

**SENATE  
STATE OF MINNESOTA  
NINETIETH SESSION**

**S.F. No. 2565**

(SENATE AUTHORS: ISAACSON)

DATE  
02/22/2018

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OFFICIAL STATUS  
Introduction and first reading  
Referred to Jobs and Economic Growth Finance and Policy

1.1 A bill for an act  
1.2 relating to unemployment insurance; adopting recommendations of the  
1.3 Unemployment Insurance Advisory Council; amending Minnesota Statutes 2016,  
1.4 sections 268.035, subdivisions 4, 12; 268.044, subdivisions 2, 3; 268.047,  
1.5 subdivision 3; 268.051, subdivisions 2a, 3; 268.053, subdivision 1; 268.057,  
1.6 subdivision 5; 268.059; 268.066; 268.067; 268.069, subdivision 1; 268.085,  
1.7 subdivisions 3, 3a; 268.095, subdivision 6a; 268.105, subdivision 6; 268.145,  
1.8 subdivision 1; Minnesota Statutes 2017 Supplement, sections 268.035, subdivisions  
1.9 15, 20; 268.046, subdivision 1; 268.07, subdivision 1; 268.085, subdivision 13a;  
1.10 268.095, subdivision 6; 268.18, subdivisions 2b, 5; repealing Minnesota Statutes  
1.11 2016, section 268.053, subdivisions 4, 5.

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

1.13 **ARTICLE 1**

1.14 **POLICY**

1.15 Section 1. Minnesota Statutes 2016, section 268.035, subdivision 12, is amended to read:

1.16 Subd. 12. **Covered employment.** (a) "Covered employment" means ~~the following unless~~  
1.17 ~~excluded as "noncovered employment" under subdivision 20:~~

1.18 ~~(i)~~ an employee's entire employment during the calendar quarter if:

1.19 ~~(i)~~ (1) 50 percent or more of the employment during the quarter is performed primarily  
1.20 in Minnesota;

1.21 ~~(ii)~~ (2) 50 percent or more of the employment during the quarter is not performed  
1.22 primarily in Minnesota or any other state, or Canada, but some of the employment is  
1.23 performed in Minnesota and the base of operations or the place from which the employment  
1.24 is directed or controlled is in Minnesota; or

2.1 ~~(iii) the employment during the quarter is not performed primarily in Minnesota or any~~  
 2.2 ~~other state and the base of operations or place from which the employment is directed or~~  
 2.3 ~~controlled is not in any state where part of the employment is performed, but the employee's~~  
 2.4 residence is in Minnesota during 50 percent or more of the calendar quarter;

2.5 ~~(2) an employee's entire employment during the calendar quarter performed within the~~  
 2.6 ~~United States or Canada, if:~~

2.7 ~~(i) the employment is not covered employment under the unemployment insurance~~  
 2.8 ~~program of any other state, federal law, or the law of Canada; and~~

2.9 ~~(ii) the place from which the employment is directed or controlled is in Minnesota;~~

2.10 (3) the employment during the calendar quarter, is performed entirely outside the United  
 2.11 States and Canada, by an employee who is a United States citizen in the employ of an  
 2.12 American employer, if the employer's principal place of business in the United States is  
 2.13 located in Minnesota.

2.14 For the purposes of this clause, an "American employer," for the purposes of this clause,  
 2.15 ~~means a corporation organized under the laws of any state, an individual who is a resident~~  
 2.16 ~~of the United States, or a partnership if two-thirds or more of the partners are residents of~~  
 2.17 ~~the United States, or a trust, if all of the trustees are residents of the United States~~ is as  
 2.18 defined under the Federal Unemployment Tax Act, United States Code title 26, chapter 23,  
 2.19 section 3306, subsection (j)(3); and

2.20 (4) all the employment during the calendar quarter is performed by an officer or member  
 2.21 of the crew of an American vessel ~~on or in connection with the vessel, if the operating on~~  
 2.22 navigable waters within, or within and without, the United States, and the office from which  
 2.23 ~~the operations of the vessel operating on navigable waters within, or within and without,~~  
 2.24 ~~the United States are ordinarily and regularly supervised, managed, directed, and controlled~~  
 2.25 ~~is in Minnesota.~~

2.26 (b) "Covered employment" includes covered agricultural employment under subdivision  
 2.27 11.

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

2.30 (1) of any other state; ~~or~~

2.31 (2) established by an act of Congress; or

2.32 (3) the law of Canada.

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

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

3.5 Sec. 2. Minnesota Statutes 2017 Supplement, section 268.035, subdivision 20, is amended  
3.6 to read:

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

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

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

3.12 (3) employment for a foreign government;

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

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

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

3.21 (7) employment for Minnesota or a political subdivision, or a nonprofit organization, of  
3.22 a duly ordained or licensed minister of a church in the exercise of a ministry or by a member  
3.23 of a religious order in the exercise of duties required by the order;

3.24 (8) employment for Minnesota or a political subdivision, or a nonprofit organization, of  
3.25 an individual receiving rehabilitation of "sheltered" work in a facility conducted for the  
3.26 purpose of carrying out a program of rehabilitation for individuals whose earning capacity  
3.27 is impaired by age or physical or mental deficiency or injury or a program providing  
3.28 "sheltered" work for individuals who because of an impaired physical or mental capacity  
3.29 cannot be readily absorbed in the competitive labor market. This clause applies only to  
3.30 services performed in a facility certified by the Rehabilitation Services Branch of the  
3.31 department or in a day training or habilitation program licensed by the Department of Human  
3.32 Services;

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

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

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

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

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

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

4.17 (15) employment for Minnesota in an unclassified position established under section  
4.18 43A.08, subdivision 1a;

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

4.21 (17) domestic employment in a private household, local college club, or local chapter  
4.22 of a college fraternity or sorority, if the wages paid in any calendar quarter in either the  
4.23 current or prior calendar year to all individuals in domestic employment totaled less than  
4.24 \$1,000.

4.25 "Domestic employment" includes all service in the operation and maintenance of a  
4.26 private household, for a local college club, or local chapter of a college fraternity or sorority  
4.27 as distinguished from service as an employee in the pursuit of an employer's trade or business;

4.28 (18) employment of an individual by a son, daughter, or spouse, and employment of a  
4.29 child under the age of 18 by the child's father or mother;

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

4.31 (20) employment for a school, college, or university, by a student who is enrolled and  
4.32 whose primary relation to the school, college, or university is as a student. This does not

5.1 include an individual whose primary relation to the school, college, or university is as an  
5.2 employee who also takes courses;

5.3 (21) employment of an individual who is enrolled as a student in a full-time program at  
5.4 a nonprofit or public educational institution that maintains a regular faculty and curriculum  
5.5 and has a regularly organized body of students in attendance at the place where its educational  
5.6 activities are carried on, taken for credit at the institution, that combines academic instruction  
5.7 with work experience, if the employment is an integral part of the program, and the institution  
5.8 has so certified to the employer, except that this clause does not apply to employment in a  
5.9 program established for or on behalf of an employer or group of employers;

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

5.13 ~~(22)~~ (23) employment of university, college, or professional school students in an  
5.14 internship or other training program with the city of St. Paul or the city of Minneapolis  
5.15 under Laws 1990, chapter 570, article 6, section 3;

5.16 ~~(23)~~ (24) employment for a hospital by a patient of the hospital. "Hospital" means an  
5.17 institution that has been licensed by the Department of Health as a hospital;

5.18 ~~(24)~~ (25) employment as a student nurse for a hospital or a nurses' training school by  
5.19 an individual who is enrolled and is regularly attending classes in an accredited nurses'  
5.20 training school;

5.21 ~~(25)~~ (26) employment as an intern for a hospital by an individual who has completed a  
5.22 four-year course in an accredited medical school;

5.23 ~~(26)~~ (27) employment as an insurance salesperson, by other than a corporate officer, if  
5.24 all the wages from the employment is solely by way of commission. The word "insurance"  
5.25 includes an annuity and an optional annuity;

5.26 ~~(27)~~ (28) employment as an officer of a township mutual insurance company or farmer's  
5.27 mutual insurance company under chapter 67A;

5.28 ~~(28)~~ (29) employment of a corporate officer, if the officer directly or indirectly, including  
5.29 through a subsidiary or holding company, owns 25 percent or more of the employer  
5.30 corporation, and employment of a member of a limited liability company, if the member  
5.31 directly or indirectly, including through a subsidiary or holding company, owns 25 percent  
5.32 or more of the employer limited liability company;

6.1 ~~(29)~~ (30) employment as a real estate salesperson, other than a corporate officer, if all  
6.2 the wages from the employment is solely by way of commission;

6.3 ~~(30)~~ (31) employment as a direct seller as defined in United States Code, title 26, section  
6.4 3508;

6.5 ~~(31)~~ (32) employment of an individual under the age of 18 in the delivery or distribution  
6.6 of newspapers or shopping news, not including delivery or distribution to any point for  
6.7 subsequent delivery or distribution;

6.8 ~~(32)~~ (33) casual employment performed for an individual, other than domestic  
6.9 employment under clause (17), that does not promote or advance that employer's trade or  
6.10 business;

6.11 ~~(33)~~ (34) employment in "agricultural employment" unless it is "covered agricultural  
6.12 employment" under subdivision 11; or

6.13 ~~(34)~~ (35) if employment during one-half or more of any pay period was covered  
6.14 employment, all the employment for the pay period is covered employment; but if during  
6.15 more than one-half of any pay period the employment was noncovered employment, then  
6.16 all of the employment for the pay period is noncovered employment. "Pay period" means  
6.17 a period of not more than a calendar month for which a payment or compensation is ordinarily  
6.18 made to the employee by the employer.

6.19 Sec. 3. Minnesota Statutes 2016, section 268.051, subdivision 2a, is amended to read:

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

6.29 (b) For purposes of this subdivision, "average high cost multiple" has the meaning given  
6.30 in Code of Federal Regulations, title 20, section 606.3, as amended through December 31,  
6.31 2015. An amount equal to an average high cost multiple of 1.0 is a federal measure of  
6.32 adequate reserves in relation to the state's current economy. The commissioner must calculate  
6.33 and publish, as soon as possible following December 31 of any calendar year, the trust fund

7.1 balance on December 31 along with the amount an average high cost multiple of 1.0 equals.  
 7.2 Actual wages paid must be used in the calculation and estimates may not be used.

7.3 (c) The unemployment tax reduction under this subdivision does not apply to employers  
 7.4 that were at assigned a tax rate equal to the maximum experience rating plus the applicable  
 7.5 base tax rate for the year, nor to high experience rating industry employers under subdivision  
 7.6 5, paragraph (b). Computations under paragraph (a) are not subject to the rounding  
 7.7 requirement of section 268.034. The refund provisions of section 268.057, subdivision 7,  
 7.8 do not apply.

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

7.12 (e) ~~The amount equal to the average high cost multiple of 1.0 on December 31, 2012,~~  
 7.13 ~~must be used for the calculation under paragraph (a) but only for the calculation made on~~  
 7.14 ~~December 31, 2015. Notwithstanding paragraph (d), the tax reduction resulting from the~~  
 7.15 ~~application of this paragraph applies to unemployment taxes paid between July 1, 2016,~~  
 7.16 ~~and June 30, 2017. If there was an experience rating history transfer under subdivision 4,~~  
 7.17 ~~the successor employer must receive that portion of the predecessor employer's tax reduction~~  
 7.18 ~~equal to that portion of the experience rating history transferred. The predecessor employer~~  
 7.19 ~~retains that portion of tax reduction not transferred to the successor.~~

7.20 This paragraph applies to that portion of the tax reduction that remains unused at the  
 7.21 time notice of acquisition is provided under subdivision 4, paragraph (e).

7.22 **EFFECTIVE DATE.** This section is effective July 1, 2018.

## 7.23 **ARTICLE 2**

### 7.24 **INTEREST**

7.25 Section 1. Minnesota Statutes 2016, section 268.057, subdivision 5, is amended to read:

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

7.32 **EFFECTIVE DATE.** This section is effective October 1, 2019.

8.1 Sec. 2. Minnesota Statutes 2017 Supplement, section 268.18, subdivision 2b, is amended  
8.2 to read:

8.3 Subd. 2b. **Interest.** On any unemployment benefits obtained by misrepresentation, and  
8.4 any penalty amounts assessed under subdivision 2, the commissioner must assess interest  
8.5 ~~at the rate of one percent per month~~ on any amount that remains unpaid beginning 30 calendar  
8.6 days after the date of a determination of overpayment penalty. Interest is assessed at the  
8.7 rate of one percent per month or any part of a month. A determination of overpayment  
8.8 penalty must state that interest will be assessed. Interest is not assessed in the same manner  
8.9 as on employer debt under section 268.057, subdivision 5 on unpaid interest. Interest  
8.10 ~~payments~~ collected under this subdivision are is credited to the trust fund.

8.11 **EFFECTIVE DATE.** This section is effective October 1, 2019.

8.12 **ARTICLE 3**

8.13 **BASE PERIODS**

8.14 Section 1. Minnesota Statutes 2016, section 268.035, subdivision 4, is amended to read:

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

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

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

8.32	If the application for unemployment	The base period is the prior:
8.33	benefits is effective on or between these	
8.34	dates:	
8.35	January 1 - January 31	October 1 - September 30



9.1	April 1 - April 30	January 1 - December 31
9.2	July 1 - July 31	April 1 - March 31
9.3	October 1 - October 31	July 1 - June 30

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

9.8 ~~(d) If the applicant under paragraph (b) has insufficient wage credits to establish a benefit~~  
 9.9 ~~account, then a base period of the most recent four completed calendar quarters before the~~  
 9.10 ~~effective date of the applicant's application for unemployment benefits must be used.~~

9.11 ~~(e)~~ (d) If the applicant has insufficient wage credits to establish a benefit account under  
 9.12 a base period of the four most recent completed calendar quarters, or a base period of the  
 9.13 first four of the most recent five completed calendar quarters, but during either base period  
 9.14 the applicant received workers' compensation for temporary disability under chapter 176  
 9.15 or a similar federal law or similar law of another state, or if the applicant whose own serious  
 9.16 illness caused a loss of work for which the applicant received compensation for loss of  
 9.17 wages from some other source, the applicant may request a base period as follows:

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

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

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

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

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

10.3 Sec. 2. Minnesota Statutes 2017 Supplement, section 268.07, subdivision 1, is amended  
 10.4 to read:

10.5 Subdivision 1. **Application for unemployment benefits; determination of benefit**  
 10.6 **account.** (a) An application for unemployment benefits may be filed in person, by mail, or  
 10.7 by electronic transmission as the commissioner may require. The applicant must be  
 10.8 unemployed at the time the application is filed and must provide all requested information  
 10.9 in the manner required. If the applicant is not unemployed at the time of the application or  
 10.10 fails to provide all requested information, the communication is not an application for  
 10.11 unemployment benefits.

10.12 (b) The commissioner must examine each application for unemployment benefits to  
 10.13 determine the base period and the benefit year, and based upon all the covered employment  
 10.14 in the base period the commissioner must determine the weekly unemployment benefit  
 10.15 amount available, if any, and the maximum amount of unemployment benefits available,  
 10.16 if any. The determination, which is a document separate and distinct from a document titled  
 10.17 a determination of eligibility or determination of ineligibility issued under section 268.101,  
 10.18 must be titled determination of benefit account. A determination of benefit account must  
 10.19 be sent to the applicant and all base period employers, by mail or electronic transmission.

10.20 (c) If a base period employer did not provide wage detail information for the applicant  
 10.21 as required under section 268.044, ~~or provided erroneous information, or wage detail is not~~  
 10.22 ~~yet due and the applicant is using a base period under section 268.035, subdivision 4,~~  
 10.23 ~~paragraph (d),~~ the commissioner may accept an applicant certification of wage credits, based  
 10.24 upon the applicant's records, and issue a determination of benefit account.

10.25 ~~(d) An employer must provide wage detail information on an applicant within five~~  
 10.26 ~~calendar days of request by the commissioner, in a manner and format requested, when:~~

10.27 ~~(1) the applicant is using a base period under section 268.035, subdivision 4, paragraph~~  
 10.28 ~~(d); and~~

10.29 ~~(2) wage detail under section 268.044 is not yet required to have been filed by the~~  
 10.30 ~~employer.~~

10.31 ~~(e)~~ (d) The commissioner may, at any time within 24 months from the establishment of  
 10.32 a benefit account, reconsider any determination of benefit account and make an amended  
 10.33 determination if the commissioner finds that the wage credits listed in the determination

11.1 were incorrect for any reason. An amended determination of benefit account must be  
 11.2 promptly sent to the applicant and all base period employers, by mail or electronic  
 11.3 transmission. This subdivision does not apply to documents titled determinations of eligibility  
 11.4 or determinations of ineligibility issued under section 268.101.

11.5 ~~(f)~~(e) If an amended determination of benefit account reduces the weekly unemployment  
 11.6 benefit amount or maximum amount of unemployment benefits available, any unemployment  
 11.7 benefits that have been paid greater than the applicant was entitled is an overpayment of  
 11.8 unemployment benefits. A determination or amended determination issued under this section  
 11.9 that results in an overpayment of unemployment benefits must set out the amount of the  
 11.10 overpayment and the requirement under section 268.18, subdivision 1, that the overpaid  
 11.11 unemployment benefits must be repaid.

#### 11.12 **ARTICLE 4**

#### 11.13 **HOUSEKEEPING**

11.14 Section 1. Minnesota Statutes 2017 Supplement, section 268.035, subdivision 15, is  
 11.15 amended to read:

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

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

11.19 (2) an officer of a corporation;

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

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

11.24 ~~(4)~~(5) product demonstrators in retail stores or other locations to aid in the sale of  
 11.25 products. The person that pays the wages is the employer.

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

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

12.1 Sec. 2. Minnesota Statutes 2016, section 268.044, subdivision 2, is amended to read:

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

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

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

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

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

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

12.18 (c) Late fees due under this subdivision may be canceled, in whole or in part, under  
12.19 section ~~268.066 where good cause for late submission is found by the commissioner~~ 268.067.

12.20 Sec. 3. Minnesota Statutes 2016, section 268.047, subdivision 3, is amended to read:

12.21 Subd. 3. **Exceptions for taxpaying employers.** Unemployment benefits paid will not  
12.22 be used in computing the future tax rate of a taxpaying base period employer when:

12.23 (1) the applicant's wage credits from that employer are less than \$500;

12.24 (2) the applicant quit the employment, unless it was determined under section 268.095,  
12.25 to have been because of a good reason caused by the employer or because the employer  
12.26 notified the applicant of discharge within 30 calendar days. This exception applies ~~only~~ to  
12.27 unemployment benefits paid for periods after the applicant's quitting the employment and,  
12.28 if the applicant is rehired by the employer, continues only until the beginning of the week  
12.29 the applicant is rehired; or

12.30 (3) the employer discharged the applicant from employment because of employment  
12.31 misconduct as determined under section 268.095. This exception applies ~~only~~ to  
12.32 unemployment benefits paid for periods after the applicant's discharge from employment

13.1 and, if the applicant is rehired by the employer, continues only until the beginning of the  
 13.2 week the applicant is rehired.

13.3 **EFFECTIVE DATE.** This section is effective October 1, 2019.

13.4 Sec. 4. Minnesota Statutes 2016, section 268.059, is amended to read:

13.5 **268.059 GARNISHMENT FOR DELINQUENT TAXES AND UNEMPLOYMENT**  
 13.6 **BENEFIT OVERPAYMENTS.**

13.7 Subdivision 1. **Notice Authority.** ~~The commissioner may give notice to any employer~~  
 13.8 ~~that an employee owes any amounts due under this chapter or section 116L.20, and that the~~  
 13.9 ~~obligation should be withheld from the employee's wages. The commissioner may proceed~~  
 13.10 ~~only if the amount due is uncontested or if the time for any appeal has expired. The~~  
 13.11 ~~commissioner may garnish an employee's wages to collect amounts due under this chapter~~  
 13.12 ~~or section 116L.20, as set forth in this section. Chapter 571 does not apply, except as~~  
 13.13 ~~referenced in this section.~~

13.14 **Subd. 1a. Notice.** The commissioner may not proceed with a garnishment until 30  
 13.15 calendar days after sending to the debtor employee, by mail or electronic transmission, a  
 13.16 notice of intent to garnish wages and exemption notice. That notice must ~~list~~ include:

13.17 (1) the amount due from the debtor;

13.18 (2) demand for immediate payment; and

13.19 (3) the intention to serve a garnishment notice on the debtor's employer.

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

13.29 **Subd. 2. Employer action.** (a) Thirty calendar days after sending the notice of intent to  
 13.30 garnish, the commissioner may send to the debtor's employer, by mail or electronic  
 13.31 transmission, a notice of garnishment, including a worksheet for determining the amount  
 13.32 to be withheld from wages each pay period. The amount to be withheld from wages is

14.1 subject to the limitations in section 571.922. Upon receipt of the garnishment notice, the  
 14.2 employer must withhold from the ~~earnings~~ wages due or to become due to the employee,  
 14.3 the amount ~~shown on the notice plus accrued interest, subject to section 571.922~~ determined  
 14.4 by the employer plus accrued interest. The employer must continue to withhold each pay  
 14.5 period the amount ~~shown on the notice~~ determined by the employer plus accrued interest  
 14.6 until the garnishment notice is released by the commissioner. Upon receipt of notice by the  
 14.7 employer, the claim of the commissioner has priority over any subsequent garnishments or  
 14.8 wage assignments. The commissioner may ~~arrange between the employer and employee~~  
 14.9 ~~for withholding a portion of the total amount due the employee each pay period,~~ agree to  
 14.10 accept a withholding amount that is less than the amount determined by the employer on  
 14.11 the worksheet until the total amount ~~shown on the notice~~ due plus accrued interest has been  
 14.12 withheld.

14.13 ~~(b) The "earnings due" any employee~~ For the purposes of this section, "wages" is as  
 14.14 defined in section ~~571.924~~ 268.035, subdivision 29.

14.15 ~~(b) (c)~~ (c) The maximum garnishment allowed for any one pay period must be decreased  
 14.16 by any amounts payable under any other garnishment action served before the garnishment  
 14.17 notice, and any amounts covered by any irrevocable and previously effective assignment  
 14.18 of wages; The employer must give notice to the commissioner of the amounts and the facts  
 14.19 relating to the other garnishment or assignment ~~within ten calendar days after the service~~  
 14.20 ~~of the garnishment notice on the form~~ worksheet provided by the commissioner.

14.21 ~~(e) (d)~~ (d) Within ten calendar days after the expiration of the pay period, the employer must  
 14.22 remit to the commissioner, on a form and in the manner prescribed by the commissioner,  
 14.23 the amount withheld during each pay period.

14.24 Subd. 3. **Discharge or discipline prohibited.** (a) If the employee ceases to be employed  
 14.25 by the employer before the full amount ~~set forth on the garnishment notice~~ due plus accrued  
 14.26 interest has been withheld, the employer must immediately notify the commissioner in  
 14.27 writing or by electronic transmission, as prescribed by the commissioner, of the termination  
 14.28 date of the employee and the total amount withheld. No employer may discharge or discipline  
 14.29 any employee because the commissioner has proceeded under this section. If an employer  
 14.30 discharges an employee in violation of this section, the employee has the same remedy as  
 14.31 provided in section 571.927, subdivision 2.

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

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

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

15.7 Sec. 5. Minnesota Statutes 2016, section 268.085, subdivision 3, is amended to read:

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

15.12 This paragraph ~~only applies upon temporary, indefinite, or seasonal separation and~~ does  
15.13 not apply:

15.14 (1) upon a permanent separation from employment; or

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

15.17 Payments under this ~~paragraph~~ subdivision are applied to the period immediately  
15.18 following the ~~temporary, indefinite, or seasonal separation.~~ later of the date of separation  
15.19 from employment or the date the applicant first becomes aware that the employer will be  
15.20 making a payment. The date the payment is actually made or received, or that an applicant  
15.21 must agree to a release of claims, does not affect the application of this paragraph.

15.22 (b) This subdivision applies to all the weeks of payment. The weeks of payment is  
15.23 determined as follows:

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

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

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

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

16.1 weekly unemployment benefit amount, unemployment benefits are reduced by the amount  
16.2 of the payment.

16.3 ~~(b)~~ (d) An applicant is not eligible to receive unemployment benefits for any week the  
16.4 applicant is receiving, has received, or will receive severance pay, bonus pay, or any other  
16.5 payments paid by an employer because of, upon, or after separation from employment.

16.6 This paragraph only applies if the payment is:

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

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

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

16.15 This paragraph does not apply to earnings under subdivision 5, back pay under  
16.16 subdivision 6, or vacation pay, sick pay, or personal time off pay under paragraph (a).

16.17 (e) Paragraph (a) applies to all the weeks of payment. The weeks of payment is determined  
16.18 in accordance with subdivision 3, paragraph (b).

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

16.24 ~~(e)~~ (g) An applicant is not eligible to receive unemployment benefits for any week the  
16.25 applicant is receiving, has received, will receive, or has applied for pension, retirement, or  
16.26 annuity payments from any plan contributed to by a base period employer including the  
16.27 United States government. The base period employer is considered to have contributed to  
16.28 the plan if the contribution is excluded from the definition of wages under section 268.035,  
16.29 subdivision 29. If the pension, retirement, or annuity payment is paid in a lump sum, an  
16.30 applicant is not considered to have received a payment if:

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



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

17.3 This paragraph does not apply to Social Security benefits under subdivision 4 or 4a.

17.4 ~~(d)~~ (h) This subdivision applies to all the weeks of payment. ~~The number of weeks of~~  
17.5 ~~payment is determined as follows:~~

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

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

17.10 For purposes of this ~~paragraph~~ subdivision, the "last level of regular weekly pay" includes  
17.11 commissions, bonuses, and overtime pay if that is part of the applicant's ongoing regular  
17.12 compensation.

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

17.18 Sec. 6. Minnesota Statutes 2016, section 268.085, subdivision 3a, is amended to read:

17.19 Subd. 3a. **Workers' compensation and disability insurance offset.** (a) An applicant  
17.20 is not eligible to receive unemployment benefits for any week in which the applicant is  
17.21 receiving or has received compensation for loss of wages equal to or in excess of the  
17.22 applicant's weekly unemployment benefit amount under:

17.23 (1) the workers' compensation law of this state;

17.24 (2) the workers' compensation law of any other state or similar federal law; or

17.25 (3) any insurance or trust fund paid in whole or in part by an employer.

17.26 (b) This subdivision does not apply to an applicant who has a claim pending for loss of  
17.27 wages under paragraph (a); however, before unemployment benefits may be paid when a  
17.28 claim is pending, the issue of the applicant being available for suitable employment, as  
17.29 required under subdivision 1, clause (4), is must be determined under section 268.101,  
17.30 subdivision 2. If the applicant later receives compensation as a result of the pending claim,  
17.31 the applicant is subject to ~~the provisions of~~ paragraph (a) and the unemployment benefits

18.1 paid are ~~subject to recoupment by the commissioner to the extent that the compensation~~  
 18.2 ~~constitutes~~ overpaid unemployment benefits under section 268.18, subdivision 1.

18.3 (c) If the amount of compensation described under paragraph (a) for any week is less  
 18.4 than the applicant's weekly unemployment benefit amount, unemployment benefits requested  
 18.5 for that week are reduced by the amount of that compensation payment.

18.6 Sec. 7. Minnesota Statutes 2017 Supplement, section 268.085, subdivision 13a, is amended  
 18.7 to read:

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

18.11 A leave of absence is voluntary when work that the applicant can then perform is available  
 18.12 with the applicant's employer but the applicant chooses not to work. A medical leave of  
 18.13 absence is not presumed to be voluntary.

18.14 (b) A period of vacation requested by the applicant, paid or unpaid, is a voluntary leave  
 18.15 of absence. A vacation period assigned by an employer under: (1) a uniform vacation  
 18.16 shutdown; (2) a collective bargaining agreement; or (3) an established employer policy, is  
 18.17 an involuntary leave of absence.

18.18 (c) A leave of absence is a temporary stopping of work that has been approved by the  
 18.19 employer. A ~~voluntary~~ leave of absence is not a quit ~~and an involuntary leave of absence~~  
 18.20 ~~is not~~ or a discharge from employment for purposes of Section 268.095 does not apply to  
 18.21 a leave of absence.

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

18.25 (e) This subdivision applies to a leave of absence from a base period employer, an  
 18.26 employer during the period between the end of the base period and the effective date of the  
 18.27 benefit account, or an employer during the benefit year.

18.28 Sec. 8. Minnesota Statutes 2017 Supplement, section 268.095, subdivision 6, is amended  
 18.29 to read:

18.30 Subd. 6. **Employment misconduct defined.** (a) Employment misconduct means any  
 18.31 intentional, negligent, or indifferent conduct, on the job or off the job, ~~that displays clearly:~~

19.1 ~~(1) is a serious violation of the standards of behavior the employer has the right to~~  
19.2 ~~reasonably expect of the employee; or~~

19.3 ~~(2) a substantial lack of concern for the employment.~~

19.4 (b) Regardless of paragraph (a), the following is not employment misconduct:

19.5 (1) conduct that was a consequence of the applicant's mental illness or impairment;

19.6 (2) conduct that was a consequence of the applicant's inefficiency or inadvertence;

19.7 (3) simple unsatisfactory conduct;

19.8 (4) conduct an average reasonable employee would have engaged in under the  
19.9 circumstances;

19.10 (5) conduct that was a consequence of the applicant's inability or incapacity;

19.11 (6) good faith errors in judgment if judgment was required;

19.12 (7) absence because of illness or injury of the applicant, with proper notice to the  
19.13 employer;

19.14 (8) absence, with proper notice to the employer, in order to provide necessary care  
19.15 because of the illness, injury, or disability of an immediate family member of the applicant;

19.16 (9) conduct that was a consequence of the applicant's chemical dependency, unless the  
19.17 applicant was previously diagnosed chemically dependent or had treatment for chemical  
19.18 dependency, and since that diagnosis or treatment has failed to make consistent efforts to  
19.19 control the chemical dependency; or

19.20 (10) conduct that was a consequence of the applicant, or an immediate family member  
19.21 of the applicant, being a victim of domestic abuse, sexual assault, or stalking. For the  
19.22 purposes of this subdivision, "domestic abuse," "sexual assault," and "stalking" have the  
19.23 meanings given them in subdivision 1.

19.24 (c) Regardless of paragraph (b), clause (9), conduct in violation of sections 169A.20,  
19.25 169A.31, 169A.50 to 169A.53, or 171.177 that ~~interferes with or~~ adversely affects the  
19.26 employment is employment misconduct.

19.27 (d) If the conduct for which the applicant was discharged involved only a single incident,  
19.28 that is an important fact that must be considered in deciding whether the conduct rises to  
19.29 the level of employment misconduct under paragraph (a). This paragraph does not require  
19.30 that a determination under section 268.101 or decision under section 268.105 contain a  
19.31 specific acknowledgment or explanation that this paragraph was considered.

20.1 (e) The definition of employment misconduct provided by this subdivision is exclusive  
20.2 and no other definition applies.

20.3 Sec. 9. Minnesota Statutes 2016, section 268.095, subdivision 6a, is amended to read:

20.4 Subd. 6a. **Aggravated employment misconduct defined.** (a) ~~For the purpose of this~~  
20.5 ~~section, "aggravated employment misconduct" means:~~

20.6 ~~(1) The commission of any act, on the job or off the job, that would amount to a gross~~  
20.7 ~~misdemeanor or felony is aggravated employment misconduct if the act substantially~~  
20.8 ~~interfered with the employment or had a significant adverse effect on the employment; or,~~

20.9 A criminal charge or conviction is not necessary to determine aggravated employment  
20.10 misconduct under this paragraph. If an applicant is convicted of a gross misdemeanor or  
20.11 felony, the applicant is presumed to have committed the act.

20.12 ~~(2) (b)~~ For an employee of a facility as defined in section 626.5572, aggravated  
20.13 employment misconduct includes an act of patient or resident abuse, financial exploitation,  
20.14 or recurring or serious neglect, as defined in section 626.5572 and applicable rules.

20.15 ~~(b) If an applicant is convicted of a gross misdemeanor or felony for the same act for~~  
20.16 ~~which the applicant was discharged, it is aggravated employment misconduct if the act~~  
20.17 ~~substantially interfered with the employment or had a significant adverse effect on the~~  
20.18 ~~employment.~~

20.19 ~~(e) (b)~~ The definition of aggravated employment misconduct provided by this subdivision  
20.20 is exclusive and no other definition applies.

## 20.21 ARTICLE 5

### 20.22 TECHNICAL

20.23 Section 1. Minnesota Statutes 2016, section 268.044, subdivision 3, is amended to read:

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

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

21.1 (c) An administrative service fee under this subdivision must be canceled under section  
21.2 268.067 if the commissioner determines that the failure or error by the employer occurred  
21.3 because of ignorance or inadvertence.

21.4 Sec. 2. Minnesota Statutes 2017 Supplement, section 268.046, subdivision 1, is amended  
21.5 to read:

21.6 Subdivision 1. **Tax accounts assigned.** (a) Any person that contracts with a taxpaying  
21.7 employer to have that person obtain the taxpaying employer's workforce and provide workers  
21.8 to the taxpaying employer for a fee is, as of the effective date of the contract, assigned for  
21.9 the duration of the contract the taxpaying employer's account under section 268.045. That  
21.10 tax account must be maintained by the person separate and distinct from every other tax  
21.11 account held by the person and identified in a manner prescribed by the commissioner. The  
21.12 tax account is, for the duration of the contract, considered that person's account for all  
21.13 purposes of this chapter. The workers obtained from the taxpaying employer and any other  
21.14 workers provided by that person to the taxpaying employer, including officers of the  
21.15 taxpaying employer as defined in section 268.035, subdivision 20, clause ~~(28)~~ (29), whose  
21.16 wages paid by the person are considered paid in covered employment under section 268.035,  
21.17 subdivision 24, for the duration of the contract between the taxpaying employer and the  
21.18 person, must, under section 268.044, be reported on the wage detail report under that tax  
21.19 account, and that person must pay any taxes due at the tax rate computed for that account  
21.20 under section 268.051, subdivision 2.

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

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

21.31 (d) A person that contracts with a taxpaying employer under paragraph (a) must, within  
21.32 30 calendar days of the execution or termination of a contract, notify the commissioner by  
21.33 electronic transmission, in a format prescribed by the commissioner, of that execution or

22.1 termination. The taxpaying employer's name, the account number assigned, and any other  
22.2 information required by the commissioner must be provided by that person.

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

22.7 Sec. 3. Minnesota Statutes 2016, section 268.051, subdivision 3, is amended to read:

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

22.13 The experience rating is the ratio obtained by dividing 125 percent of the total  
22.14 unemployment benefits required under section 268.047 to be used in computing the  
22.15 employer's tax rate during the ~~48~~ 16 calendar ~~months~~ quarters ending on the prior June 30,  
22.16 by the employer's total taxable payroll for that same period.

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

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

22.24 Sec. 4. Minnesota Statutes 2016, section 268.053, subdivision 1, is amended to read:

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

22.29 The organization may elect to make reimbursements for a period of not less than 24  
22.30 calendar months beginning with the date that the organization was determined to be an  
22.31 employer with covered employment by filing a notice of election not later than 30 calendar  
22.32 days after the date of the determination.

23.1 (b) Any nonprofit organization that makes an election will continue to be liable for  
 23.2 reimbursements until it files a notice terminating its election before the beginning of the  
 23.3 calendar quarter the termination is to be effective.

23.4 A nonprofit organization that has been making reimbursements that files a notice of  
 23.5 termination of election must be assigned the new employer tax rate under section 268.051,  
 23.6 subdivision 5, until it qualifies for an experience rating under section 268.051, subdivision  
 23.7 3.

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

23.12 ~~(d) The commissioner may for good cause extend the period that a notice of election,~~  
 23.13 ~~or a notice of termination, must be filed and may permit an election to be retroactive.~~

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

23.16 Sec. 5. Minnesota Statutes 2016, section 268.066, is amended to read:

23.17 **268.066 CANCELLATION OF AMOUNTS DUE FROM AN EMPLOYER.**

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

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

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

23.30 Sec. 6. Minnesota Statutes 2016, section 268.067, is amended to read:

23.31 **268.067 COMPROMISE.**

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

24.5 (b) The commissioner may at any time compromise any unemployment insurance tax  
 24.6 ~~or~~ reimbursement, interest, penalty, fee, costs, or any other amount due from an employer  
 24.7 under this chapter or section 116L.20.

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

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

24.12 Sec. 7. Minnesota Statutes 2016, section 268.069, subdivision 1, is amended to read:

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

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

24.17 (2) the applicant has not been held ineligible for unemployment benefits under section  
 24.18 268.095 because of a quit or discharge;

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

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

24.22 (5) the applicant has not been held ineligible for unemployment benefits under section  
 24.23 ~~268.182 because of a false representation or concealment of facts~~ 268.183.

24.24 Sec. 8. Minnesota Statutes 2016, section 268.105, subdivision 6, is amended to read:

24.25 Subd. 6. **Representation; fees.** (a) In any proceeding under subdivision 1 or 2, an  
 24.26 applicant or employer may be represented by any authorized representative.

24.27 Except for services provided by an attorney-at-law, no person may charge an applicant  
 24.28 a fee of any kind for advising, assisting, or representing an applicant in a hearing ~~or~~ on  
 24.29 reconsideration, or a proceeding under subdivision 7.



25.1 (b) An applicant may not be charged fees, costs, or disbursements of any kind in a  
 25.2 proceeding before an unemployment law judge, the Minnesota Court of Appeals, or the  
 25.3 Supreme Court of Minnesota.

25.4 (c) No attorney fees may be awarded, or costs or disbursements assessed, against the  
 25.5 department as a result of any proceedings under this section.

25.6 Sec. 9. Minnesota Statutes 2016, section 268.145, subdivision 1, is amended to read:

25.7 Subdivision 1. **Notification.** (a) Upon filing an application for unemployment benefits,  
 25.8 the applicant must be informed that:

25.9 (1) unemployment benefits are subject to federal and state income tax;

25.10 (2) there are requirements for filing estimated tax payments;

25.11 (3) the applicant may elect to have federal income tax withheld from unemployment  
 25.12 benefits;

25.13 (4) if the applicant elects to have federal income tax withheld, the applicant may, in  
 25.14 addition, elect to have Minnesota state income tax withheld; and

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

25.16 (b) If an applicant elects to have federal income tax withheld, the commissioner must  
 25.17 deduct ten percent for federal income tax. If an applicant also elects to have Minnesota state  
 25.18 income tax withheld, the commissioner must make an additional five percent deduction for  
 25.19 state income tax. Any ~~amounts~~ amount deducted ~~or offset~~ under ~~sections 268.155, 268.18,~~  
 25.20 ~~and 268.184~~ have section 268.085 has priority over any amounts deducted under this section.  
 25.21 Federal income tax withholding has priority over state income tax withholding.

25.22 (c) An election to have income tax withheld may not be retroactive and only applies to  
 25.23 unemployment benefits paid after the election.

25.24 Sec. 10. Minnesota Statutes 2017 Supplement, section 268.18, subdivision 5, is amended  
 25.25 to read:

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

25.29 (b) Intervention or lack thereof, in whole or in part, in a workers' compensation matter  
 25.30 under section 176.361 is not an election of a remedy and does not prevent the commissioner

26.1 from determining an applicant ineligible for unemployment benefits ~~or taking action under~~  
26.2 ~~section 268.183.~~

26.3 Sec. 11. **REVISOR'S INSTRUCTION.**

26.4 The revisor of statutes is instructed to make the following changes in Minnesota Statutes:

26.5 (1) change the term "fraud" to "misrepresentation" in sections 268.085, subdivision 2,  
26.6 and 268.186, subdivision 1;

26.7 (2) delete the term "bona fide" wherever it appears in section 268.035;

26.8 (3) replace the term "under" with "subject to" in section 268.047, subdivision 2, clause  
26.9 (8);

26.10 (4) replace the term "displays clearly" with "shows" in chapter 268;

26.11 (5) replace the term "entire" with "hearing" in section 268.105;

26.12 (6) replace "24 calendar months" with "eight calendar quarters" in section 268.052,  
26.13 subdivision 2.

26.14 Sec. 12. **REPEALER.**

26.15 Minnesota Statutes 2016, section 268.053, subdivisions 4 and 5, are repealed.

26.16 Sec. 13. **EFFECTIVE DATE.**

26.17 Unless otherwise specified, this act is effective September 16, 2018.

**268.053 PAYMENT TO TRUST FUND BY NONPROFIT ORGANIZATIONS.**

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

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

APPENDIX  
Article locations in SF2565-0

ARTICLE 1	POLICY.....	Page.Ln 1.13
ARTICLE 2	INTEREST.....	Page.Ln 7.23
ARTICLE 3	BASE PERIODS.....	Page.Ln 8.12
ARTICLE 4	HOUSEKEEPING.....	Page.Ln 11.12
ARTICLE 5	TECHNICAL.....	Page.Ln 20.21

APPENDIX  
Repealed Minnesota Statutes: SF2565-0

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