copying of books, papers, records, or memoranda as required or when requested under section 268.12, subdivision 8, or to furnish any required reports other than contribution reports shall be guilty of a gross misdemeanor.

Sec. 75. Minnesota Statutes 1996, section 268.18, subdivision 4, is amended to read:

Subd. 4. CANCELLATION OF BENEFITS PAID THROUGH ERROR OR FRAUD. ~~When~~ (a) If benefits paid through error or fraud are not repaid or deducted from subsequent benefit amounts as provided for in subdivisions subdivision 1 and 2 within six years after the date of the determination that benefits were paid through error or fraud irrespective of subsequent partial recovery dates of overpayment, the commissioner shall cancel the overpayment balance, and no administrative or legal proceedings shall be instituted under the Minnesota economic security law used to enforce collection of those amounts.

(b) If benefits paid as a result of fraud are not repaid or deducted from subsequent benefits as provided for in subdivision 2 within ten years after the date of the determination of overpayment by fraud, the commissioner shall cancel the overpayment balance and any interest due, and no administrative or legal proceeding shall be used to enforce collection of those amounts.

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

(c) The commissioner may cancel at any time benefits paid through error or fraud which that the commissioner determines are uncollectible due to death or bankruptcy.

Sec. 76. Minnesota Statutes 1996, section 268.18, subdivision 6, is amended to read:

Subd. 6. **EMPLOYER MISCONDUCT; PENALTY.** If the commissioner finds that any employing unit or any employee, officer, or agent of any employing unit, is in collusion with any employee claimant for the purpose of assisting the claimant to receive benefits illegally, the employing unit shall be penalized \$500 or an amount equal to the amount of benefits determined to be overpaid, whichever is greater.

~~If the commissioner finds that any part of any employer's contribution deficiency is due to fraud with intent to avoid payment of contributions to the fund, 50 percent of the total amount of the deficiency or \$500, whichever is greater, shall be assessed as a penalty against the employer and collected in addition to the deficiency.~~

Penalties assessed under this section shall be in addition to any other penalties provided for by sections 268.03 to 268.23 and be subject to the same collection procedures that apply to past due contributions under this chapter. Penalties under this section shall be paid to the department and credited to the contingent fund.

~~The assessment of the penalty shall be final unless the employer employing unit files a written appeal with the department within 15 30 calendar days after the mailing of the notice of determination penalty to the employer's last known address. Proceedings on the appeal shall be conducted in accordance with section 268.105.~~

Sec. 77. Minnesota Statutes 1996, section 268.21, is amended to read:

268.21 NONLIABILITY OF STATE.

(a) Benefits shall be deemed to be due and payable under sections 268.03 to 268.23 only to the extent provided therein in this chapter and to the extent that moneys are money is available therefor to the credit of in the reemployment insurance fund and neither the state nor the commissioner shall be liable for any amount in excess of such sums.

(b) No person shall make any demand, bring any suit, or other proceeding to recover from the state any sum alleged to be due on a reemployment insurance account after the expiration of two years from the effective date of the reemployment insurance account.

Sec. 78. WAITING PERIOD WAIVER.

Subdivision 1. WAIVER OF WAITING PERIOD. The waiting period requirement under Minnesota Statutes, section 268.08, subdivision 1, clause (4), is waived for a claimant who would have been eligible for federal disaster unemployment assistance but for the claimant's establishment of a reemployment insurance account. The waiver applies to accounts established effective March 23, 1997, through May 31, 1997.

Subd. 2. EFFECTIVE DATE. Subdivision 1 is effective the day following final enactment.

Sec. 79. INSTRUCTION TO REVISOR.

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

New language is indicated by underline, deletions by strikeout.

<u>Column A</u>	<u>Column B</u>
<u>268.041</u>	<u>268.043</u>
<u>268.05</u>	<u>268.194</u>
<u>268.06, subd. 1</u>	<u>268.051, subd. 1</u>
<u>268.06, subd. 3a</u>	<u>268.051, subd. 5</u>
<u>268.06, subd. 6</u>	<u>268.051, subd. 3</u>
<u>268.06, subd. 8</u>	<u>268.051, subd. 2</u>
<u>268.06, subd. 8a</u>	<u>268.051, subd. 8</u>
<u>268.06, subd. 18</u>	<u>268.047, subd. 5</u>
<u>268.06, subd. 19</u>	<u>268.051, subd. 6</u>
<u>268.06, subd. 20,</u>	<u>268.051, subd. 6,</u>
<u>paragraph (a)</u>	<u>paragraph (c)</u>
<u>268.06, subd. 20,</u>	<u>268.051, subd. 6,</u>
<u>paragraph (b)</u>	<u>paragraph (d)</u>
<u>268.06, subd. 21</u>	<u>268.045</u>
<u>268.06, subd. 22</u>	<u>268.051, subd. 4</u>
<u>268.06, subd. 24</u>	<u>268.051, subd. 7</u>
<u>268.06, subd. 25</u>	<u>268.052, subd. 1</u>
<u>268.06, subd. 26</u>	<u>268.052, subd. 3</u>
<u>268.06, subd. 27</u>	<u>268.052, subd. 4</u>
<u>268.06, subd. 28</u>	<u>268.053</u>
<u>268.06, subd. 29</u>	<u>268.045 (d)</u>
<u>268.06, subd. 31</u>	<u>268.052, subd. 2</u>
<u>268.06, subd. 34</u>	<u>268.054</u>
<u>268.061</u>	<u>268.068</u>
<u>268.071</u>	<u>268.115</u>
<u>268.072</u>	<u>268.155</u>
<u>268.073</u>	<u>268.125</u>
<u>268.074</u>	<u>268.135</u>
<u>268.075</u>	<u>268.145</u>
<u>268.09, subd. 3</u>	<u>268.09, subd. 18</u>
<u>268.11</u>	<u>268.042</u>
<u>268.12, subd. 8</u>	<u>268.186</u>
<u>268.12, subd. 9a</u>	<u>268.188</u>
<u>268.12, subd. 12</u>	<u>268.19</u>
<u>268.121</u>	<u>268.044</u>
<u>268.14, subd. 1</u>	<u>268.198, subd. 1</u>
<u>268.14, subd. 2</u>	<u>268.198, subd. 2</u>
<u>268.14, subd. 5</u>	<u>268.198, subd. 3</u>
<u>268.15</u>	<u>268.196</u>
<u>268.16, subd. 1</u>	<u>268.057, subd. 5</u>
<u>268.16, subd. 1a</u>	<u>268.057, subd. 6</u>
<u>268.16, subd. 2</u>	<u>268.057, subd. 1</u>
<u>268.16, subd. 3a</u>	<u>268.057, subd. 4</u>
<u>268.16, subd. 4</u>	<u>268.067</u>
<u>268.16, subd. 5</u>	<u>268.057, subd. 10</u>

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

<u>268.16, subd. 6</u>	<u>268.057, subd. 7</u>
<u>268.16, subd. 7</u>	<u>268.057, subd. 8</u>
<u>268.16, subd. 9</u>	<u>268.057, subd. 9</u>
<u>268.161, subd. 1</u>	<u>268.058, subd. 1</u>
<u>268.161, subd. 1a</u>	<u>268.058, subd. 2</u>
<u>268.161, subd. 2</u>	<u>268.058, subd. 6</u>
<u>268.161, subd. 4</u>	<u>268.058, subd. 5</u>
<u>268.161, subd. 5</u>	<u>268.058, subd. 4</u>
<u>268.161, subd. 6</u>	<u>268.057, subd. 2</u>
<u>268.161, subd. 7</u>	<u>268.057, subd. 3</u>
<u>268.161, subd. 8</u>	<u>268.058, subd. 3</u>
<u>268.161, subd. 9</u>	<u>268.063</u>
<u>268.162</u>	<u>268.064</u>
<u>268.163</u>	<u>268.065</u>
<u>268.164</u>	<u>268.062</u>
<u>268.166</u>	<u>268.066</u>
<u>268.167</u>	<u>268.059</u>
<u>268.17</u>	<u>268.192</u>
<u>268.18, subd. 3</u>	<u>268.182</u>
<u>268.18, subd. 6</u>	<u>268.184</u>

Sec. 80. INSTRUCTION TO REVISOR.

The revisor of statutes shall change the words "unemployment insurance," "unemployment insurance benefits," and "unemployment benefits" whenever they appear in Minnesota Statutes to "reemployment insurance benefits" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the words "unemployment fund" whenever they appear in Minnesota Statutes to "reemployment insurance fund" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the words "insured work" whenever they appear in Minnesota Statutes, sections 268.03 to 268.23 to "covered employment" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the word "contribution" whenever it appears in Minnesota Statutes, sections 268.022 to 268.23 to "tax" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the word "contributions" whenever it appears in Minnesota Statutes, sections 268.022 to 268.23, except in section 268.196, subdivision 3, to "taxes" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the word "contributing" whenever it appears in Minnesota Statutes, sections 268.03 to 268.23 to "taxpaying" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the words "unemployment tax" whenever they appear in Minnesota Statutes, sections 268.03 to 268.23 to "reemployment insurance tax" in Minnesota Statutes 1998 and subsequent editions of the statutes.

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

The revisor of statutes shall change the words "unemployment taxes" whenever they appear in Minnesota Statutes, sections 268.03 to 268.23 to "reemployment insurance taxes" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the word "reimbursement" whenever it appears in Minnesota Statutes, sections 268.057, 268.058, 268.059, 268.062, 268.063, 268.066, and 268.067 to "payment in lieu of taxes" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the term "reimbursements" whenever it appears in Minnesota Statutes, sections 268.057, 268.058, 268.059, 268.062, 268.063, 268.066, and 268.067 to "payments in lieu of taxes" in Minnesota Statutes 1998 and subsequent editions of the statutes.

The revisor of statutes shall change the term "reimbursable account" whenever it appears in Minnesota Statutes, sections 268.03 to 268.23, to "payment in lieu of taxes account."

Sec. 81. REPEALER.

Minnesota Statutes 1996, sections 268.026; 268.04, subdivisions 8, 13, 14, 20, 21, 32, and 35; 268.06, subdivisions 2, 4, 5, 30, and 33; 268.073, subdivision 7; 268.09, subdivisions 1, 2, 4, 5, 6, 7, and 8; 268.12, subdivisions 2, 4, 5, 7, and 11; 268.14, subdivisions 3 and 4; 268.16, subdivision 8; 268.161, subdivision 3; 268.165; and 268.18, subdivision 5, are repealed.

Sec. 82. EFFECTIVE DATE.

Sections 1 to 59, 61 to 77, and 79 to 81 are effective July 1, 1997. Section 60 is effective the day following final enactment.

Presented to the governor April 23, 1997

Signed by the governor April 23, 1997, 2:03 p.m.

CHAPTER 67—H.F.No. 591

An act relating to highways; requiring the commissioner of transportation to transfer certain easements to the city of Faribault; authorizing the commissioner of transportation to transfer certain excess property.

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

Section 1. COMMISSIONER OF TRANSPORTATION; TRANSFER OF EASEMENTS.

Notwithstanding any law to the contrary, the commissioner of transportation, after reaching agreement with the city on the terms and conditions of the transfer, but not later than December 31, 1997, shall transfer to the city of Faribault all easements within the city that the commissioner acquired to relocate marked trunk highway No. 218 within the city but that are no longer needed for that purpose.

New language is indicated by underline, deletions by strikeout.