

95.21 **ARTICLE 11**95.22 **UNEMPLOYMENT INSURANCE ADVISORY COUNCIL POLICY**

95.23 Section 1. Minnesota Statutes 2014, section 268.051, subdivision 5, is amended to read:

95.24 Subd. 5. **Tax rate for new employers.** (a) Each new taxpaying employer that does
95.25 ~~not qualify for an experience rating under subdivision 3, except new employers in a high~~
95.26 ~~experience rating industry, must be assigned, for a calendar year, a tax rate the higher of~~
95.27 ~~(1) one percent, or (2) the tax rate computed, to the nearest 1/100 of a percent, by dividing~~
95.28 ~~the total amount of unemployment benefits paid all applicants during the 48 calendar~~
95.29 ~~months ending on June 30 of the prior calendar year by the total taxable wages of all~~
95.30 ~~taxpaying employers during the same period, plus the applicable base tax rate and any~~
95.31 ~~additional assessments under subdivision 2, paragraph (c).~~

95.32 (b) Each new taxpaying employer in a high experience rating industry that does not
95.33 ~~qualify for an experience rating under subdivision 3, must be assigned, for a calendar year,~~
96.1 ~~a tax rate the higher of (1) that assigned under paragraph (a), or (2) the tax rate, computed~~
96.2 ~~to the nearest 1/100 of a percent, by dividing the total amount of unemployment benefits~~
96.3 ~~paid to all applicants from high experience rating industry employers during the 48~~
96.4 ~~calendar months ending on June 30 of the prior calendar year by the total taxable wages~~
96.5 ~~of all high experience rating industry employers during the same period, to a maximum~~
96.6 ~~provided for under subdivision 3, paragraph (b), plus the applicable base tax rate and any~~
96.7 ~~additional assessments under subdivision 2, paragraph (c).~~

96.8 (c) An employer is considered to be in a high experience rating industry if:

96.9 (1) the employer is engaged in residential, commercial, or industrial construction;
96.10 including general contractors;

96.11 (2) the employer is engaged in sand, gravel, or limestone mining;

96.12 (3) the employer is engaged in the manufacturing of concrete, concrete products,
96.13 or asphalt; or

96.14 (4) the employer is engaged in road building, repair, or resurfacing, including bridge
96.15 and tunnels and residential and commercial driveways and parking lots.

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

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

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

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

96.32 **EFFECTIVE DATE.** This section is effective January 1, 2018, and applies to tax
96.33 rates assigned for the calendar year 2018 and thereafter.

96.34 Sec. 2. Minnesota Statutes 2015 Supplement, section 268.07, subdivision 3b, is
96.35 amended to read:

97.1 Subd. 3b. **Limitations on applications and benefit accounts.** (a) An application for
97.2 unemployment benefits is effective the Sunday of the calendar week that the application
97.3 was filed. An application for unemployment benefits may be backdated one calendar week
97.4 before the Sunday of the week the application was actually filed if the applicant requests
97.5 the backdating ~~at~~ within seven calendar days of the time date the application is filed. An
97.6 application may be backdated only if the applicant was unemployed during the period of
97.7 the backdating. If an individual attempted to file an application for unemployment benefits,
97.8 but was prevented from filing an application by the department, the application is effective
97.9 the Sunday of the calendar week the individual first attempted to file an application.

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

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

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

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

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

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

97.25 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to
97.26 applications for unemployment benefits filed after that date.

97.27 Sec. 3. Minnesota Statutes 2014, section 268.095, subdivision 1, is amended to read:

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

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

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

98.3 (3) the applicant quit the employment within 30 calendar days of beginning the
98.4 employment ~~because and~~ and the employment was unsuitable ~~for the applicant~~;

98.5 (4) the employment was unsuitable ~~for the applicant~~ and the applicant quit to enter
98.6 reemployment assistance training;

98.7 (5) the employment was part time and the applicant also had full-time employment
98.8 in the base period, from which full-time employment the applicant separated because of
98.9 reasons for which the applicant ~~was held~~ is not to be ineligible, and the wage credits from
98.10 the full-time employment are sufficient to meet the minimum requirements to establish a
98.11 benefit account under section 268.07;

98.12 (6) the applicant quit because the employer notified the applicant that the applicant
98.13 was going to be laid off because of lack of work within 30 calendar days. An applicant
98.14 who quit employment within 30 calendar days of a notified date of layoff because of lack
98.15 of work is ineligible for unemployment benefits through the end of the week that includes
98.16 the scheduled date of layoff;

98.17 (7) the applicant quit the employment (i) because the applicant's serious illness or
98.18 injury made it medically necessary that the applicant quit; or (ii) in order to provide
98.19 necessary care because of the illness, injury, or disability of an immediate family member
98.20 of the applicant. This exception only applies if the applicant informs the employer of
98.21 the medical problem and requests accommodation and no reasonable accommodation
98.22 is made available.

98.23 If the applicant's serious illness is chemical dependency, this exception does not
98.24 apply if the applicant was previously diagnosed as chemically dependent or had treatment
98.25 for chemical dependency, and since that diagnosis or treatment has failed to make
98.26 consistent efforts to control the chemical dependency.

98.27 This exception raises an issue of the applicant's being available for suitable
98.28 employment under section 268.085, subdivision 1, that the commissioner must determine;

98.29 (8) the applicant's loss of child care for the applicant's minor child caused the
98.30 applicant to quit the employment, provided the applicant made reasonable effort to obtain
98.31 other child care and requested time off or other accommodation from the employer and no
98.32 reasonable accommodation is available.

98.33 This exception raises an issue of the applicant's being available for suitable
98.34 employment under section 268.085, subdivision 1, that the commissioner must determine;

99.1 (9) the applicant quit because domestic abuse, sexual assault, or stalking of the
99.2 applicant or an immediate family member of the applicant, necessitated the applicant's
99.3 quitting the employment.

99.4 For purposes of this subdivision:

99.5 (i) "domestic abuse" has the meaning given in section 518B.01;

99.6 (ii) "sexual assault" means an act that would constitute a violation of sections
99.7 609.342 to 609.3453 or 609.352; and

99.8 (iii) "stalking" means an act that would constitute a violation of section 609.749; or

99.9 (10) the applicant quit in order to relocate to accompany a spouse;

99.10 (1) who is in the military; or

99.11 (2) whose job was transferred by the spouse's employer to a new location ~~changed~~
99.12 making it impractical for the applicant to commute.

99.13 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to all
99.14 matters pending a determination or a decision by an unemployment law judge.

99.15 Sec. 4. Minnesota Statutes 2014, section 268.101, subdivision 2, is amended to read:

99.16 Subd. 2. **Determination.** (a) The commissioner must determine any issue of
99.17 ineligibility raised by information required from an applicant under subdivision 1,
99.18 paragraph (a) or (c), and send to the applicant and any involved employer, by mail or
99.19 electronic transmission, a document titled a determination of eligibility or a determination
99.20 of ineligibility, as is appropriate. The determination on an issue of ineligibility as a result
99.21 of a quit or a discharge of the applicant must state the effect on the employer under section
99.22 268.047. A determination must be made in accordance with this paragraph even if a
99.23 notified employer has not raised the issue of ineligibility.

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

99.29 If a base period employer:

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

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

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

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

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

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

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

100.16 (e) The commissioner may issue a determination on an issue of ineligibility ~~at any~~
 100.17 ~~time~~ within 24 months from the establishment of a benefit account based upon information
 100.18 from any source, even if the issue of ineligibility was not raised by the applicant or an
 100.19 employer. ~~This paragraph does not prevent the imposition of a penalty on~~

100.20 If an applicant obtained unemployment benefits through fraud under section 268.18,
 100.21 subdivision 2, or 268.182 a determination of ineligibility may be issued within 48 months
 100.22 of the establishment of the benefit account.

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

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

100.31 ~~(h) Except for issues of ineligibility as a result of a quit or discharge of the applicant,~~
 100.32 ~~the employer will be (1) sent a copy of the determination of eligibility or a determination~~
 100.33 ~~of ineligibility, or (2) considered an involved employer for purposes of an appeal under~~
 100.34 ~~section 268.105, only if the employer raised the issue of ineligibility.~~

100.35 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to all
 100.36 matters pending a determination.

101.1 Sec. 5. Minnesota Statutes 2014, section 268.182, subdivision 2, is amended to read:

101.2 Subd. 2. **Administrative penalties.** (a) Any applicant who knowingly makes a false
 101.3 statement or representation, who knowingly fails to disclose a material fact, or who makes
 101.4 a false statement or representation without a good faith belief as to the correctness of the
 101.5 statement or representation, in order to obtain or in an attempt to obtain unemployment
 101.6 benefits may be assessed, in addition to any other penalties, an administrative penalty of
 101.7 being ineligible for unemployment benefits for 13 to 104 weeks.

101.8 (b) A determination of ineligibility setting out the weeks the applicant is ineligible
 101.9 must be sent to the applicant by mail or electronic transmission. A determination of
 101.10 ineligibility under this subdivision may be issued within 48 months of the establishment of
 101.11 the benefit account upon which the unemployment benefits were obtained or attempted to
 101.12 be obtained. Unless an appeal is filed within 20 calendar days of sending, the determination
 101.13 is final. Proceedings on the appeal are conducted in accordance with section 268.105.

101.14 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to all
101.15 matters pending a determination.

101.16 **ARTICLE 12**

101.17 **UNEMPLOYMENT INSURANCE ADVISORY COUNCIL HOUSEKEEPING**

101.18 Section 1. Minnesota Statutes 2014, section 268.035, subdivision 12, is amended to read:

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

101.21 (1) an employee's entire employment during the calendar quarter if:

101.22 (i) the employment during the quarter is performed primarily in Minnesota;

101.23 (ii) the employment during the quarter is not performed primarily in Minnesota or
101.24 any other state but some of the employment is performed in Minnesota and the base
101.25 of operations or the place from which the employment is directed or controlled is in
101.26 Minnesota; or

101.27 (iii) the employment during the quarter is not performed primarily in Minnesota
101.28 or any other state and the base of operations or place from which the employment is
101.29 directed or controlled is not in any state where part of the employment is performed, but
101.30 the employee's residence is in Minnesota;

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

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

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

102.2 (3) the employment during the calendar quarter, performed entirely outside of the
102.3 United States and Canada, by an employee who is a United States citizen in the employ of
102.4 an American employer if the employer's principal place of business in the United States is
102.5 located in Minnesota. An "American employer," for the purposes of this clause, means a
102.6 corporation organized under the laws of any state, an individual who is a resident of the
102.7 United States, or a partnership if two-thirds or more of the partners are residents of the
102.8 United States, or a trust, if all of the trustees are residents of the United States; and

102.9 (4) all employment during the calendar quarter performed by an officer or member
102.10 of the crew of an American vessel on or in connection with the vessel, if the operating
102.11 office from which the operations of the vessel operating on navigable waters within, or
102.12 within and without, the United States are ordinarily and regularly supervised, managed,
102.13 directed, and controlled is in Minnesota.

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

102.16 (c) For the purposes of ~~satisfying the period of ineligibility under~~ section 268.095,
102.17 ~~subdivision 10~~; "covered employment" includes ~~covered~~ covered employment under an
102.18 unemployment insurance program:

102.19 (1) of any other state; or

102.20 (2) established by an act of Congress.

102.21 **EFFECTIVE DATE.** This section is effective July 31, 2016, and applies to all

102.22 matters pending a determination or a decision by an unemployment law judge

102.23 Sec. 2. Minnesota Statutes 2014, section 268.035, subdivision 29, is amended to read:

102.24 Subd. 29. **Wages.** (a) "Wages" means all compensation for employment, including
102.25 commissions; bonuses, awards, and prizes; severance payments; standby pay; vacation and
102.26 holiday pay; back pay as of the date of payment; tips and gratuities paid to an employee by
102.27 a customer of an employer and accounted for by the employer to the employer; sickness
102.28 and accident disability payments, except as otherwise provided in this subdivision; and
102.29 the cash value of housing, utilities, meals, exchanges of services, and any other goods
102.30 and services provided to compensate an employee, except:

102.31 (1) the amount of any payment made to, or on behalf of, an employee under a plan
102.32 established by an employer that makes provision for employees generally or for a class or
102.33 classes of employees, including any amount paid by an employer for insurance or annuities,
102.34 or into a plan, to provide for a payment, on account of (i) retirement or (ii) medical and
102.35 hospitalization expenses in connection with sickness or accident disability, or (iii) death;

103.1 (2) the payment by an employer of the tax imposed upon an employee under United
103.2 States Code, title 26, section 3101 of the Federal Insurance Contribution Act, with respect
103.3 to compensation paid to an employee for domestic employment in a private household of
103.4 the employer or for agricultural employment;

103.5 (3) any payment made to, or on behalf of, an employee or beneficiary (i) from or
103.6 to a trust described in United States Code, title 26, section 401(a) of the federal Internal
103.7 Revenue Code, that is exempt from tax under section 501(a) at the time of the payment
103.8 unless the payment is made to an employee of the trust as compensation for services as an
103.9 employee and not as a beneficiary of the trust, or (ii) under or to an annuity plan that, at
103.10 the time of the payment, is a plan described in section 403(a);

103.11 (4) the value of any special discount or markdown allowed to an employee on goods
103.12 purchased from or services supplied by the employer where the purchases are optional and
103.13 do not constitute regular or systematic payment for services;

- 103.14 (5) customary and reasonable directors' fees paid to individuals who are not
 103.15 otherwise employed by the corporation of which they are directors;
- 103.16 (6) the payment to employees for reimbursement of meal expenses when employees
 103.17 are required to perform work after their regular hours;
- 103.18 (7) the payment into a trust or plan for purposes of providing legal or dental services
 103.19 if provided for all employees generally or for a class or classes of employees;
- 103.20 (8) the value of parking facilities provided or paid for by an employer, in whole or in
 103.21 part, if provided for all employees generally or for a class or classes of employees;
- 103.22 (9) royalties to an owner of a franchise, license, copyright, patent, oil, mineral,
 103.23 or other right;
- 103.24 (10) advances or reimbursements for traveling or other bona fide ordinary and
 103.25 necessary expenses incurred or reasonably expected to be incurred in the business of the
 103.26 employer. Traveling and other reimbursed expenses must be identified either by making
 103.27 separate payments or by specifically indicating the separate amounts where both wages
 103.28 and expense allowances are combined in a single payment;
- 103.29 (11) residual payments to radio, television, and similar artists that accrue after
 103.30 the production of television commercials, musical jingles, spot announcements, radio
 103.31 transcriptions, film sound tracks, and similar activities;
- 103.32 (12) the income to a former employee resulting from the exercise of a nonqualified
 103.33 stock option;
- 103.34 (13) ~~payments made to supplement~~ supplemental unemployment ~~benefits~~ benefit
 103.35 payments under a plan established by an employer, ~~that makes provisions for employees~~
 103.36 ~~generally or for a class or classes of employees under the written terms of an agreement,~~
 104.1 ~~contract, trust arrangement, or other instrument~~ if the payment is not wages under the
 104.2 Federal Unemployment Tax Act. The plan must provide supplemental payments are
 104.3 wages unless made solely for the supplementing of weekly state or federal unemployment
 104.4 benefits. The plan must provide supplemental payments only for those weeks the applicant
 104.5 has been paid regular, extended, or additional unemployment benefits. The supplemental
 104.6 payments, when combined with the applicant's weekly unemployment benefits paid, may
 104.7 not exceed the applicant's regular weekly pay. The plan must not allow the assignment
 104.8 of Supplemental unemployment benefit payments or provide for any type of additional
 104.9 payment. The plan must not require ~~may not be assigned, nor may any consideration be~~
 104.10 required ~~from the applicant, other than a release of claims, and must not be designed for~~
 104.11 ~~the purpose of avoiding the payment of Social Security obligations, or unemployment~~
 104.12 ~~taxes on money disbursed from the plan~~ in order to be excluded from wages;
- 104.13 (14) sickness or accident disability payments made by the employer after the
 104.14 expiration of six calendar months following the last calendar month that the individual
 104.15 worked for the employer;

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

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

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

104.24 (b) Nothing in this subdivision excludes from the term "wages" any payment
104.25 made under any type of salary reduction agreement, including payments made under a
104.26 cash or deferred arrangement and cafeteria plan, as defined in United States Code, title
104.27 26, sections 401(k) and 125 of the federal Internal Revenue Code, to the extent that the
104.28 employee has the option to receive the payment in cash.

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

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

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

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

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

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

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

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

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

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

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

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

105.27 Sec. 3. Minnesota Statutes 2015 Supplement, section 268.085, subdivision 2, is
105.28 amended to read:

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

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

105.32 (2) that the applicant, at ~~the beginning of any time during~~ the week, has an
105.33 outstanding fraud overpayment balance under section 268.18, subdivision 2, including
105.34 any penalties and interest;

106.1 (3) that occurs in a period when the applicant is a student in attendance at, or on
106.2 vacation from a secondary school including the period between academic years or terms;

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

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

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

106.11 (7) with respect to which the applicant has filed an application for unemployment
106.12 benefits under any federal law or the law of any other state. If the appropriate agency
106.13 finally determines that the applicant is not entitled to establish a benefit account under
106.14 federal law or the law of any other state, this clause does not apply.

106.15 Sec. 4. Minnesota Statutes 2014, section 268.0865, subdivision 3, is amended to read:

106.16 Subd. 3. **Continued request for unemployment benefits by electronic**

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

106.24 (b) ~~The continued request by electronic transmission communication~~ must be filed
106.25 ~~within four calendar weeks following the week for which payment is requested on the~~
106.26 ~~date day of the week and during the time of day designated for the applicant for filing a~~
106.27 ~~continued request by electronic transmission.~~

106.28 (c) ~~If the electronic transmission continued request is not filed as required under~~
106.29 ~~paragraph (b), a continued request by electronic transmission must be accepted if the~~
106.30 ~~applicant files the continued request by electronic transmission within three calendar~~
106.31 ~~weeks following the week for which payment is requested. If the continued request by~~
106.32 ~~electronic transmission is not filed within three four calendar weeks following the week~~
106.33 ~~for which payment is requested, the electronic continued request will not be accepted~~
106.34 ~~and the applicant is ineligible for unemployment benefits for the period covered by the~~
107.1 ~~continued request, unless the applicant shows good cause for failing to file the continued~~
107.2 ~~request by electronic transmission within the time period required.~~

107.3 Sec. 5. Minnesota Statutes 2014, section 268.0865, subdivision 4, is amended to read:

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

107.10 (b) ~~If the mail continued request for unemployment benefits is not filed as required~~
107.11 ~~under paragraph (a), a continued request must be accepted if the form is filed by mail~~
107.12 ~~within three four calendar weeks following the week for which payment is requested.~~

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

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

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

107.26 Sec. 6. Minnesota Statutes 2014, section 268.095, subdivision 2, is amended to read:

107.27 Subd. 2. **Quit defined.** (a) A quit from employment occurs when the decision to end
 107.28 the employment was, at the time the employment ended, the employee's.

107.29 (b) When determining if an applicant quit, the theory of a constructive quit does
 107.30 not apply.

107.31 ~~(b)~~ (c) An employee who has been notified that the employee will be discharged in
 107.32 the future, who chooses to end the employment while employment in any capacity is still
 107.33 available, ~~is considered to have~~ has quit the employment.

108.1 ~~(e)~~ (d) An employee who seeks to withdraw a previously submitted notice of quitting
 108.2 ~~is considered to have~~ has quit the employment, as of the intended date of quitting, if the
 108.3 employer does not agree that the notice may be withdrawn.

108.4 ~~(d)~~ (e) An applicant ~~who has quit employment with a staffing service if,~~ within
 108.5 five calendar days after completion of a suitable job assignment from a staffing service,
 108.6 the applicant:

108.7 (1) fails without good cause to affirmatively request an additional suitable job
 108.8 assignment;

108.9 (2) refuses without good cause an additional suitable job assignment offered; or

108.10 (3) accepts employment with the client of the staffing service, ~~is considered to have~~
 108.11 ~~quit employment with the staffing service.~~ Accepting employment with the client of the
 108.12 staffing service meets the requirements of the exception to ineligibility under subdivision
 108.13 1, clause (2).

108.14 This paragraph applies only if, at the time of beginning of employment with the
 108.15 staffing service, the applicant signed and was provided a copy of a separate document
 108.16 written in clear and concise language that informed the applicant of this paragraph and
 108.17 that unemployment benefits may be affected.

108.18 For purposes of this paragraph, "good cause" is a reason that ~~is significant and~~ would
 108.19 compel an average, reasonable worker, who would otherwise want an additional suitable
 108.20 job assignment with the staffing service (1) to fail to contact the staffing service, or (2)
 108.21 to refuse an offered assignment.

108.22 Sec. 7. Minnesota Statutes 2014, section 268.095, subdivision 5, is amended to read:

108.23 Subd. 5. **Discharge defined.** (a) A discharge from employment occurs when any
 108.24 words or actions by an employer would lead a reasonable employee to believe that the
 108.25 employer will no longer allow the employee to work for the employer in any capacity. A
 108.26 layoff because of lack of work is ~~considered~~ a discharge. A suspension from employment
 108.27 without pay of more than 30 calendar days is ~~considered~~ a discharge.

108.28 (b) When determining if an applicant was discharged, the theory of a constructive
 108.29 discharge does not apply.

108.30 ~~(b)~~ (c) An employee who gives notice of intention to quit the employment and is not
 108.31 allowed by the employer to work the entire notice period is ~~considered~~ discharged from
 108.32 the employment as of the date the employer will no longer allow the employee to work. If
 108.33 the discharge occurs within 30 calendar days before the intended date of quitting, then,
 108.34 as of the intended date of quitting, the separation from employment is ~~considered~~ a quit
 108.35 from employment subject to subdivision 1.

109.1 ~~(e)~~ (d) The end of a job assignment with the client of a staffing service is ~~considered~~
 109.2 a discharge from employment with the staffing service unless subdivision 2, paragraph
 109.3 (d), applies.

109.4 Sec. 8. Minnesota Statutes 2014, section 268.18, is amended to read:

109.5 **268.18 UNEMPLOYMENT BENEFIT OVERPAYMENTS.**

109.6 Subdivision 1. **Nonfraud Repaying an overpayment.** (a) Any applicant who (1)
 109.7 because of a determination or amended determination issued under section 268.07 or
 109.8 268.101, or any other section of this chapter, or (2) because of an unemployment law
 109.9 judge's decision under section 268.105, has received any unemployment benefits that the
 109.10 applicant was held not entitled to, is overpaid the benefits, and must promptly repay the
 109.11 ~~unemployment~~ benefits to the trust fund.

109.12 (b) If the applicant fails to repay the unemployment benefits overpaid, the
 109.13 ~~commissioner may offset from any future unemployment benefits otherwise payable the~~
 109.14 ~~amount of the overpayment. Except when the overpayment resulted because the applicant~~
 109.15 ~~failed to report deductible earnings or deductible or benefit delaying payments, no single~~
 109.16 ~~offset may exceed 50 percent of the amount of the payment from which the offset is made.~~
 109.17 The overpayment may also including any penalty and interest assessed under subdivisions
 109.18 2 and 2b, the total due may be collected by the methods allowed under state and federal law.

109.19 ~~(e) If an applicant has been overpaid unemployment benefits under the law of~~
 109.20 ~~another state, because of a reason other than fraud, and that state certifies that the applicant~~
 109.21 ~~is liable under its law to repay the unemployment benefits and requests the commissioner~~
 109.22 ~~to recover the overpayment, the commissioner may offset from future unemployment~~
 109.23 ~~benefits otherwise payable the amount of overpayment, except that no single offset may~~
 109.24 ~~exceed 50 percent of the amount of the payment from which the offset is made.~~

109.25 Subd. 2. **Overpayment because of fraud.** (a) ~~Any~~ An applicant who receives has
109.26 committed fraud if the applicant is overpaid unemployment benefits by:
109.27 (1) knowingly misrepresenting, misstating, or failing to disclose any material fact;
109.28 or who makes
109.29 (2) making a false statement or representation without a good faith belief as to the
109.30 correctness of the statement or representation, ~~has committed fraud.~~
109.31 After the discovery of facts indicating fraud, the commissioner must make issue a
109.32 determination that the applicant obtained unemployment benefits by fraud and that the
109.33 applicant must promptly repay the unemployment benefits to the trust fund. In addition, the
109.34 commissioner must assess of overpayment penalty, assessing a penalty equal to 40 percent
110.1 of the amount fraudulently obtained overpaid. This penalty is in addition to penalties under
110.2 section 268.182. ~~The determination is effective the Sunday of the week that it was issued.~~
110.3 (b) Unless the applicant files an appeal within 20 calendar days after the sending of
110.4 the a determination of overpayment by fraud penalty to the applicant by mail or electronic
110.5 transmission, the determination is final. Proceedings on the appeal are conducted in
110.6 accordance with section 268.105.
110.7 (c) ~~If the applicant fails to repay the unemployment benefits, penalty, and interest~~
110.8 ~~assessed, the total due may be collected by the methods allowed under state and federal~~
110.9 ~~law. A determination of overpayment by fraud penalty must state the methods of collection~~
110.10 ~~the commissioner may use to recover the overpayment, penalty, and interest assessed.~~
110.11 Money received in repayment of fraudulently obtained overpaid unemployment benefits,
110.12 penalties, and interest is first applied to the unemployment benefits overpaid, then to the
110.13 penalty amount due, then to any interest due. 62.5 percent of the payments made toward the
110.14 penalty are credited to the contingent account and 37.5 percent credited to the trust fund.
110.15 (d) ~~If an applicant has been overpaid unemployment benefits under the law of~~
110.16 ~~another state because of fraud and that state certifies that the applicant is liable to repay~~
110.17 ~~the unemployment benefits and requests the commissioner to recover the overpayment,~~
110.18 ~~the commissioner may offset from future unemployment benefits otherwise payable the~~
110.19 ~~amount of overpayment.~~
110.20 (e) ~~Regardless of the limitations in section 268.101, subdivision 2, paragraph (e),~~
110.21 ~~unemployment benefits paid for weeks more than four years before the date of (d) A~~
110.22 ~~determination of overpayment by fraud issued penalty under this subdivision are not~~
110.23 ~~considered overpaid unemployment benefits may be issued within 48 months of the~~
110.24 ~~establishment of the benefit account upon which the unemployment benefits were obtained~~
110.25 though fraud.

110.26 Subd. 2b. **Interest.** On any unemployment benefits fraudulently obtained, and any
110.27 penalty amounts assessed under subdivision 2, the commissioner must assess interest at the
110.28 rate of one percent per month on any amount that remains unpaid beginning 30 calendar
110.29 days after the date of the a determination of overpayment by fraud penalty. A determination
110.30 of overpayment by fraud penalty must state that interest will be assessed. Interest is
110.31 assessed in the same manner as on employer debt under section 268.057, subdivision 5.
110.32 Interest payments collected under this subdivision are credited to the trust fund.

110.33 Subd. 3a. **Offset of federal unemployment benefits.** ~~The commissioner is~~
110.34 ~~authorized to enter into reciprocal agreements with the United States Secretary of Labor,~~
110.35 ~~whereby;~~ (a) The commissioner may offset from any future unemployment benefits
110.36 otherwise payable the amount of a nonfraud overpayment. Except when the nonfraud
111.1 overpayment resulted because the applicant failed to report deductible earnings or
111.2 deductible or benefit delaying payments, no single offset may exceed 50 percent of the
111.3 amount of the payment from which the offset is made.

111.4 (b) Overpayments of unemployment benefits as determined under a federal law,
111.5 program may be recovered by offset from unemployment future benefits otherwise
111.6 payable and.

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

111.10 (d) Nonfraud unemployment benefit overpayments under subdivisions 1 and 2
111.11 may be recovered by offset from unemployment future benefits otherwise payable under
111.12 a federal program.

111.13 Subd. 4. **Cancellation of overpayments.** (a) If unemployment benefits overpaid
111.14 ~~under subdivision 1 for reasons other than fraud~~ are not repaid or offset from subsequent
111.15 ~~unemployment benefits as provided for in subdivision 1~~ within six years after the date
111.16 of the determination or decision holding the applicant overpaid, the commissioner must
111.17 cancel the overpayment balance, and no administrative or legal proceedings may be used
111.18 to enforce collection of those amounts.

111.19 (b) If unemployment benefits ~~determined~~ overpaid ~~under subdivision 2 because of~~
111.20 fraud including penalties and interest are not repaid within ten years after the date of
111.21 ~~the determination of overpayment by fraud penalty~~, the commissioner must cancel the
111.22 overpayment balance and any penalties and interest due, and no administrative or legal
111.23 proceeding may be used to enforce collection of those amounts.

111.24 (c) The commissioner may cancel at any time any overpayment, including penalties
111.25 and interest, that the commissioner determines is uncollectible because of death or
111.26 bankruptcy.

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

111.31 (b) If an applicant who has been ~~determined~~ overpaid unemployment benefits
111.32 because of fraud seeks to have any portion of the debt discharged under the federal
111.33 bankruptcy code, and the ~~commissioner~~ department files an objection in bankruptcy court
111.34 to the discharge, the ~~commissioner may add the commissioner's cost of any court fees~~ may
111.35 be added to the debt if the bankruptcy court does not discharge the debt.

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

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

112.9 (b) Intervention or lack thereof, in whole or in part, in a workers' compensation
112.10 matter under section 176.361 is not considered an election of a remedy and does not
112.11 prevent the commissioner from determining any unemployment benefits overpaid under
112.12 subdivision 1 or 2 or taking action under section 268.182.

112.13 Subd. 6. **Collection of overpayments.** (a) The commissioner may not compromise
112.14 the amount ~~that has been determined of any~~ overpaid ~~under this section~~ unemployment
112.15 benefits including penalties and interest.

112.16 (b) The commissioner has discretion regarding the recovery of any overpayment
112.17 ~~under subdivision 1 for reasons other than fraud.~~ Regardless of any law to the contrary, the
112.18 commissioner is not required to refer any ~~amount determined overpaid under subdivision~~
112.19 ~~1 overpayment for reasons other than fraud~~ to a public or private collection agency,
112.20 including agencies of this state.

112.21 (c) Amounts ~~determined overpaid under subdivision 1 for reasons other than fraud~~
112.22 are not considered a "debt" to the state of Minnesota for purposes of any reporting
112.23 requirements to the commissioner of management and budget.

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

112.26 (e) Section 16A.626 applies to the repayment by an applicant of any overpayment,
112.27 penalty, or interest ~~under this section.~~

112.28 Sec. 9. **EFFECTIVE DATE.**

112.29 This article is effective July 31, 2016, unless indicated otherwise.

112.30 **ARTICLE 13**

112.31 **UNEMPLOYMENT INSURANCE ADVISORY COUNCIL TECHNICAL**

112.32 Section 1. Minnesota Statutes 2014, section 268.035, is amended by adding a
112.33 subdivision to read:

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

113.3 Sec. 2. Minnesota Statutes 2014, section 268.035, subdivision 20, is amended to read:

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

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

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

113.9 (3) employment for a foreign government;

113.10 ~~(4) employment for an instrumentality wholly owned by a foreign government,~~
113.11 ~~if the employment is of a character similar to that performed in foreign countries by~~
113.12 ~~employees of the United States government or an instrumentality thereof and the United~~
113.13 ~~States Secretary of State has certified that the foreign government grants an equivalent~~
113.14 ~~exemption to similar employment performed in the foreign country by employees of the~~
113.15 ~~United States government and instrumentalities thereof;~~

113.16 ~~(5) (4) employment covered under United States Code, title 45, section 351, the~~
113.17 ~~federal Railroad Unemployment Insurance Act;~~

113.18 ~~(6) employment covered by a reciprocal arrangement between the commissioner and~~
113.19 ~~another state or the federal government that provides that all employment performed by an~~
113.20 ~~individual for an employer during the period covered by the reciprocal arrangement is~~
113.21 ~~considered performed entirely within another state;~~

113.22 ~~(7) (5) employment for a church or convention or association of churches, or an~~
113.23 ~~a nonprofit organization operated primarily for religious purposes that is operated,~~
113.24 ~~supervised, controlled, or principally supported by a church or convention or association~~
113.25 ~~of churches described in United States Code, title 26, section 501(e)(3) of the federal~~
113.26 ~~Internal Revenue Code and exempt from income tax under section 501(a);~~

113.27 ~~(8)~~ (6) employment for Minnesota or a political subdivision, or a nonprofit
 113.28 organization, of a duly ordained or licensed minister of a church in the exercise of a
 113.29 ministry or by a member of a religious order in the exercise of duties required by the order;
 113.30 for Minnesota or a political subdivision or an organization described in United States
 113.31 Code, title 26, section 501(e)(3) of the federal Internal Revenue Code and exempt from
 113.32 income tax under section 501(a);

113.33 ~~(9)~~ (7) employment for Minnesota or a political subdivision, or a nonprofit
 113.34 organization, of an individual receiving rehabilitation of "sheltered" work in a facility
 113.35 conducted for the purpose of carrying out a program of rehabilitation for individuals
 114.1 whose earning capacity is impaired by age or physical or mental deficiency or injury or a
 114.2 program providing "sheltered" work for individuals who because of an impaired physical
 114.3 or mental capacity cannot be readily absorbed in the competitive labor market. This
 114.4 clause applies only to services performed for Minnesota or a political subdivision or an
 114.5 organization described in United States Code, title 26, section 501(e)(3) of the federal
 114.6 Internal Revenue Code and exempt from income tax under section 501(a) in a facility
 114.7 certified by the Rehabilitation Services Branch of the department or in a day training or
 114.8 habilitation program licensed by the Department of Human Services;

114.9 ~~(10)~~ (8) employment for Minnesota or a political subdivision, or a nonprofit
 114.10 organization, of an individual receiving work relief or work training as part of an
 114.11 unemployment work relief or work training program assisted or financed in whole or
 114.12 in part by any federal agency or an agency of a state or political subdivision thereof.
 114.13 This clause applies only to employment for Minnesota or a political subdivision or an
 114.14 organization described in United States Code, title 26, section 501(e)(3) of the federal
 114.15 Internal Revenue Code and exempt from income tax under section 501(a). This clause does
 114.16 not apply to programs that require unemployment benefit coverage for the participants;

114.17 ~~(11)~~ (9) employment for Minnesota or a political subdivision, as an elected official, a
 114.18 member of a legislative body, or a member of the judiciary;

114.19 ~~(12)~~ (10) employment as a member of the Minnesota National Guard or Air National
 114.20 Guard;

114.21 ~~(13)~~ (11) employment for Minnesota, or a political subdivision, or instrumentality
 114.22 thereof, as an employee of an individual serving only on a temporary basis in case of
 114.23 fire, flood, tornado, or similar emergency;

114.24 ~~(14)~~ (12) employment as an election official or election worker for Minnesota or
 114.25 a political subdivision, but only if the compensation for that employment was less than
 114.26 \$1,000 in a calendar year;

114.27 ~~(15)~~ (13) employment for Minnesota that is a major policy-making or advisory
 114.28 position in the unclassified service;

114.29 ~~(16)~~ (14) employment for Minnesota in an unclassified position established under
 114.30 section 43A.08, subdivision 1a;

- 114.31 ~~(17)~~ (15) employment for a political subdivision of Minnesota that is a nontenured
114.32 major policy making or advisory position;
- 114.33 ~~(18)~~ (16) domestic employment in a private household, local college club, or local
114.34 chapter of a college fraternity or sorority ~~performed for a person, only~~, if the wages paid
114.35 in any calendar quarter in either the current or prior calendar year to all individuals in
114.36 domestic employment totaled less than \$1,000.
- 115.1 "Domestic employment" includes all service in the operation and maintenance of a
115.2 private household, for a local college club, or local chapter of a college fraternity or
115.3 sorority as distinguished from service as an employee in the pursuit of an employer's
115.4 trade or business;
- 115.5 ~~(19)~~ (17) employment of an individual by a son, daughter, or spouse, and
115.6 employment of a child under the age of 18 by the child's father or mother;
- 115.7 ~~(20)~~ (18) employment of an inmate of a custodial or penal institution;
- 115.8 ~~(21)~~ (19) employment for a school, college, or university, by a student who is
115.9 enrolled and whose primary relation to the school, college, or university is as a student.
115.10 This does not include an individual whose primary relation to the school, college, or
115.11 university is as an employee who also takes courses;
- 115.12 ~~(22)~~ (20) employment of an individual who is enrolled as a student in a full-time
115.13 program at a nonprofit or public educational institution that maintains a regular faculty
115.14 and curriculum and has a regularly organized body of students in attendance at the place
115.15 where its educational activities are carried on, taken for credit at the institution, that
115.16 combines academic instruction with work experience, if the employment is an integral
115.17 part of the program, and the institution has so certified to the employer, except that this
115.18 clause does not apply to employment in a program established for or on behalf of an
115.19 employer or group of employers;
- 115.20 ~~(23)~~ (21) employment of university, college, or professional school students in an
115.21 internship or other training program with the city of St. Paul or the city of Minneapolis
115.22 under Laws 1990, chapter 570, article 6, section 3;
- 115.23 ~~(24)~~ (22) employment for a hospital by a patient of the hospital. "Hospital" means
115.24 an institution that has been licensed by the Department of Health as a hospital;
- 115.25 ~~(25)~~ (23) employment as a student nurse for a hospital or a nurses' training school by
115.26 an individual who is enrolled and is regularly attending classes in an accredited nurses'
115.27 training school;
- 115.28 ~~(26)~~ (24) employment as an intern for a hospital by an individual who has completed
115.29 a four-year course in an accredited medical school;

- 115.30 ~~(27)~~ (25) employment as an insurance salesperson, by other than a corporate
115.31 officer, if all the wages from the employment is solely by way of commission. The word
115.32 "insurance" includes an annuity and an optional annuity;
- 115.33 ~~(28)~~ (26) employment as an officer of a township mutual insurance company or
115.34 farmer's mutual insurance company ~~operating~~ under chapter 67A;
- 115.35 ~~(29)~~ (27) employment of a corporate officer, if the officer directly or indirectly,
115.36 including through a subsidiary or holding company, owns 25 percent or more of the
116.1 employer corporation, and employment of a member of a limited liability company, if the
116.2 member directly or indirectly, including through a subsidiary or holding company, owns
116.3 25 percent or more of the employer limited liability company;
- 116.4 ~~(30)~~ (28) employment as a real estate salesperson, by other than a corporate officer,
116.5 if all the wages from the employment is solely by way of commission;
- 116.6 ~~(31)~~ (29) employment as a direct seller as defined in United States Code, title 26,
116.7 section 3508;
- 116.8 ~~(32)~~ (30) employment of an individual under the age of 18 in the delivery or
116.9 distribution of newspapers or shopping news, not including delivery or distribution to any
116.10 point for subsequent delivery or distribution;
- 116.11 ~~(33)~~ (31) casual employment performed for an individual, other than domestic
116.12 employment under clause ~~(18)~~ (16), that does not promote or advance that employer's
116.13 trade or business;
- 116.14 ~~(34)~~ (32) employment in "agricultural employment" unless ~~considered~~ it is "covered
116.15 agricultural employment" under subdivision 11; or
- 116.16 ~~(35)~~ (33) if employment during one-half or more of any pay period was covered
116.17 employment, all the employment for the pay period is ~~considered~~ covered employment;
116.18 but if during more than one-half of any pay period the employment was noncovered
116.19 employment, then all of the employment for the pay period is ~~considered~~ noncovered
116.20 employment. "Pay period" means a period of not more than a calendar month for which a
116.21 payment or compensation is ordinarily made to the employee by the employer.
- 116.22 Sec. 3. Minnesota Statutes 2014, section 268.035, is amended by adding a subdivision
116.23 to read:
- 116.24 Subd. 20b. **Nonprofit organization.** "Nonprofit organization" means an
116.25 organization described in United States Code, title 26, section 501(c)(3), and is exempt
116.26 from income tax under United States Code, title 26, section 501(a).
- 116.27 Sec. 4. Minnesota Statutes 2014, section 268.035, subdivision 23a, is amended to read:

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

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

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

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

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

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

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

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

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

117.29 (g) Employment is not ~~considered~~ suitable if:

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

117.31 (2) the wages, hours, or other conditions of employment are substantially less
117.32 favorable than those prevailing for similar employment in the labor market area; or
117.33 (3) as a condition of becoming employed, the applicant would be required to join a
117.34 company union or to resign from or refrain from joining any bona fide labor organization; ~~or~~
117.35 (4) the employment is with a staffing service and less than 25 percent of the
117.36 applicant's wage credits are from a job assignment with the client of a staffing service.

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

118.5 Sec. 5. Minnesota Statutes 2014, section 268.085, subdivision 4, is amended to read:

118.6 Subd. 4. **Social Security old age insurance benefits.** (a) Any applicant aged 62 or
118.7 over is required to state when filing an application for unemployment benefits and when
118.8 filing continued requests for unemployment benefits if the applicant is receiving, has filed
118.9 for, or intends to file for, primary Social Security old age benefits.

118.10 (b) Unless paragraph (b) (c) applies, 50 percent of the weekly equivalent of the
118.11 primary Social Security old age benefit the applicant has received, has filed for, or
118.12 intends to file for, with respect to that week must be deducted from an applicant's weekly
118.13 unemployment benefit amount.

118.14 (b) (c) ~~If all of the applicant's wage credits were earned while the applicant was~~
118.15 ~~claiming Social Security old age benefits, there is no deduction of the Social Security~~
118.16 ~~benefits from the applicant's weekly unemployment benefit amount.~~

118.17 (e) (d) Information from the Social Security Administration is ~~considered~~ conclusive,
118.18 absent specific evidence showing that the information was erroneous.

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

118.20 Sec. 6. Minnesota Statutes 2014, section 268.085, subdivision 5, is amended to read:

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

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

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

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

119.5 (e) Deductible earnings does not include any money ~~considered that is~~ a deductible
119.6 payment under subdivision 3, ~~but includes all compensation considered wages under~~
119.7 ~~section 268.035, subdivision 29, and any other compensation considered earned income~~
119.8 ~~under state and federal law for income tax purposes.~~

119.9 Sec. 7. **REVISOR'S INSTRUCTION.**

119.10 (a) The revisor of statutes shall change "liability" to "liability for damages" in
119.11 Minnesota Rules, part 3315.0555, subpart 1.

119.12 (b) The revisor of statutes shall change "entitled to" to "eligible for" in Minnesota
119.13 Statutes, section 268.085, subdivision 1, clause (6).

119.14 (c) The revisor of statutes shall change "shall calculate" to "must calculate" in
119.15 Minnesota Statutes, section 268.035, subdivision 23.

119.16 (d) The revisor of statutes shall renumber Minnesota Statutes, section 268.035,
119.17 subdivision 12d, to subdivision 12f.

119.18 (e) The revisor of statutes shall reletter the paragraphs in Minnesota Statutes, section
119.19 268.085, subdivision 4, as follows:

119.20 (1) paragraph (a) shall be relettered paragraph (c); and

119.21 (2) paragraph (c) shall be relettered paragraph (a).

119.22 (f) The revisor of statutes shall renumber the reference to "clause (29)" to "clause
119.23 (27)" in Minnesota Statutes, section 268.046, subdivision 1.

119.24 (g) The revisor of statutes shall renumber the reference to "clause (10)" to "clause
119.25 (8)" in Minnesota Statutes, section 383C.19.

119.26 Sec. 8. **EFFECTIVE DATE.**

119.27 This article is effective July 31, 2016, and applies to all matters pending a
119.28 determination or a decision by an unemployment law judge.