

1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was referred

3 S.F. No. 944: A bill for an act relating to unemployment  
4 insurance; conforming various provisions to federal  
5 requirements; making technical and housekeeping changes;  
6 amending Minnesota Statutes 2004, sections 268.03, subdivision  
7 1; 268.035, subdivisions 9, 13, 14, 20, 21, 26; 268.042,  
8 subdivision 1; 268.043; 268.044, subdivisions 2, 3; 268.051,  
9 subdivisions 1, 4, 6, 7, by adding a subdivision; 268.052,  
10 subdivision 2; 268.053, subdivision 1; 268.065, subdivision 2;  
11 268.069, subdivision 1; 268.07, subdivision 3b; 268.085,  
12 subdivisions 1, 2, 3, 5, 12; 268.086, subdivisions 2, 3;  
13 268.095, subdivisions 1, 4, 7, 8, 10, 11; 268.101, subdivisions  
14 1, 3a; 268.103, subdivision 2; 268.105; 268.145, subdivision 1;  
15 268.18, subdivisions 1, 2, 2b; 268.182, subdivision 2; 268.184,  
16 subdivisions 1, 2, by adding a subdivision; proposing coding for  
17 new law in Minnesota Statutes, chapter 268; repealing Minnesota  
18 Statutes 2004, sections 268.045, subdivisions 2, 3, 4; 268.086,  
19 subdivision 4; Laws 1997, chapter 66, section 64, subdivision 1;  
20 Minnesota Rules, parts 3310.2926; 3310.5000; 3315.0910, subpart  
21 9; 3315.1020; 3315.1301; 3315.1315, subparts 1, 2, 3; 3315.1650;  
22 3315.2210; 3315.3210; 3315.3220.

23 Reports the same back with the recommendation that the bill  
24 be amended as follows:

25 Pages 1 and 2, delete section 1

26 Page 2, line 27, delete "[268.0436]" and insert "[268.0435]"

27 Page 3, after line 4, insert:

28 "Sec. 2. Minnesota Statutes 2004, section 268.044,  
29 subdivision 1, is amended to read:

30 Subdivision 1. [WAGE DETAIL REPORT.] (a) Each employer  
31 that has employees in covered employment shall submit, under the  
32 account provided for in section 268.045 or 268.046, a quarterly  
33 wage detail report by electronic transmission, in a format  
34 prescribed by the commissioner. The report shall include for  
35 each employee in covered employment, the employee's name, Social  
36 Security number, the total wages paid to the employee, and total  
37 number of paid hours worked. For employees exempt from the  
38 definition of employee in section 177.23, subdivision 7, clause  
39 (6), the employer shall report 40 hours worked for each week any  
40 duties were performed by a full-time employee and shall report a  
41 reasonable estimate of the hours worked for each week duties  
42 were performed by a part-time employee. In addition, the wage  
43 detail report shall include the number of employees employed on  
44 the 12th day of each calendar month and, if required by the  
45 commissioner, the report shall be broken down by business  
46 location and type-of-employment, if section 268.046, subdivision

1 1, paragraph (b), or subdivision 2, paragraph (b), applies, by  
2 separate unit. If the information required is not submitted in  
3 a manner and format prescribed by the commissioner, it shall not  
4 be considered a wage detail report. The report is due and must  
5 be received by the commissioner on or before the last day of the  
6 month following the end of the calendar quarter. The  
7 commissioner may delay the due date on a specific calendar  
8 quarter in the event the department is unable to accept wage  
9 detail reports electronically.

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

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

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

20 Page 3, after line 22, insert:

21 "Sec. 4. Minnesota Statutes 2004, section 268.045,  
22 subdivision 1, is amended to read:

23 Subdivision 1. [ACCOUNT FOR EACH EMPLOYER.] The  
24 commissioner shall maintain (1) a tax account for each taxpaying  
25 employer and (2) a reimbursable account for each nonprofit or  
26 government employer that has elected under section 268.052 or  
27 268.053 to be liable for reimbursements ~~if-that-employer-has~~  
28 ~~employees-in-covered-employment-in-the-current-or-the-prior~~  
29 ~~calendar-year,~~ except as provided in this section 268.046. The  
30 commissioner shall assess the tax account ~~of-a-taxpaying~~  
31 ~~employer~~ for all the taxes due under section 268.051 and credit  
32 the tax account with all taxes paid. The commissioner shall  
33 charge the reimbursable account ~~of-a-nonprofit-or-government~~  
34 ~~employer-that-elects-to-make-reimbursements~~ for any unemployment  
35 benefits determined chargeable ~~to-the-employer~~ under section  
36 268.047 and shall credit the reimbursable account with the

1 payments made.

2 Sec. 5. [268.046] [TAX AND REIMBURSABLE ACCOUNTS ASSIGNED  
3 TO EMPLOYEE LEASING COMPANIES, PROFESSIONAL EMPLOYER  
4 ORGANIZATIONS, OR SIMILAR PERSON.]

5 Subdivision 1. [TAX ACCOUNTS ASSIGNED.] (a) Any person  
6 that contracts with a taxpaying employer to have that person  
7 obtain the taxpaying employer's workforce and provide workers to  
8 the taxpaying employer for a fee shall, as of the effective date  
9 of the contract, be assigned for the duration of the contract  
10 the taxpaying employer's account under section 268.045. That  
11 tax account must be maintained by the person separate and  
12 distinct from every other tax account held by the person and  
13 identified in a manner prescribed by the commissioner. The tax  
14 account shall, for the duration of the contract, be considered  
15 that person's account for all purposes of this chapter. The  
16 workers obtained from the taxpaying employer and any other  
17 workers provided by that person to the taxpaying employer must,  
18 under section 268.044, be reported on the wage detail report  
19 under that tax account, and that person shall pay any taxes due  
20 at the tax rate computed for that account under section 268.051,  
21 subdivision 2.

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

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

36 (d) A person that contracts with a taxpaying employer under

1 paragraph (a) must, within 30 calendar days of the execution or  
2 termination of a contract, notify the commissioner by electronic  
3 transmission, in a format prescribed by the commissioner, of  
4 that execution or termination. The taxpaying employer's name,  
5 the account number assigned, and any other information required  
6 by the commissioner must be provided by that person.

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

13 Subd. 2. [NONPROFIT AND GOVERNMENT REIMBURSABLE ACCOUNTS  
14 ASSIGNED.] (a) Any person that contracts with a nonprofit or  
15 government employer that is a reimbursing employer to have that  
16 person obtain the nonprofit or government employer's workforce  
17 and provide workers to the nonprofit or government employer for  
18 a fee, shall, as of the effective date of the contract, be  
19 assigned for the duration of the contract the nonprofit or  
20 government employer's account under section 268.045. That  
21 reimbursable account must be maintained by the person separate  
22 and distinct from every other account held by the person and  
23 identified in a manner prescribed by the commissioner. That  
24 reimbursable account shall, for the duration of the contract, be  
25 considered that person's account for all purposes of this  
26 chapter. The workers obtained from the nonprofit or government  
27 employer and any other workers provided by that person to the  
28 nonprofit or government employer must, under section 268.044, be  
29 reported on the wage detail report under that reimbursable  
30 account, and that person shall pay any reimbursements due.

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

1 employer under this paragraph may be paid directly by the  
2 nonprofit or government employer.

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

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

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

4 Subd. 3. [PENALTIES; APPLICATION.] (a) Any person that  
25 violates the requirements of this section and any taxpaying  
26 employer that violates subdivision 1, paragraph (b), or any  
27 nonprofit or government employer that violates subdivision 2,  
28 paragraph (b), shall be subject to the penalties under section  
29 268.184, subdivision 1a. Penalties shall be credited to the  
30 administration account to be used to ensure integrity in the  
31 unemployment insurance program.

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

1 application of section 268.051, subdivision 4a.

2 (c) An assignment of an account upon the execution of a  
3 contract under this section and a termination of a contract with  
4 the corresponding assignment of the account shall not be  
5 considered a separation from employment of any worker covered by  
6 the contract. Nothing under this subdivision shall cause the  
7 person to be liable for any amounts past due under this chapter  
8 from the taxpaying employer or the nonprofit or government  
9 employer.

10 (d) This section applies to, but is not limited to, persons  
11 registered under section 79.255, but does not apply to persons  
12 that obtain an exemption from registration under section 79.255,  
13 subdivision 9.

14 [EFFECTIVE DATE.] This section applies to all contracts  
15 executed on and after January 1, 2006."

16 Page 8, delete lines 7 and 8

17 Page 9, line 32, strike "FIRMS" and insert "COMPANY,  
18 PROFESSIONAL EMPLOYER ORGANIZATION, OR SIMILAR PERSON"

19 Page 9, line 34, strike "firms" and insert "company,  
20 professional employer organization, or similar person"

21 Page 10, line 2, strike "firm" and insert "company,  
22 professional employer organization, or similar person"

23 Page 11, line 30, delete "268.0436" and insert "268.046"

4 Page 11, line 32, delete "268.0436" and insert "268.046"

25 Page 12, after line 21, insert:

26 "[EFFECTIVE DATE.] This section is effective August 1,  
27 2005, and applies to crimes committed on or after that date."

28 Page 12, after line 25, insert:

29 "Sec. 15. [RELATION TO FEDERAL LAW.]

30 This article is enacted to meet the requirements of the  
31 Federal SUTA Dumping Prevention Act of 2004, Public Law 108-295,  
32 amending United States Code, title 42, section 503, and shall be  
33 construed, interpreted, and applied consistent with the  
34 requirements of that federal law, including its definitions."

35 Page 15, after line 20, insert:

36 "An employee leasing company, professional employer

1 organization, or similar person, that has been assigned a tax or  
2 reimbursable account under section 268.046 is an employer for  
3 purposes of this chapter."

4 Page 25, after line 30, insert:

5 "Sec. 14. Minnesota Statutes 2004, section 268.057,  
6 subdivision 7, is amended to read:

7 Subd. 7. [CREDIT ADJUSTMENTS, REFUNDS.] (a) If an employer  
8 makes an application for a credit adjustment of any amount paid  
9 under this chapter or section 116L.20 within four years of  
10 the year date that the payment was made due, in a manner and  
11 format prescribed by the commissioner, and the commissioner  
12 determines that the payment or any portion was erroneous, the  
13 commissioner shall make an adjustment and issue a credit without  
14 interest. If a credit cannot be used, the commissioner shall  
15 refund, without interest, the amount erroneously paid. The  
16 commissioner, on the commissioner's own motion, may make a  
17 credit adjustment or refund under this subdivision.

18 Any refund returned to the commissioner shall be considered  
19 unclaimed property under chapter 345.

20 (b) If a credit adjustment or refund is denied in whole or  
21 in part, a notice of denial shall be sent to the employer by  
22 mail or electronic transmission. Within 30 calendar days after  
23 sending of the notice of denial, the employer may protest.

24 Upon receipt of a timely protest, the commissioner shall  
25 review the denial and either affirm the denial or redetermine  
26 the credit adjustment or refund. The affirmation of denial or  
27 redetermination of the credit adjustment or refund, sent by mail  
28 or electronic transmission, shall be final unless an employer  
29 files an appeal within 30 calendar days after sending.

30 Proceedings on the appeal shall be conducted in accordance with  
31 section 268.105."

32 Pages 40 to 48, delete section 32 and insert:

33 "Sec. 33. Minnesota Statutes 2004, section 268.105, is  
34 amended to read:

35 268.105 [APPEALS.]

36 Subdivision 1. [EVIDENTIARY HEARING BY AN UNEMPLOYMENT LAW

1 JUDGE.] (a) Upon a timely appeal having been filed, the  
2 department shall send, by mail or electronic transmission, a  
3 notice of appeal to all involved parties that an appeal has been  
4 filed, that a de novo due process evidentiary hearing will be  
5 scheduled, and that the parties have certain rights and  
6 responsibilities regarding the hearing. The department shall  
7 set a time and place for a de novo due process evidentiary  
8 hearing and send notice to any involved applicant and any  
9 involved employer, by mail or electronic transmission, not less  
10 than ten calendar days prior to the date of the hearing.

11 (b) The evidentiary hearing shall be conducted by an  
12 unemployment law judge without regard to any common law burden  
13 of proof as an evidence gathering inquiry and not an adversarial  
14 proceeding. The unemployment law judge shall ensure that all  
15 relevant facts are clearly and fully developed. The department  
16 shall adopt rules on evidentiary hearings. The rules need not  
17 conform to common law or statutory rules of evidence and other  
18 technical rules of procedure. The department shall have  
19 discretion regarding the method by which the evidentiary hearing  
20 is conducted. A report of any employee of the department,  
21 except a determination, made in the regular course of the  
22 employee's duties, shall be competent evidence of the facts  
23 contained in it.

24 (c) After the conclusion of the hearing, upon the evidence  
25 obtained, the unemployment law judge shall make findings of fact  
26 and decision and send those, by mail or electronic transmission,  
27 to all involved parties. When the credibility of an involved  
28 party or witness testifying in an evidentiary hearing has a  
29 significant effect on the outcome of a decision, the  
30 unemployment law judge must set out the reason for crediting or  
31 discrediting that testimony. The unemployment law judge's  
32 decision is the final department-decision unless a further  
33 appeal request for reconsideration is filed pursuant to  
34 subdivision 2.

35 (d) Only employees of the department who are attorneys  
36 shall serve as unemployment law judges. A-senior-unemployment



1 review-judge The commissioner may personally hear or transfer to  
2 another unemployment law judge any proceedings pending before an  
3 unemployment law judge. Any proceedings removed to a senior  
4 unemployment review judge shall be heard in accordance with this  
5 subdivision.

6 Subd. 2. ~~{DE-NOVO-REVIEW-BY-A-SENIOR-UNEMPLOYMENT-REVIEW~~  
7 ~~JUDGE.}~~ (a) Except as provided under subdivision 2a, any  
8 involved applicant or involved employer may appeal a decision of  
9 an unemployment law judge and obtain a de novo review by a  
10 senior unemployment review judge by filing with a senior  
11 unemployment review judge an appeal within 30 calendar days  
12 after the sending of the unemployment law judge's decision. -- A  
13 senior unemployment review judge within the same period of time  
14 may, on a senior unemployment review judge's own motion, order a  
15 de novo review of any decision of an unemployment law judge.

16 (b) A senior unemployment review judge shall be an attorney  
17 who is an employee of the department.

18 (c) Upon de novo review, a senior unemployment review judge  
19 shall, on the basis of that evidence submitted at the  
20 evidentiary hearing under subdivision 1, make findings of fact  
21 and decision, or remand the matter back to an unemployment law  
22 judge for the taking of additional evidence and the making of  
23 new findings and decision based on all the evidence. -- A senior  
24 unemployment review judge shall, independent of the findings of  
25 fact and decision of the unemployment law judge, examine the  
26 evidence and make those findings of fact as the evidence, in the  
27 judgment of the senior unemployment review judge require, and  
28 make that decision as the facts found by the senior unemployment  
29 review judge require.

30 (d) A senior unemployment review judge may conduct a de  
31 novo review without argument by any involved party, or a senior  
32 unemployment review judge may allow written argument. -- A senior  
33 unemployment review judge shall not, except for purposes of  
34 deciding whether to remand a matter to an unemployment law judge  
35 for a further evidentiary hearing, consider any evidence that  
36 was not submitted at the hearing before the unemployment law

1 judge.

2 ~~(e)-The-senior-unemployment-review-judge-shall-send,by~~  
3 ~~mail-or-electronic-transmission,-to-any-involved-party-the~~  
4 ~~senior-unemployment-review-judge's-findings-of-fact-and~~  
5 ~~decision.--The-decision-of-the-senior-unemployment-review-judge~~  
6 ~~is-the-final-decision-of-the-department.--Unless-judicial-review~~  
7 ~~is-sought-under-subdivision-7,-the-decision-of-the-senior~~  
8 ~~unemployment-review-judge-shall-become-final-30-calendar-days~~  
9 ~~after-sending.~~

10 ~~Subd.-2a.--{ORDERS-BY-A-SENIOR-UNEMPLOYMENT-REVIEW-JUDGE-}~~  
11 ~~(a)-If-an-applicant-or-employer-files-an-appeal-in-a-matter~~  
12 ~~where-an-unemployment-law-judge-affirmed-a-determination-issued~~  
13 ~~under-section-268.101,-and-there-is-no-dispute-regarding-the~~  
14 ~~determinative-facts,-a-senior-unemployment-review-judge-shall~~  
15 ~~have-the-discretion-to-decline-to-conduct-a-de-novo-review.--If~~  
16 ~~de-novo-review-is-declined,-the-senior-unemployment-review-judge~~  
17 ~~shall-issue-an-order-adopting-the-unemployment-law-judge's~~  
18 ~~findings-of-fact-and-decision.~~

19 ~~(b)-If-an-involved-party-fails,-without-good-cause,-to~~  
20 ~~appear-and-participate-at-the-evidentiary-hearing-conducted-by~~  
21 ~~an-unemployment-law-judge-under-subdivision-1,-and-that-party~~  
22 ~~files-an-appeal,-a-senior-unemployment-review-judge-shall-have~~  
23 ~~the-discretion-to-decline-to-conduct-a-de-novo-review.--If-de~~  
24 ~~novo-review-is-declined,-the-senior-unemployment-review-judge~~  
25 ~~shall-issue-an-order-dismissing-the-appeal.~~

26 ~~Submission-of-a-written-statement-shall-not-constitute-an~~  
27 ~~appearance-and-participation-at-an-evidentiary-hearing-for~~  
28 ~~purposes-of-this-paragraph.~~

29 ~~All-involved-parties-must-be-notified-of-this-paragraph~~  
30 ~~with-the-notice-of-appeal-and-notice-of-hearing-provided-for~~  
31 ~~under-subdivision-1.--The-senior-unemployment-review-judge-shall~~  
32 ~~allow-for-the-submission-of-a-written-argument-on-the-issue-of~~  
33 ~~good-cause-before-dismissing-an-appeal-under-this-paragraph.~~

34 ~~"Good-cause"-for-purposes-of-this-paragraph-is-a-compelling~~  
35 ~~reason-that-would-have-prevented-a-reasonable-person-acting-with~~  
36 ~~due-diligence-from-appearing-and-participating-at-the~~

1 evidentiary-hearing-

2 ~~(e)-The-senior-unemployment-review-judge-shall-send-to-any~~  
3 ~~involved-party-the-order-issued-under-this-subdivision---The~~  
4 ~~order-may-be-sent-by-mail-or-electronic-transmission---Unless~~  
5 ~~judicial-review-is-sought-under-subdivision-7,-the-order-of-a~~  
6 ~~senior-unemployment-review-judge-becomes-final-30-calendar-days~~  
7 ~~after-sending.~~ [REQUEST FOR RECONSIDERATION.] (a) Any involved  
8 applicant, involved employer, or the commissioner may, within 30  
9 calendar days of the sending of the unemployment law judge's  
10 decision under subdivision 1, file a request for reconsideration  
11 asking the unemployment law judge to reconsider that decision.  
12 Section 268.103 shall apply to a request for reconsideration.  
13 If a request for reconsideration is timely filed, the  
14 unemployment law judge shall issue an order:

15 (1) modifying the findings of fact and decision issued  
16 under subdivision 1;

17 (2) setting aside the findings of fact and decision issued  
18 under subdivision 1 and directing that an additional evidentiary  
19 hearing be conducted under subdivision 1; or

20 (3) affirming the findings of fact and decision issued  
21 under subdivision 1.

22 (b) Upon a timely request for reconsideration having been  
23 filed, the department shall send a notice, by mail or electronic  
24 transmission, to all involved parties that a request for  
25 reconsideration has been filed. The notice shall inform the  
26 involved parties:

27 (1) of the opportunity to provide comment on the request  
28 for reconsideration, and the right under subdivision 5 to obtain  
29 a copy of any recorded testimony and exhibits offered or  
30 received into evidence at the evidentiary hearing;

31 (2) that providing specific comments as to a perceived  
32 factual or legal error in the decision, or a perceived error in  
33 procedure during the evidentiary hearing, will assist the  
34 unemployment law judge in deciding the request for  
35 reconsideration;

36 (3) of the right to obtain any comments and submissions

1 provided by the other involved party regarding the request for  
2 reconsideration; and

3 (4) of the provisions of paragraph (c) regarding additional  
4 evidence.

5 This paragraph shall not apply if paragraph (d) is applicable.

6 (c) In deciding a request for reconsideration, the  
7 unemployment law judge shall not, except for purposes of  
8 determining whether to order an additional evidentiary hearing,  
9 consider any evidence that was not submitted at the evidentiary  
10 hearing conducted under subdivision 1.

11 The unemployment law judge must order an additional  
12 evidentiary hearing if an involved party shows that evidence  
13 which was not submitted at the evidentiary hearing: (1) would  
14 likely change the outcome of the decision and there was good  
15 cause for not having previously submitted that evidence; or (2)  
16 would show that the evidence that was submitted at the  
17 evidentiary hearing was likely false and that the likely false  
18 evidence had an effect on the outcome of the decision.

19 (d) If the involved applicant or involved employer who  
20 filed the request for reconsideration failed to participate in  
21 the evidentiary hearing conducted under subdivision 1, an order  
22 setting aside the findings of fact and decision and directing  
23 that an additional evidentiary hearing be conducted must be  
4 issued if the party who failed to participate had good cause for  
25 failing to do so. In the notice of the request for  
26 reconsideration, the party who failed to participate shall be  
27 informed of the requirement, and provided the opportunity, to  
28 show good cause for failing to participate. If the unemployment  
29 law judge determines that good cause for failure to participate  
30 has not been shown, the unemployment law judge must state that  
31 in the order issued under paragraph (a).

32 Submission of a written statement at the evidentiary  
33 hearing under subdivision 1 shall not constitute participation  
34 for purposes of this paragraph.

35 All involved parties must be informed of this paragraph  
36 with the notice of appeal and notice of hearing provided for in

1 subdivision 1.

2 "Good cause" for purposes of this paragraph is a reason  
3 that would have prevented a reasonable person acting with due  
4 diligence from participating at the evidentiary hearing.

5 (e) A request for reconsideration shall be decided by the  
6 unemployment law judge who issued the findings of fact and  
7 decision under subdivision 1 unless that unemployment law  
8 judge: (1) is no longer employed by the department; (2) is on  
9 an extended or indefinite leave; (3) has been disqualified from  
10 the proceedings on the judge's own motion; or (4) has been  
11 removed from the proceedings as provided for under subdivision 1  
12 or applicable rule.

13 (f) The unemployment law judge shall send to any involved  
14 applicant or involved employer, by mail or electronic  
15 transmission, the order issued under this subdivision. An order  
16 modifying the previously issued findings of fact and decision or  
17 an order affirming the previously issued findings of fact and  
18 decision shall be the final department decision on the matter  
19 and shall be final and binding on the involved applicant and  
20 involved employer unless judicial review is sought under  
21 subdivision 7.

22 Subd. 3. [WITHDRAWAL OF APPEAL.] (a) Any appeal that is  
23 pending before an unemployment law judge ~~or-a-senior~~  
24 ~~unemployment-review-judge~~ may be withdrawn by the appealing  
25 person, or an authorized representative of that person, upon  
26 filing of a notice of withdrawal.

27 (b) The appeal shall, by order, be dismissed if a notice of  
28 withdrawal is filed, unless an unemployment law judge ~~or-a~~  
29 ~~senior-unemployment-review-judge, by order,~~ directs that further  
30 adjudication is required for a proper result.

31 (c) A notice of withdrawal may be filed by mail or by  
32 electronic transmission.

33 Subd. 3a. [DECISIONS.] (a) If an unemployment law judge's  
34 decision ~~or-a-senior-unemployment-review-judge's-decision~~ or  
35 order allows unemployment benefits to an applicant, the  
36 unemployment benefits shall be paid regardless of any appeal

1 period request for reconsideration or any appeal to the  
2 Minnesota Court of Appeals having been filed.

3 (b) If an unemployment law judge's decision or order  
4 modifies or reverses a determination, or prior decision of the  
5 unemployment law judge, allowing unemployment benefits to an  
6 applicant, any benefits paid pursuant to the determination, or  
7 prior decision of the unemployment law judge, is considered an  
8 overpayment of those unemployment benefits under section 268.18,  
9 subdivision 1.

10 ~~(c) If a senior unemployment review judge's decision~~  
11 ~~modifies or reverses an unemployment law judge's decision~~  
12 ~~allowing unemployment benefits to an applicant, any unemployment~~  
13 ~~benefits paid pursuant to the unemployment law judge's decision~~  
14 ~~is considered an overpayment of those unemployment benefits~~  
15 ~~under section 268.18, subdivision 1.~~

16 ~~(d) If a senior unemployment review judge affirms an~~  
17 ~~unemployment law judge's decision on an issue of~~  
18 ~~disqualification that~~ order under subdivision 2 allows  
19 unemployment benefits to an applicant under section 268.095  
20 because of a quit or discharge and the senior unemployment  
21 review law judge's decision ~~or order~~ is reversed by the  
22 Minnesota Court of Appeals or the Supreme Court of  
23 Minnesota, any unemployment benefits paid the applicant shall  
24 not be ~~disqualified from~~ considered an overpayment of those  
25 unemployment benefits under section 268.095 268.18,  
26 subdivision ~~10~~ 1.

27 ~~(e)~~ (d) If a senior an unemployment review law judge,  
28 pursuant to subdivision 2, ~~remands a matter to an unemployment~~  
29 ~~law judge for~~ orders the taking of additional evidence,  
30 the ~~prior~~ unemployment law judge's prior decision shall continue  
31 to be enforced until new findings of fact and decision are made  
32 by an the unemployment law judge.

33 Subd. 4. [TESTIMONIAL POWERS.] An unemployment law  
34 judge ~~and a senior unemployment review judge~~ may administer  
35 oaths and affirmations, take depositions, and issue subpoenas to  
36 compel the attendance of witnesses and the production of

1 documents and other personal property considered necessary as  
2 evidence in connection with the subject matter of an evidentiary  
3 hearing. The subpoenas shall be enforceable through the  
4 district court in the district that the subpoena is issued.  
5 Witnesses subpoenaed, other than an involved applicant or  
6 involved employer or officers and employees of an involved  
7 employer, shall be paid by the department the same witness fees  
8 as in a civil action in district court.

9 Subd. 5. [USE OF EVIDENCE; DATA PRIVACY.] (a) All  
10 testimony at any evidentiary hearing conducted pursuant to  
11 subdivision 1 shall be recorded. A copy of any recorded  
12 testimony and exhibits offered or received into evidence at the  
13 hearing shall, upon request, ~~or-upon-directive-of-a-senior~~  
14 ~~unemployment-review-judge,~~ be furnished to a party at no cost  
15 during the time period for filing ~~an-appeal-to-a-senior~~  
16 ~~unemployment-review-judge~~ a request for reconsideration or while  
17 ~~such-an-appeal~~ a request for reconsideration is pending. If  
18 ~~requested,-the-department-shall-make-available-a-device-for~~  
19 ~~listening-to-the-recording-if-an-appeal-is-pending-before-a~~  
20 ~~senior-unemployment-review-judge-under-subdivision-2-~~

21 (b) Regardless of any provision of law to the contrary, if  
22 recorded testimony and exhibits received into evidence at the  
23 evidentiary hearing are not requested during the time period for  
24 filing ~~an-appeal-to-a-senior-unemployment-review-judge~~ a request  
25 for reconsideration, or while ~~such-an-appeal~~ a request for  
26 reconsideration is pending, that testimony and other evidence  
27 shall later be made available ~~to-an-involved-party~~ only pursuant  
28 to a district court order. A subpoena shall not be considered a  
29 district court order.

30 (c) Testimony obtained under subdivision 1, may not be used  
31 or considered for any purpose, including impeachment, in any  
32 civil, administrative, or contractual proceeding, except by a  
33 local, state, or federal human rights agency with enforcement  
34 powers, unless the proceeding is initiated by the department.

35 Subd. 5a. [NO COLLATERAL ESTOPPEL.] No findings of fact or  
36 decision or order issued by an unemployment law judge ~~or-a~~

1 ~~senior-unemployment-review-judge~~ may be held conclusive or  
2 binding or used as evidence in any separate or subsequent action  
3 in any other forum, be it contractual, administrative, or  
4 judicial, except proceedings provided for under this chapter,  
5 regardless of whether the action involves the same or related  
6 parties or involves the same facts.

7 Subd. 6. [REPRESENTATION; FEES.] (a) In any proceeding  
8 under subdivision 1, ~~or 2~~-~~or-2a~~, an applicant or involved  
9 employer may be represented by any agent.

10 (b) Except for services provided by an attorney-at-law, an  
11 applicant shall not be charged fees, costs, or disbursements of  
12 any kind in a proceeding before an unemployment law judge, a  
13 ~~senior-unemployment-review-judge~~, the Minnesota Court of  
14 Appeals, or the Supreme Court of Minnesota.

15 Subd. 7. [JUDICIAL REVIEW.] (a) The Minnesota Court of  
16 Appeals shall, by writ of certiorari to the department, review  
17 the ~~senior~~ unemployment review law judge's decision under  
18 ~~subdivision-2-or-order-under-subdivision-2a~~, provided a petition  
19 for the writ is filed with the court and a copy is served upon  
20 the ~~senior~~ unemployment review law judge or the commissioner and  
21 any other involved party within 30 calendar days of the sending  
22 of the ~~senior~~ unemployment review law judge's decision-under  
23 ~~subdivision-2-or~~ order under subdivision 2a 2.

4 (b) Any employer petitioning for a writ of certiorari shall  
25 pay to the court the required filing fee and upon the service of  
26 the writ shall furnish a cost bond to the department in  
27 accordance with the Rules of Civil Appellate Procedure. If the  
28 employer requests a written transcript of the testimony received  
29 at the evidentiary hearing conducted pursuant to subdivision 1,  
30 the employer shall pay to the department the cost of preparing  
31 the transcript. That money shall be credited to the  
32 administration account.

33 (c) Upon issuance by the Minnesota Court of Appeals of a  
34 writ of certiorari as a result of an applicant's petition, the  
35 department shall furnish to the applicant at no cost a written  
36 transcript of any testimony received at the evidentiary hearing



1 conducted pursuant to subdivision 1, and, if requested, a copy  
2 of all exhibits entered into evidence. No filing fee or cost  
3 bond shall be required of an applicant petitioning the Minnesota  
4 Court of Appeals for a writ of certiorari.

5 (d) The Minnesota Court of Appeals may affirm the decision  
6 of the unemployment law judge or remand the case for further  
7 proceedings; or it may reverse or modify the decision if the  
8 substantial rights of the petitioner may have been prejudiced  
9 because the findings, inferences, conclusion, or decision are:

- 10 (1) in violation of constitutional provisions;
- 11 (2) in excess of the statutory authority or jurisdiction of  
12 the department;
- 13 (3) made upon unlawful procedure;
- 14 (4) affected by other error of law;
- 15 (5) unsupported by substantial evidence in view of the  
16 entire record as submitted; or
- 17 (6) arbitrary or capricious.

18 (e) The department shall be considered the primary  
19 responding party to any judicial action involving a-senior an  
20 unemployment review law judge's decision or-order. The  
21 department may be represented by an attorney who is an employee  
22 of the department.

23 [EFFECTIVE DATE.] This section applies to unemployment law  
24 judge decisions issued on or after 30 days following final  
25 enactment of this act."

26 Page 53, line 29, delete "38" and insert "31, 33 to 38,"

27 Renumber the sections in sequence

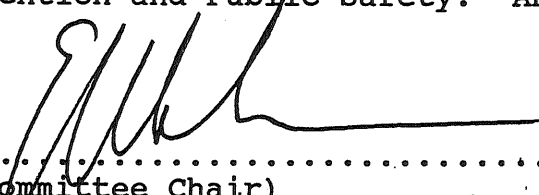
28 Amend the title as follows:

29 Page 1, line 7, after "subdivisions" insert "1," and after  
30 "3;" insert "268.045, subdivision 1;"

31 Page 1, line 10, after "1;" insert "268.057, subdivision 7;"

32 And when so amended the bill do pass and be re-referred to  
33 the Committee on Crime Prevention and Public Safety. Amendments  
34 adopted. Report adopted.

35  
36  
37  
38

  
 .....  
 (Committee Chair)  
 March 14, 2005.....  
 (Date of Committee recommendation)

Senators Anderson, Senjem, Bakk, Rosen and Frederickson introduced--  
S.F. No. 944: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

1  
2 relating to unemployment insurance; conforming various  
3 provisions to federal requirements; making technical  
4 and housekeeping changes; amending Minnesota Statutes  
5 2004, sections 268.03, subdivision 1; 268.035,  
6 subdivisions 9, 13, 14, 20, 21, 26; 268.042,  
7 subdivision 1; 268.043; 268.044, subdivisions 2, 3;  
8 268.051, subdivisions 1, 4, 6, 7, by adding a  
9 subdivision; 268.052, subdivision 2; 268.053,  
10 subdivision 1; 268.065, subdivision 2; 268.069,  
11 subdivision 1; 268.07, subdivision 3b; 268.085,  
12 subdivisions 1, 2, 3, 5, 12; 268.086, subdivisions 2,  
13 3; 268.095, subdivisions 1, 4, 7, 8, 10, 11; 268.101,  
14 subdivisions 1, 3a; 268.103, subdivision 2; 268.105;  
15 268.145, subdivision 1; 268.18, subdivisions 1, 2, 2b;  
16 268.182, subdivision 2; 268.184, subdivisions 1, 2, by  
17 adding a subdivision; proposing coding for new law in  
18 Minnesota Statutes, chapter 268; repealing Minnesota  
19 Statutes 2004, sections 268.045, subdivisions 2, 3, 4;  
20 268.086, subdivision 4; Laws 1997, chapter 66, section  
21 64, subdivision 1; Minnesota Rules, parts 3310.2926;  
22 3310.5000; 3315.0910, subpart 9; 3315.1020; 3315.1301;  
23 3315.1315, subparts 1, 2, 3; 3315.1650; 3315.2210;  
24 3315.3210; 3315.3220.

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

26 ARTICLE 1

27 FEDERAL CONFORMITY PROVISIONS

28 Section 1. [268.0435] [REPORTING REQUIREMENTS OF LEASED  
29 WORKERS.]

30 (a) A taxpaying employer that contracts with a person to  
31 have that person obtain all or part of the taxpaying employer's  
32 workforce and provide workers to the taxpaying employer for a  
33 fee must report the workers on the taxpaying employer's wage  
34 detail report under section 268.044. A taxpaying employer that  
35 violates this paragraph is subject to the penalties under

1 section 268.184, subdivision 1a. Penalties shall be credited to  
2 the administration account to be used to ensure integrity in the  
3 unemployment insurance program.

4 (b) Any person who contracts with a taxpaying employer to  
5 obtain all or part of the taxpaying employer's workforce and  
6 provides workers to the taxpaying employer for a fee must not  
7 report the workers on its own wage detail report under section  
8 268.044. Any person who violates this paragraph is subject to  
9 the penalties under section 268.184, subdivision 1a. Penalties  
10 shall be credited to the administration account to be used to  
11 ensure integrity in the unemployment insurance program.

12 (c) Any contract or agreement subject to paragraphs (a) and  
13 (b) must specifically set out the taxpaying employer's  
14 obligation under paragraph (a). If a contract or agreement  
15 fails to specifically set out the taxpaying employer's  
16 obligation under paragraph (a), and the taxpaying employer fails  
17 to report the workers under section 268.044, the person the  
18 taxpaying employer contracts with shall be subject to the  
19 penalties under section 268.184, subdivision 1a. Penalties  
20 shall be credited to the administration account to be used to  
21 ensure integrity in the unemployment insurance program.

22 (d) This section applies to, but is not limited to, persons  
23 registered under section 79.255, but does not apply to persons  
24 that obtain an exemption from registration under section 79.255,  
25 subdivision 9.

26 [EFFECTIVE DATE.] This section is effective January 1, 2006.

27 Sec. 2. [268.0436] [SINGLE MEMBER LIMITED LIABILITY  
28 COMPANIES.]

29 If the only member of a limited liability company is a  
30 corporation, and the limited liability company is disregarded  
31 for purposes of filing federal corporate income tax, all the  
32 workers performing services for the limited liability company  
33 must be reported on the corporation's wage detail report under  
34 section 268.044. A corporation that violates this section shall  
35 be subject to the penalties under section 268.184, subdivision  
36 1a. Penalties shall be credited to the administration account

1 to be used to ensure integrity in the unemployment insurance  
2 program.

3 [EFFECTIVE DATE.] This section is effective for wage detail  
4 reports for the calendar quarter starting January 1, 2006.

5 Sec. 3. Minnesota Statutes 2004, section 268.044,  
6 subdivision 3, is amended to read:

7 Subd. 3. [MISSING OR ERRONEOUS INFORMATION.] (a) Any  
8 employer who that submits the wage detail report, but fails to  
9 include any all employee information or enters erroneous  
10 information, shall be subject to an administrative service fee  
11 of \$25 for each employee for whom the information is partially  
12 missing or erroneous.

13 (b) Any employer that submits the wage detail report, but  
14 fails to include an employee, shall be subject to an  
15 administrative service penalty equal to two percent of the total  
16 wages for each employee for whom the information is completely  
17 missing.

18 (c) An administrative service fee may-be-compromised-under  
19 section-268-067 or penalty under this subdivision shall be  
20 cancelled if the commissioner determines that the failure or  
21 error by the employer was-inadvertent occurred because of  
22 ignorance or inadvertence.

23 Sec. 4. Minnesota Statutes 2004, section 268.051,  
24 subdivision 1, is amended to read:

25 Subdivision 1. [PAYMENTS.] (a) Unemployment insurance  
26 taxes and any additional assessments, fees, or surcharges shall  
27 accrue and become payable by each employer for each calendar  
28 year on the taxable wages that the employer paid to employees in  
29 covered employment, except for:

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

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

35 Except as allowed under section 268.0511, each employer  
36 shall pay taxes quarterly, at the employer's assigned tax

1 rate under subdivision 6, on the taxable wages paid to each  
 2 employee. The commissioner shall compute the tax due from the  
 3 wage detail report required under section 268.044 and notify the  
 4 employer of the tax due. The taxes and any additional  
 5 assessments, fees, or surcharges shall be paid to the trust fund  
 6 and must be received by the department on or before the last day  
 7 of the month following the end of the calendar quarter.

8 (b) The tax amount computed, if not a whole dollar, shall  
 9 be rounded down to the next lower whole dollar.

10 (c) If for any reason the wages on the wage detail report  
 11 under section 268.044 are adjusted for any quarter, the  
 12 commissioner shall recompute the taxes due for that quarter and  
 13 assess the employer for any amount due or credit the employer as  
 14 appropriate.

15 Sec. 5. Minnesota Statutes 2004, section 268.051,  
 16 subdivision 4, is amended to read:

17 Subd. 4. [EXPERIENCE RATING HISTORY TRANSFER.] (a) When:

18 (1) a taxpaying employer acquires all of the organization,  
 19 trade or business, or substantially-all-the-assets workforce of  
 20 another taxpaying employer; and

21 (2) there is 25 percent or more common ownership~~7-directly~~  
 22 ~~or-indirectly~~, or there is substantially common management or  
 23 control between the predecessor and successor, the experience  
 24 rating history of the predecessor employer shall be transferred  
 25 as of the date of acquisition to the successor employer ~~for-the~~  
 26 ~~purpose-of-computing-a-tax-rate.~~

27 (b) ~~When-a-taxpaying-employer-acquires-a-distinct-severable~~  
 28 ~~portion-of-the-organization7-trade7-business7-or-assets-that-is~~  
 29 ~~less-than-substantially-all-of-the-employing-enterprises-of~~  
 30 ~~another-employer7-and-there-is-25-percent-or-more-common~~  
 31 ~~ownership7-directly-or-indirectly7-between-the-predecessor-and~~  
 32 ~~successor7-the-successor-employer-shall-acquire-that-percentage~~  
 33 ~~of-a-predecessor's-experience-rating-equal-to-that-percentage-of~~  
 34 ~~the-predecessor's-employment-positions-it-has-obtained7-and-the~~  
 35 ~~predecessor-employer-shall-retain-that-percentage-of-the~~  
 36 ~~experience-rating-equal-to-that-percentage-of-the-employment~~

1 ~~positions that it has retained, if the successor files an~~  
2 ~~application by electronic transmission, in a format prescribed~~  
3 ~~by the commissioner, for the transfer of a percentage of the~~  
4 ~~experience rating of the predecessor within 180 calendar days~~  
5 ~~from the date of acquisition, that furnishes sufficient~~  
6 ~~information to substantiate the acquisition and to assign the~~  
7 ~~appropriate percentage of the experience rating. When:~~

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

11 (2) there is 25 percent or more common ownership or there  
12 is substantially common management or control between the  
13 predecessor and successor, the successor employer shall acquire,  
14 as of the date of acquisition, the experience rating history  
15 attributable to the portion it acquired, and the predecessor  
16 employer shall retain the experience rating history attributable  
17 to the portion that it has retained. If the commissioner  
18 determines that sufficient information is not available to  
19 substantiate that a distinct severable portion was acquired and  
20 to assign the appropriate distinct severable portion of the  
21 experience rating history, the commissioner shall assign the  
22 successor employer that percentage of the predecessor employer's  
23 experience rating history equal to that percentage of the  
24 employment positions it has obtained, and the predecessor  
25 employer shall retain that percentage of the experience rating  
26 history equal to the percentage of the employment positions it  
27 has retained.

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

32 (d) Each successor employer that is subject to paragraph  
33 (a) or (b) must notify the commissioner of the acquisition by  
34 electronic transmission, in a format prescribed by the  
35 commissioner, within 30 calendar days of the date of  
36 acquisition. Any successor employer that fails to notify the

1 commissioner is subject to the penalties under section 268.184,  
 2 subdivision 1a, if the successor's experience rating was lower  
 3 than the predecessor's experience rating at the time of the  
 4 acquisition. Penalties shall be credited to the administration  
 5 account to be used to ensure integrity in the unemployment  
 6 insurance program.

7 ~~(d)~~ (e) If the successor employer under paragraphs (a) and  
 8 (b) had an experience rating at the time of the acquisition, the  
 9 transferred experience rating history of the predecessor shall  
 10 be combined with the successor's experience rating history, as  
 11 of the date of acquisition, for purposes of  
 12 computing recomputing a tax rate.

13 ~~(e)~~ (f) If there has been a transfer of an experience  
 14 rating history under paragraph (a) or (b), employment with a  
 15 predecessor employer shall not be considered to have been  
 16 terminated if similar employment is offered by the successor  
 17 employer and accepted by the employee.

18 ~~(f)~~ (g) The commissioner, ~~upon-the-commissioner's-own~~  
 19 ~~motion-or~~ upon application notification of an employer, or upon  
 20 the commissioner's own motion if the employer fails to provide  
 21 the required notification, shall determine if an employer is a  
 22 successor within the meaning of this subdivision and ~~shall-send~~  
 23 ~~the-determination-to-the-employer-by-mail-or-electronic~~  
 24 ~~transmission. The-determination-shall-be-final-unless-a-protest~~  
 25 ~~is-filed-by-the-employer-within-30-calendar-days-after-sending~~  
 26 ~~the-determination.--Upon-receipt-of-a-protest, the-commissioner~~  
 27 ~~shall-review-all-available-evidence-and-determine-whether-an~~  
 28 ~~error-has-been-made.--The-commissioner-shall-either-affirm-or~~  
 29 ~~make-a-redetermination-on-whether-the-employer-is-a-successor~~  
 30 ~~within-the-meaning-of-this-subdivision-and-send-the-employer, by~~  
 31 ~~mail-or-electronic-transmission, the-affirmation-or~~  
 32 ~~redetermination.--The-affirmation-or-redetermination-shall-be~~  
 33 ~~final-unless-an-appeal-is-filed-by-the-employer-within-30~~  
 34 ~~calendar-days-after-the-sending-of-the-affirmation-or~~  
 35 ~~redetermination.--Proceedings-on-the-appeal-shall-be-conducted~~  
 36 ~~in-accordance-with-section-268.105.~~

1     ~~(g) The commissioner may, as the result of any~~  
2 ~~determination or decision regarding shall, after determining the~~  
3 ~~issue of succession or nonsuccession, recompute the tax~~  
4 ~~rate under subdivision 6 of all employers affected by the~~  
5 ~~determination or decision for any year, including the year of~~  
6 ~~the acquisition and subsequent years, that is affected by the~~  
7 ~~transfer or nontransfer of part or all of the experience~~  
8 ~~rating. This paragraph does not apply to rates that have become~~  
9 ~~final before the filing of an application for the transfer of a~~  
10 ~~severable portion of the experience rating under paragraph (b).~~  
11 The commissioner shall send the recomputed tax rate to all  
12 affected employers by mail or electronic transmission. Any  
13 affected employer may protest the recomputed tax rate in  
14 accordance with the procedures in subdivision 6, paragraph (c).

15     ~~(h) Should an employer not have been in operation long~~  
16 ~~enough to qualify for an experience rating under subdivision 3,~~  
17 ~~paragraph (a), The "experience rating history" for purposes of~~  
18 ~~this subdivision shall consist of and subdivision 4a means those~~  
19 ~~factors set out in subdivision 3, paragraph (b), that normally~~  
20 ~~make up an experience rating, without the 12-month minimum.~~

21     For purposes of this chapter, an "acquisition" means  
22 anything that results in the obtaining by the successor  
23 employer, in any way or manner, of the organization, trade or  
24 business, or workforce of the predecessor employer.

25     A "distinct severable portion" in paragraph (b) means a  
26 location or unit separately identifiable within the employer's  
27 wage detail report under section 268.044.

28     ~~(i) If the commissioner finds that a transaction was done,~~  
29 ~~in whole or in part, to avoid an experience rating or the~~  
30 ~~transfer of an experience rating, the commissioner may transfer~~  
31 ~~all or part of the experience rating regardless of the~~  
32 ~~requirements or limitations of paragraphs (a) and (b). This~~  
33 ~~shall include the transferring of employees from the payroll of~~  
34 ~~an employer with a higher experience rating to the payroll of an~~  
35 ~~employer with a lower experience rating.~~

36     ~~(j) Regardless of the ownership, management, or control~~



1 requirements of paragraph (a), if there is an acquisition or  
2 merger of a publicly held corporation by or with another  
3 publicly held corporation the experience ratings rating  
4 histories of the corporations shall be combined as of the date  
5 of acquisition or merger for the purpose of computing  
6 recomputing a tax rate.

7 (j) This subdivision does not apply to contracts covered  
8 under section 268.0435.

9 Sec. 6. Minnesota Statutes 2004, section 268.051, is  
10 amended by adding a subdivision to read:

11 Subd. 4a. [ACTIONS THAT AVOID TAXES.] (a) If the  
12 commissioner determines that any action was done, in whole or in  
13 part, to avoid:

14 (1) an experience rating history;

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

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

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

28 Sec. 7. Minnesota Statutes 2004, section 268.051,  
29 subdivision 6, is amended to read:

30 Subd. 6. [NOTICE OF TAX RATE.] (a) On or before each  
31 December 15, the commissioner shall notify each employer by mail  
32 or electronic transmission of the employer's tax rate, along  
33 with any additional assessments, fees, or surcharges, for the  
34 following calendar year. The notice shall contain the base tax  
35 rate and the factors used in determining the employer's  
36 experience rating. Unless a protest of the tax rate is made,

1 the computed tax rate shall be final, except for fraud or  
2 recomputation required under subdivision 4 or 4a, and shall be  
3 the rate at which taxes shall be paid. A recomputed tax rate  
4 under subdivision 4 or 4a shall be the rate applicable for the  
5 quarter that includes the date of acquisition and any quarter  
6 thereafter during the calendar year in which the acquisition  
7 occurred. The tax rate shall not be subject to collateral  
8 attack by way of claim for a credit adjustment or refund, or  
9 otherwise.

10 (b) If the legislature, subsequent to the sending of the  
11 tax rate, changes any of the factors used to determine the rate,  
12 ~~the-earlier-notice-shall-be-void.~~ A new tax rate based on the  
13 new factors shall be computed and sent to the employer.

14 (c) A review of an employer's tax rate may be obtained by  
15 the employer filing a protest within 30 calendar days from the  
16 date the tax rate notice was sent to the employer. Upon receipt  
17 of the protest, the commissioner shall review the tax rate to  
18 determine whether or not there has been any error in computation  
19 or assignment of the tax rate. The commissioner shall either  
20 affirm or make a redetermination of the rate and a notice of the  
21 affirmation or redetermination shall be sent to the employer by  
22 mail or electronic transmission. The affirmation or  
23 redetermination shall be final unless the employer files an  
24 appeal within 30 calendar days after the date the affirmation or  
25 redetermination was sent. Proceedings on the appeal shall be  
26 conducted in accordance with section 268.105.

27 (d) The commissioner may at any time upon the  
28 commissioner's own motion correct any error in the computation  
29 or the assignment of an employer's tax rate.

30 Sec. 8. Minnesota Statutes 2004, section 268.065,  
31 subdivision 2, is amended to read:

32 Subd. 2. [EMPLOYEE LEASING FIRMS.] (a) A person whose work  
33 force consists of 50 percent or more of workers provided  
34 originally recruited and hired by employee leasing firms and  
35 then provided to the person for a fee, is jointly and severally  
36 liable for the unpaid amounts that are due under this chapter or

1 section 116L.20 on the wages paid on the contract with the  
2 employee leasing firm. ~~"Employee-leasing-firm" means an~~  
3 ~~employer that provides its employees to other persons without~~  
4 ~~severing its employer-employee relationship with the worker for~~  
5 ~~the services performed for the lessee.~~

6 (b) This subdivision applies to, but is not limited to,  
7 persons registered under section 79.255, but does not apply to  
8 agreements with persons that obtain an exemption from  
9 registration under section 79.255, subdivision 9.

10 Sec. 9. Minnesota Statutes 2004, section 268.184,  
11 subdivision 1, is amended to read:

12 Subdivision 1. [ADMINISTRATIVE PENALTIES.] (a) If the  
13 commissioner finds that any employer or any employee, officer,  
14 or agent of any employer, is in collusion with any applicant for  
15 the purpose of assisting the applicant to receive unemployment  
16 benefits fraudulently, the employer shall be penalized \$500 or  
17 the amount of unemployment benefits determined to be overpaid,  
18 whichever is greater.

19 (b) If the commissioner finds that any employer or any  
20 employee, officer, or agent of an employer has made (1) a false  
21 statement or representation knowing it to be false, including  
22 reporting employees on a wage detail report under section  
23 268.044 knowing the employees actually are employed by a  
24 different employer, or (2) has made a false statement or  
25 representation without a good faith belief as to correctness of  
26 the statement or representation, or (3) who knowingly fails to  
27 disclose a material fact, to prevent or reduce the payment of  
28 unemployment benefits to any applicant or to reduce or avoid any  
29 payment required from an employer under this chapter or section  
30 116L.20, the employer shall be penalized \$500, or 50 percent of  
31 the reduced unemployment benefits or payment required, whichever  
32 is greater.

33 (c) If the commissioner finds that an employer failed or  
34 refused to honor a subpoena issued under section 268.105,  
35 subdivision 4, or section 268.188, the employer shall be  
36 penalized \$500 and any costs of enforcing the subpoena,

1 including attorney fees.

2 (d) Penalties under this section subdivision shall be in  
3 addition to any other penalties and subject to the same  
4 collection procedures that apply to past due taxes. Penalties  
5 shall be paid to the department within 30 calendar days of  
6 assessment and credited to the contingent account.

7 (e) The assessment of the penalty shall be final unless the  
8 employer files an appeal within 30 calendar days after the  
9 sending of notice of the penalty to the employer by mail or  
10 electronic transmission. Proceedings on the appeal shall be  
11 conducted in accordance with section 268.105.

12 Sec. 10. Minnesota Statutes 2004, section 268.184, is  
13 amended by adding a subdivision to read:

14 Subd. 1a. [NOTIFICATION AND MISREPORTING PENALTIES.] (a)  
15 If the commissioner finds that any employer or agent of an  
16 employer failed to meet the notification requirements of section  
17 268.051, subdivision 4, the employer shall be assessed a penalty  
18 of \$5,000 or two percent of the first full quarterly payroll  
19 acquired, whichever is higher. Payroll is wages paid as defined  
20 in section 268.035, subdivision 30. The penalty under this  
21 paragraph shall be canceled if the commissioner determines that  
22 the failure occurred because of ignorance or inadvertence.

23 (b) If the commissioner finds that any individual advised  
24 an employer to violate the employer's notification requirements  
25 under section 268.051, subdivision 4, the individual, and that  
26 individual's employer, shall each be assessed the penalty in  
27 paragraph (a).

28 (c) If the commissioner finds that any person or agent of a  
29 person violated the reporting requirements of section 268.0435  
30 or 268.0436, the person shall be assessed a penalty of \$5,000 or  
31 two percent of the quarterly payroll reported in violation of  
32 section 268.0435 or 268.0436, whichever is higher. Payroll is  
33 wages paid as defined in section 268.035, subdivision 30.

34 (d) Penalties under this subdivision shall be in addition  
35 to any other penalties and subject to the same collection  
36 procedures that apply to past due amounts from an employer.

1 Penalties must be paid within 30 calendar days after sending of  
 2 the notice of penalty.

3 (e) The assessment of a penalty shall be final unless the  
 4 person assessed files an appeal within 30 calendar days after  
 5 sending of the notice of the penalty by mail or electronic  
 6 transmission. Proceedings on the appeal shall be conducted in  
 7 accordance with section 268.105.

8 Sec. 11. Minnesota Statutes 2004, section 268.184,  
 9 subdivision 2, is amended to read:

10 Subd. 2. [CRIMINAL PENALTIES.] Any employer or any officer  
 11 or agent of an employer or any other individual who:

12 (1) makes a false statement or representation knowing it to  
 13 be false~~7-or-who~~;

14 (2) knowingly fails to disclose a material fact, including  
 15 notification required under section 268.051, subdivision 4; or

16 (3) knowingly advises or assists an employer in violating  
 17 clause (1) or (2), to avoid or reduce any payment required from  
 18 an employer under this chapter or section 116L.20, or to prevent  
 19 or reduce the payment of unemployment benefits to any applicant,  
 20 is guilty of a gross misdemeanor unless the underpayment exceeds  
 21 \$500, in that case the individual is guilty of a felony.

22 Sec. 12. [MANDATORY FEDERAL IMPLEMENTATION REQUIREMENT.]

23 The commissioner must implement systems and processes to  
 24 detect, investigate, and enforce section 268.051, subdivisions 4  
 25 and 4a.

26 Sec. 13. [REPEALER.]

27 (a) Minnesota Rules, parts 3315.1020, 3315.3210, and  
 28 3315.3220, are repealed.

29 (b) Minnesota Statutes 2004, section 268.045, subdivisions  
 30 2, 3, and 4, are repealed.

31 Sec. 14. [EFFECTIVE DATE.]

32 Except for the sections that include a separate effective  
 33 date, this article is effective July 1, 2005.

## 34 ARTICLE 2

### 35 HOUSEKEEPING PROVISIONS

36 Section 1. Minnesota Statutes 2004, section 268.03,

1 subdivision 1, is amended to read:

2 Subdivision 1. [STATEMENT.] The public purpose of sections  
3 ~~268-029-to-268-23~~ this chapter is: Economic insecurity due to  
4 involuntary unemployment of workers in Minnesota is a subject of  
5 general concern that requires appropriate action by the  
6 legislature. The public good will be promoted by providing  
7 workers who are unemployed through no fault of their own a  
8 temporary partial wage replacement to assist the unemployed  
9 worker to become reemployed. This program will be known as the  
10 "Minnesota unemployment insurance program."

11 Sec. 2. Minnesota Statutes 2004, section 268.035,  
12 subdivision 9, is amended to read:

13 Subd. 9. [CONSTRUCTION/INDEPENDENT CONTRACTOR.] A worker  
14 doing commercial or residential building construction or  
15 improvement, in the public or private sector, performing  
16 services in the course of the trade, business, profession, or  
17 occupation of the employer, shall be considered an employee and  
18 not an "independent contractor" unless the worker meets all the  
19 following conditions:

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

23 (2) holds or has applied for a federal employer  
24 identification number or has filed business or self-employment  
25 income tax returns with the federal Internal Revenue Service  
26 based on that work or service in the previous year;

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

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

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

36 (6) receives compensation for work or service performed

1 under a contract on a commission or per job or competitive bid  
2 basis and not on any other basis;

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

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

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

10 Sec. 3. Minnesota Statutes 2004, section 268.035,  
11 subdivision 13, is amended to read:

12 Subd. 13. [EMPLOYEE.] "Employee" means:

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

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

21 Sec. 4. Minnesota Statutes 2004, section 268.035,  
22 subdivision 14, is amended to read:

23 Subd. 14. [EMPLOYER.] "Employer" means any of-the  
24 following person which has had one or more employees during the  
25 current or the prior calendar year:

26 ~~{1}-any-individual-or-type-of-organization,-resident-or~~  
27 ~~nonresident,-for-profit-or-nonprofit,-religious,-charitable,-or~~  
28 ~~educational,-including-any-partnership,-limited-liability~~  
29 ~~company,-trust,-estate,-or-corporation,-domestic-or-foreign,-or~~  
30 ~~the-receiver,-trustee-in-bankruptcy,-trustee-or-successor-of-any~~  
31 ~~of-the-foregoing,-or-the-legal-representative-of-a-deceased~~  
32 ~~person;~~

33 ~~{2}-any-government-entity,-state-or-federal,-foreign-or~~  
34 ~~domestic,-Indian-tribe,-including-any-subdivision-thereof-and~~  
35 ~~any-instrumentality-thereof-owned-wholly-or-in-part;~~

36 ~~{3} including any organization-or person that has elected,~~

1 under section 268.042, to be subject to the Minnesota  
2 Unemployment Insurance Law, and

3 ~~(4) a joint venture composed of one or more employers,~~

4 ~~(5) any nonprofit organization or government agency~~

5 ~~providing or authorizing the hiring of homeworkers, personal~~

6 ~~care attendants, or other individuals performing similar~~

7 ~~services in a private home is the employer of the homeworke,~~

8 ~~attendant, or similar worker whether the organization or agency~~

9 ~~pays the employee directly or provides funds to the recipient of~~

10 ~~the services to pay for the services.---This clause does not~~

11 ~~apply to the state of Minnesota or any county that provides~~

12 ~~federal, state, or local funds to a child care provider either~~

13 ~~directly or indirectly through a parent who is a child care~~

14 ~~assistance recipient, or~~

15 ~~(6) each individual employed to perform or assist in~~

16 ~~performing the work of any agent or employee shall be considered~~

17 ~~to be employed by that employer whether the individual was hired~~

18 ~~or paid directly by that employer or by the agent or employee,~~

19 ~~provided the employer had actual or constructive knowledge of~~

20 ~~the work.~~

21 Sec. 5. Minnesota Statutes 2004, section 268.035,

22 subdivision 20, is amended to read:

23 Subd. 20. [NONCOVERED EMPLOYMENT.] "Noncovered employment"

24 means:

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

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

29 (3) employment for a foreign government;

30 (4) employment for an instrumentality wholly owned by a  
31 foreign government, if the employment is of a character similar  
32 to that performed in foreign countries by employees of the  
33 United States government or an instrumentality thereof and the  
34 United States Secretary of State has certified that the foreign  
35 government grants an equivalent exemption to similar employment  
36 performed in the foreign country by employees of the United



1 States government and instrumentalities thereof;

2 (5) employment covered under United States Code, title 45,  
3 section 351, the Railroad Unemployment Insurance Act;

4 (6) employment covered by a reciprocal arrangement between  
5 the commissioner and another state or the federal government  
6 which provides that all employment performed by an individual  
7 for an employer during the period covered by the reciprocal  
8 arrangement is considered performed entirely within another  
9 state;

10 (7) employment for a church or convention or association of  
11 churches, or an organization operated primarily for religious  
12 purposes that is operated, supervised, controlled, or  
13 principally supported by a church or convention or association  
14 of churches described in United States Code, title 26, section  
15 501(c)(3) of the federal Internal Revenue Code and exempt from  
16 income tax under section 501(a);

17 (8) employment of a duly ordained or licensed minister of a  
18 church in the exercise of a ministry or by a member of a  
19 religious order in the exercise of duties required by the order,  
20 for Minnesota or a political subdivision or an organization  
21 described in United States Code, title 26, section 501(c)(3) of  
22 the federal Internal Revenue Code and exempt from income tax  
23 under section 501(a);

24 (9) employment of an individual receiving rehabilitation of  
25 "sheltered" work in a facility conducted for the purpose of  
26 carrying out a program of rehabilitation for individuals whose  
27 earning capacity is impaired by age or physical or mental  
28 deficiency or injury or a program providing "sheltered" work for  
29 individuals who because of an impaired physical or mental  
30 capacity cannot be readily absorbed in the competitive labor  
31 market. This clause applies only to services performed for  
32 Minnesota or a political subdivision or an organization  
33 described in United States Code, title 26, section 501(c)(3) of  
34 the federal Internal Revenue Code and exempt from income tax  
35 under section 501(a) in a facility certified by the  
36 Rehabilitation Services Branch of the department or in a day

1 training or habilitation program licensed by the Department of  
2 Human Services;

3 (10) employment of an individual receiving work relief or  
4 work training as part of an unemployment work relief or work  
5 training program assisted or financed in whole or in part by any  
6 federal agency or an agency of a state or political subdivision  
7 thereof. This clause applies only to employment for Minnesota  
8 or a political subdivision or an organization described in  
9 United States Code, title 26, section 501(c)(3) of the federal  
10 Internal Revenue Code and exempt from income tax under section  
11 501(a). This clause shall not apply to programs that require  
12 unemployment benefit coverage for the participants;

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

16 (12) employment as a member of the Minnesota National Guard  
17 or Air National Guard;

18 (13) employment for Minnesota, a political subdivision, or  
19 instrumentality thereof, as an employee serving only on a  
20 temporary basis in case of fire, flood, tornado, or similar  
21 emergency;

22 (14) employment as an election official or election worker  
23 for Minnesota or a political subdivision, but only if the  
24 compensation for that employment was less than \$1,000 in a  
25 calendar year;

26 (15) employment for Minnesota that is a major policy making  
27 or advisory position in the unclassified service, including  
28 those positions established pursuant to section 43A.08,  
29 subdivision 1a;

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

32 (17) domestic employment in a private household, local  
33 college club, or local chapter of a college fraternity or  
34 sorority performed for a person, only if the wages paid in any  
35 calendar quarter in either the current or preceding calendar  
36 year to all individuals in domestic employment totaled less than

1 \$1,000.

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

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

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

12 (20) employment for a school, college, or university by a  
13 student who is enrolled and is regularly attending classes at  
14 the school, college, or university;

15 (21) employment of an individual who is enrolled as a  
16 student in a full-time program at a nonprofit or public  
17 educational institution that maintains a regular faculty and  
18 curriculum and has a regularly organized body of students in  
19 attendance at the place where its educational activities are  
20 carried on, taken for credit at the institution, that combines  
21 academic instruction with work experience, if the employment is  
22 an integral part of the program, and the institution has so  
23 certified to the employer, except that this clause shall not  
24 apply to employment in a program established for or on behalf of  
25 an employer or group of employers;

26 (22) employment of university, college, or professional  
27 school students in an internship or other training program with  
28 the city of St. Paul or the city of Minneapolis pursuant to Laws  
29 1990, chapter 570, article 6, section 3;

30 (23) employment for a hospital by a patient of the  
31 hospital. "Hospital" means an institution that has been  
32 licensed by the Department of Health as a hospital;

33 (24) employment as a student nurse for a hospital or a  
34 nurses' training school by an individual who is enrolled and is  
35 regularly attending classes in an accredited nurses' training  
36 school;

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

4 (26) employment as an insurance salesperson, by other than  
5 a corporate officer, if all the compensation-for wages from the  
6 employment is solely by way of commission. The word "insurance"  
7 shall include an annuity and an optional annuity;

8 (27) employment as an officer of a township mutual  
9 insurance company or farmer's mutual insurance company operating  
10 pursuant to chapter 67A;

11 (28) employment of a corporate officer, if the officer owns  
12 25 percent or more of the employer corporation, and employment  
13 of a member of a limited liability company, if the member owns  
14 25 percent or more of the employer limited liability company;

15 (29) employment as a real estate salesperson, by other than  
16 a corporate officer, if all the compensation-for wages from the  
17 employment is solely by way of commission;

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

20 (31) employment of an individual under the age of 18 in the  
21 delivery or distribution of newspapers or shopping news, not  
22 including delivery or distribution to any point for subsequent  
23 delivery or distribution;

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

27 (33) employment in "agricultural employment" unless  
28 considered "covered agricultural employment" under subdivision  
29 11; or

30 (34) if employment during one-half or more of any pay  
31 period was covered employment, all the employment for the pay  
32 period shall be considered covered employment; but if during  
33 more than one-half of any pay period the employment was  
34 noncovered employment, then all of the employment for the pay  
35 period shall be considered noncovered employment. "Pay period"  
36 means a period of not more than a calendar month for which a

1 payment or compensation is ordinarily made to the employee by  
2 the employer.

3 Sec. 6. Minnesota Statutes 2004, section 268.035,  
4 subdivision 21, is amended to read:

5 Subd. 21. [PERSON.] "Person" means:

6 (1) an individual, trust-or-estate,-a-partnership-or-a  
7 corporation or any type of organization or entity, resident or  
8 nonresident, for profit or nonprofit, religious, charitable or  
9 educational, including any receiver or trustee in a bankruptcy,  
10 successor of any of the foregoing, or legal representative of a  
11 deceased individual; and

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

15 Sec. 7. Minnesota Statutes 2004, section 268.035,  
16 subdivision 26, is amended to read:

17 Subd. 26. [UNEMPLOYED.] An applicant shall be considered  
18 "unemployed": (1) in any week that the applicant performs no  
19 ~~service-in-employment,-covered-employment,-noncovered~~  
20 ~~employment,-self-employment,-or-volunteer-work,-and-with-respect~~  
21 ~~to-which-the-applicant-has-no-earnings,-or-(2)-in-any-week-of~~  
22 less than 32 hours of service in employment, covered employment,  
23 noncovered employment, self-employment, or volunteer work ~~if-the~~  
24 ; and (2) any earnings with respect to that week are less than  
25 the applicant's weekly unemployment benefit amount.

26 Sec. 8. Minnesota Statutes 2004, section 268.042,  
27 subdivision 1, is amended to read:

28 Subdivision 1. [EMPLOYER REGISTRATION.] (a) Each employer  
29 shall, upon or before the submission of its first wage detail  
30 report under section 268.044, register with the commissioner for  
31 a tax account or a reimbursable account, by electronic  
32 transmission in a format prescribed by the commissioner. The  
33 employer must provide all required information for registration.

34 (b) Except as provided in subdivision 3, any organization  
35 or person that is or becomes an employer subject to the  
36 Minnesota Unemployment Insurance Law within any calendar year

1 shall be considered to be subject to this chapter the entire  
2 calendar year.

3 (c) Upon the termination of business, an employer that has  
4 been assigned a tax account or reimbursable account shall notify  
5 the commissioner by electronic transmission, in a format  
6 prescribed by the commissioner, that the employer no longer has  
7 employees and does not intend or expect to pay wages to any  
8 employees in the next calendar year and into the foreseeable  
9 future. Upon such notification, the commissioner shall not  
10 require the employer to file wage detail reports under section  
11 268.044, subdivision 1, paragraph (d), ~~7-commencing-the-calendar~~  
12 ~~quarter-after-the-notice-of-termination-was-received-by-the~~  
13 commissioner.

14 Sec. 9. Minnesota Statutes 2004, section 268.043, is  
15 amended to read:

16 268.043 [DETERMINATIONS OF COVERAGE.]

17 (a) The commissioner, upon the commissioner's own motion or  
18 upon application of ~~an-organization-or~~ a person, shall determine  
19 if that organization or person is an employer or whether  
20 services performed for it constitute employment and covered  
21 employment, or whether the compensation for services constitutes  
22 wages, and shall notify the ~~organization-or~~ person of the  
23 determination. The determination shall be final unless the  
24 organization or person, within 30 calendar days after sending of  
25 the determination by mail or electronic transmission, files a  
26 protest. Upon receipt of a protest, the commissioner shall  
27 review all available evidence and determine whether an error has  
28 been made. The commissioner shall send to the ~~organization-or~~  
29 person, by mail or electronic transmission, an affirmation or  
30 redetermination. The affirmation or redetermination shall be  
31 final unless, within 30 calendar days after sending of the  
32 affirmation or redetermination to the ~~organization-or~~ person by  
33 mail or electronic transmission, an appeal is filed.  
34 Proceedings on the appeal shall be conducted in accordance with  
35 section 268.105.

36 (b) No ~~organization-or~~ person shall be initially determined

1 an employer, or that services performed for it were in  
2 employment or covered employment, for periods more than four  
3 years prior to the year in which the determination is made,  
4 unless the commissioner finds that there was fraudulent action  
5 to avoid liability under this chapter.

6 Sec. 10. Minnesota Statutes 2004, section 268.044,  
7 subdivision 2, is amended to read:

8 Subd. 2. [FAILURE TO TIMELY FILE REPORT; LATE FEES.] (a)

9 Any employer that fails to submit the quarterly wage detail  
10 report when due shall pay a late fee of \$10 per employee,  
11 computed based upon the highest of:

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

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

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

18 The late fee shall be waived if the wage detail report is  
19 received within 30 calendar days after a demand for the report  
20 is sent to the employer by mail or electronic transmission. A  
21 late fee assessed an employer may not be waived more than once  
22 twice each 12 months. The amount of the late fee assessed shall  
23 not be less than \$50 \$250.

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

30 (c) Late fees due under this subdivision may be compromised  
31 under section 268.067 where good cause for late submission is  
32 found by the commissioner.

33 Sec. 11. Minnesota Statutes 2004, section 268.051,  
34 subdivision 7, is amended to read:

35 Subd. 7. [TAX RATE BUYDOWN.] (a) Any taxpaying employer  
36 who has been assigned a tax rate based upon an experience

1 rating, and has no amounts past due under this chapter, may,  
2 upon the voluntary payment of an amount equivalent to any  
3 portion or all of the unemployment benefits used in computing  
4 the experience rating plus a surcharge of 25 percent, obtain a  
5 cancellation of unemployment benefits used equal to the payment  
6 made, less the surcharge. Upon the payment, the commissioner  
7 shall compute a new experience rating for the employer, and  
8 compute a new tax rate.

9 (b) Voluntary payments may be made only by electronic  
10 payment and must be received within 120 calendar days from the  
11 beginning of the calendar year for which the tax rate is  
12 effective.

13 Sec. 12. Minnesota Statutes 2004, section 268.052,  
14 subdivision 2, is amended to read:

15 Subd. 2. [ELECTION BY STATE OR POLITICAL SUBDIVISION TO BE  
16 A TAXPAYING EMPLOYER.] (a) The state or political  
17 subdivision ~~excluding a school district~~ may elect to be a  
18 taxpaying employer for any calendar year if a notice of election  
19 is filed within 30 calendar days following January 1 of that  
20 calendar year. Upon election, the state or political  
21 subdivision shall be assigned the new employer tax rate under  
22 section 268.051, subdivision 5, for the calendar year of the  
23 election and until it qualifies for an experience rating under  
24 section 268.051, subdivision 3.

25 (b) An election shall be for a minimum period of two  
26 calendar years following the effective date of the election and  
27 continue unless a notice terminating the election is filed not  
28 later than 30 calendar days before the beginning of the calendar  
29 year. The termination shall be effective at the beginning of  
30 the next calendar year. Upon election, the commissioner shall  
31 establish a reimbursable account for the state or political  
32 subdivision. A termination of election shall be allowed only if  
33 the state or political subdivision has, since the beginning of  
34 the experience rating period under section 268.051, subdivision  
35 3, paid taxes and made voluntary payments under section 268.051,  
36 subdivision 7, equal to or more than 125 percent of the



1 unemployment benefits used in computing the experience rating.  
2 In addition, any unemployment benefits paid after the experience  
3 rating period shall be transferred to the new reimbursable  
4 account of the state or political subdivision. If the amount of  
5 taxes and voluntary payments paid since the beginning of the  
6 experience rating period exceeds 125 percent of the amount of  
7 unemployment benefits paid during the experience rating period,  
8 that amount in excess shall be applied against any unemployment  
9 benefits paid after the experience rating period.

10 (c) The method of payments to the trust fund under  
11 subdivisions 3 and 4 shall apply to all taxes paid by or due  
12 from the state or political subdivision that elects to be  
13 taxpaying employers under this subdivision.

14 (d) A notice of election or a notice terminating election  
15 shall be filed by electronic transmission in a format prescribed  
16 by the commissioner.

17 Sec. 13. Minnesota Statutes 2004, section 268.053,  
18 subdivision 1, is amended to read:

19 Subdivision 1. [ELECTION.] (a) Any nonprofit organization  
20 that has employees in covered employment shall pay taxes on a  
21 quarterly basis pursuant to section 268.051 unless it elects to  
22 make reimbursements to the trust fund the amount of unemployment  
23 benefits charged to its reimbursable account under section  
24 268.047.

25 The organization may elect to make reimbursements for a  
26 period of not less than two calendar years beginning with the  
27 date that the organization was determined to be an employer with  
28 covered employment by filing a notice of election not later than  
29 30 calendar days after the date of the determination.

30 (b) Any nonprofit organization that makes an election will  
31 continue to be liable for reimbursements until it files a notice  
32 terminating its election not later than 30 calendar days before  
33 the beginning of the calendar year the termination is to be  
34 effective.

35 (c) A nonprofit organization that has been making  
36 reimbursements that files a notice of termination of election

1 shall be assigned the new employer tax rate under section  
2 268.051, subdivision 5, for the calendar year of the termination  
3 of election and until it qualifies for an experience rating  
4 under section 268.051, subdivision 3.

5 (d) Any nonprofit organization that has been paying taxes  
6 may elect to make reimbursements by filing no less than 30  
7 calendar days before January 1 of any calendar year a notice of  
8 election. Upon election, the commissioner shall establish a  
9 reimbursable account for the nonprofit organization. An  
10 election shall be allowed only if the nonprofit organization  
11 has, since the beginning of the experience rating period under  
12 section 268.051, subdivision 3, paid taxes ~~and-made-voluntary~~  
13 ~~payments-under-section-268-051, subdivision-7,~~ equal to or more  
14 than 125 percent of the unemployment benefits used in computing  
15 the experience rating. In addition, any unemployment benefits  
16 paid after the experience rating period shall be transferred to  
17 the new reimbursable account of the nonprofit organization. If  
18 the amount of taxes ~~and-voluntary-payments~~ paid since the  
19 beginning of the experience rating period exceeds 125 percent of  
20 the amount of unemployment benefits paid during the experience  
21 rating period, that amount in excess shall be applied against  
22 any unemployment benefits paid after the experience rating  
23 period. The election shall not be terminable by the  
24 organization for that and the next calendar year.

25 (e) The commissioner may for good cause extend the period  
26 that a notice of election, or a notice of termination, must be  
27 filed and may permit an election to be retroactive.

28 (f) A notice of election or notice terminating election  
29 shall be filed by electronic transmission in a format prescribed  
30 by the commissioner.

31 Sec. 14. Minnesota Statutes 2004, section 268.069,  
32 subdivision 1, is amended to read:

33 Subdivision 1. [REQUIREMENTS.] The commissioner shall pay  
34 unemployment benefits from the trust fund to an applicant who  
35 has met each of the following requirements:

36 (1) the applicant has filed an application for unemployment

1 benefits and established a benefit account in accordance with  
2 section 268.07;

3 (2) the applicant is not subject to a disqualification from  
4 unemployment benefits under section 268.095 because of a quit or  
5 discharge;

6 (3) the applicant has met all of the ongoing weekly  
7 eligibility requirements under sections 268.085 and 268.086;

8 (4) the applicant does not have an outstanding overpayment  
9 of unemployment benefits, including any penalties or interest,  
10 ~~under-section-268-18;~~ and

11 (5) the applicant is not ~~subject-to-a-denial-of~~ ineligible  
12 for unemployment benefits under section 268.182 because of a  
13 false representation or concealment of facts.

14 Sec. 15. Minnesota Statutes 2004, section 268.07,  
15 subdivision 3b, is amended to read:

16 Subd. 3b. [LIMITATIONS.] (a) A benefit account shall be  
17 established effective the Sunday of the calendar week that the  
18 application for unemployment benefits was filed. Upon specific  
19 request of an applicant, an application for unemployment  
20 benefits may be backdated one calendar week prior to the Sunday  
21 of the week the application was actually filed. An application  
22 shall be backdated only if the applicant was unemployed  
23 throughout the period of the backdating. If an individual  
24 attempted to file an application for unemployment benefits, but  
25 was prevented from filing an application by the department, the  
26 benefit account shall be effective the Sunday of the calendar  
27 week the individual first attempted to file an application.

28 (b) A benefit account, once established, may later be  
29 withdrawn only if:

30 (1) a new application for unemployment benefits is filed  
31 and a new benefit account is established at the time of the  
32 withdrawal; and

33 (2) the applicant has not served a waiting week under  
34 section 268.085, subdivision 1, clause ~~(3)~~ (5).

35 A determination or amended determination pursuant to  
36 section 268.101, that was issued before the withdrawal of the

1 benefit account, shall remain in effect and shall not be voided  
2 by the withdrawal of the benefit account. A determination of  
3 disqualification requiring subsequent earnings to satisfy the  
4 disqualification under section 268.095, subdivision 10, shall  
5 apply to the weekly unemployment benefit amount on the new  
6 benefit account.

7 (c) An application for unemployment benefits shall not be  
8 allowed prior to the Sunday following the expiration of the  
9 benefit year on a prior benefit account. Except as allowed  
10 under paragraph (b), a applicant may establish only one benefit  
11 account each 52 calendar weeks.

12 ~~(d) All unemployment benefits shall be available from the~~  
13 ~~trust fund only for weeks occurring during the applicant's~~  
14 ~~benefit year.~~

15 Sec. 16. Minnesota Statutes 2004, section 268.085,  
16 subdivision 1, is amended to read:

17 Subdivision 1. [ELIGIBILITY CONDITIONS.] An applicant  
18 shall be eligible to receive unemployment benefits for any week  
19 if:

20 (1) the applicant has an active benefit account and has  
21 filed a continued biweekly request for unemployment benefits for  
22 that week pursuant to section 268.086;

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

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

27 ~~(2)~~ (4) the applicant was able to work and was available  
28 for suitable employment, and was actively seeking suitable  
29 employment. The applicant's weekly unemployment benefit amount  
30 shall be reduced one-fifth for each day the applicant is unable  
31 to work or is unavailable for suitable employment. If the  
32 computation of the reduced unemployment benefits is not a whole  
33 dollar, it shall be rounded down to the next lower whole dollar.

34 This clause shall not apply to an applicant who is in  
35 reemployment assistance training, or each day the applicant is  
36 on jury duty or serving as an election judge;

1       ~~(3)~~ (5) the applicant has served a waiting period of one  
2 week that the applicant is otherwise entitled to some amount of  
3 unemployment benefits. This clause shall not apply if the  
4 applicant would have been entitled to federal disaster  
5 unemployment assistance because of a disaster in Minnesota, but  
6 for the applicant's establishment of a benefit account under  
7 section 268.07; and

8       ~~(4)~~ (6) the applicant has been participating in  
9 reemployment assistance services, such as job search and resume  
10 writing classes, if the applicant has been determined in need of  
11 reemployment assistance services by the commissioner, unless  
12 there is good cause for the applicant's failure to participate.

13       Sec. 17. Minnesota Statutes 2004, section 268.085,  
14 subdivision 2, is amended to read:

15       Subd. 2. [NOT ELIGIBLE.] An applicant shall not be  
16 eligible to receive unemployment benefits for any week:

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

19       (2) that occurs in a period when the applicant is a student  
20 in attendance at, or on vacation from a secondary school  
21 including the period between academic years or terms;

22       (3) that the applicant is incarcerated or performing court  
23 ordered community service. The applicant's weekly unemployment  
24 benefit amount shall be reduced by one-fifth for each day the  
25 applicant is incarcerated or performing court ordered community  
26 service. If the computation of the reduced unemployment  
27 benefits is not a whole dollar, it shall be rounded down to the  
28 next lower whole dollar;

29       (4) that the applicant fails or refuses to provide  
30 information on an issue of eligibility required under section  
31 268.101, subdivision 1, paragraph (a), or an issue of  
32 disqualification required under section 268.101, subdivision 1,  
33 paragraph (d);

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

1 any earnings; or

2 (6) with respect to which the applicant is receiving, has  
3 received, or has filed an application for unemployment benefits  
4 under any federal law or the law of any other state. If the  
5 appropriate agency finally determines that the applicant is not  
6 entitled to the unemployment benefits, this clause shall not  
7 apply.

8 Sec. 18. Minnesota Statutes 2004, section 268.085,  
9 subdivision 3, is amended to read:

10 Subd. 3. [PAYMENTS THAT DELAY UNEMPLOYMENT BENEFITS.] (a)

11 An applicant shall not be eligible to receive unemployment  
12 benefits for any week with respect to which the applicant is  
13 receiving, has received, or has filed for payment, equal to or  
14 in excess of the applicant's weekly unemployment benefit amount,  
15 in the form of:

16 (1) vacation pay paid upon temporary, indefinite, or  
17 seasonal separation. This clause shall not apply to vacation  
18 pay paid upon a permanent separation from employment;

19 (2) severance pay, bonus pay, vacation-pay, sick pay, and  
20 any other money payments, except earnings under subdivision 5,  
21 and back pay under subdivision 6, paid by an employer because  
22 of, upon, or after separation from employment, but only if the  
23 money payment is considered wages at the time of payment under  
24 section 268.035, subdivision 29, or United States Code, title  
25 26, section 3121, clause (2), of the Federal Insurance  
26 Contribution Act.--This clause shall apply to all the weeks of  
27 payment and shall be applied to the period immediately following  
28 the last day of employment.--The number of weeks of payment  
29 shall be determined as follows:

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

33 ~~(ii) if the payment is made in a lump sum, that sum shall~~  
34 ~~be divided by the applicant's last level of regular weekly pay~~  
35 ~~from the employer.--This clause shall not apply to vacation pay~~  
36 ~~paid by an employer upon permanent separation from employment;~~

1       ~~(2)~~ (3) pension, retirement, or annuity payments from any  
 2 plan contributed to by a base period employer including the  
 3 United States government, except Social Security benefits which  
 4 are provided for in subdivision 4. The base period employer  
 5 contributed to the plan if the contribution is excluded from the  
 6 definition of wages under section 268.035, subdivision 29,  
 7 clause (1), or United States Code, title 26, section 3121,  
 8 clause (2), of the Federal Insurance Contribution Act.

9       ~~if the applicant receives a lump sum pension payment, that~~  
 10 ~~sum shall be divided by the applicant's last level of regular~~  
 11 ~~weekly pay to determine the number of weeks of payment. The~~  
 12 ~~number of weeks of payment shall be applied to the period~~  
 13 ~~immediately following the last day of employment.~~ An applicant  
 14 shall not be considered to have received the lump sum payment if  
 15 the applicant immediately deposits that payment in a qualified  
 16 pension plan or account; or

17       ~~(3)~~ (4) holiday pay.

18       (b) This subdivision shall apply to all the weeks of  
 19 payment and shall be applied to the period immediately following  
 20 the last day of employment. The number of weeks of payment  
 21 shall be determined as follows:

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

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

28       ~~(b)~~ (c) If the payment is less than the applicant's weekly  
 29 unemployment benefit amount, unemployment benefits shall be  
 30 reduced by the amount of the payment. If the computation of  
 31 reduced unemployment benefits is not a whole dollar, it shall be  
 32 rounded down to the next lower whole dollar.

33       Sec. 19. Minnesota Statutes 2004, section 268.085,  
 34 subdivision 5, is amended to read:

35       Subd. 5. [DEDUCTIBLE EARNINGS.] (a) If the applicant has  
 36 earnings with respect to any week, from employment, covered

1 employment, noncovered employment, self-employment, or volunteer  
2 work, equal to or in excess of the applicant's weekly  
3 unemployment benefit amount, the applicant shall be ineligible  
4 for unemployment benefits for that week.

5 (b) If the applicant has earnings, with respect to any  
6 week, that is less than the applicant's weekly unemployment  
7 benefit amount, from employment, covered employment, noncovered  
8 employment, self-employment, or volunteer work, that amount over  
9 the following shall be deducted from the weekly unemployment  
10 benefit amount:

11 (1) 25 percent of earnings or \$50, whichever is higher; and

12 (2) \$200 for earnings from service in the National Guard or  
13 a United States military reserve unit.

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

16 (c) No deduction shall be made from an applicant's weekly  
17 unemployment benefit amount for earnings from direct service as  
18 a volunteer firefighter or volunteer ambulance service  
19 personnel. This exception to paragraphs (a) and (b) does not  
20 apply to on-call or standby pay provided to a volunteer  
21 firefighter or volunteer ambulance service personnel. No  
22 deduction shall be made for jury duty pay or for pay as an  
23 election judge.

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

27 (e) Deductible earnings shall not include any money  
28 considered a deductible payment under subdivision 3, but shall  
29 include all other money considered wages and any other money  
30 considered earned income under state and federal law for income  
31 tax purposes.

32 Sec. 20. Minnesota Statutes 2004, section 268.085,  
33 subdivision 12, is amended to read:

34 Subd. 12. [ALIENS.] (a) An alien shall be ineligible for  
35 unemployment benefits for any week the alien is not authorized  
36 to work in the United States under federal law. Information



1 from the Bureau of Citizenship and Immigration and  
 2 Naturalization-Service Services shall be considered conclusive,  
 3 absent specific evidence that the information was erroneous.  
 4 Pursuant to the existing agreement between the United States and  
 5 Canada, this paragraph shall not apply to an applicant who is a  
 6 Canadian citizen and has returned to and is living in Canada  
 7 each week unemployment benefits are requested.

8 (b) Unemployment benefits shall not be paid on the basis of  
 9 wage credits earned by an alien unless the alien (1) was  
 10 lawfully admitted for permanent residence at the time of the  
 11 employment, (2) was lawfully present for the purposes of the  
 12 employment, or (3) was permanently residing in the United States  
 13 under color of law at the time of the employment.

14 (c) Any information required of applicants applying for  
 15 unemployment benefits to determine eligibility because of their  
 16 alien status shall be required from all applicants.

17 Sec. 21. Minnesota Statutes 2004, section 268.086,  
 18 subdivision 2, is amended to read:

19 Subd. 2. [CONTINUED BIWEEKLY REQUEST FOR UNEMPLOYMENT  
 20 BENEFITS DEFINED.] A continued biweekly request for unemployment  
 21 benefits is a certification by an applicant, done on a biweekly  
 22 basis, that the applicant is unemployed and meets the ongoing  
 23 eligibility requirements for unemployment benefits under section  
 24 268.085 for a specific week or two-week period. A continued  
 25 biweekly request shall include information on possible issues of  
 26 eligibility and disqualification in accordance with section  
 27 268.101, subdivision 1, paragraph (c).

28 Sec. 22. Minnesota Statutes 2004, section 268.086,  
 29 subdivision 3, is amended to read:

30 Subd. 3. [METHODS FOR FILING CONTINUED BIWEEKLY REQUESTS  
 31 FOR UNEMPLOYMENT BENEFITS.] (a) The commissioner shall designate  
 32 to each applicant one of the following methods for filing a  
 33 continued biweekly request:

34 (1) ~~by telephone under subdivision 4;~~  
 35 ~~(2)~~ by electronic transmission under subdivision 5;  
 36 ~~(3)~~ (2) by mail under subdivision 6; or

1       ~~(4)~~ (3) by in-person interview under subdivision 7.

2       (b) The method designated by the commissioner shall be the  
3 only method allowed for filing a continued biweekly request by  
4 that applicant. An applicant may ask that one of the other  
5 allowed methods be designated and the commissioner shall  
6 consider inconvenience to the applicant as well as  
7 administrative capacity in determining whether to allow an  
8 applicant to change the designated method for filing a continued  
9 biweekly request for unemployment benefits.

10       Sec. 23. Minnesota Statutes 2004, section 268.095,  
11 subdivision 1, is amended to read:

12       Subdivision 1. [QUIT.] An applicant who quit employment  
13 shall be disqualified from all unemployment benefits according  
14 to subdivision 10 except when:

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

17       (2) the applicant quit the employment to accept other  
18 covered employment that provided substantially better terms and  
19 conditions of employment, but the applicant did not work long  
20 enough at the second employment to have sufficient subsequent  
21 earnings to satisfy the disqualification that would otherwise be  
22 imposed under subdivision 10 for quitting the first employment;

23       (3) the applicant quit the employment within 30 calendar  
24 days of beginning the employment because the employment was  
25 unsuitable for the applicant;

26       (4) the employment was unsuitable for the applicant and the  
27 applicant quit to enter reemployment assistance training;

28       (5) the employment was part time and the applicant also had  
29 full-time employment in the base period, from which full-time  
30 employment the applicant separated because of nondisqualifying  
31 reasons, and the wage credits from the full-time employment are  
32 sufficient to meet the minimum requirements to establish a  
33 benefit account under section 268.07;

34       (6) the applicant quit because the employer notified the  
35 applicant that the applicant was going to be laid off due to  
36 lack of work within 30 calendar days. An applicant who quit

1 employment within 30 calendar days of a notified date of layoff  
2 due to lack of work shall be disqualified from unemployment  
3 benefits through the end of the week that includes the scheduled  
4 date of layoff;

5 (7) the applicant quit the employment because the  
6 applicant's serious illness or injury made it medically  
7 necessary that the applicant quit, provided that the applicant  
8 inform the employer of the serious illness or injury and request  
9 accommodation and no reasonable accommodation is made available.

10 If the applicant's serious illness is chemical dependency,  
11 this exception shall not apply if the applicant was previously  
12 diagnosed as chemically dependent or had treatment for chemical  
13 dependency, and since that diagnosis or treatment has failed to  
14 make consistent efforts to control the chemical dependency; or

15 (8) domestic abuse of the applicant or the applicant's  
16 minor child, necessitated the applicant's quitting the  
17 employment. Domestic abuse shall be shown by one or more of the  
18 following:

19 (i) a court order for protection or other documentation of  
20 equitable relief issued by a court;

21 (ii) a police record documenting the domestic abuse;

22 (iii) documentation that the perpetrator of the domestic  
23 abuse has been convicted of the offense of domestic abuse;

24 (iv) medical documentation of domestic abuse; or

25 (v) written statement that the applicant or the applicant's  
26 minor child is a victim of domestic abuse, provided by a social  
27 worker, member of the clergy, shelter worker, attorney at law,  
28 or other professional who has assisted the applicant in dealing  
29 with the domestic abuse.

30 Domestic abuse for purposes of this clause shall be defined  
31 under section 518B.01.

32 Sec. 24. Minnesota Statutes 2004, section 268.095,  
33 subdivision 4, is amended to read:

34 Subd. 4. [DISCHARGE.] An applicant who was discharged from  
35 employment by an employer shall not be disqualified from any all  
36 unemployment benefits except-when according to subdivision 10

1 only if:

2 (1) the applicant was discharged because of employment  
3 misconduct as defined in subdivision 6; or

4 (2) the applicant was discharged because of aggravated  
5 employment misconduct as defined in subdivision 6a.

6 Sec. 25. Minnesota Statutes 2004, section 268.095,  
7 subdivision 7, is amended to read:

8 Subd. 7. [ACT OR OMISSIONS AFTER SEPARATION.] ~~Except-as~~  
9 ~~provided-for-under-subdivision-8,~~ An applicant shall not be  
10 disqualified from unemployment benefits under this section for  
11 any acts or omissions occurring after the applicant's separation  
12 from employment with the employer. A layoff due to lack of work  
13 is considered a separation from employment.

14 Sec. 26. Minnesota Statutes 2004, section 268.095,  
15 subdivision 8, is amended to read:

16 Subd. 8. [OFFERS OF SUITABLE EMPLOYMENT.] (a) An applicant  
17 shall be ~~disqualified-from~~ ineligible for all unemployment  
18 benefits for eight calendar weeks if the applicant, without good  
19 cause:

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

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

24 (3) avoided an offer of suitable employment.

25 (b) "Good cause" is a reason that would cause a reasonable  
26 individual who wants suitable employment to fail to apply for,  
27 accept, or avoid suitable employment. Good cause includes:

28 (1) the applicant is employed in other suitable employment;

29 (2) the applicant is in reemployment assistance training;

30 (3) the applicant formerly worked for the employer and the  
31 loss of employment occurred prior to the commencement of a labor  
32 dispute, was permanent or for an indefinite period, and the  
33 applicant failed to apply for or accept the employment because a  
34 labor dispute was in progress at the establishment; or

35 (4) the applicant formerly worked for the employer and quit  
36 that employment because of a good reason caused by the employer.

1 (c) This subdivision only applies to offers of suitable  
 2 employment with a new or a former employer and does not apply to  
 3 any type of job transfers, position reassignments, or changes in  
 4 job duties or responsibilities during the course of employment  
 5 with an employer.

6 (d) The period of ineligibility under this section shall  
 7 begin the Sunday of the week the applicant failed to apply for,  
 8 accept, or avoided suitable employment without good cause.

9 (e) This section shall apply to offers of suitable  
 10 employment that occur prior to the effective date of the benefit  
 11 account and that occur during the benefit year.

12 (f) This section shall only apply to offers of suitable  
 13 employment that are considered covered employment under section  
 14 268.035, subdivision 12.

15 Sec. 27. Minnesota Statutes 2004, section 268.095,  
 16 subdivision 10, is amended to read:

17 Subd. 10. [DISQUALIFICATION DURATION.] (a) A  
 18 disqualification from the payment of all unemployment benefits  
 19 under subdivisions 17 and ~~47~~-and-8 shall be for the duration of  
 20 the applicant's unemployment and until the end of the calendar  
 21 week that the applicant had total earnings in subsequent covered  
 22 employment of eight times the applicant's weekly unemployment  
 23 benefit amount.

24 (b) Any disqualification imposed under subdivisions 1 and 4  
 25 shall begin on the Sunday of the week that the applicant became  
 26 separated from employment. ~~Any disqualification imposed under~~  
 27 ~~subdivision 8 shall begin on the Sunday of the week the~~  
 28 ~~applicant failed to apply for, accept, or avoided employment.~~

29 (c) In addition to paragraph (a), if the applicant was  
 30 discharged from employment because of aggravated employment  
 31 misconduct, wage credits from that employment shall be canceled.

32 Sec. 28. Minnesota Statutes 2004, section 268.095,  
 33 subdivision 11, is amended to read:

34 Subd. 11. [APPLICATION.] (a) This section shall apply to  
 35 all covered employment, full time or part time, temporary or of  
 36 limited duration, permanent or of indefinite duration, that

1 occurred in Minnesota during the base period, the period between  
2 the end of the base period and the effective date of the benefit  
3 account, or the benefit year, except as provided for in  
4 subdivision 1, clause (5). ~~Subdivision 8 shall only apply to~~  
5 ~~offers of suitable employment made during the applicant's~~  
6 ~~benefit year.~~

7 (b) Paragraph (a) shall also apply to employment covered  
8 under an unemployment insurance program of any other state or  
9 established by an act of Congress.

10 Sec. 29. Minnesota Statutes 2004, section 268.101,  
11 subdivision 1, is amended to read:

12 Subdivision 1. [NOTIFICATION.] (a) In an application for  
13 unemployment benefits, each applicant shall report the name and  
14 the reason for no longer working for the applicant's most recent  
15 employer, as well as the names of all employers and the reasons  
16 for no longer working for all employers during the six calendar  
17 months prior to the date of the application. If the reason  
18 reported for no longer working for any of those employers is  
19 other than a layoff due to lack of work, that shall raise an  
20 issue of disqualification that the department shall  
21 determine. An applicant shall report any offers of employment  
22 refused during the eight calendar weeks prior to the date of the  
23 application for unemployment benefits and the name of the  
24 employer that made the offer. An applicant's failure to report  
25 the name of an employer, or giving an incorrect reason for no  
26 longer working for an employer, or failing to disclose an offer  
27 of employment that was refused, shall be considered a violation  
28 of section 268.182, ~~paragraph (b)~~ subdivision 2.

29 In an application, the applicant shall also provide all  
30 information necessary to determine the applicant's eligibility  
31 for unemployment benefits under section 268.085. If the  
32 applicant fails or refuses to provide information necessary to  
33 determine the applicant's eligibility for unemployment benefits  
34 under section 268.085, the applicant shall be ineligible for  
35 unemployment benefits under section 268.085, subdivision 2,  
36 until the applicant provides this required information.

1 (b) Upon establishment of a benefit account, the  
2 commissioner shall notify, by mail or electronic transmission,  
3 all employers the applicant was required to report on the  
4 application and all base period employers and determined  
5 successors to those employers under section 268.051, subdivision  
6 4 in order to provide the employer an opportunity to raise, in a  
7 manner prescribed by the commissioner, any issue of  
8 disqualification or any issue of eligibility. An employer shall  
9 be informed of the effect that failure to raise an issue of  
10 disqualification within ten calendar days after sending of the  
11 notice, as provided for under subdivision 2, paragraph (b), may  
12 have on the employer under section 268.047.

13 (c) Each applicant shall report any employment, loss of  
14 employment, and offers of employment received refused, during  
15 those weeks the applicant filed continued biweekly requests for  
16 unemployment benefits pursuant to section 268.086. Each  
17 applicant who stops filing continued biweekly requests during  
18 the benefit year and later begins filing continued biweekly  
19 requests during that same benefit year shall report the name of  
20 any employer the applicant worked for during the period between  
21 the filing of continued biweekly requests and the reason the  
22 applicant stopped working for the employer. The applicant shall  
23 report any offers of employment refused during the period  
24 between the filing of continued biweekly requests for  
25 unemployment benefits. Those employers from which the applicant  
26 has reported a loss of employment ~~or-an-offer-of-employment~~  
27 pursuant to this paragraph shall be notified by mail or  
28 electronic transmission and provided an opportunity to raise, in  
29 a manner prescribed by the commissioner, any issue of  
30 disqualification or any issue of eligibility. An employer shall  
31 be informed of the effect that failure to raise an issue may  
32 have on the employer under section 268.047.

33 (d) The purpose for requiring the applicant to report the  
34 name of employers and the reason for no longer working for those  
35 employers, or offers of employment refused, under paragraphs (a)  
36 and (c) is for the commissioner to obtain information from an

1 applicant raising all issues that may have the potential of  
2 disqualifying the applicant from unemployment benefits under  
3 section 268.095, or the applicant being ineligible for  
4 unemployment benefits under section 268.085, subdivision 13c.  
5 If the reason given by the applicant for no longer working for  
6 an employer is other than a layoff due to lack of work, that  
7 shall raise an issue of disqualification and the applicant shall  
8 be required, as part of the determination process under  
9 subdivision 2, paragraph (a), to state all the facts about the  
10 cause for no longer working for the employer, if known. If the  
11 applicant fails or refuses to provide this any required  
12 information, the applicant shall be ineligible for unemployment  
13 benefits under section 268.085, subdivision 2, until the  
14 applicant provides this required information.

15 Sec. 30. Minnesota Statutes 2004, section 268.101,  
16 subdivision 3a, is amended to read:

17 Subd. 3a. [DIRECT HEARING.] Regardless of any provision of  
18 the Minnesota Unemployment Insurance Law, the commissioner or an  
19 unemployment law judge ~~or-a-senior-unemployment-review-judge~~  
20 may, prior to a determination being made under this chapter,  
21 refer any issue of disqualification, any issue of eligibility,  
22 or any other issue under this chapter, directly for hearing in  
23 accordance with section 268.105, subdivision 1. The status of  
24 the issue shall be the same as if a determination had been made  
25 and an appeal filed.

26 Sec. 31. Minnesota Statutes 2004, section 268.103,  
27 subdivision 2, is amended to read:

28 Subd. 2. [APPLICANT'S APPEAL BY MAIL.] (a) The  
29 commissioner must allow an applicant to file an appeal to-be  
30 filed by mail even if an appeal by electronic transmission is  
31 allowed.

32 (b) A written statement delivered or mailed to the  
33 department that could reasonably be interpreted to mean that an  
34 involved applicant ~~or-employer~~ is in disagreement with a  
35 specific determination or decision shall be considered an  
36 appeal. No specific words need be used for the written



1 statement to be considered an appeal.

2 Sec. 32. Minnesota Statutes 2004, section 268.105, is  
3 amended to read:

4 268.105 [APPEALS.]

5 Subdivision 1. [EVIDENTIARY HEARING BY AN UNEMPLOYMENT LAW  
6 JUDGE.] (a) Upon a timely appeal having been filed, the  
7 department shall send a notice of appeal to all involved parties  
8 that an appeal has been filed, that a de novo due process  
9 evidentiary hearing will be scheduled, and that the parties have  
10 certain rights and responsibilities regarding the hearing. The  
11 department shall set a time and place for a de novo due process  
12 evidentiary hearing and send notice to any involved applicant  
13 and any involved employer, by mail or electronic transmission,  
14 not less than ten calendar days prior to the date of the hearing.

15 (b) The evidentiary hearing shall be conducted by an  
16 unemployment law judge without regard to any common law burden  
17 of proof as an evidence gathering inquiry and not an adversarial  
18 proceeding. The unemployment law judge shall ensure that all  
19 relevant facts are clearly and fully developed. The department  
20 shall adopt rules on evidentiary hearings. The rules need not  
21 conform to common law or statutory rules of evidence and other  
22 technical rules of procedure. The department shall have  
23 discretion regarding the method by which the evidentiary hearing  
24 is conducted. A report of any employee of the department,  
25 except a determination, made in the regular course of the  
26 employee's duties, shall be competent evidence of the facts  
27 contained in it.

28 (c) After the conclusion of the hearing, upon the evidence  
29 obtained, the unemployment law judge shall make findings of fact  
30 and decision and send those, by mail or electronic transmission,  
31 to all involved parties. The unemployment law judge's decision  
32 is the final department-decision unless a further-appeal motion  
33 for reconsideration is filed pursuant to subdivision 2.

34 (d) Only employees of the department who are attorneys  
35 shall serve as unemployment law judges. ~~A-senior-unemployment~~  
36 ~~review-judge~~ The commissioner may personally-hear-or transfer to

1 another unemployment law judge any proceedings pending before an  
2 unemployment law judge. Any-proceedings-removed-to-a-senior  
3 unemployment-review-judge-shall-be-heard-in-accordance-with-this  
4 subdivision.

5 Subd. 2. ~~{DE-NOVO-REVIEW-BY-A-SENIOR-UNEMPLOYMENT-REVIEW~~  
6 ~~JUDGE.}~~ (a) Except as provided under subdivision 2a, any  
7 involved applicant or involved employer may appeal a decision of  
8 an unemployment law judge and obtain a de novo review by a  
9 senior unemployment review judge by filing with a senior  
10 unemployment review judge an appeal within 30 calendar days  
11 after the sending of the unemployment law judge's decision. A  
12 senior unemployment review judge within the same period of time  
13 may, on a senior unemployment review judge's own motion, order a  
14 de novo review of any decision of an unemployment law judge.

15 (b) A senior unemployment review judge shall be an attorney  
16 who is an employee of the department.

17 (c) Upon de novo review, a senior unemployment review judge  
18 shall, on the basis of that evidence submitted at the  
19 evidentiary hearing under subdivision 1, make findings of fact  
20 and decision, or remand the matter back to an unemployment law  
21 judge for the taking of additional evidence and the making of  
22 new findings and decision based on all the evidence. A senior  
23 unemployment review judge shall, independent of the findings of  
24 fact and decision of the unemployment law judge, examine the  
25 evidence and make those findings of fact as the evidence, in the  
26 judgment of the senior unemployment review judge require, and  
27 make that decision as the facts found by the senior unemployment  
28 review judge require.

29 (d) A senior unemployment review judge may conduct a de  
30 novo review without argument by any involved party, or a senior  
31 unemployment review judge may allow written argument. A senior  
32 unemployment review judge shall not, except for purposes of  
33 deciding whether to remand a matter to an unemployment law judge  
34 for a further evidentiary hearing, consider any evidence that  
35 was not submitted at the hearing before the unemployment law  
36 judge.

1       ~~(e) The senior unemployment review judge shall send, by~~  
2 ~~mail or electronic transmission, to any involved party the~~  
3 ~~senior unemployment review judge's findings of fact and~~  
4 ~~decision. The decision of the senior unemployment review judge~~  
5 ~~is the final decision of the department. Unless judicial review~~  
6 ~~is sought under subdivision 7, the decision of the senior~~  
7 ~~unemployment review judge shall become final 30 calendar days~~  
8 ~~after sending.~~

9       Subd. 2a. ~~{ ORDERS BY A SENIOR UNEMPLOYMENT REVIEW JUDGE }~~

10 ~~(a) If an applicant or employer files an appeal in a matter~~  
11 ~~where an unemployment law judge affirmed a determination issued~~  
12 ~~under section 268.101, and there is no dispute regarding the~~  
13 ~~determinative facts, a senior unemployment review judge shall~~  
14 ~~have the discretion to decline to conduct a de novo review. If~~  
15 ~~de novo review is declined, the senior unemployment review judge~~  
16 ~~shall issue an order adopting the unemployment law judge's~~  
17 ~~findings of fact and decision.~~

18       ~~(b) If an involved party fails, without good cause, to~~  
19 ~~appear and participate at the evidentiary hearing conducted by~~  
20 ~~an unemployment law judge under subdivision 1, and that party~~  
21 ~~files an appeal, a senior unemployment review judge shall have~~  
22 ~~the discretion to decline to conduct a de novo review. If de~~  
23 ~~novo review is declined, the senior unemployment review judge~~  
24 ~~shall issue an order dismissing the appeal.~~

25       ~~Submission of a written statement shall not constitute an~~  
26 ~~appearance and participation at an evidentiary hearing for~~  
27 ~~purposes of this paragraph.~~

28       ~~All involved parties must be notified of this paragraph~~  
29 ~~with the notice of appeal and notice of hearing provided for~~  
30 ~~under subdivision 1. The senior unemployment review judge shall~~  
31 ~~allow for the submission of a written argument on the issue of~~  
32 ~~good cause before dismissing an appeal under this paragraph.~~

33       ~~"Good cause" for purposes of this paragraph is a compelling~~  
34 ~~reason that would have prevented a reasonable person acting with~~  
35 ~~due diligence from appearing and participating at the~~  
36 ~~evidentiary hearing.~~

~~(c) The senior unemployment review judge shall send to any involved party the order issued under this subdivision. The order may be sent by mail or electronic transmission. Unless judicial review is sought under subdivision 7, the order of a senior unemployment review judge becomes final 30 calendar days after sending.~~ [MOTION FOR RECONSIDERATION.] (a) Any involved

applicant or involved employer may, within 30 calendar days of the sending of the unemployment law judge's decision under subdivision 1, file a motion for reconsideration asking the unemployment law judge to reconsider that decision. The commissioner may file a motion for reconsideration, and the unemployment law judge may reconsider any decision, on the unemployment law judge's own motion, within that same 30-calendar-day period of time. Section 268.103 applies to a motion for reconsideration. If a motion for reconsideration is timely filed, the unemployment law judge shall issue an order:

(1) correcting the findings of fact and decision issued under subdivision 1;

(2) setting aside the findings of fact and decision issued under subdivision 1 and directing that an additional evidentiary hearing be conducted under subdivision 1; or

(3) affirming the findings of fact and decision issued under subdivision 1.

(b) In deciding a motion for reconsideration, the unemployment law judge shall not, except for purposes of determining whether to order an additional evidentiary hearing, consider any evidence that was not submitted at the evidentiary hearing conducted under subdivision 1.

(c) If the involved applicant or involved employer who filed the motion for reconsideration failed to participate in the evidentiary hearing conducted under subdivision 1, an order setting aside the findings of fact and decision and directing that an additional evidentiary hearing be conducted must be issued if the party who failed to participate had good cause for failing to do so.

Submission of a written statement at the evidentiary

1 hearing under subdivision 1 shall not constitute participation  
2 for purposes of this paragraph.

3 "Good cause" for purposes of this paragraph is a reason  
4 that would have prevented a reasonable person acting with due  
5 diligence from participating at the evidentiary hearing.

6 (d) A motion for reconsideration shall be decided by the  
7 unemployment law judge who issued the findings of fact and  
8 decision under subdivision 1 unless that unemployment law  
9 judge: (1) is no longer employed by the department; (2) is on  
10 an extended or indefinite leave; (3) has been disqualified from  
11 the proceedings on the judge's own motion; or (4) has been  
12 removed from the proceedings as provided for under subdivision 1  
13 or applicable rule.

14 (e) The unemployment law judge shall send to any involved  
15 applicant or involved employer, by mail or electronic  
16 transmission, the order issued under this subdivision. An order  
17 correcting the previously issued findings of fact and decision  
18 or an order affirming the previously issued findings of fact and  
19 decision shall be the final department decision on the matter  
20 and shall be final and binding on the involved applicant or  
21 involved employer unless judicial review is sought under  
22 subdivision 7.

23 Subd. 3. [WITHDRAWAL OF APPEAL.] (a) Any appeal that is  
24 pending before an unemployment law judge or-a-senior  
25 unemployment-review-judge may be withdrawn by the appealing  
26 person, or an authorized representative of that person, upon  
27 filing of a notice of withdrawal.

28 (b) The appeal shall, by order, be dismissed if a notice of  
29 withdrawal is filed, unless an unemployment law judge or-a  
30 senior-unemployment-review-judge-by-order, directs that further  
31 adjudication is required for a proper result.

32 (c) A notice of withdrawal may be filed by mail or by  
33 electronic transmission.

34 Subd. 3a. [DECISIONS.] (a) If an unemployment law judge's  
35 decision or-a-senior-unemployment-review-judge's-decision or  
36 order allows unemployment benefits to an applicant, the

1 unemployment benefits shall be paid regardless of any appeal  
 2 period motion for reconsideration or any appeal having been  
 3 filed.

4 (b) If an unemployment law judge's decision or order  
 5 modifies or reverses a determination allowing unemployment  
 6 benefits to an applicant, any benefits paid pursuant to the  
 7 determination is considered an overpayment of those unemployment  
 8 benefits under section 268.18, subdivision 1.

9 ~~(c) If a senior unemployment review judge's decision~~  
 10 ~~modifies or reverses an unemployment law judge's decision~~  
 11 ~~allowing unemployment benefits to an applicant, any unemployment~~  
 12 ~~benefits paid pursuant to the unemployment law judge's decision~~  
 13 ~~is considered an overpayment of those unemployment benefits~~  
 14 ~~under section 268.18, subdivision 1.~~

15 (d) If a senior unemployment review judge affirms an  
 16 unemployment law judge's decision on an issue of  
 17 disqualification that order under subdivision 2 allows  
 18 unemployment benefits to an applicant under section 268.095  
 19 because of a quit or discharge and the senior unemployment  
 20 review law judge's decision or order is reversed by the  
 21 Minnesota Court of Appeals or the Supreme Court of  
 22 Minnesota, any unemployment benefits paid the applicant shall  
 23 not be disqualified from considered an overpayment of those  
 24 unemployment benefits under section ~~268.095~~ 268.18,  
 25 subdivision ~~10~~ 1.

26 (e) (d) If a senior an unemployment review law judge,  
 27 pursuant to subdivision 2, ~~remands a matter to an unemployment~~  
 28 ~~law judge for~~ orders the taking of additional evidence,  
 29 the prior unemployment law judge's prior decision shall continue  
 30 to be enforced until new findings of fact and decision are made  
 31 by an the unemployment law judge.

32 Subd. 4. [TESTIMONIAL POWERS.] An unemployment law  
 33 judge ~~and a senior unemployment review judge~~ may administer  
 34 oaths and affirmations, take depositions, and issue subpoenas to  
 35 compel the attendance of witnesses and the production of  
 36 documents and other personal property considered necessary as

1 evidence in connection with the subject matter of an evidentiary  
2 hearing. The subpoenas shall be enforceable through the  
3 district court in the district that the subpoena is issued.  
4 Witnesses subpoenaed, other than an involved applicant or  
5 involved employer or officers and employees of an involved  
6 employer, shall be paid by the department the same witness fees  
7 as in a civil action in district court.

8 Subd. 5. [USE OF EVIDENCE; DATA PRIVACY.] (a) All  
9 testimony at any evidentiary hearing conducted pursuant to  
10 subdivision 1 shall be recorded. A copy of any recorded  
11 testimony and exhibits offered or received into evidence at the  
12 hearing shall, upon request, ~~or-upon-directive-of-a-senior~~  
13 ~~unemployment-review-judge,~~ be furnished to a party at no cost  
14 during the time period for filing ~~an-appeal-to-a-senior~~  
15 ~~unemployment-review-judge~~ a motion for reconsideration or while  
16 such ~~an-appeal~~ a motion for reconsideration is pending. If  
17 ~~requested,~~ ~~the-department-shall-make-available-a-device-for~~  
18 ~~listening-to-the-recording-if-an-appeal-is-pending-before-a~~  
19 ~~senior-unemployment-review-judge-under-subdivision-2.~~

20 (b) Regardless of any provision of law to the contrary, if  
21 recorded testimony and exhibits received into evidence at the  
22 evidentiary hearing are not requested during the time period for  
23 filing ~~an-appeal-to-a-senior-unemployment-review-judge~~ a motion  
24 for reconsideration, or while such ~~an-appeal~~ a motion for  
25 reconsideration is pending, that testimony and other evidence  
26 shall later be made available to an involved party only pursuant  
27 to a district court order. A subpoena shall not be considered a  
28 district court order.

29 (c) Testimony obtained under subdivision 1, may not be used  
30 or considered for any purpose, including impeachment, in any  
31 civil, administrative, or contractual proceeding, except by a  
32 local, state, or federal human rights agency with enforcement  
33 powers, unless the proceeding is initiated by the department.

34 Subd. 5a. [NO COLLATERAL ESTOPPEL.] No findings of fact or  
35 decision or order issued by an unemployment law judge ~~or-a~~  
36 ~~senior-unemployment-review-judge~~ may be held conclusive or

1 binding or used as evidence in any separate or subsequent action  
2 in any other forum, be it contractual, administrative, or  
3 judicial, except proceedings provided for under this chapter,  
4 regardless of whether the action involves the same or related  
5 parties or involves the same facts.

6 Subd. 6. [REPRESENTATION; FEES.] (a) In any proceeding  
7 under subdivision 17 or 27-or-2a, an applicant or involved  
8 employer may be represented by any agent.

9 (b) Except for services provided by an attorney-at-law, an  
10 applicant shall not be charged fees, costs, or disbursements of  
11 any kind in a proceeding before an unemployment law judge, a  
12 ~~senior-unemployment-review-judge~~, the Minnesota Court of  
13 Appeals, or the Supreme Court of Minnesota.

14 Subd. 7. [JUDICIAL REVIEW.] (a) The Minnesota Court of  
15 Appeals shall, by writ of certiorari to the department, review  
16 the senior unemployment review law judge's decision under  
17 ~~subdivision-2-or-order-under-subdivision-2a~~, provided a petition  
18 for the writ is filed with the court and a copy is served upon  
19 the senior unemployment review law judge or the commissioner and  
20 any other involved party within 30 calendar days of the sending  
21 of the senior unemployment review law judge's decision-under  
22 ~~subdivision-2-or~~ order under subdivision 2a 2.

23 (b) Any employer petitioning for a writ of certiorari shall  
24 pay to the court the required filing fee and upon the service of  
25 the writ shall furnish a cost bond to the department in  
26 accordance with the Rules of Civil Appellate Procedure. If the  
27 employer requests a written transcript of the testimony received  
28 at the evidentiary hearing conducted pursuant to subdivision 1,  
29 the employer shall pay to the department the cost of preparing  
30 the transcript. That money shall be credited to the  
31 administration account.

32 (c) Upon issuance by the Minnesota Court of Appeals of a  
33 writ of certiorari as a result of an applicant's petition, the  
34 department shall furnish to the applicant at no cost a written  
35 transcript of any testimony received at the evidentiary hearing  
36 conducted pursuant to subdivision 1, and, if requested, a copy



1 of all exhibits entered into evidence. No filing fee or cost  
2 bond shall be required of an applicant petitioning the Minnesota  
3 Court of Appeals for a writ of certiorari.

4 (d) The department shall be considered the primary  
5 responding party to any judicial action involving a-senior an  
6 unemployment review law judge's decision or-order. The  
7 department may be represented by an attorney who is an employee  
8 of the department.

9 [EFFECTIVE DATE.] This section applies to unemployment law  
10 judge decisions issued on or after 30 days following final  
11 enactment.

12 Sec. 33. Minnesota Statutes 2004, section 268.145,  
13 subdivision 1, is amended to read:

14 Subdivision 1. [NOTIFICATION.] (a) Upon filing an  
15 application for unemployment benefits, the applicant shall be  
16 informed that:

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

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

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

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

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

28 (b) If an applicant elects to have federal income tax  
29 withheld, the commissioner shall deduct ten percent for federal  
30 income tax, rounded down to the next lower whole dollar. If an  
31 applicant also elects to have Minnesota state income tax  
32 withheld, the commissioner shall make an additional five percent  
33 deduction for state income tax, rounded down to the next lower  
34 whole dollar. Any amounts deducted or offset pursuant to  
35 sections 268.155, ~~268.156~~, 268.18, and 268.184 have priority  
36 over any amounts deducted under this section. Federal income

1 tax withholding has priority over state income tax withholding.

2 (c) An election to have income tax withheld shall not be  
3 retroactive and shall only apply to unemployment benefits paid  
4 after the election.

5 Sec. 34. Minnesota Statutes 2004, section 268.18,  
6 subdivision 1, is amended to read:

7 Subdivision 1. [NONFRAUD OVERPAYMENT.] (a) Any applicant  
8 who (1) by reason of the applicant's own mistake, or (2) because  
9 of an error by any employee of the department, or (3) because of  
10 a determination or amended determination issued pursuant to  
11 section 268.07 or 268.101, or (4) because of an appeal decision  
12 under section 268.105, has received any unemployment benefits  
13 that the applicant was not entitled to, shall promptly repay the  
14 unemployment benefits to the trust fund. The commissioner shall,  
15 as soon as the overpayment is discovered, determine the amount  
16 due and notify the applicant to repay the unemployment benefits.

17 (b) Unless the applicant files an appeal within 30 calendar  
18 days after the sending of the determination of overpayment to  
19 the applicant by mail or electronic transmission, the  
20 determination shall become final. Proceedings on the appeal  
21 shall be conducted in accordance with section 268.105. An  
22 applicant may not collaterally attack, by way of an appeal to an  
23 overpayment determination, any prior determination issued  
24 pursuant to section 268.07 or 268.101, or decision issued  
25 pursuant to section 268.105, that has become final.

26 (c) If the applicant fails to repay the unemployment  
27 benefits determined overpaid under this subdivision, the  
28 commissioner may offset from any future unemployment benefits  
29 otherwise payable the amount of the overpayment. Except when  
30 the overpayment resulted because the applicant failed to report  
31 deductible earnings or deductible or benefit delaying payments,  
32 no single offset shall exceed 50 percent of the amount of the  
33 payment from which the offset is made. The overpayment may also  
34 be collected by the same methods as delinquent payments from an  
35 employer. A determination of overpayment shall state the  
36 methods of collection the commissioner may use to recover the

1 overpayment.

2 (d) If an applicant has been overpaid unemployment benefits  
3 under the law of another state, due to a reason other than  
4 fraud, and that state certifies that the applicant is liable  
5 under its law to repay the unemployment benefits and requests  
6 the commissioner to recover the overpayment, the commissioner  
7 may offset from future unemployment benefits otherwise payable  
8 the amount of overpayment, except that no single offset shall  
9 exceed 50 percent of the amount of the payment from which the  
10 offset is made.

11 (e) If under paragraph (c) or (d) the reduced unemployment  
12 benefits as a result of a 50 percent offset is not a whole  
13 dollar amount, it shall be rounded down to the next lower whole  
14 dollar.

15 (f) Unemployment benefits paid for weeks more than three  
16 years prior to the discovery date of a determination of  
17 overpayment issued under this subdivision are shall not be  
18 considered overpaid unemployment benefits.

19 Sec. 35. Minnesota Statutes 2004, section 268.18,  
20 subdivision 2, is amended to read:

21 Subd. 2. [OVERPAYMENT DUE TO FRAUD.] (a) Any applicant who  
22 receives unemployment benefits by knowingly misrepresenting,  
23 misstating, or failing to disclose any material fact, or who  
24 makes a false statement or representation without a good faith  
25 belief as to the correctness of the statement or representation,  
26 has committed fraud. After the discovery of facts indicating  
27 fraud, the commissioner shall make a determination that the  
28 applicant obtained unemployment benefits by fraud and that the  
29 applicant must promptly repay the unemployment benefits to the  
30 trust fund. In addition, the commissioner shall assess a  
31 penalty equal to 25 percent of the amount fraudulently  
32 obtained. If the applicant had a prior overpayment due to  
33 fraud, the commissioner shall, on the present overpayment,  
34 assess a penalty equal to 50 percent of the amount fraudulently  
35 obtained. This penalty is in addition to penalties under  
36 section 268.182.

1 (b) Unless the applicant files an appeal within 30 calendar  
2 days after the sending of the determination of overpayment by  
3 fraud to the applicant by mail or electronic transmission, the  
4 determination shall become final. Proceedings on the appeal  
5 shall be conducted in accordance with section 268.105.

6 (c) If the applicant fails to repay the unemployment  
7 benefits, penalty, and interest assessed, the commissioner shall  
8 offset from future unemployment benefits otherwise payable the  
9 total amount due. The total due may also be collected by the  
10 same methods as delinquent payments from an employer. A  
11 determination of overpayment by fraud shall state the methods of  
12 collection the commissioner may use to recover the overpayment.  
13 Money received in repayment of fraudulently obtained  
14 unemployment benefits, penalties, and interest shall first be  
15 applied to the unemployment benefits overpaid, then to the  
16 penalty amount due, then to any interest due. Payments made  
17 toward the penalty and interest shall be credited to the  
18 contingent account.

19 (d) If an applicant has been overpaid unemployment benefits  
20 under the law of another state because of fraud and that state  
21 certifies that the applicant is liable to repay the unemployment  
22 benefits and requests the commissioner to recover the  
23 overpayment, the commissioner may offset from future  
24 unemployment benefits otherwise payable the amount of  
25 overpayment.

26 (e) Unemployment benefits paid for weeks more than four  
27 years prior to the date of a determination of overpayment by  
28 fraud may-only-be-made-within-four-years-of-the-effective-date  
29 of-the-benefit-account-from-which-the issued under this  
30 subdivision shall not be considered overpaid unemployment  
31 benefits were-fraudulently-obtained.

32 Sec. 36. Minnesota Statutes 2004, section 268.18,  
33 subdivision 2b, is amended to read:

34 Subd. 2b. [INTEREST.] (a) On any unemployment benefits  
35 fraudulently obtained, and any penalty amounts assessed under  
36 subdivision 2, the commissioner may assess interest at the rate

1 of 1-1/2 percent per month on any amount that remains unpaid 30  
2 calendar days after the date of the determination of overpayment  
3 by fraud. A determination of overpayment by fraud shall state  
4 that interest shall be assessed.

5 (b) If this subdivision became effective after the date of  
6 the determination, or the determination did not state that  
7 interest shall be assessed, interest shall be assessed beginning  
8 30 calendar days after notification, by mail or electronic  
9 transmission, to the applicant.

10 (c) Interest payments under this section shall be credited  
11 to the administration account.

12 Sec. 37. Minnesota Statutes 2004, section 268.182,  
13 subdivision 2, is amended to read:

14 Subd. 2. [ADMINISTRATIVE PENALTIES.] Any individual  
15 applicant who knowingly makes a false statement or  
16 representation, who knowingly fails to disclose a material fact,  
17 or who makes a false statement or representation without a good  
18 faith belief as to the correctness of the statement or  
19 representation, in order to obtain or in an attempt to obtain  
20 unemployment benefits may be assessed, in addition to any other  
21 penalties, an administrative penalty of denial-of being  
22 ineligible for unemployment benefits for one-to-52 13 to 104  
23 ~~weeks that the individual would otherwise be entitled to~~  
24 ~~unemployment benefits.--A denial shall not apply to any week~~  
25 ~~more than two years after the week that the penalty was~~  
26 determined. A determination of denial ineligibility setting out  
27 the weeks the applicant shall be ineligible shall be sent to the  
28 ~~individual~~ applicant by mail or electronic transmission. Unless  
29 an appeal is filed within 30 calendar days of sending, the  
30 determination shall be final. Proceeding on the appeal shall be  
31 conducted in accordance with section 268.105.

32 Sec. 38. [TAX RATE COMPUTATION.]

33 Notwithstanding any provision of Minnesota Statutes,  
34 chapter 268, to the contrary, the commissioner may compute, to  
35 the nearest 1/100 of a percent, any unemployment tax rate  
36 assigned on or after July 1, 2005, regardless of the year or

1 portion of any year for which the tax rate is applicable.

2 Sec. 39. [REVISOR'S INSTRUCTION.]

3 (a) The revisor of statutes shall change the name of the  
4 Department of Economic Security to the Department of Employment  
5 and Economic Development in Minnesota Statutes and Minnesota  
6 Rules.

7 (b) The revisor of statutes shall change the headnote for  
8 Minnesota Statutes, section 268.095 from "DISQUALIFICATION  
9 PROVISIONS" to "DISQUALIFICATION BECAUSE OF A QUIT OR DISCHARGE."

10 (c) The revisor of statutes shall change the headnote for  
11 Minnesota Statutes, section 268.101 from "DETERMINATIONS ON  
12 DISQUALIFICATION AND ELIGIBILITY" to "DETERMINATIONS ON ISSUES  
13 OF DISQUALIFICATION AND ELIGIBILITY."

14 (d) The revisor of statutes shall renumber Minnesota  
15 Statutes, section 268.095, subdivision 8, as section 268.085,  
16 subdivision 13c, and correct cross-references accordingly.

17 (e) The revisor of statutes shall change the term "court  
18 order" to "district court order" wherever the term appears in  
19 Minnesota Statutes, sections 268.01 to 268.83.

20 Sec. 40. [REPEALER.]

21 (a) Minnesota Rules, parts 3310.2926; 3310.5000; 3315.0910,  
22 subpart 9; 3315.1301; 3315.1315, subparts 1, 2, and 3;  
23 3315.1650; and 3315.2210, are repealed.

24 (b) Minnesota Statutes 2004, section 268.086, subdivision  
25 4, is repealed.

26 (c) Laws 1997, chapter 66, section 64, subdivision 1, is  
27 repealed.

28 Sec. 41. [EFFECTIVE DATE.]

29 Sections 1 to 38 and 40 are effective July 1, 2005.

30 Section 39 is effective the day following final enactment.

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**268.045 EMPLOYER TAX OR REIMBURSABLE ACCOUNTS.**

Subd. 2. **Common paymaster tax account.** Two or more related taxpaying corporations concurrently employing the same employees and compensating those employees through a common paymaster that is one of the corporations may apply, by electronic transmission, in a format prescribed by the commissioner, to establish a common paymaster tax account that shall be the tax account of the common paymaster corporation. The commissioner shall have discretion on approval of a common paymaster tax account. If approved, the separate tax accounts shall be maintained, but the employees compensated through the common paymaster shall be reported under section 268.044 as employees of the common paymaster corporation. The corporations using the common paymaster tax account shall be jointly and severally liable for any unpaid amounts due under this chapter and section 116L.20 from the common paymaster tax account.

Subd. 3. **Joint tax account.** Two or more taxpaying employers having 50 percent or more common ownership and compensating employees through a single payer that is one of the employers may apply by electronic transmission in a format prescribed by the commissioner for a combining of the experience ratings of the employers into a single experience rating and joint tax account. The commissioner shall have discretion on approval of a joint tax account.

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

The employers in the joint tax account shall be jointly and severally liable for any unpaid amounts due under this chapter and section 116L.20 from the joint tax account.

Subd. 4. **Group reimbursable account.** Two or more nonprofit or government employers that have elected to be liable for reimbursements may apply to the commissioner for the establishment of a group reimbursable account for the purpose of sharing the cost of unemployment benefits charged based upon wage credits from all employers in the group. The application, filed by electronic transmission in a format prescribed by the commissioner, shall identify and authorize a group representative to act as the group's agent for the purposes of the reimbursable account. The commissioner shall have discretion on approval of a group reimbursable account. If approved, the commissioner shall establish a group reimbursable account for the employers effective as of the beginning of the calendar year that the application is received. The reimbursable account shall remain in effect for not less than two calendar years and thereafter until terminated at the discretion of the commissioner or upon application by the group, filed by electronic transmission in a format prescribed by the commissioner, at least 30 calendar days prior to the end of the two year period or 30 calendar days prior to January 1 of any following calendar year. Each nonprofit or government employer in the group shall be jointly and severally liable for reimbursements for all unemployment benefits paid based upon wage credits from all employers in the group during the period



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the group reimbursable account was in effect.

**268.086 CONTINUED BIWEEKLY REQUEST FOR UNEMPLOYMENT BENEFITS ON AN ACTIVE BENEFIT ACCOUNT.**

Subd. 4. Continued biweekly request for unemployment benefits by telephone. (a) A continued biweekly request by telephone shall be made to a telephone number required by the commissioner for that applicant. In order to constitute a continued biweekly request, all information asked for, including information authenticating that the caller is the applicant, must be provided. If all of the information asked for is not provided, the communication shall not constitute a continued biweekly request for unemployment benefits.

The telephone communication must be made on the date required for the applicant for filing a continued biweekly request for unemployment benefits by telephone.

(b) If the telephone continued biweekly request for unemployment benefits is not filed on the date required, a continued biweekly request by telephone shall be accepted if the applicant files the continued biweekly request by telephone within 14 days following the week in which the date required occurred. If the continued biweekly request by telephone is not filed within 14 days following the week in which the date required occurred, the telephone continued biweekly request shall not be accepted and the applicant shall be ineligible for unemployment benefits for the period covered by the continued biweekly request and the benefit account shall be considered inactive, unless the applicant shows good cause for failing to file the continued biweekly request by telephone within the time period requested.

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State of Minnesota

**S.F. No. 944 - Unemployment Insurance**

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**Date:** March 11, 2005

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**Background**

This is a Department bill. It contains two articles. Article 1 contains changes in law mandated by federal law and designed to prevent the avoidance of unemployment taxes. Article 2 is a series of mostly technical and housekeeping changes.

**Article 1**

Section 1 regulates leased workers and is not required by federal law. It requires that an employer be responsible for the unemployment compensation taxes for its employees if they are acquired from the employer by another person and provided back to that employer for a fee.

Section 2 regulates the practice of a corporation setting up a limited liability company and moving employees to that company for the purpose of evading or reducing unemployment taxes. This section provides that, if the only member of a limited liability company is a corporation and there is a federal tax disregard of that limited liability company, the employees of the limited liability company must be reported and are the responsibility of the corporation.

Section 3 provides a penalty of two percent of the total wages for each employee for which a wage detail report is completely missing.

Section 4 provides a statutory reference.

Section 5 is designed to comply with new federal mandates to prevent state unemployment tax avoidance. When all of the employees of a taxpaying employer are transferred to an employer that has common ownership and management control with the transferring employer, the transferring employer's experience rating is transferred as well. This section also provides that if there is a transfer of less than all of the employees to a commonly controlled employer, then the proportionate share of the experience rating history attributable to those transfers are transferred to the successor employer. If the Commissioner does not have sufficient information to make an exact determination of the experience rating history transferred, then it shall be done on a strictly mathematical basis. Employers are required to notify the Commissioner of transactions subject to this section. This section applies only if the successor employer had a lower experience rating at the time of the transfer of employees.

Section 6 authorizes the Commissioner to take action to address tax avoidance action. The Commissioner may transfer all or part of an experience rating history and recompute tax rates or assign the appropriate new employer tax rate if the Commissioner determines that an action was taken, in whole or in part, for tax avoidance purposes. The authority of the Commissioner exists notwithstanding any issue of common ownership or management.

Section 7 is a coordinating provision to account for the ability of the Commissioner to reassign tax rates.

Section 8 amends current law relating to joint and several liability for unemployment taxes by leasing firms if certain conditions exist.

Section 9 provides an administrative penalty for employers for including employees on a wage detail report knowing they are employed by a different employer.

Section 10 provides penalties of \$5,000 or two percent of the first full quarterly payroll acquired, whichever is higher, for violating the notification requirement. Ignorance or inadvertence is an excuse that would cancel the penalty. Persons who advise an employer to violate notification requirements are also subject to the same penalty.

Section 11 contains criminal felony penalties for advising or assisting an employer in taking illegal actions or failing to comply with the notification required.

Section 12 requires the Commissioner to adopt procedures to implement federal tax avoidance requirements.

## **Article 2: Unemployment Insurance Housekeeping**

### **Overview**

Article 2 makes technical and housekeeping changes to Minnesota's unemployment insurance law.

Section 1 makes a technical change.

Section 2 modifies conditions for designation as "independent contractor" to conform with the workers compensation law.

Section 3 clarifies definition of "employee" so that it includes any individual employed to perform or help perform the work of an employer's agent or employee if the employer had actual or constructive knowledge of the work.

Section 4 simplifies the definition of "employer" in accord with the modified definition of "person" (section 6).

Section 5 revises the definition of "noncovered employment" to clarify that employment as an insurance salesperson or real estate salesperson is not covered if all the wages from the employment are solely by way of commission, even if the salesperson receives other forms of compensation that are not by way of commission.

Section 6 makes the definition of "person" more precise by listing the various entities considered a person under the unemployment insurance law. See the revised definition of "employer" (section 4).

Section 7 clarifies that a person is considered "unemployed" in a given week if (1) the person worked less than 32 hours in a week; and (2) the person's weekly earnings are less than the person's weekly benefits.

Section 8 makes a technical change. Amends provision to specify that the commissioner will no longer require a wage detail report from a business as soon as the commissioner receives notice of the termination of the business.

Section 9 makes technical changes.

Section 10 amends law to allow two waivers during each 12 months, rather than just one waiver, of a late fee assessed an employer for failure to timely submit a wage detail report. Raises minimum amount of late fee assessed from \$50 to \$250.

Section 11 limits buydown option to taxpaying employers who have no amounts past due under Chapter 268 of the Minnesota Statutes (the unemployment law).

Section 12 strikes language excluding school districts from the provision allowing a state or political subdivision to elect to be a taxpaying employer.

Section 13 provides that voluntary payments exceeding benefits paid during the experience rating period cannot be credited against benefits paid after the experience rating period.

Section 14 clarifies the five requirements for receipt of unemployment benefits by elaborating upon references to other sections of Chapter 268.

Section 15 strikes language about benefits being available only for weeks during the applicant's benefit year and adds similar language to a different section (section 16). Makes a technical change.

Section 16 incorporates language similar to that stricken from section 15 . Amends eligibility requirements to specify that, to be eligible, an applicant must be unemployed, as defined in section 7 .

Section 17 amends current law to provide that an applicant engaged in 32 hours or more of volunteer work is not eligible to receive benefits for that week.

Section 18 regulates the effect of receipt of vacation pay on benefits.

Section 19 regulates earnings deductions for: (1) on-call or standby pay for volunteer firefighter or volunteer ambulance service personnel, or (2) pay as an election judge.

Section 20 modifies language to reflect new federal agency name.

Section 21 amends requirement that biweekly request for unemployment benefits include information on possible issues of disqualification to add requirement that biweekly request also include information on possible issues of eligibility.

Section 22 eliminates the telephone as an available method for filing a continued biweekly request.

Section 23 clarifies that current law disqualifying from unemployment benefits applicants who quit employment (Minnesota Statutes, section 268.095, subd. 1) must be analyzed in accord with current law dictating the duration of disqualification (Minnesota Statutes, section 268.095, subd. 10).

Section 24 clarifies that current law disqualifying from unemployment benefits applicants who were discharged from employment by an employer (Minnesota Statutes, section 268.095, subd. 4) must be analyzed in accord with current law dictating the duration of disqualification (Minnesota Statutes, section 268.095, subd. 10). Makes a technical change.

Section 25 strikes the reference to Minnesota Statutes, section 268.095, subdivision 8 (offers of employment).

Section 26 strikes current language "disqualifying" individuals who fail to seek or accept offers of suitable employment from unemployment benefits, and instead makes them "ineligible" for the receipt of benefits.

Section 27 strikes language about when the period of disqualification from unemployment benefits begins, which is incorporated in section 26 .

Section 28 strikes language about offers of suitable employment, which is incorporated in section 26 .

Section 29 amends the notification requirements to require an applicant to report (1) any offer of employment refused during the eight calendar weeks prior to the date of the applicant's application for unemployment benefits, and (2) the name of the employer making the offer. Subjects persons who fail to disclose an offer of employment to the penalties for false disclosures and concealment of facts set forth in Minnesota Statutes, section 268.182, subdivision 2.

Section 30 eliminates a reference to "senior unemployment review judge" in conjunction with the change made in section 32 .

Section 31 amends subdivision heading and language to clarify that it addresses appeals filed by *an applicant*.

Section 32 eliminates provisions allowing applicants to seek de novo review of an unemployment law judge's decision before a senior unemployment law judge.

- Creates a new mechanism for review that would allow parties to file a motion for reconsideration of an unemployment law judge's decision with the unemployment law judge before they seek judicial review in the Minnesota courts.

Section 33 strikes obsolete statutory reference.

Section 34 specifies that benefits paid for weeks more than 3 years prior to a determination of overpayment shall not be considered overpaid.

Section 35 clarifies language stating that benefits paid for weeks more than four years prior to a determination of overpayment due to fraud shall not be considered overpaid.

Section 36 amends the law to specify that interest payments on benefits fraudulently attained and penalty amounts assessed for overpayment due to fraud shall be credited to the administration account.

Section 37 increases the administrative penalty of benefit ineligibility from a range of 1 to 52 weeks to a range of 13 to 104 weeks.

Section 38 provides that the commissioner may compute to the nearest one-hundredth of a percent any unemployment tax rate assigned on or after July 1, 2005, regardless of the year for which the tax rate is applicable.

Section 39 is a Revisor's instruction.

Section 40 repeals certain Minnesota Rules.

Section 41, with the exception of sections 32 and 39, this article is effective July 1, 2005. Section 39 is effective the day following final enactment. Section 32 applies to unemployment law judge decisions issued on or after 30 days following final enactment.

JCF:cs

1 Senator ..... moves to amend S.F. No. 944 as follows:

2 Page 12, after line 21, insert:

3 "[EFFECTIVE DATE.] This section is effective August 1,  
4 2005, and applies to crimes committed on or after that date."

5 Page 12, after line 25, insert:

6 "Sec. 13. [RELATION TO FEDERAL LAW.]

7 This article is enacted to meet the requirements of the  
8 Federal SUTA Dumping Prevention Act of 2004, Public Law 108-295,  
9 amending United States Code, title 42, section 503, and shall be  
10 construed, interpreted, and applied consistent with the  
11 requirements of that federal law, including its definitions."

12 Page 53, line 29, delete "38" and insert "31, 33 to 38,"

13 Renumber the sections in sequence and correct the internal  
14 references

15 Amend the title accordingly

1 Senator ..... moves to amend S.F. No. 944 as follows:

2 Pages 1 and 2, delete section 1

3 Page 2, line 27, delete "[268.0436]" and insert "[268.0435]"

4 Page 3, after line 4, insert:

5 "Sec. 2. Minnesota Statutes 2004, section 268.044,

6 subdivision 1, is amended to read:

7 Subdivision 1. [WAGE DETAIL REPORT.] (a) Each employer  
8 that has employees in covered employment shall submit, under the  
9 account provided for in section 268.045 or 268.046, a quarterly  
10 wage detail report by electronic transmission, in a format  
11 prescribed by the commissioner. The report shall include for  
12 each employee in covered employment, the employee's name, Social  
13 Security number, the total wages paid to the employee, and total  
14 number of paid hours worked. For employees exempt from the  
15 definition of employee in section 177.23, subdivision 7, clause  
16 (6), the employer shall report 40 hours worked for each week any  
17 duties were performed by a full-time employee and shall report a  
18 reasonable estimate of the hours worked for each week duties  
19 were performed by a part-time employee. In addition, the wage  
20 detail report shall include the number of employees employed on  
21 the 12th day of each calendar month and, if required by the  
22 commissioner, the report shall be broken down by business  
23 location and type-of-employment, if section 268.046, subdivision  
24 1, paragraph (b), or subdivision 2, paragraph (b), applies, by  
25 separate unit. If the information required is not submitted in  
26 a manner and format prescribed by the commissioner, it shall not  
27 be considered a wage detail report. The report is due and must  
28 be received by the commissioner on or before the last day of the  
29 month following the end of the calendar quarter. The  
30 commissioner may delay the due date on a specific calendar  
31 quarter in the event the department is unable to accept wage  
32 detail reports electronically.

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

35 (c) An employer need not include the name of the employee  
36 or other required information on the wage detail report if



1 disclosure is specifically exempted from being reported by  
2 federal law.

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

7 Page 3, after line 22, insert:

8 "Sec. 4. Minnesota Statutes 2004, section 268.045,  
9 subdivision 1, is amended to read:

10 Subdivision 1. [ACCOUNT FOR EACH EMPLOYER.] The  
11 commissioner shall maintain (1) a tax account for each taxpaying  
12 employer and (2) a reimbursable account for each nonprofit or  
13 government employer that has elected under section 268.052 or  
14 268.053 to be liable for reimbursements ~~if-that-employer-has~~  
15 ~~employees-in-covered-employment-in-the-current-or-the-prior~~  
16 ~~calendar-year,~~ except as provided in this section 268.046. The  
17 commissioner shall assess the tax account ~~of-a-taxpaying~~  
18 ~~employer~~ for all the taxes due under section 268.051 and credit  
19 the tax account with all taxes paid. The commissioner shall  
20 charge the reimbursable account ~~of-a-nonprofit-or-government~~  
21 ~~employer-that-elects-to-make-reimbursements~~ for any unemployment  
22 benefits determined chargeable ~~to-the-employer~~ under section  
23 268.047 and shall credit the reimbursable account with the  
24 payments made.

25 Sec. 5. [268.046] [TAX AND REIMBURSABLE ACCOUNTS ASSIGNED  
26 TO EMPLOYEE LEASING COMPANIES, PROFESSIONAL EMPLOYER  
27 ORGANIZATIONS, OR SIMILAR PERSON.]

28 Subdivision 1. [TAX ACCOUNTS ASSIGNED.] (a) Any person  
29 that contracts with a taxpaying employer to have that person  
30 obtain the taxpaying employer's workforce and provide workers to  
31 the taxpaying employer for a fee shall, as of the effective date  
32 of the contract, be assigned for the duration of the contract  
33 the taxpaying employer's account under section 268.045. That  
34 tax account must be maintained by the person separate and  
35 distinct from every other tax account held by the person and  
36 identified in a manner prescribed by the commissioner. The tax

1 account shall, for the duration of the contract, be considered  
2 that person's account for all purposes of this chapter. The  
3 workers obtained from the taxpaying employer and any other  
4 workers provided by that person to the taxpaying employer must,  
5 under section 268.044, be reported on the wage detail report  
6 under that tax account, and that person shall pay any taxes due  
7 at the tax rate computed for that account under section 268.051,  
8 subdivision 2.

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

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

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

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

36 Subd. 2. [NONPROFIT AND GOVERNMENT REIMBURSABLE ACCOUNTS

1 ASSIGNED.] (a) Any person that contracts with a nonprofit or  
2 government employer that is a reimbursing employer to have that  
3 person obtain the nonprofit or government employer's workforce  
4 and provide workers to the nonprofit or government employer for  
5 a fee, shall, as of the effective date of the contract, be  
6 assigned for the duration of the contract the nonprofit or  
7 government employer's account under section 268.045. That  
8 reimbursable account must be maintained by the person separate  
9 and distinct from every other account held by the person and  
10 identified in a manner prescribed by the commissioner. That  
11 reimbursable account shall, for the duration of the contract, be  
12 considered that person's account for all purposes of this  
13 chapter. The workers obtained from the nonprofit or government  
14 employer and any other workers provided by that person to the  
15 nonprofit or government employer must, under section 268.044, be  
16 reported on the wage detail report under that reimbursable  
17 account, and that person shall pay any reimbursements due.

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

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

32 (d) A person that contracts with a nonprofit or government  
33 employer under paragraph (a) must, within 30 calendar days of  
34 the execution or termination of a contract, notify the  
35 commissioner of that execution or termination by electronic  
36 transmission, in a format prescribed by the commissioner. The

1 nonprofit or government employer's name, the account number  
2 assigned, and any other information required by the commissioner  
3 must be provided by that person.

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

11 Subd. 3. [PENALTIES; APPLICATION.] (a) Any person that  
12 violates the requirements of this section and any taxpaying  
13 employer that violates subdivision 1, paragraph (b), or any  
14 nonprofit or government employer that violates subdivision 2,  
15 paragraph (b), shall be subject to the penalties under section  
16 268.184, subdivision 1a. Penalties shall be credited to the  
17 administration account to be used to ensure integrity in the  
18 unemployment insurance program.

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

25 (c) An assignment of an account upon the execution of a  
26 contract under this section and a termination of a contract with  
27 the corresponding assignment of the account shall not be  
28 considered a separation from employment of any worker covered by  
29 the contract. Nothing under this subdivision shall cause the  
30 person to be liable for any amounts past due under this chapter  
31 from the taxpaying employer or the nonprofit or government  
32 employer.

33 (d) This section applies to, but is not limited to, persons  
34 registered under section 79.255, but does not apply to persons  
35 that obtain an exemption from registration under section 79.255,  
36 subdivision 9.

1           [EFFECTIVE DATE.] This section applies to all contracts  
2 executed on and after January 1, 2006."

3           Page 8, delete lines 7 and 8

4           Page 9, line 32, strike "FIRMS" and insert "COMPANY,  
5 PROFESSIONAL EMPLOYER ORGANIZATION, OR SIMILAR PERSON"

6           Page 9, line 34, strike "firms" and insert "company,  
7 professional employer organization, or similar person"

8           Page 10, line 2, strike "firm" and insert "company,  
9 professional employer organization, or similar person"

10          Page 11, line 30, delete "268.0436" and insert "268.046"

11          Page 11, line 32, delete "268.0436" and insert "268.046"

12          Page 15, after line 20, insert:

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

17          Renumber the sections in sequence and correct the internal  
18 references

19          Amend the title accordingly

1 Senator ..... moves to amend S.F. No. 944 as follows:

2 Page 25, after line 30, insert:

3 "Sec. 14. Minnesota Statutes 2004, section 268.057,  
4 subdivision 7, is amended to read:

5 Subd. 7. [CREDIT ADJUSTMENTS, REFUNDS.] (a) If an employer  
6 makes an application for a credit adjustment of any amount paid  
7 under this chapter or section 116L.20 within four years of  
8 the year date that the payment was made due, in a manner and  
9 format prescribed by the commissioner, and the commissioner  
10 determines that the payment or any portion was erroneous, the  
11 commissioner shall make an adjustment and issue a credit without  
12 interest. If a credit cannot be used, the commissioner shall  
13 refund, without interest, the amount erroneously paid. The  
14 commissioner, on the commissioner's own motion, may make a  
15 credit adjustment or refund under this subdivision.

16 Any refund returned to the commissioner shall be considered  
17 unclaimed property under chapter 345.

18 (b) If a credit adjustment or refund is denied in whole or  
19 in part, a notice of denial shall be sent to the employer by  
20 mail or electronic transmission. Within 30 calendar days after  
21 sending of the notice of denial, the employer may protest.

22 Upon receipt of a timely protest, the commissioner shall  
23 review the denial and either affirm the denial or redetermine  
24 the credit adjustment or refund. The affirmation of denial or  
25 redetermination of the credit adjustment or refund, sent by mail  
26 or electronic transmission, shall be final unless an employer  
27 files an appeal within 30 calendar days after sending.  
28 Proceedings on the appeal shall be conducted in accordance with  
29 section 268.105."

30 Renumber the sections in sequence and correct the internal  
31 references

32 Amend the title accordingly

1 Senator ..... moves to amend S.F. No. 944 as follows:

2 Pages 40 to 48, delete section 32 and insert:

3 "Sec. 32. Minnesota Statutes 2004, section 268.105, is  
4 amended to read:

5 268.105 [APPEALS.]

6 Subdivision 1. [EVIDENTIARY HEARING BY AN UNEMPLOYMENT LAW  
7 JUDGE.] (a) Upon a timely appeal having been filed, the  
8 department shall send, by mail or electronic transmission, a  
9 notice of appeal to all involved parties that an appeal has been  
10 filed, that a de novo due process evidentiary hearing will be  
11 scheduled, and that the parties have certain rights and  
12 responsibilities regarding the hearing. The department shall  
13 set a time and place for a de novo due process evidentiary  
14 hearing and send notice to any involved applicant and any  
15 involved employer, by mail or electronic transmission, not less  
16 than ten calendar days prior to the date of the hearing.

17 (b) The evidentiary hearing shall be conducted by an  
18 unemployment law judge without regard to any common law burden  
19 of proof as an evidence gathering inquiry and not an adversarial  
20 proceeding. The unemployment law judge shall ensure that all  
21 relevant facts are clearly and fully developed. The department  
22 shall adopt rules on evidentiary hearings. The rules need not  
23 conform to common law or statutory rules of evidence and other  
24 technical rules of procedure. The department shall have  
25 discretion regarding the method by which the evidentiary hearing  
26 is conducted. A report of any employee of the department,  
27 except a determination, made in the regular course of the  
28 employee's duties, shall be competent evidence of the facts  
29 contained in it.

30 (c) After the conclusion of the hearing, upon the evidence  
31 obtained, the unemployment law judge shall make findings of fact  
32 and decision and send those, by mail or electronic transmission,  
33 to all involved parties. When the credibility of an involved  
34 party or witness testifying in an evidentiary hearing has a  
35 significant effect on the outcome of a decision, the  
36 unemployment law judge must set out the reason for crediting or

1 discrediting that testimony. The unemployment law judge's  
 2 decision is the final department-decision unless a further  
 3 appeal request for reconsideration is filed pursuant to  
 4 subdivision 2.

5 (d) Only employees of the department who are attorneys  
 6 shall serve as unemployment law judges. ~~A-senior-unemployment~~  
 7 ~~review-judge~~ The commissioner may personally-hear-or transfer to  
 8 another unemployment law judge any proceedings pending before an  
 9 unemployment law judge. ~~Any-proceedings-removed-to-a-senior~~  
 10 ~~unemployment-review-judge-shall-be-heard-in-accordance-with-this~~  
 11 ~~subdivision.~~

12 Subd. 2. ~~{DE-NOVO-REVIEW-BY-A-SENIOR-UNEMPLOYMENT-REVIEW~~  
 13 ~~JUDGE.}-~~~~(a)-Except-as-provided-under-subdivision-2a, any~~  
 14 ~~involved-applicant-or-involved-employer-may-appeal-a-decision-of~~  
 15 ~~an-unemployment-law-judge-and-obtain-a-de-novo-review-by-a~~  
 16 ~~senior-unemployment-review-judge-by-filing-with-a-senior~~  
 17 ~~unemployment-review-judge-an-appeal-within-30-calendar-days~~  
 18 ~~after-the-sending-of-the-unemployment-law-judge's-decision.---A~~  
 19 ~~senior-unemployment-review-judge-within-the-same-period-of-time~~  
 20 ~~may, on-a-senior-unemployment-review-judge's-own-motion, order-a~~  
 21 ~~de-novo-review-of-any-decision-of-an-unemployment-law-judge.~~

22 ~~(b)-A-senior-unemployment-review-judge-shall-be-an-attorney~~  
 23 ~~who-is-an-employee-of-the-department.~~

24 ~~(c)-Upon-de-novo-review, a-senior-unemployment-review-judge~~  
 25 ~~shall, on-the-basis-of-that-evidence-submitted-at-the~~  
 26 ~~evidentiary-hearing-under-subdivision-1, make-findings-of-fact~~  
 27 ~~and-decision, or-remand-the-matter-back-to-an-unemployment-law~~  
 28 ~~judge-for-the-taking-of-additional-evidence-and-the-making-of~~  
 29 ~~new-findings-and-decision-based-on-all-the-evidence.---A-senior~~  
 30 ~~unemployment-review-judge-shall, independent-of-the-findings-of~~  
 31 ~~fact-and-decision-of-the-unemployment-law-judge, examine-the~~  
 32 ~~evidence-and-make-those-findings-of-fact-as-the-evidence, in-the~~  
 33 ~~judgment-of-the-senior-unemployment-review-judge-require, and~~  
 34 ~~make-that-decision-as-the-facts-found-by-the-senior-unemployment~~  
 35 ~~review-judge-require.~~

36 ~~(d)-A-senior-unemployment-review-judge-may-conduct-a-de~~



1 ~~novo-review-without-argument-by-any-involved-party, or a senior~~  
2 ~~unemployment-review-judge-may-allow-written-argument.---A-senior~~  
3 ~~unemployment-review-judge-shall-not, except-for-purposes-of~~  
4 ~~deciding-whether-to-remand-a-matter-to-an-unemployment-law-judge~~  
5 ~~for-a-further-evidentiary-hearing, consider-any-evidence-that~~  
6 ~~was-not-submitted-at-the-hearing-before-the-unemployment-law~~  
7 ~~judge.~~

8 ~~(e)-The-senior-unemployment-review-judge-shall-send, by~~  
9 ~~mail-or-electronic-transmission, to-any-involved-party-the~~  
10 ~~senior-unemployment-review-judge's-findings-of-fact-and~~  
11 ~~decision.---The-decision-of-the-senior-unemployment-review-judge~~  
12 ~~is-the-final-decision-of-the-department.---Unless-judicial-review~~  
13 ~~is-sought-under-subdivision-7, the-decision-of-the-senior~~  
14 ~~unemployment-review-judge-shall-become-final-30-calendar-days~~  
15 ~~after-sending.~~

16 ~~Subd.-2a.---{ORDERS-BY-A-SENIOR-UNEMPLOYMENT-REVIEW-JUDGE.}~~  
17 ~~(a)-If-an-applicant-or-employer-files-an-appeal-in-a-matter~~  
18 ~~where-an-unemployment-law-judge-affirmed-a-determination-issued~~  
19 ~~under-section-268.101, and-there-is-no-dispute-regarding-the~~  
20 ~~determinative-facts, a-senior-unemployment-review-judge-shall~~  
21 ~~have-the-discretion-to-decline-to-conduct-a-de-novo-review.---If~~  
22 ~~de-novo-review-is-declined, the-senior-unemployment-review-judge~~  
23 ~~shall-issue-an-order-adopting-the-unemployment-law-judge's~~  
24 ~~findings-of-fact-and-decision.~~

25 ~~(b)-If-an-involved-party-fails, without-good-cause, to~~  
26 ~~appear-and-participate-at-the-evidentiary-hearing-conducted-by~~  
27 ~~an-unemployment-law-judge-under-subdivision-1, and-that-party~~  
28 ~~files-an-appeal, a-senior-unemployment-review-judge-shall-have~~  
29 ~~the-discretion-to-decline-to-conduct-a-de-novo-review.---If-de~~  
30 ~~novo-review-is-declined, the-senior-unemployment-review-judge~~  
31 ~~shall-issue-an-order-dismissing-the-appeal.~~

32 ~~Submission-of-a-written-statement-shall-not-constitute-an~~  
33 ~~appearance-and-participation-at-an-evidentiary-hearing-for~~  
34 ~~purposes-of-this-paragraph.~~

35 ~~All-involved-parties-must-be-notified-of-this-paragraph~~  
36 ~~with-the-notice-of-appeal-and-notice-of-hearing-provided-for~~

1 ~~under subdivision 1. The senior unemployment review judge shall~~  
2 ~~allow for the submission of a written argument on the issue of~~  
3 ~~good cause before dismissing an appeal under this paragraph.~~

4 ~~"Good cause" for purposes of this paragraph is a compelling~~  
5 ~~reason that would have prevented a reasonable person acting with~~  
6 ~~due diligence from appearing and participating at the~~  
7 ~~evidentiary hearing.~~

8 ~~(c) The senior unemployment review judge shall send to any~~  
9 ~~involved party the order issued under this subdivision. The~~  
10 ~~order may be sent by mail or electronic transmission. Unless~~  
11 ~~judicial review is sought under subdivision 7, the order of a~~  
12 ~~senior unemployment review judge becomes final 30 calendar days~~  
13 ~~after sending. [REQUEST FOR RECONSIDERATION.] (a) Any involved~~  
14 ~~applicant, involved employer, or the commissioner may, within 30~~  
15 ~~calendar days of the sending of the unemployment law judge's~~  
16 ~~decision under subdivision 1, file a request for reconsideration~~  
17 ~~asking the unemployment law judge to reconsider that decision.~~  
18 ~~Section 268.103 shall apply to a request for reconsideration.~~  
19 ~~If a request for reconsideration is timely filed, the~~  
20 ~~unemployment law judge shall issue an order:~~

21 ~~(1) modifying the findings of fact and decision issued~~  
22 ~~under subdivision 1;~~

23 ~~(2) setting aside the findings of fact and decision issued~~  
24 ~~under subdivision 1 and directing that an additional evidentiary~~  
25 ~~hearing be conducted under subdivision 1; or~~

26 ~~(3) affirming the findings of fact and decision issued~~  
27 ~~under subdivision 1.~~

28 ~~(b) Upon a timely request for reconsideration having been~~  
29 ~~filed, the department shall send a notice, by mail or electronic~~  
30 ~~transmission, to all involved parties that a request for~~  
31 ~~reconsideration has been filed. The notice shall inform the~~  
32 ~~involved parties:~~

33 ~~(1) of the opportunity to provide comment on the request~~  
34 ~~for reconsideration, and the right under subdivision 5 to obtain~~  
35 ~~a copy of any recorded testimony and exhibits offered or~~  
36 ~~received into evidence at the evidentiary hearing;~~

1       (2) that providing specific comments as to a perceived  
2 factual or legal error in the decision, or a perceived error in  
3 procedure during the evidentiary hearing, will assist the  
4 unemployment law judge in deciding the request for  
5 reconsideration;

6       (3) of the right to obtain any comments and submissions  
7 provided by the other involved party regarding the request for  
8 reconsideration; and

9       (4) of the provisions of paragraph (c) regarding additional  
10 evidence.

11 This paragraph shall not apply if paragraph (d) is applicable.

12       (c) In deciding a request for reconsideration, the  
13 unemployment law judge shall not, except for purposes of  
14 determining whether to order an additional evidentiary hearing,  
15 consider any evidence that was not submitted at the evidentiary  
16 hearing conducted under subdivision 1.

17       The unemployment law judge must order an additional  
18 evidentiary hearing if an involved party shows that evidence  
19 which was not submitted at the evidentiary hearing: (1) would  
20 likely change the outcome of the decision and there was good  
21 cause for not having previously submitted that evidence; or (2)  
22 would show that the evidence that was submitted at the  
23 evidentiary hearing was likely false and that the likely false  
24 evidence had an effect on the outcome of the decision.

25       (d) If the involved applicant or involved employer who  
26 filed the request for reconsideration failed to participate in  
27 the evidentiary hearing conducted under subdivision 1, an order  
28 setting aside the findings of fact and decision and directing  
29 that an additional evidentiary hearing be conducted must be  
30 issued if the party who failed to participate had good cause for  
31 failing to do so. In the notice of the request for  
32 reconsideration, the party who failed to participate shall be  
33 informed of the requirement, and provided the opportunity, to  
34 show good cause for failing to participate. If the unemployment  
35 law judge determines that good cause for failure to participate  
36 has not been shown, the unemployment law judge must state that

1 in the order issued under paragraph (a).

2 Submission of a written statement at the evidentiary  
3 hearing under subdivision 1 shall not constitute participation  
4 for purposes of this paragraph.

5 All involved parties must be informed of this paragraph  
6 with the notice of appeal and notice of hearing provided for in  
7 subdivision 1.

8 "Good cause" for purposes of this paragraph is a reason  
9 that would have prevented a reasonable person acting with due  
10 diligence from participating at the evidentiary hearing.

11 (e) A request for reconsideration shall be decided by the  
12 unemployment law judge who issued the findings of fact and  
13 decision under subdivision 1 unless that unemployment law  
14 judge: (1) is no longer employed by the department; (2) is on  
15 an extended or indefinite leave; (3) has been disqualified from  
16 the proceedings on the judge's own motion; or (4) has been  
17 removed from the proceedings as provided for under subdivision 1  
18 or applicable rule.

19 (f) The unemployment law judge shall send to any involved  
20 applicant or involved employer, by mail or electronic  
21 transmission, the order issued under this subdivision. An order  
22 modifying the previously issued findings of fact and decision or  
23 an order affirming the previously issued findings of fact and  
24 decision shall be the final department decision on the matter  
25 and shall be final and binding on the involved applicant and  
26 involved employer unless judicial review is sought under  
27 subdivision 7.

28 Subd. 3. [WITHDRAWAL OF APPEAL.] (a) Any appeal that is  
29 pending before an unemployment law judge ~~or-a-senior~~  
30 ~~unemployment-review-judge~~ may be withdrawn by the appealing  
31 person, or an authorized representative of that person, upon  
32 filing of a notice of withdrawal.

33 (b) The appeal shall, by order, be dismissed if a notice of  
34 withdrawal is filed, unless an unemployment law judge ~~or-a~~  
35 ~~senior-unemployment-review-judge~~, ~~by-order~~, directs that further  
36 adjudication is required for a proper result.

1 (c) A notice of withdrawal may be filed by mail or by  
2 electronic transmission.

3 Subd. 3a. [DECISIONS.] (a) If an unemployment law judge's  
4 ~~decision or a senior unemployment review judge's decision~~ or  
5 order allows unemployment benefits to an applicant, the  
6 unemployment benefits shall be paid regardless of any ~~appeal~~  
7 period request for reconsideration or any appeal to the  
8 Minnesota Court of Appeals having been filed.

9 (b) If an unemployment law judge's decision or order  
10 modifies or reverses a determination, or prior decision of the  
11 unemployment law judge, allowing unemployment benefits to an  
12 applicant, any benefits paid pursuant to the determination, or  
13 prior decision of the unemployment law judge, is considered an  
14 overpayment of those unemployment benefits under section 268.18,  
15 subdivision 1.

16 (c) ~~If a senior unemployment review judge's decision~~  
17 ~~modifies or reverses an unemployment law judge's decision~~  
18 ~~allowing unemployment benefits to an applicant, any unemployment~~  
19 ~~benefits paid pursuant to the unemployment law judge's decision~~  
20 ~~is considered an overpayment of those unemployment benefits~~  
21 ~~under section 268.18, subdivision 1.~~

22 (d) If ~~a senior unemployment review judge affirms an~~  
23 unemployment law judge's ~~decision on an issue of~~  
24 ~~disqualification that~~ order under subdivision 2 allows  
25 unemployment benefits to an applicant under section 268.095  
26 because of a quit or discharge and the ~~senior~~ unemployment  
27 ~~review law judge's decision or order~~ is reversed by the  
28 Minnesota Court of Appeals or the Supreme Court of  
29 Minnesota, any unemployment benefits paid the applicant shall  
30 not be ~~disqualified from~~ considered an overpayment of those  
31 unemployment benefits under section ~~268.095~~ 268.18,  
32 subdivision ~~10~~ 1.

33 (e) (d) If ~~a senior~~ an unemployment review law judge,  
34 pursuant to subdivision 2, ~~remands a matter to an unemployment~~  
35 ~~law judge for~~ orders the taking of additional evidence,  
36 the ~~prior~~ unemployment law judge's prior decision shall continue

1 to be enforced until new findings of fact and decision are made  
2 by an the unemployment law judge.

3 Subd. 4. [TESTIMONIAL POWERS.] An unemployment law  
4 judge ~~and-a-senior-unemployment-review-judge~~ may administer  
5 oaths and affirmations, take depositions, and issue subpoenas to  
6 compel the attendance of witnesses and the production of  
7 documents and other personal property considered necessary as  
8 evidence in connection with the subject matter of an evidentiary  
9 hearing. The subpoenas shall be enforceable through the  
10 district court in the district that the subpoena is issued.  
11 Witnesses subpoenaed, other than an involved applicant or  
12 involved employer or officers and employees of an involved  
13 employer, shall be paid by the department the same witness fees  
14 as in a civil action in district court.

15 Subd. 5. [USE OF EVIDENCE; DATA PRIVACY.] (a) All  
16 testimony at any evidentiary hearing conducted pursuant to  
17 subdivision 1 shall be recorded. A copy of any recorded  
18 testimony and exhibits offered or received into evidence at the  
19 hearing shall, upon request, ~~or-upon-directive-of-a-senior~~  
20 ~~unemployment-review-judge,~~ be furnished to a party at no cost  
21 during the time period for filing ~~an-appeal-to-a-senior~~  
22 ~~unemployment-review-judge~~ a request for reconsideration or while  
23 ~~such-an-appeal~~ a request for reconsideration is pending. If  
24 ~~requested,-the-department-shall-make-available-a-device-for~~  
25 ~~listening-to-the-recording-if-an-appeal-is-pending-before-a~~  
26 ~~senior-unemployment-review-judge-under-subdivision-2-~~

27 (b) Regardless of any provision of law to the contrary, if  
28 recorded testimony and exhibits received into evidence at the  
29 evidentiary hearing are not requested during the time period for  
30 filing ~~an-appeal-to-a-senior-unemployment-review-judge~~ a request  
31 for reconsideration, or while ~~such-an-appeal~~ a request for  
32 reconsideration is pending, that testimony and other evidence  
33 shall later be made available ~~to-an-involved-party~~ only pursuant  
34 to a district court order. A subpoena shall not be considered a  
35 district court order.

36 (c) Testimony obtained under subdivision 1, may not be used

1 or considered for any purpose, including impeachment, in any  
2 civil, administrative, or contractual proceeding, except by a  
3 local, state, or federal human rights agency with enforcement  
4 powers, unless the proceeding is initiated by the department.

5 Subd. 5a. [NO COLLATERAL ESTOPPEL.] No findings of fact or  
6 decision or order issued by an unemployment law judge ~~or a~~  
7 ~~senior-unemployment-review-judge~~ may be held conclusive or  
8 binding or used as evidence in any separate or subsequent action  
9 in any other forum, be it contractual, administrative, or  
10 judicial, except proceedings provided for under this chapter,  
11 regardless of whether the action involves the same or related  
12 parties or involves the same facts.

13 Subd. 6. [REPRESENTATION; FEES.] (a) In any proceeding  
14 under subdivision 1~~7~~ or 2~~7~~-~~or-2a~~, an applicant or involved  
15 employer may be represented by any agent.

16 (b) Except for services provided by an attorney-at-law, an  
17 applicant shall not be charged fees, costs, or disbursements of  
18 any kind in a proceeding before an unemployment law judge, a  
19 ~~senior-unemployment-review-judge~~, the Minnesota Court of  
20 Appeals, or the Supreme Court of Minnesota.

21 Subd. 7. [JUDICIAL REVIEW.] (a) The Minnesota Court of  
22 Appeals shall, by writ of certiorari to the department, review  
23 the ~~senior unemployment review~~ law judge's decision under  
24 ~~subdivision-2-or-order-under-subdivision-2a~~, provided a petition  
25 for the writ is filed with the court and a copy is served upon  
26 the ~~senior unemployment review~~ law judge or the commissioner and  
27 any other involved party within 30 calendar days of the sending  
28 of the ~~senior unemployment review~~ law judge's ~~decision-under~~  
29 ~~subdivision-2-or~~ order under subdivision 2a 2.

30 (b) Any employer petitioning for a writ of certiorari shall  
31 pay to the court the required filing fee and upon the service of  
32 the writ shall furnish a cost bond to the department in  
33 accordance with the Rules of Civil Appellate Procedure. If the  
34 employer requests a written transcript of the testimony received  
35 at the evidentiary hearing conducted pursuant to subdivision 1,  
36 the employer shall pay to the department the cost of preparing

1 the transcript. That money shall be credited to the  
2 administration account.

3 (c) Upon issuance by the Minnesota Court of Appeals of a  
4 writ of certiorari as a result of an applicant's petition, the  
5 department shall furnish to the applicant at no cost a written  
6 transcript of any testimony received at the evidentiary hearing  
7 conducted pursuant to subdivision 1, and, if requested, a copy  
8 of all exhibits entered into evidence. No filing fee or cost  
9 bond shall be required of an applicant petitioning the Minnesota  
10 Court of Appeals for a writ of certiorari.

11 (d) The Minnesota Court of Appeals may affirm the decision  
12 of the unemployment law judge or remand the case for further  
13 proceedings; or it may reverse or modify the decision if the  
14 substantial rights of the petitioner may have been prejudiced  
15 because the findings, inferences, conclusion, or decision are:

16 (1) in violation of constitutional provisions;

17 (2) in excess of the statutory authority or jurisdiction of  
18 the department;

19 (3) made upon unlawful procedure;

20 (4) affected by other error of law;

21 (5) unsupported by substantial evidence in view of the  
22 entire record as submitted; or

23 (6) arbitrary or capricious.

24 (e) The department shall be considered the primary  
25 responding party to any judicial action involving ~~a-senior~~ an  
26 unemployment review law judge's decision ~~or-order~~. The  
27 department may be represented by an attorney who is an employee  
28 of the department.

29 [EFFECTIVE DATE.] This section applies to unemployment law  
30 judge decisions issued on or after 30 days following final  
31 enactment of this act."

32 Amend the title accordingly

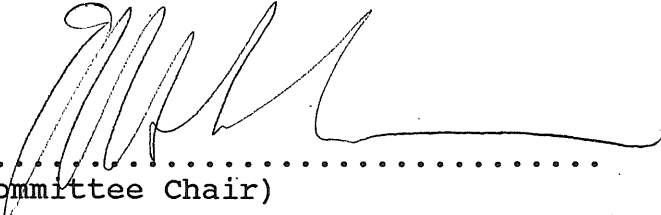


1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was referred

3 S.F. No. 904: A bill for an act relating to employment;  
4 modifying job training program grant provisions; appropriating  
5 money for job training programs; amending Minnesota Statutes  
6 2004, section 116J.8747, subdivision 2.

7 Reports the same back with the recommendation that the bill  
8 do pass and be re-referred to the Committee on Finance. Report  
9 adopted.

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.....  
(Committee Chair)

March 14, 2005.....  
(Date of Committee recommendation)

**Senators Anderson, Sams, Dille, Dibble and Rosen introduced--**

**S.F. No. 904:** Referred to the Committee on Jobs, Energy and Community Development.

1                                   A bill for an act

2           relating to employment; modifying job training program  
3           grant provisions; appropriating money for job training  
4           programs; amending Minnesota Statutes 2004, section  
5           116J.8747, subdivision 2.

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

7           Section 1. Minnesota Statutes 2004, section 116J.8747,  
8           subdivision 2, is amended to read:

9           Subd. 2. [QUALIFIED JOB TRAINING PROGRAM.] To qualify for  
10          grants under this section, a job training program must satisfy  
11          the following requirements:

12           (1) the program must be operated by a nonprofit corporation  
13          that qualifies under section 501(c)(3) of the Internal Revenue  
14          Code;

15           (2) the program must spend at least \$15,000 per graduate of  
16          the program;

17           (3) the program must provide education and training in:

18           (i) basic skills, such as reading, writing, mathematics,  
19          and communications;

20           (ii) thinking skills, such as reasoning, creative thinking,  
21          decision making, and problem solving; and

22           (iii) personal qualities, such as responsibility,  
23          self-esteem, self-management, honesty, and integrity;

24           (4) the program must provide income supplements, when  
25          needed, to participants for housing, counseling, tuition, and

1 other basic needs;

2 (5) the program's education and training course must last  
3 for an average of at least six months;

4 (6) individuals served by the program must:

5 (i) be 18 years of age or older;

6 (ii) have federal adjusted gross income of no more than  
7 \$11,000 per year in the ~~two-years~~ calendar year immediately  
8 before entering the program;

9 (iii) have assets of no more than \$7,000, excluding the  
10 value of a homestead; and

11 (iv) not have been claimed as a dependent on the federal  
12 tax return of another person in the previous taxable year; and

13 (7) the program must be certified by the commissioner of  
14 employment and economic development as meeting the requirements  
15 of this subdivision.

16 Sec. 2. [APPROPRIATION.]

17 \$500,000 in fiscal year 2006 and \$500,000 in fiscal year  
18 2007 are appropriated from the general fund to the commissioner  
19 of employment and economic development for job training program  
20 grants under Minnesota Statutes, section 116J.8747.

**Senate Counsel, Research,  
and Fiscal Analysis**

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.  
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JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**

**State of Minnesota**

## **S.F. No. 904 -Job Training Program Grant Requirement Modifications**

**Author:** Senator Ellen Anderson

**Prepared by:** Chris Turner, Senate Research (651/296-4350) CT

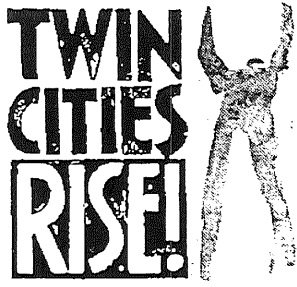
**Date:** March 14, 2005

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**Section 1** amends requirements for job training grants under Minnesota Statutes, section 116J.8747, by providing that a program's education and training course must last for an average of at least six months and that individuals participating in the program must have a federal adjusted gross income of no more than \$11,000 in the calendar year preceding entry into the program. Under current law, the program length must last at least six months and the annual income requirement must be met for the two years preceding program entry.

**Section 2** appropriates \$500,000 in fiscal year 2006 and \$500,000 in fiscal year 2007 from the general fund to the Commissioner of Employment and Economic Development for job training program grants under Minnesota Statutes, section 116J.8747.

CT:vs



# ACCOUNTABLE TO GOVERNMENT

## Our Program

Twin Cities RISE! provides employers with skilled workers from communities of color, by training under- and unemployed adults for skilled jobs that pay on average \$24,000 plus benefits. Participants in the program are recruited mostly from the inner city African American community. All are in desperate poverty.

We have a strong reputation for working with men with criminal records.

## Our State Contract

- TCR! has an innovative contract with the state. Rather than receive an outright grant, we are paid only when an individual who was in poverty obtains and retains a living wage job as a result of our training.
- The contract holds TCR! accountable to deliver results. No results = no payment.
- State data developed by the Office of the State Demographer has shown a 150% ROI to taxpayers to date, with up to 400% ROI likely as graduates continue to work.
- The contract worked well in the current biennium. The average graduate increased their income from \$3,000 to \$24,000 plus health care benefits.
- The contract is administered by DEED. Annual payments are limited to no more than \$250,000.

## Our Proposal

- Increase TCR!'s annual payment limit to \$500,000.
- Expand the payment mechanism to other programs.

## Why Do This?

- Doubles the number of graduates the state pays for with a 400% ROI.
- Sends a message that accountability and innovation are rewarded.
- Pays for the desired outcome (individuals out of poverty) not the process (training).
- Leverage \$1 provided by the state with \$7 private money.
- Keeps state funding on track with TCR! growth (but well below historical amount).

## **Is TCR! Cost Effective?**

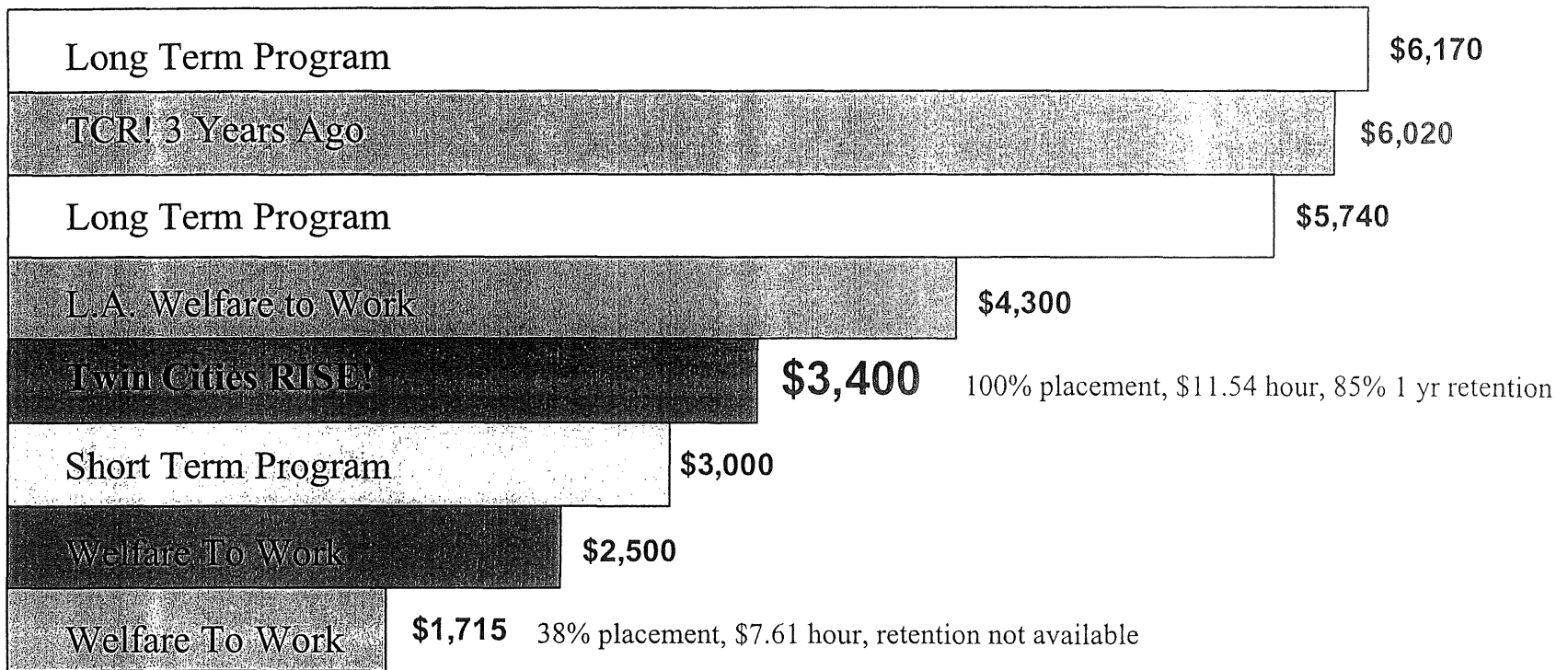
- Our cost per participant is \$3,400 and compares favorably to other long-term programs.
- We believe ROI is a better measure, and ours is very high. Cost is only half the picture.
- Short-term programs are cheaper but studies show they don't work for low skilled people.

## **Who Do You Help?**

- We work with mostly African Americans but accept all applicants.
- 50% of our participants have a criminal record. 75% have a history of alcohol and substance abuse. The average tested reading and math level is Junior High. 75% are unemployed when they enter the program.

# WORKFORCE PROGRAMS

## COST PER PARTICIPANT



Source: Richard Gerhman Associates.

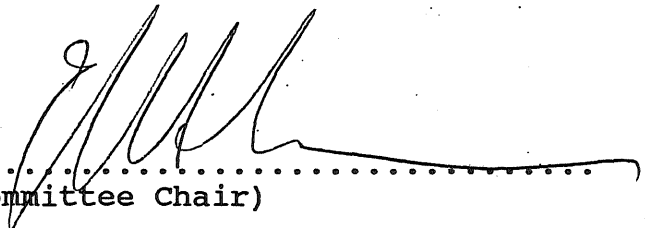
1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was referred

3 S.F. No. 1190: A bill for an act relating to taxation;  
4 sales and use; exempting construction materials used to  
5 construct certain utility facilities; amending Minnesota  
6 Statutes 2004, sections 297A.71, by adding a subdivision;  
7 297A.75, subdivisions 1, 2, 3.

8 Reports the same back with the recommendation that the bill  
9 do pass and be re-referred to the Committee on Taxes. Report  
10 adopted.

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12

  
.....  
(Committee Chair)

13

14

15

16

17

March 14, 2005.....  
(Date of Committee recommendation)



**Senate Counsel, Research,  
and Fiscal Analysis**

G-17 STATE CAPITOL  
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JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**

**State of Minnesota**

**S.F. No. 1190 - Municipal Utility Biomass Energy Facility  
Construction Materials Sales and Use**

**Author:** Senator David J. Tomassoni

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MG*

**Date:** March 10, 2005

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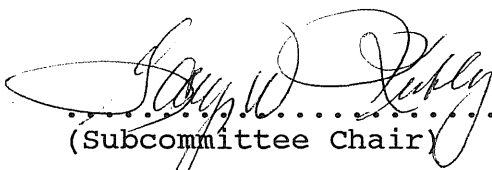
The bill provides a sales and use tax exemption for materials and equipment used or incorporated into a biomass electric energy generation facility owned by a municipal utility or joint venture of municipal utilities pursuant to the biomass energy mandate.

MG:cs

1 To: Senator Anderson, Chair  
 2 Committee on Jobs, Energy and Community Development  
 3 Senator Kubly,  
 4 Chair of the Subcommittee on Energy, to which was referred  
 5 S.F. No. 1190: A bill for an act relating to taxation;  
 6 sales and use; exempting construction materials used to  
 7 construct certain utility facilities; amending Minnesota  
 8 Statutes 2004, sections 297A.71, by adding a subdivision;  
 9 297A.75, subdivisions 1, 2, 3.

10 Reports the same back with the recommendation that the bill  
 11 do pass and be referred to the full committee.

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 .....  
 (Subcommittee Chair)  
 March 11, 2005.....  
 (Date of Subcommittee action)

Senators Tomassoni, Bakk, Saxhaug and Pogemiller introduced--

S.F. No. 1190: Referred to the Committee on Jobs, Energy and Community Development

1 A bill for an act

2 relating to taxation; sales and use; exempting  
3 construction materials used to construct certain  
4 utility facilities; amending Minnesota Statutes 2004,  
5 sections 297A.71, by adding a subdivision; 297A.75,  
6 subdivisions 1, 2, 3.

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

8 Section 1. Minnesota Statutes 2004, section 297A.71, is  
9 amended by adding a subdivision to read:

10 Subd. 33. [MUNICIPAL UTILITIES.] Materials and supplies  
11 used or consumed in, and equipment incorporated into, the  
12 construction, improvement, or expansion of electric generation  
13 and related facilities used pursuant to a joint power purchase  
14 agreement to meet the biomass energy mandate in section  
15 216B.2424 are exempt if the owner or owners of the facilities  
16 are a municipal electric utility or utilities or a joint venture  
17 of municipal electric utilities. The tax must be imposed and  
18 collected as if the rate under section 297A.62, subdivision 1,  
19 applied and then refunded under section 297A.75.

20 [EFFECTIVE DATE.] This section is effective for sales and  
21 purchases made after January 1, 2005.

22 Sec. 2. Minnesota Statutes 2004, section 297A.75,  
23 subdivision 1, is amended to read:

24 Subdivision 1. [TAX COLLECTED.] The tax on the gross  
25 receipts from the sale of the following exempt items must be  
26 imposed and collected as if the sale were taxable and the rate

1 under section 297A.62, subdivision 1, applied. The exempt items  
2 include:

3 (1) capital equipment exempt under section 297A.68,  
4 subdivision 5;

5 (2) building materials for an agricultural processing  
6 facility exempt under section 297A.71, subdivision 13;

7 (3) building materials for mineral production facilities  
8 exempt under section 297A.71, subdivision 14;

9 (4) building materials for correctional facilities under  
10 section 297A.71, subdivision 3;

11 (5) building materials used in a residence for disabled  
12 veterans exempt under section 297A.71, subdivision 11;

13 (6) chair lifts, ramps, elevators, and associated building  
14 materials exempt under section 297A.71, subdivision 12;

15 (7) building materials for the Long Lake Conservation  
16 Center exempt under section 297A.71, subdivision 17;

17 (8) materials, supplies, fixtures, furnishings, and  
18 equipment for a county law enforcement and family service center  
19 under section 297A.71, subdivision 26; and

20 (9) materials and supplies for qualified low-income housing  
21 under section 297A.71, subdivision 23; and

22 (10) materials, supplies, and equipment for municipal  
23 electric utility facilities under section 297A.71, subdivision  
24 33.

25 [EFFECTIVE DATE.] This section is effective for sales and  
26 purchases made after January 1, 2005.

27 Sec. 3. Minnesota Statutes 2004, section 297A.75,  
28 subdivision 2, is amended to read:

29 Subd. 2. [REFUND; ELIGIBLE PERSONS.] Upon application on  
30 forms prescribed by the commissioner, a refund equal to the tax  
31 paid on the gross receipts of the exempt items must be paid to  
32 the applicant. Only the following persons may apply for the  
33 refund:

34 (1) for subdivision 1, clauses (1) to (3), the applicant  
35 must be the purchaser;

36 (2) for subdivision 1, clauses (4), (7), and (8), the

1 applicant must be the governmental subdivision;

2 (3) for subdivision 1, clause (5), the applicant must be  
3 the recipient of the benefits provided in United States Code,  
4 title 38, chapter 21;

5 (4) for subdivision 1, clause (6), the applicant must be  
6 the owner of the homestead property; and

7 (5) for subdivision 1, clause (9), the owner of the  
8 qualified low-income housing project; and

9 (6) for subdivision 1, clause (10), the applicant must be a  
10 municipal electric utility or a joint venture of municipal  
11 electric utilities.

12 [EFFECTIVE DATE.] This section is effective for sales and  
13 purchases made after January 1, 2005.

14 Sec. 4. Minnesota Statutes 2004, section 297A.75,  
15 subdivision 3, is amended to read:

16 Subd. 3. [APPLICATION.] (a) The application must include  
17 sufficient information to permit the commissioner to verify the  
18 tax paid. If the tax was paid by a contractor, subcontractor,  
19 or builder, under subdivision 1, clause (4), (5), (6), (7), (8),  
20 ~~or~~ (9), or (10), the contractor, subcontractor, or builder must  
21 furnish to the refund applicant a statement including the cost  
22 of the exempt items and the taxes paid on the items unless  
23 otherwise specifically provided by this subdivision. The  
24 provisions of sections 289A.40 and 289A.50 apply to refunds  
25 under this section.

26 (b) An applicant may not file more than two applications  
27 per calendar year for refunds for taxes paid on capital  
28 equipment exempt under section 297A.68, subdivision 5.

29 [EFFECTIVE DATE.] This section is effective for sales and  
30 purchases made after January 1, 2005.

1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was re-referred

3 S.F. No. 378: A bill for an act relating to human  
4 services; modifying use of personal sick leave benefits;  
5 establishing an Internet-based caregiver support program;  
6 establishing a home care tax credit; requiring a telehome care  
7 study; appropriating money; amending Minnesota Statutes 2004,  
8 sections 181.9413; 256B.0911, subdivision 3; 256B.0917, by  
9 adding subdivisions; proposing coding for new law in Minnesota  
10 Statutes, chapter 290.

11 Reports the same back with the recommendation that the bill  
12 be amended as follows:

13 Page 2, delete section 2

14 Pages 3 to 6, delete sections 4 and 5

15 Page 6, delete line 36

16 Page 7, delete lines 1 and 2

17 Page 7, line 3, delete "(b)"

18 Page 7, line 5, delete "3" and insert "2"

19 Page 7, delete lines 6 to 8

20 Renumber the sections in sequence

21 Amend the title as follows:

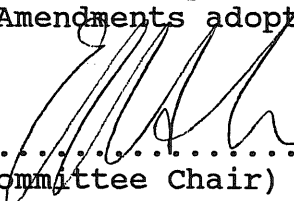
22 Page 1, lines 4 and 5, delete "establishing a home care tax  
23 credit;"

24 Page 1, line 7, delete everything after the semicolon

25 Page 1, line 8, delete "subdivisions;" and insert "a  
26 subdivision." and delete "proposing coding"

27 Page 1, delete line 9

28 And when so amended the bill do pass and be re-referred to  
29 the Committee on Finance. Amendments adopted. Report adopted.

30  
31   
32 .....  
33 (Committee Chair)

34 March 14, 2005.....  
35 (Date of Committee recommendation)

1 A bill for an act

2 relating to human services; modifying use of personal  
3 sick leave benefits; establishing an Internet-based  
4 caregiver support program; establishing a home care  
5 tax credit; requiring a telehome care study;  
6 appropriating money; amending Minnesota Statutes 2004,  
7 sections 181.9413; 256B.0911, subdivision 3;  
8 256B.0917, by adding subdivisions; proposing coding  
9 for new law in Minnesota Statutes, chapter 290.

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

11 Section 1. Minnesota Statutes 2004, section 181.9413, is  
12 amended to read:

13 181.9413 [~~SICK OR-INJURED-CHILD-CARE LEAVE~~ BENEFITS; USE TO  
14 CARE FOR CERTAIN RELATIVES.]

15 (a) An employee may use personal sick leave benefits  
16 provided by the employer for absences due to an illness of or  
17 injury to the employee's child, spouse, sibling, parent,  
18 grandparent, or stepparent for such reasonable periods as the  
19 employee's attendance ~~with-the-child~~ may be necessary, on the  
20 same terms upon which the employee is able to use sick leave  
21 benefits for the employee's own illness or injury. This section  
22 applies only to personal sick leave benefits payable to the  
23 employee from the employer's general assets.

24 (b) For purposes of this section, "personal sick leave  
25 benefits" means time accrued and available to an employee to be  
26 used as a result of absence from work due to personal illness or  
27 injury, but does not include short-term or long-term disability

1 or other salary continuation benefits.

2 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
3 and applies to sick leave used on or after that date.

4 Sec. 2. Minnesota Statutes 2004, section 256B.0911,  
5 subdivision 3, is amended to read:

6 Subd. 3. [LONG-TERM CARE CONSULTATION TEAM.] (a) A  
7 long-term care consultation team shall be established by the  
8 county board of commissioners. Each local consultation team  
9 shall consist of at least one social worker and at least one  
10 public health nurse from their respective county agencies. The  
11 board may designate public health or social services as the lead  
12 agency for long-term care consultation services. If a county  
13 does not have a public health nurse available, it may request  
14 approval from the commissioner to assign a county registered  
15 nurse with at least one year experience in home care to  
16 participate on the team. Two or more counties may collaborate  
17 to establish a joint local consultation team or teams.

18 (b) The team is responsible for providing long-term care  
19 consultation services to all persons located in the county who  
20 request the services, regardless of eligibility for Minnesota  
21 health care programs.

22 (c) For applicants for a credit under section 290.0676, the  
23 team must certify in accordance with procedures established by  
24 the commissioner that the care provided by the caregiver:

25 (1) qualifies as personal care assistant services under  
26 section 256B.0627, subdivision 4;

27 (2) is needed and provided in person on a daily basis;

28 (3) is appropriate based on the service recipient's needs  
29 and is likely to delay or avoid transferring the person to an  
30 out-of-home placement; and

31 (4) has been given a score using the caregiver burden scale  
32 under section 256B.0917, subdivision 6b.

33 Sec. 3. Minnesota Statutes 2004, section 256B.0917, is  
34 amended by adding a subdivision to read:

35 Subd. 6a. [INTERNET-BASED CAREGIVER SUPPORT PROGRAM.] The  
36 Minnesota Board on Aging shall develop and implement an



1 Internet-based caregiver support program. The goal of the  
2 program shall be to provide family caregivers with the  
3 information and tools needed to self-manage, plan, purchase,  
4 coordinate, monitor, and evaluate the day-to-day activities and  
5 care outcomes of family members to whom they provide care. The  
6 program must complement Internet-based information services that  
7 are currently available. The program must include the following  
8 components:

9 (1) direct connectivity to statewide systems, including,  
10 but not limited to, Senior LinkAge Line, MinnesotaHelp.info,  
11 RXConnect, and long-term care consultation and to vendors and  
12 providers of goods and services, including, but not limited to,  
13 respite care, coach services, pharmaceutical vendors, medical  
14 supply vendors, grocers, personal care vendors, and electronic  
15 assistive technology vendors;

16 (2) access to online resources, including connectivity to  
17 daily living and clinical monitoring devices and audio and  
18 visual contact between the care recipient, the caregiver,  
19 services providers, and others for tracking or conducting  
20 service visits, care meetings, and other service provision;

21 (3) message boards related to caregiver news, information,  
22 and events;

23 (4) data collection, including surveys, and reporting and  
24 registration functions as required by state and federal  
25 programs; and

26 (5) an individual data profile accessible by designated  
27 parties to view, add, share, or edit information as needed to  
28 support informal caregiving.

29 Sec. 4. Minnesota Statutes 2004, section 256B.0917, is  
30 amended by adding a subdivision to read:

31 Subd. 6b. [DUTIES WITH RESPECT TO HOME CARE CREDIT;  
32 APPLICATIONS.] (a) The commissioner shall develop by December 1,  
33 2005, a caregiver burden scale to score applicants for the home  
34 care credit under section 290.0676. The score shall measure  
35 hours per week of care provided, the volume and types of  
36 assistance provided, and other criteria determined by the

1 commissioner to be pertinent.

2 (b) Each caregiver applying for a credit under section  
3 290.0676 must apply to the commissioner. The commissioner shall  
4 rank applicants on the score developed under paragraph (a). The  
5 commissioner shall limit approvals under this paragraph in order  
6 to keep the credit payments under section 290.0676 within the  
7 limits of appropriations made specifically for this purpose.

8 (c) In each calendar year, the commissioner shall accept  
9 until February 15 applications for a caregiver burden scale  
10 score for the previous calendar year. By March 15 of each  
11 calendar year, the commissioner must issue approvals for credits  
12 under section 290.0676, based on each applicant's score on the  
13 scale and the appropriations available for credits. The  
14 commissioner may develop procedures to delegate to appropriate  
15 organizations the responsibility to assign burden scale scores  
16 to applicants.

17 (d) The commissioner shall be exempt from chapter 14 for  
18 purposes of this subdivision.

19 Sec. 5. [290.0676] [MINNESOTA HOME CARE CREDIT.]

20 Subdivision 1. [DEFINITIONS.] The terms used in this  
21 section have the following meanings unless otherwise provided  
22 for by text.

23 Subd. 2. [CAREGIVER.] "Caregiver" means an individual who  
24 provides unpaid assistance on a daily basis that qualifies as  
25 personal care assistant services under section 256B.0627,  
26 subdivision 4, to a service recipient in either the individual's  
27 home or the service recipient's home.

28 Subd. 3. [SERVICE RECIPIENT.] "Service recipient" means an  
29 individual age 65 or older who:

30 (1) is the spouse, parent, stepparent, sibling,  
31 stepsibling, child, stepchild, grandparent, or stepgrandparent  
32 of the taxpayer;

33 (2) resides other than in a setting licensed or registered  
34 by the commissioner of health or human services; and

35 (3) has been screened by a county long-term care  
36 consultation team and determined by that team to be eligible for

1 placement in a nursing home.

2 Subd. 4. [CREDIT ALLOWED.] (a) An individual is allowed a  
3 credit against the tax imposed by this chapter equal to \$200 for  
4 each month during the tax year that the individual is a  
5 caregiver for a service recipient. The maximum credit in a tax  
6 year shall be \$2,400.

7 (b) The commissioner shall require individuals claiming the  
8 credit to certify that the individual and the service recipient  
9 satisfy all the requirements of this section.

10 (c) An individual may claim only one credit in any tax year.  
11 Only one credit may be claimed for each service recipient in any  
12 tax year.

13 (d) For a nonresident or part-year resident, the credit  
14 must be allocated based on the percentage calculated under  
15 section 290.06, subdivision 2c, paragraph (e).

16 Subd. 5. [CREDIT LIMITATIONS.] (a) Eligibility for the  
17 credit in subdivision 4 is limited to persons with total  
18 household income, as defined in section 290A.03, subdivision 5,  
19 that does not exceed the maximum household income level eligible  
20 for a refund under section 290A.04, subdivision 2.

21 (b) Eligibility for the credit in subdivision 4 is limited  
22 to persons who have been approved by the commissioner of human  
23 services under section 256B.0917, subdivision 6b.

24 (c) The credit in subdivision 4 is reduced to \$100 for any  
25 month in which a service recipient receives more than four hours  
26 per day on average of federal, state, or county-funded home care  
27 services as specified in section 256B.0627, subdivision 2.

28 Subd. 6. [CREDIT REFUNDABLE.] If the amount of the credit  
29 under this section exceeds the individual's tax liability under  
30 this chapter, the commissioner shall refund the excess amount to  
31 the claimant.

32 Subd. 7. [CAREGIVER TRAINING.] For each year in which a  
33 credit is claimed under this section, the caregiver must attend  
34 at least eight hours of (1) caregiver training, education, or  
35 counseling, or (2) caregiver support group sessions.

36 [EFFECTIVE DATE.] This section is effective for taxable

1 years beginning after December 31, 2004.

2 Sec. 6. [TELEHOME CARE STUDY.]

3 (a) The commissioner of human services, in consultation  
4 with the commissioner of health, shall convene a work group to  
5 study and make recommendations on integrating within the home  
6 health care delivery system the delivery of home health care  
7 services via an interactive telecommunications system and  
8 monitoring technologies to homebound patients with chronic  
9 illness or disabilities. The study shall examine the  
10 effectiveness of video conferencing, Internet access, and  
11 physiological monitoring within a home health care setting in  
12 terms of cost, accessibility, health outcomes, and provider and  
13 patient satisfaction. The study shall:

14 (1) identify limitations and barriers and recommend  
15 possible solutions to providing telehome care, including  
16 provider reimbursement; patient and provider recruitment and  
17 training; equipment and technology access and support; and  
18 patient privacy;

19 (2) identify possible populations that may benefit from  
20 in-home monitoring and education;

21 (3) identify best-practices guidelines, policies, and  
22 standards for telehome care;

23 (4) assess the status of current projects providing  
24 telehome care in Minnesota; and

25 (5) identify partnership models and collaboration potential  
26 for delivering quality telehome care delivery system.

27 (b) The work group shall include representatives of health  
28 care providers, hospitals, educators, researchers, home health  
29 care providers, and home health care recipients.

30 (c) The commissioner shall submit a report to the  
31 legislature by January 15, 2006, on the results of the study,  
32 including any recommendations on necessary legislative changes  
33 in order to incorporate telehome care into the health care  
34 delivery system.

35 Sec. 7. [APPROPRIATIONS.]

36 (a) \$..... is appropriated from the general fund to the

1 commissioner of human services for the biennium beginning July  
2 1, 2005, for the purposes of section 2.

3 (b) \$750,000 in fiscal year 2006 and \$200,000 in fiscal  
4 year 2007 is appropriated from the general fund to the  
5 commissioner of human services for the purposes of section 3.

6 (c) \$4,800,000 is appropriated from the general fund to the  
7 commissioner of revenue for the biennium beginning July 1, 2005,  
8 for purposes of section 5.

1 Senator ..... moves to amend S.F. No. 378 as follows:  
2 Page 2, delete section 2  
3 Page 2, line 33, delete "3" and insert "2"  
4 Pages 3 to 6, delete sections 4 and 5  
5 Page 6, line 2, delete "6" and insert "3"  
6 Page 6, line 35, delete "7" and insert "4"  
7 Page 6, delete line 36  
8 Page 7, delete lines 1 and 2  
9 Page 7, line 3, delete "(b)"  
10 Page 7, line 5, delete "3" and insert "2"  
11 Page 7, delete lines 6 to 8  
12 Amend the title as follows:  
13 Page 1, lines 4 and 5, delete "establishing a home care tax  
14 credit;"  
15 Page 1, line 7, delete everything after the semicolon  
16 Page 1, line 8, delete "subdivisions;" and insert "a  
17 subdivision." and delete "proposing coding"  
18 Page 1, delete line 9

**Bill Summary****Senate**

Senate Counsel &amp; Research

State of Minnesota

**S.F. No. 378 - Caregiver Support (The A-4 Delete-Everything Amendment)**

**Author:** Senator Sheila Kiscaden  
**Prepared by:** David Giel, Senate Research (651/296-7178)  
**Date:** February 16, 2005

S.F. No. 378 modifies the ability of employees to use personal sick leave to care for family members. It establishes an Internet-based caregiver support program. It establishes a home care tax credit.

**Section 1 (181.9413)** allows employees to use personal sick leave to care for a spouse, sibling, parent, grandparent, or stepparent. Current law limits use of this benefit to the care of sick or injured children.

**Section 2 (256B.0911, subdivision 3)** requires county long-term care consultation teams to certify that applicants for a home care tax credit satisfy certain requirements. The teams must certify that the care qualifies as personal care assistance services, is needed and provided daily, is appropriate, and has been given a score using the caregiver burden scale under section 4.

**Section 3 (256B.0917, subdivision 6a)** requires the Minnesota Board on Aging to implement an Internet-based caregiver support program. The program is designed to provide needed support to caregivers to plan, purchase, coordinate, monitor, and evaluate the care outcomes of family members they are assisting. Program components are outlined in the bill.

**Section 4 (256B.0917, subdivision 6b)** assigns duties to the Department of Human Services (DHS) with respect to the home care tax credit. The department must develop a scale to score applicants for the credit. The scale must measure the volume and types of care provided and other aspects of care determined to be pertinent by DHS. Each caregiver applying for a tax credit must obtain a score from DHS, and DHS must limit approvals under this section in order to keep the expenditure for tax credits within the limit of appropriations for that purpose. A timetable for accepting and approving applications is established. DHS is exempt from the Administrative Procedure Act for the purposes of this section.

**Section 5 (290.0676)** establishes the home care tax credit.

**Subdivisions 1 to 4** define terms. A "service recipient" of a caregiver must be at least 65, must be closely related to the caregiver, must not reside in a licensed or registered setting, and must be determined eligible for nursing home placement.

**Subdivision 5** establishes the credit of \$200 per month, up to \$2,400 per year.

**Subdivision 6** sets a variety of limits on the credit. Income guidelines are established. Eligibility is limited to persons approved by DHS. The credit is reduced to \$100 during any month in which the qualifying person receives more than four hours per day of publicly funded home care services.

**Subdivision 7** makes the tax credit refundable.

**Subdivision 8** establishes annual caregiver training requirements.

**Section 6** requires DHS to convene a work group to study the possible integration into the home health care delivery system of the delivery of home health care services using interactive technologies. Study requirements and work group membership are outlined. A report is due by January 15, 2006.

**Section 7** appropriates a blank amount for added long-term care consultation team services, \$950,000 for the Internet-based caregiver support program, and \$4,800,000 for the tax credit.

DG:rdr

[Check on the status of this bill](#)

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*Last review or update: 02/18/2005*

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1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was re-referred

3 S.F. No. 634: A bill for an act relating to taxation;  
4 property; providing that certain personal property of an  
5 electric generation facility is exempt from property taxation;  
6 amending Minnesota Statutes 2004, section 272.02, by adding a  
7 subdivision.

8 Reports the same back with the recommendation that the bill  
9 be amended as follows:

10 Page 1, line 11, delete "a" and insert "an existing"

11 Page 2, line 2, after "facility" insert "expansion"

12 And when so amended the bill do pass and be re-referred to  
13 the Committee on Taxes. Amendments adopted. Report adopted.

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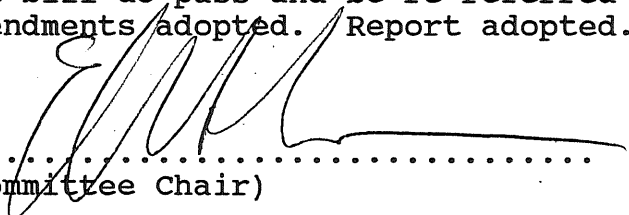
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.....  
(Committee Chair)

March 14, 2005.....  
(Date of Committee recommendation)

1 To: Senator Anderson, Chair  
 2 Committee on Jobs, Energy and Community Development  
 3 Senator Kubly,  
 4 Chair of the Subcommittee on Energy, to which was referred

5 S.F. No. 634: A bill for an act relating to taxation;  
 6 property; providing that certain personal property of an  
 7 electric generation facility is exempt from property taxation;  
 8 amending Minnesota Statutes 2004, section 272.02, by adding a  
 9 subdivision.


10 Reports the same back with the recommendation that the bill  
 11 be amended as follows:

12 Page 1, line 11, delete "a" and insert "an existing"

13 Page 2, line 2, after "facility" insert "expansion"

14 And when so amended that the bill be recommended to pass  
 15 and be referred to the full committee.

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 .....  
 (Subcommittee Chair)

March 9, 2005.....  
 (Date of Subcommittee action)

Senators Robling, Neuville and Belanger introduced--  
S.F. No. 634: Referred to the Committee on Taxes.

1 A bill for an act  
2 relating to taxation; property; providing that certain  
3 personal property of an electric generation facility  
4 is exempt from property taxation; amending Minnesota  
5 Statutes 2004, section 272.02, by adding a subdivision.

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

7 Section 1. Minnesota Statutes 2004, section 272.02, is  
8 amended by adding a subdivision to read:

9 Subd. 68. [ELECTRIC GENERATION FACILITY; PERSONAL  
10 PROPERTY.] Notwithstanding subdivision 9, clause (a), attached  
11 machinery and other personal property which is part of a  
12 simple-cycle, combustion-turbine electric generation facility  
13 that exceeds 300 megawatts of installed capacity and that meets  
14 the requirements of this subdivision is exempt. At the time of  
15 the construction, the facility must:

16 (1) be designed to utilize natural gas as a primary fuel;

17 (2) be owned by a public utility as defined in section  
18 216B.02, subdivision 4, and be located at or interconnected with  
19 an existing generating plant of the utility;

20 (3) be designed to provide peaking, emergency backup, or  
21 contingency services;

22 (4) satisfy a resource need identified in an approved  
23 integrated resource plan filed under section 216B.2422; and

24 (5) have received, by resolution, the approval from the  
25 governing body of the county and the city for the exemption of

1 personal property under this subdivision.

2 Construction of the facility must be commenced after  
3 January 1, 2004, and before January 1, 2005. Property eligible  
4 for this exemption does not include electric transmission lines  
5 and interconnections or gas pipelines and interconnections  
6 appurtenant to the property or the facility.

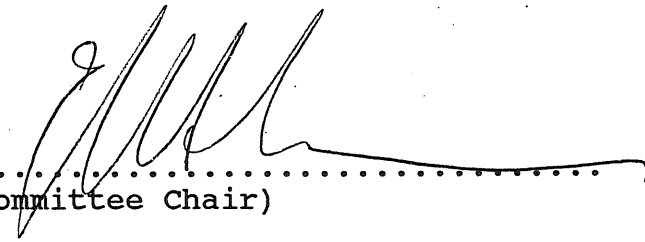
7 [EFFECTIVE DATE.] This section is effective beginning with  
8 assessment year 2005, for taxes payable in 2006 and thereafter.

1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was referred

3 S.F. No. 1190: A bill for an act relating to taxation;  
4 sales and use; exempting construction materials used to  
5 construct certain utility facilities; amending Minnesota  
6 Statutes 2004, sections 297A.71, by adding a subdivision;  
7 297A.75, subdivisions 1, 2, 3.

8 Reports the same back with the recommendation that the bill  
9 do pass and be re-referred to the Committee on Taxes. Report  
10 adopted.

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.....  
(Committee Chair)

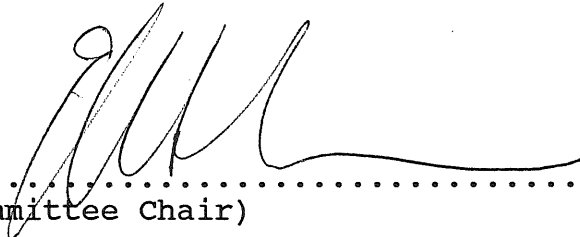
March 14, 2005.....  
(Date of Committee recommendation)

1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was referred

3 S.F. No. 719: A bill for an act relating to taxation;  
4 providing a sales tax exemption for certain construction  
5 materials for certain resource recovery facilities; amending  
6 Minnesota Statutes 2004, section 297A.71, by adding a  
7 subdivision.

8 Reports the same back with the recommendation that the bill  
9 do pass and be re-referred to the Committee on Taxes. Report  
10 adopted.

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.....  
(Committee Chair)

March 14, 2005.....  
(Date of Committee recommendation)

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To: Senator Anderson, Chair

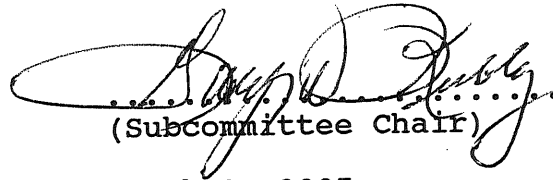
Committee on Jobs, Energy and Community Development

Senator Kubly,

Chair of the Subcommittee on Energy, to which was referred

S.F. No. 719: A bill for an act relating to taxation; providing a sales tax exemption for certain construction materials for certain resource recovery facilities; amending Minnesota Statutes 2004, section 297A.71, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass and be referred to the full committee.

  
.....  
(Subcommittee Chair)

March 9, 2005.....  
(Date of Subcommittee action)

Senators Kiscaden, Murphy, Kubly, Senjem and Frederickson introduced--  
S.F. No. 719: Referred to the Committee on Jobs, Energy and Community Development

A bill for an act

relating to taxation; providing a sales tax exemption for certain construction materials for certain resource recovery facilities; amending Minnesota Statutes 2004, section 297A.71, by adding a subdivision.

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

Section 1. Minnesota Statutes 2002, section 297A.71, is amended by adding a subdivision to read:

Subd. 33. [WASTE RECOVERY FACILITY.] Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of a waste-to-energy resource recovery facility are exempt if the facility uses biomass or mixed municipal solid waste as a primary fuel to generate steam or electricity.

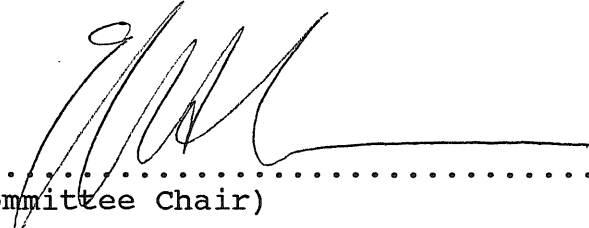
[EFFECTIVE DATE.] This section is effective for sales and purchases made after January 1, 2005.



1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was referred

3 S.F. No. 315: A bill for an act relating to taxation;  
4 property; providing that certain personal property of an  
5 electric generation facility is exempt from property taxation;  
6 amending Minnesota Statutes 2004, section 272.02, by adding a  
7 subdivision.

8 Reports the same back with the recommendation that the bill  
9 do pass and be re-referred to the Committee on Taxes. Report  
10 adopted.

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14 .....  
(Committee Chair)

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16 March 14, 2005.....  
17 (Date of Committee recommendation)

1 To: Senator Anderson, Chair  
 2 Committee on Jobs, Energy and Community Development  
 3 Senator Kubly,  
 4 Chair of the Subcommittee on Energy, to which was referred

5 S.F. No. 315: A bill for an act relating to taxation;  
 6 property; providing that certain personal property of an  
 7 electric generation facility is exempt from property taxation;  
 8 amending Minnesota Statutes 2004, section 272.02, by adding a  
 9 subdivision.

10 Reports the same back with the recommendation that the bill  
 11 do pass and be referred to the full committee.

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14 .....  
 15 (Subcommittee Chair)

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18 March 9, 2005.....  
 (Date of Subcommittee action)

Senator Day introduced--

S.F. No. 315: Referred to the Committee on Jobs, Energy and Community Development.

1                                   A bill for an act

2           relating to taxation; property; providing that certain

3           personal property of an electric generation facility

4           is exempt from property taxation; amending Minnesota

5           Statutes 2004, section 272.02, by adding a subdivision.

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

7           Section 1. Minnesota Statutes 2004, section 272.02, is

8           amended by adding a subdivision to read:

9           Subd. 68. [ELECTRIC GENERATION FACILITY PERSONAL

10          PROPERTY.] (a) Notwithstanding subdivision 9, clause (a), and

11          section 453.54, subdivision 20, attached machinery and other

12          personal property which is part of an electric generation

13          facility that exceeds 150 megawatts of installed capacity and

14          meets the requirements of this subdivision is exempt. At the

15          time of construction, the facility must:

16               (1) be designed to utilize natural gas as a primary fuel;

17               (2) be owned and operated by a municipal power agency as

18          defined in section 453.52, subdivision 8;

19               (3) have received the certificate of need under section

20          216B.243;

21               (4) be located outside the metropolitan area as defined

22          under section 473.121, subdivision 2; and

23               (5) be designed to be a combined-cycle facility, although

24          initially the facility will be operated as a simple-cycle

25          combustion turbine.

1        (b) To qualify under this subdivision, an agreement must be  
2 negotiated between the municipal power agency and the host city,  
3 for a payment in lieu of property taxes to the host city.

4        (c) Construction of the facility must be commenced after  
5 January 1, 2004, and before January 1, 2006. Property eligible  
6 for this exemption does not include electric transmission lines  
7 and interconnections or gas pipelines and interconnections  
8 appurtenant to the property or the facility.

9        [EFFECTIVE DATE.] This section is effective for assessment  
10 year 2005, taxes payable in 2006, and thereafter.

**Senate Counsel, Research,  
and Fiscal Analysis**

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.  
ST. PAUL, MN 55155-1606  
(651) 296-4791  
FAX: (651) 296-7747  
JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**

**State of Minnesota**

**S.F. No. 546 -Unemployment Insurance Eligibility Exception for  
Certain School Food Service Workers**

**Author:** Senator Dan Sparks

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** March 14, 2005

---

**Section 1** provides that employees of private food service companies operating under contract with an elementary or secondary school are eligible for unemployment insurance benefits between academic school years. These employees were eligible for unemployment benefits under Laws 2002, chapter 380, article 1, section 8, which sunset December 31, 2004. This bill would codify their eligibility in statute.

**Section 2** provides a December 31, 2004 effective date.

CT:vs

Senators Sparks and Tomassoni introduced--

S.F. No. 546: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to unemployment insurance; making an  
3 eligibility exception permanent for certain school  
4 food service workers; amending Minnesota Statutes  
5 2004, section 268.085, subdivision 8.

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

7 Section 1. Minnesota Statutes 2004, section 268.085,  
8 subdivision 8, is amended to read:

9 Subd. 8. [SERVICES FOR SCHOOL CONTRACTORS.] (a) Wage  
10 credits from an employer are subject to subdivision 7, if:

11 (1) the employment was provided pursuant to a contract  
12 between the employer and an elementary or secondary school; and

13 (2) the contract was for services that the elementary or  
14 secondary school could have had performed by its employees.

15 (b) Wage credits from an employer are not subject to  
16 subdivision 7 if:

17 (1) those wage credits were earned by an employee of a  
18 private employer performing work pursuant to a contract between  
19 the employer and an elementary or secondary school; and

20 (2) the employment was related to food services provided to  
21 the school by the employer.

22 Sec. 2. [EFFECTIVE DATE.]

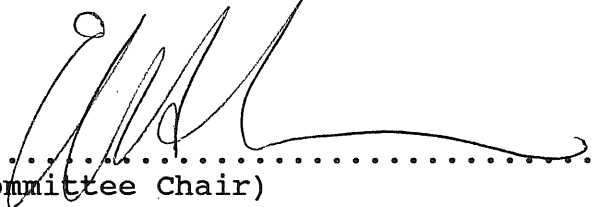
23 Section 1 is effective retroactively from December 31, 2004.

1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was referred

3 S.F. No. 546: A bill for an act relating to unemployment  
4 insurance; making an eligibility exception permanent for certain  
5 school food service workers; amending Minnesota Statutes 2004,  
6 section 268.085, subdivision 8.

7 Reports the same back with the recommendation that the bill  
8 do pass. Report adopted.

9  
10  
11  
12  
13  
14  
15

  
.....  
(Committee Chair)

March 14, 2005.....  
(Date of Committee recommendation)



# MINNESOTA DRIVE

DEMOCRAT REPUBLICAN INDEPENDENT VOTER EDUCATION

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March 14, 2005

Colin Hayes

Scott Gelhar

Doug Rubbelke

Trustees

Don Gerdesmeier

DRIVE Representative

~~Senator Steve Kelley~~

Jobs, Energy and Community Development Committee

205 State Capitol

Saint Paul, MN 55155

RE: S.F. 546

Dear Senator Kelley:

The International Brotherhood of Teamsters represents approximately 125 employees of Taher Inc., a company which contracts with school districts in Minnesota to provide food service in schools. The school districts included are Chaska, Norwood-Young America and North Branch.

The employees of this company have been eligible to receive unemployment insurance benefits during the summer school closing for many years. (The previous owner of this company was Signature Dining.) There is currently a Sunset Provision (December 31, 2004) in the statute which would make these private sector employees ineligible for unemployment insurance benefits after that date. (See enclosed copy.) The Department of Employment and Economic Development does not oppose removal of the Sunset Provision. Also enclosed is a history of this matter that we received from the Department of Employment and Economic Development.

It is my understanding that S.F. 546 will be heard in the Jobs, Energy and Community Development Committee today. I would appreciate if you would support this bill.

Yours truly,

Donald J. Gerdesmeier

DRIVE Representative

DG:la/opei#12

Enclosures





# Minnesota Senate

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KEY: ~~stricken~~ = old language to be removed  
underscored = new language to be added

NOTE: If you cannot see any difference in the key above, you **need to** change the display of stricken and/or underscored language.

[Authors and Status](#)   ■   [List versions](#)

**S.F. No. 546, as introduced 84th Legislative Session (2005-2006)** Posted on Jan 26, 2005

1.1                                      A bill for an act  
1.2                                      relating to unemployment insurance; making an  
1.3                                      eligibility exception permanent for certain school  
1.4                                      food service workers; amending Minnesota Statutes  
1.5                                      2004, section 268.085, subdivision 8.  
1.6    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:  
1.7                                      Section 1. Minnesota Statutes 2004, section 268.085,  
1.8    subdivision 8, is amended to read:  
1.9                                      Subd. 8. [SERVICES FOR SCHOOL CONTRACTORS.] (a) Wage  
1.10 credits from an employer are subject to subdivision 7, if:  
1.11                                     (1) the employment was provided pursuant to a contract  
1.12 between the employer and an elementary or secondary school; and  
1.13                                     (2) the contract was for services that the elementary or  
1.14 secondary school could have had performed by its employees.  
1.15                                     (b) Wage credits from an employer are not subject to  
1.16 subdivision 7 if:  
1.17                                     (1) those wage credits were earned by an employee of a  
1.18 private employer performing work pursuant to a contract between  
1.19 the employer and an elementary or secondary school; and  
1.20                                     (2) the employment was related to food services provided to  
1.21 the school by the employer.  
1.22                                     Sec. 2. [EFFECTIVE DATE.]  
1.23                                     Section 1 is effective retroactively from December 31, 2004.

---

Please direct all comments concerning issues or legislation  
to your [House Member](#) or [State Senator](#).

For Legislative Staff or for directions to the Capitol, visit the [Contact Us](#) page.

[General questions or comments.](#)

subdivision 6. If, at the end of each calendar quarter, the commissioner, in consultation with the commissioner of finance, determines that the balance in this special account, including interest earned on the special account, is more than is necessary to pay the interest which has accrued on any loan as of that date, or will accrue over the following calendar quarter, the commissioner shall immediately pay to the fund the amount in excess of that necessary to pay the interest on any loan.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2000, section 270B.14, subdivision 8, is amended to read:

**Subd. 8. EXCHANGE BETWEEN DEPARTMENTS OF LABOR AND INDUSTRY AND REVENUE.** The departments of labor and industry and revenue may exchange information as follows:

- (1) data used in determining whether a business is an employer or a contracting agent;
- (2) taxpayer identity information relating to employers and employees for purposes of supporting tax administration and chapter chapters 176, 177, and 181; and
- (3) data to the extent provided in and for the purpose set out in section 176.181, subdivision 8.

**Sec. 3. UNEMPLOYMENT INSURANCE; FOOD SERVICES.**

Notwithstanding the provisions of Minnesota Statutes, section 268.085, subdivision 8, wage credits from an employer are not subject to the provisions of Minnesota Statutes, section 268.085, subdivision 7, if those wage credits were earned by an employee of a private employer performing work pursuant to a contract between the employer and an elementary or secondary school and the employment was related to food services provided to the school by the employer. This section expires December 31, 2004.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

**Sec. 4. 2003 UNEMPLOYMENT INSURANCE BASE TAX RATE.**

Notwithstanding Minnesota Statutes, section 268.051, subdivision 2, and Laws 2001, First Special Session chapter 2, article 2, section 32, subdivision 2, the unemployment insurance base tax rate for employers is 0.38 percent for calendar year 2003.

**Sec. 5. EXTRA UNEMPLOYMENT BENEFITS.**

**Subdivision 1. AVAILABILITY.** Extra unemployment benefits are available to an applicant who was permanently laid off due to lack of work if:

- (1) the applicant was laid off from the Farmland Foods Company in Freeborn county on or after July 8, 2001;

New language is indicated by underlines, deletions by strikeout.

- (2) the applicant was laid off by Fingerhut Company January 3, 2002, and worked at one of that employer's Eveleth, or Mora areas; or

- (3) the applicant was laid off by Northwest Airlines, Mesaba Airlines, United Airlines, LSG Sky Chefs, American TransAir, Champion Air, Chautauque Airlines, Worldwide Air, Great Lakes Airlines, PanAm International Airways on or after September 11, 2001, and before

**Subd. 2. PAYMENT FROM FUND; EFFECTIVE DATE.** Benefits under this section are payable from the fund.

**Subd. 3. ELIGIBILITY CONDITIONS.** An applicant is eligible to collect benefits for any week through

- (1) a majority of the applicant's wage credits were earned for the layoff described in subdivision 1;
- (2) the applicant meets the eligibility requirements of section 268.085;
- (3) the applicant is not subject to a disqualification under section 268.095;
- (4) the applicant is not entitled to any regular unemployment benefits for that week and the applicant is not entitled to unemployment benefits under any other state or federal law or the law of another country;

(5) the applicant is enrolled in, or has within 90 days completed, a program that qualifies as reemployment training, a displaced worker program, except that an applicant who begins a program in more than 30 days may be considered to be enrolled in the program.

- (i) the applicant's chosen training program does not begin within 30 days;
- (ii) the applicant is scheduled to begin training for the chosen training program; and
- (iii) the applicant is scheduled to begin training for the chosen training program.

If an applicant qualifies for a new regular unemployment benefit as a result of exhausting regular unemployment benefits as a result of the layoff, the applicant must apply for and exhaust entitlement to that other type of unemployment benefits under any state or federal law or the law of another country.

**Subd. 4. WEEKLY AMOUNT OF EXTRA UNEMPLOYMENT BENEFITS.** The amount of extra benefits available to an applicant is the applicant's regular weekly benefit amount on the date of the layoff under subdivision 1.

New language is indicated by underlines.

HISTORY OF UNEMPLOYMENT BENEFITS  
DURING PERIODS OF LAYOFF FOR PRIVATE FOOD SERVICE WORKERS  
WHOSE EMPLOYERS HAVE A CONTRACT WITH A SCHOOL DISTRICT

Prior to 1983, no prohibition on collecting benefits.

1983-1999 Under then Minn. Stat. §268.08, subdivision 8, basically, benefits not available if employer objected to payment – most food service workers were paid benefits, See Laws 1983, ch. 372, sec. 24.

1999 Employer objection provision removed, applied effective 9/1/99 – benefits paid most workers during the summer 1999. See Laws 1999, ch. 107, sec. 42, subd. 8.

2000 Session law enacted effective May 2000 exempting food service workers from now Minn. Stat. §268.085, subd. 8. Sunset 12/31/01. See Laws 2000, ch. 488, art. 1, sec. 18.

2002 Session law enacted effective May 2002 extending sunset until 12/31/04. See Laws 2002, ch. 380, art. 1, sec. 3.

Most, if not all, food service workers working for private employers that have contracts with school districts have always been paid unemployment benefits when on layoff during the summer.

Questions – contact:

Lee B. Nelson, Director, Unemployment Insurance Legal Affairs  
Department of Employment and Economic Development  
651/296-6110 or [Lee.Nelson@state.mn.us](mailto:Lee.Nelson@state.mn.us)

Signatures in support of passing  
Bill HF400/ SF549. Unemployment  
for contracted school food service  
workers.

1. Sharon Thompson

2. Pam Mowhata

3. Sandra Lukan

4. Chris Newbaker

5. Nancy Kakeberg

6. Risa Osterloh

7. Marilyn Magnuson

8. Thom Hales

9. Maureen Anderson

10. Michelle G. Gyllerant

11. Anna M. Egg

12. Geri Meyer

13. Jenine Townsend

14. Phyllis Kerr

15. Christa Tachery

16. Janet G. Lundell

17. Gilly Bonelli

18. Ryan Harvey

19. Shirley Watten

20. Angie Carter

21. Randy Brunally

22. Kendra Skellen

23. Kathy Jarr

24. Sina Walker

25. Shirley Hunt

26. Ann Makio

27. Michelle Bunsick

28. [Signature]

29. Carol Baumann

30. Rita Thalbar

HISTORY OF UNEMPLOYMENT BENEFITS  
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Questions – contact:

Lee B. Nelson, Director, Unemployment Insurance Legal Affairs  
Department of Employment and Economic Development  
651/296-6110 or [Lee.Nelson@state.mn.us](mailto:Lee.Nelson@state.mn.us)

To Whom It May Concern:

We are contacting you to let you know how important it is to get bill HF 400/SF 546 passed. The students really need you to make this happen for them. We are the food personnel at North Branch High School and we really enjoy our job, but more important we know how to do our job safely. Our students enjoy a healthy, nutritious, hot safe meal every day. For some students this is the only hot meal they eat everyday.

There are many cases of food-borne illness every day in the USA. Prime causes of food-borne illness include bacteria, parasites and viruses such as E. coli, Salmonella, Listeria, Shigella, Giardia, Cyclospora, Cryptosporidium and hepatitis A virus. These organisms can be found in a wide range of foods and drinks, including meat, milk and other dairy products, spices, chocolate, seafood and even water. With proper food handling and cooking techniques no student need ever learn of these the hard way.

There are no jobs that we have found during the past summers off that are willing to hire us when they know we will be returning to the school in about 12 weeks. There are no jobs available in our area for comparable pay and hours. The best we could hope for is part time for minimum wage at one of the fast food restaurants which will still be less than unemployment. Neither can we afford to go without a check for twelve weeks. Without unemployment when school is not in session we would have to find full time employment elsewhere. We are truly afraid of what could happen if lunch was served to our children, by untrained inexperienced personnel. For the safety of our children we need knowledgeable food staff returning every year.

If you have any questions or if there is anything we can do to help get this bill passed please do not hesitate to contact us at any time. Thank you again for all that you are doing to keep our children safe.

North Branch Food Service/Taher  
(651)674-1520

subdivision 6. If, at the end of each calendar quarter, the commissioner, in consultation with the commissioner of finance, determines that the balance in this special account, including interest earned on the special account, is more than is necessary to pay the interest which has accrued on any loan as of that date, or will accrue over the following calendar quarter, the commissioner shall immediately pay to the fund the amount in excess of that necessary to pay the interest on any loan.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2000, section 270B.14, subdivision 8, is amended to read:

**Subd. 8. EXCHANGE BETWEEN DEPARTMENTS OF LABOR AND INDUSTRY AND REVENUE.** The departments of labor and industry and revenue may exchange information as follows:

- (1) data used in determining whether a business is an employer or a contracting agent;
- (2) taxpayer identity information relating to employers and employees for purposes of supporting tax administration and chapter chapters 176, 177, and 181; and
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**EFFECTIVE DATE.** This section is effective the day following final enactment.

**Sec. 4. 2003 UNEMPLOYMENT INSURANCE BASE TAX RATE.**

Notwithstanding Minnesota Statutes, section 268.051, subdivision 2, and Laws 2001, First Special Session chapter 2, article 2, section 32, subdivision 2, the unemployment insurance base tax rate for employers is 0.38 percent for calendar year 2003.

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New language is indicated by underline, deletions by strikethrough.

Statute  
Session  
Law

- (2) the applicant was laid off by Fingerhut Company January 3, 2002, and worked at one of that employer's Eveleth, or Mora areas; or

- (5) the applicant was laid off by Northwest Airlines, Mesaba Airlines, United Airlines, USG Sky Chefs, American TransAir, Champion Air, Chautauque Airlines, Worldwide Air, Great Lakes Airlines, PanAm International Airways on or after September 11, 2001, and before

**Subd. 2. PAYMENT FROM FUND; EFFECTIVE DATE.** Benefits under this section are payable from the fund.

**Subd. 3. ELIGIBILITY CONDITIONS.** An applicant is eligible to collect benefits for any week through

- (1) a majority of the applicant's wage credits were for the layoff described in subdivision 1;
- (2) the applicant meets the eligibility requirements of section 268.085;
- (3) the applicant is not subject to a disqualification under section 268.095;

(4) the applicant is not entitled to any regular unemployment benefits for that week and the applicant is not entitled to unemployment benefits under any other state or federal law or the law of another country;

(5) the applicant is enrolled in, or has within 90 days completed, a program that qualifies as reemployment training, a retraining program, a displaced worker program, except that an applicant who enrolls in more than 30 days may be considered to be

(i) the applicant's chosen training program does not begin within 30 days;

(ii) the applicant is scheduled to begin training for the chosen training program; and

(iii) the applicant is scheduled to begin training for the chosen training program.

If an applicant qualifies for a new regular unemployment benefit as a result of exhausting regular unemployment benefits as a result of the layoff, the applicant must apply for and exhaust entitlement to that type of unemployment benefits under any state or federal law or the law of another country.

**Subd. 4. WEEKLY AMOUNT OF EXTRA UNEMPLOYMENT BENEFITS.** The amount of extra unemployment benefits available to an applicant is the applicant's regular weekly benefit amount on the date of the layoff under subdivision 1.

New language is indicated by underline.

March 14, 2005

Senator Ellen Anderson  
120 State Capitol  
Saint Paul, MN 55155

RE: S.F. 546

Dear Senator Anderson:

The International Brotherhood of Teamsters represent approximately 125 employees of Taher Inc., a company who contracts with school districts in Minnesota to provide food service in schools. The school districts included are Chaska, Norwood-Young America and North Branch.

The employees of this contractor company have been eligible to receive unemployment insurance benefits during the summer school closing for many years. (The previous owner of this company was Signature Dining.) There is currently a Sunset Provision (December 31, 2004) in the statute which would make these private sector employees ineligible for unemployment insurance benefits after that date. (See enclosed copy.) The Department of Employment and Economic Development does not oppose removal of the Sunset Provision. Also enclosed is a history of this matter that we received from the Department of Employment and Economic Development.

It is my understanding that S.F. 546 will be heard in the Jobs Energy and Community Development Committee on Monday, March 14. I would appreciate it if you could support this bill.

Yours truly,

Donald J. Gerdesmeier  
DRIVE Representative

DG:la/opei#12  
Enclosures



**Senate Counsel, Research,  
and Fiscal Analysis**

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.  
ST. PAUL, MN 55155-1606  
(651) 296-4791  
FAX: (651) 296-7747  
JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**  

---

**State of Minnesota**

**S.F. No. 853 - Electronic Meaning Authorizations For  
Certain Boards**

**Author:** Senator David H. Senjem

**Prepared by:** Thomas S. Bottern, Senate Counsel (651/296-3810)

**Date:** February 23, 2005

---

This bill authorizes several specified boards and advisory councils to conduct meetings of their members by telephone or other electronic means provided that certain conditions are met. This authorization requires a specific exemption from the open meeting law, Minnesota Statutes, chapter 13D. This bill provides the same conditions for each exception:

- (1) all members must be able to hear one another regardless of their physical location;
- (2) members of the public present at the regular meeting location must be able to hear all discussion and testimony and all votes;
- (3) at least one member must be physically present at the regular meeting location; and
- (4) all votes must be conducted by roll call.

In addition, the bill specifies that each member present by telephone or electronic means is considered present for purposes of determining a quorum, requires that the entity conducting the meeting, to the extent practicable, allow a person to monitor a meeting electronically from a remote location, and that the board provide notice in advance of the meeting that some members may participate by telephone or other electronic means.

The following specific authorizations for conducting meetings by telephone or other

Senators Senjem, Betzold, Sams, Higgins and Rosen introduced—

S. F. No. 853 Referred to the Committee on State & Local Government Operations

1 A bill for an act

2 relating to state government; allowing certain boards  
3 to conduct meetings by telephone or other electronic  
4 means; amending Minnesota Statutes 2004, sections  
5 116J.68, by adding a subdivision; 116L.03, by adding a  
6 subdivision; 116L.665, by adding a subdivision;  
7 116M.15, by adding a subdivision; 116U.25; proposing  
8 coding for new law in Minnesota Statutes, chapter 41A.

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

10 Section 1. [41A.0235] [BOARD MEETINGS BY TELEPHONE OR  
11 OTHER ELECTRONIC MEANS.]

12 (a) Notwithstanding section 13D.01, the Minnesota  
13 Agricultural and Economic Development Board may conduct a  
14 meeting of its members by telephone or other electronic means so  
15 long as the following conditions are met:

16 (1) all members of the board participating in the meeting,  
17 wherever their physical location, can hear one another and can  
18 hear all discussion and testimony;

19 (2) members of the public present at the regular meeting  
20 location of the board can hear all discussion and testimony and  
21 all votes of members of the board;

22 (3) at least one member of the board is physically present  
23 at the regular meeting location; and

24 (4) all votes are conducted by roll call, so each member's  
25 vote on each issue can be identified and recorded.

26 (b) Each member of the board participating in a meeting by  
27 telephone or other electronic means is considered present at the

1 meeting for purposes of determining a quorum and participating  
2 in all proceedings.

3 (c) If telephone or other electronic means is used to  
4 conduct a meeting, the board, to the extent practical, shall  
5 allow a person to monitor the meeting electronically from a  
6 remote location. The board may require the person making such a  
7 connection to pay for documented marginal costs that the board  
8 incurs as a result of the additional connection.

9 (d) If telephone or other electronic means is used to  
10 conduct a regular, special, or emergency meeting, the board  
11 shall provide notice of the regular meeting location, of the  
12 fact that some members may participate by telephone or other  
13 electronic means, and of the provisions of paragraph (c). The  
14 timing and method of providing notice is governed by section  
15 13D.04.

16 Sec. 2. Minnesota Statutes 2004, section 116J.68, is  
17 amended by adding a subdivision to read:

18 Subd. 5. [ADVISORY BOARD MEETINGS.] (a) Notwithstanding  
19 section 13D.01, the Small Business Development Center Advisory  
20 Board, created pursuant to United State Code, title 15, section  
21 648, may conduct a meeting of its members by telephone or other  
22 electronic means so long as the following conditions are met:

23 (1) all members of the board participating in the meeting,  
24 wherever their physical location, can hear one another and can  
25 hear all discussion and testimony;

26 (2) members of the public present at the regular meeting  
27 location of the board can hear all discussion and testimony and  
28 all votes of members of the board;

29 (3) at least one member of the board is physically present  
30 at the regular meeting location; and

31 (4) all votes are conducted by roll call, so each member's  
32 vote on each issue can be identified and recorded.

33 (b) Each member of the board participating in a meeting by  
34 telephone or other electronic means is considered present at the  
35 meeting for purposes of determining a quorum and participating  
36 in all proceedings.

1 (c) If telephone or other electronic means is used to  
2 conduct a meeting, the board, to the extent practical, shall  
3 allow a person to monitor the meeting electronically from a  
4 remote location. The board may require the person making such a  
5 connection to pay for documented marginal costs that the board  
6 incurs as a result of the additional connection.

7 (d) If telephone or other electronic means is used to  
8 conduct a regular, special, or emergency meeting, the board  
9 shall provide notice of the regular meeting location, of the  
10 fact that some members may participate by telephone or other  
11 electronic means, and of the provisions of paragraph (c). The  
12 timing and method of providing notice is governed by section  
13 13D.04.

14 Sec. 3. Minnesota Statutes 2004, section 116L.03, is  
15 amended by adding a subdivision to read:

16 Subd. 8. [BOARD MEETINGS.] (a) Notwithstanding section  
17 13D.01, the Minnesota Job Skills Partnership Board may conduct a  
18 meeting of its members by telephone or other electronic means so  
19 long as the following conditions are met:

20 (1) all members of the board participating in the meeting,  
21 wherever their physical location, can hear one another and can  
22 hear all discussion and testimony;

23 (2) members of the public present at the regular meeting  
24 location of the board can hear all discussion and testimony and  
25 all votes of members of the board;

26 (3) at least one member of the board is physically present  
27 at the regular meeting location; and

28 (4) all votes are conducted by roll call, so each member's  
29 vote on each issue can be identified and recorded.

30 (b) Each member of the board participating in a meeting by  
31 telephone or other electronic means is considered present at the  
32 meeting for purposes of determining a quorum and participating  
33 in all proceedings.

34 (c) If telephone or other electronic means is used to  
35 conduct a meeting, the board, to the extent practical, shall  
36 allow a person to monitor the meeting electronically from a

1 remote location. The board may require the person making such a  
2 connection to pay for documented marginal costs that the board  
3 incurs as a result of the additional connection.

4 (d) If telephone or other electronic means is used to  
5 conduct a regular, special, or emergency meeting, the board  
6 shall provide notice of the regular meeting location, of the  
7 fact that some members may participate by telephone or other  
8 electronic means, and of the provisions of paragraph (c). The  
9 timing and method of providing notice is governed by section  
10 13D.04.

11 Sec. 4. Minnesota Statutes 2004, section 116L.665, is  
12 amended by adding a subdivision to read:

13 Subd. 2a. [COUNCIL MEETINGS.] (a) Notwithstanding section  
14 13D.01, the Governor's Workforce Development Council may conduct  
15 a meeting of its members by telephone or other electronic means  
16 so long as the following conditions are met:

17 (1) all members of the council participating in the  
18 meeting, wherever their physical location, can hear one another  
19 and can hear all discussion and testimony;

20 (2) members of the public present at the regular meeting  
21 location of the council can hear all discussion and testimony  
22 and all votes of members of the council;

23 (3) at least one member of the council is physically  
24 present at the regular meeting location; and

25 (4) all votes are conducted by roll call, so each member's  
26 vote on each issue can be identified and recorded.

27 (b) Each member of the council participating in a meeting  
28 by telephone or other electronic means is considered present at  
29 the meeting for purposes of determining a quorum and  
30 participating in all proceedings.

31 (c) If telephone or other electronic means is used to  
32 conduct a meeting, the council, to the extent practical, shall  
33 allow a person to monitor the meeting electronically from a  
34 remote location. The council may require the person making such  
35 a connection to pay for documented marginal costs that the  
36 council incurs as a result of the additional connection.

1       (d) If telephone or other electronic means is used to  
2 conduct a regular, special, or emergency meeting, the council  
3 shall provide notice of the regular meeting location, of the  
4 fact that some members may participate by telephone or other  
5 electronic means, and of the provisions of paragraph (c). The  
6 timing and method of providing notice is governed by section  
7 13D.04.

8       Sec. 5. Minnesota Statutes 2004, section 116M.15, is  
9 amended by adding a subdivision to read:

10       Subd. 5. [BOARD MEETING.] (a) Notwithstanding section  
11 13D.01, the Urban Initiative Board may conduct a meeting of its  
12 members by telephone or other electronic means so long as the  
13 following conditions are met:

14       (1) all members of the board participating in the meeting,  
15 wherever their physical location, can hear one another and can  
16 hear all discussion and testimony;

17       (2) members of the public present at the regular meeting  
18 location of the board can hear all discussion and testimony and  
19 all votes of members of the board;

20       (3) at least one member of the board is physically present  
21 at the regular meeting location; and

22       (4) all votes are conducted by roll call, so each member's  
23 vote on each issue can be identified and recorded.

24       (b) Each member of the board participating in a meeting by  
25 telephone or other electronic means is considered present at the  
26 meeting for purposes of determining a quorum and participating  
27 in all proceedings.

28       (c) If telephone or other electronic means is used to  
29 conduct a meeting, the board, to the extent practical, shall  
30 allow a person to monitor the meeting electronically from a  
31 remote location. The board may require the person making such a  
32 connection to pay for documented marginal costs that the board  
33 incurs as a result of the additional connection.

34       (d) If telephone or other electronic means is used to  
35 conduct a regular, special, or emergency meeting, the board  
36 shall provide notice of the regular meeting location, of the

1 fact that some members may participate by telephone or other  
2 electronic means, and of the provisions of paragraph (c).. The  
3 timing and method of providing notice is governed by section  
4 13D.04.

5 Sec. 6. Minnesota Statutes 2004, section 116U.25, is  
6 amended to read:

7 116U.25 [EXPLORE MINNESOTA TOURISM COUNCIL.]

8 (a) The director shall be advised by the Explore Minnesota  
9 Tourism Council consisting of up to 28 voting members appointed  
10 by the governor for four-year terms, including:

11 (1) the director of Explore Minnesota Tourism who serves as  
12 the chair;

13 (2) eleven representatives of statewide associations  
14 representing bed and breakfast establishments, golf, festivals  
15 and events, counties, convention and visitor bureaus, lodging,  
16 resorts, trails, campgrounds, restaurants, and chambers of  
17 commerce;

18 (3) one representative from each of the four tourism  
19 marketing regions of the state as designated by the office;

20 (4) six representatives of the tourism business  
21 representing transportation, retail, travel agencies, tour  
22 operators, travel media, and convention facilities;

23 (5) one or more ex-officio nonvoting members including at  
24 least one from the University of Minnesota Tourism Center;

25 (6) four legislators, two from each house, one each from  
26 the two largest political party caucuses in each house,  
27 appointed according to the rules of the respective houses; and

28 (7) other persons, if any, as designated from time to time  
29 by the governor.

30 (b) The council shall act to serve the broader interests of  
31 tourism in Minnesota by promoting activities that support,  
32 maintain, and expand the state's domestic and international  
33 travel market, thereby generating increased visitor  
34 expenditures, tax revenue, and employment.

35 (c) Filling of membership vacancies is as provided in  
36 section 15.059. The terms of one-half of the members shall be

1 coterminous with the governor and the terms of the remaining  
2 one-half of the members shall end on the first Monday in January  
3 one year after the terms of the other members. Members may  
4 serve until their successors are appointed and qualify. Members  
5 are not compensated. A member may be reappointed.

6 (d) The council shall meet at least four times per year and  
7 at other times determined by the council. Notwithstanding  
8 section 15.059, the council does not expire.

9 (e) Notwithstanding section 13D.01, the Explore Minnesota  
10 Tourism Council may conduct a meeting of its members by  
11 telephone or other electronic means so long as the following  
12 conditions are met:

13 (1) all members of the council participating in the  
14 meeting, wherever their physical location, can hear one another  
15 and can hear all discussion and testimony;

16 (2) members of the public present at the regular meeting  
17 location of the council can hear all discussion and testimony  
18 and all votes of members of the council;

19 (3) at least one member of the council is physically  
20 present at the regular meeting location; and

21 (4) all votes are conducted by roll call, so each member's  
22 vote on each issue can be identified and recorded.

23 (f) Each member of the council participating in a meeting  
24 by telephone or other electronic means is considered present at  
25 the meeting for purposes of determining a quorum and  
26 participating in all proceedings.

27 (g) If telephone or other electronic means is used to  
28 conduct a meeting, the council, to the extent practical, shall  
29 allow a person to monitor the meeting electronically from a  
30 remote location. The council may require the person making such  
31 a connection to pay for documented marginal costs that the  
32 council incurs as a result of the additional connection.

33 (h) If telephone or other electronic means is used to  
34 conduct a regular, special, or emergency meeting, the council  
35 shall provide notice of the regular meeting location, of the  
36 fact that some members may participate by telephone or other



- 1 electronic means, and of the provisions of paragraph (g). The
- 2 timing and method of providing notice is governed by section
- 3 13D.04.

- 1 Senator ..... moves to amend S.F. No. 853 as follows:
- 2 Pages 1 and 2, delete section 1
- 3 Renumber the sections in sequence and correct the internal
- 4 references
- 5 Amend the title accordingly

1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was re-referred

3 S.F. No. 853: A bill for an act relating to state  
4 government; allowing certain political subdivisions and boards  
5 to conduct meetings by telephone or other electronic means;  
6 amending Minnesota Statutes 2004, sections 116J.68, by adding a  
7 subdivision; 116L.03, by adding a subdivision; 116L.665, by  
8 adding a subdivision; 116M.15, by adding a subdivision; 116U.25;  
9 proposing coding for new law in Minnesota Statutes, chapters  
10 13D; 41A.

11 Reports the same back with the recommendation that the bill  
12 be amended as follows:

13 Pages 1 and 2, delete section 1

14 Renumber the sections in sequence

15 Amend the title as follows:

16 Page 1, line 9, delete "chapters 13D;" and insert "chapter"

17 And when so amended the bill do pass and be re-referred to  
18 the Committee on Judiciary. Amendments adopted. Report adopted.

19

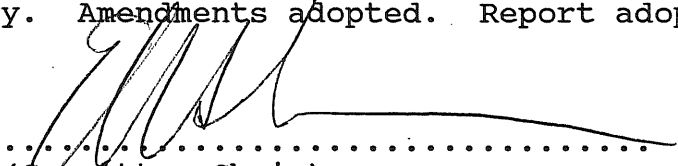
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.....  
(Committee Chair)

March 14, 2005.....  
(Date of Committee recommendation)

**Bill Summary****Senate**

Senate Counsel &amp; Research

State of Minnesota

**S.F. No. 423 - Methamphetamine Provisions****(First Engrossment)**

**Author:** Senator Julie A. Rosen  
**Prepared by:** Kenneth P. Backhus, Senate Counsel (651/296-4396)  
**Date:** February 22, 2005

Overview

**S.F. No. 423** makes numerous changes to laws relating to methamphetamine including: increasing methamphetamine-related criminal penalties and creating new crimes, placing property restrictions on methamphetamine laboratory sites, and creating a methamphetamine laboratory cleanup revolving loan fund. In addition, it amends the definition of narcotic drug in the controlled substances chapter of law to include methamphetamine, requires that schools be notified when students have been taken into protective custody after being found at methamphetamine lab sites, and recodifies the possession of methamphetamine precursors with the intent to manufacture methamphetamine crime into a stand-alone section of law. Finally, it appropriates unspecified sums to the Commissioner of Corrections, the Board of Public Defense, the Commissioner of Human Services, the Commissioner of Employment and Economic Development, the Commissioner of Public Safety, the Commissioner of Health, and the Commissioner of Education for various methamphetamine-related initiatives.

**Article 1****Methamphetamine Provisions**

**Section 1** amends the definition of "narcotic drug" in the controlled substance chapter of law to specifically include methamphetamine. Doing this ensures that methamphetamine sales and possession crimes are treated the same as cocaine and heroin throughout the controlled substances laws. Currently, this occurs for the most part. However, because methamphetamine is not defined as a narcotic drug, the sale of a small amount of methamphetamine is a fourth-degree controlled substance crime. The sale of a small amount of a narcotic drug (including heroin or cocaine) is a third-degree controlled substance crime.

**Section 2** amends the attempted manufacture of methamphetamine crime enacted in the 2003 First Special Session. Makes mostly technical changes to clarify that this crime is not an "attempt crime" as much as a "possession of certain substances with intent to manufacture methamphetamine crime." These changes are consistent with the intent of the 2003 legislation and essentially "clean up" some confusing language in the provision. Strikes the cross-referenced definition of "anhydrous ammonia." Provides that the list of chemical reagents and precursors is not exclusive.

**Section 3** increases the maximum criminal penalty for a violation of **article 1, section 2**, from a three-year/\$5,000 felony to a ten-year/\$20,000 felony and for a repeat offense from a four-year/\$5,000 felony

to a 15-year/\$30,000 felony.

**Section 4** requires courts to order persons convicted of manufacturing/attempting to manufacture controlled substances or of illegal activities involving precursor substances where the response to the crime involved an emergency response to pay restitution to public entities that participated in the response. Also requires courts to order these persons to pay restitution to property owners who incurred removal or remediation costs because of the crime. Courts may reduce the amount of restitution if the convicted person is indigent or if payment would create undue hardship for the convicted person's immediate family.

Requires peace officers who arrest persons at clandestine lab sites to notify the appropriate county or local health department and other entities of the arrest and the location of the site. Requires county or local health departments or sheriffs to prohibit all property that has been found to be a methamphetamine-contaminated clandestine lab site from being occupied, rented, sold, or used until it has been assessed and remediated. Specifies the process for remediation, including the circumstances under which the applicable authority must vacate its property use restriction order.

Requires that if a motor vehicle has been contaminated by methamphetamine production, and if the applicable authority is able to obtain its certificate of title, the authority shall notify the registrar of motor vehicles of this fact and forward the certificate of title to the registrar, so that a notation can be made on the title (see **article 1, section 7**). Requires that if the applicable authority has issued a property use restriction order, the authority shall record an affidavit containing a legal description of the property disclosing that it was the site of a clandestine lab and other specified information. Requires that if the applicable authority vacates its order, the authority must record an affidavit noting this. Provides that unless an affidavit has already been filed by the applicable authority, before any transfer of property ownership where the owner knew or should have known the property had been used as a clandestine lab site and contaminated by methamphetamine manufacturing, the owner shall record an affidavit noting this (failing to do so is a petty misdemeanor). Authorizes an interested party to record an affidavit indicating that proper removal and remediation has occurred. Requires the county recorder or registrar of titles to record any affidavits under this section in a manner that assures their disclosure in the ordinary course of a title search on the property.

Requires the Commissioner of Health to post on the Internet contact information for each local community health services administrator. Requires each of these administrators to maintain specified information related to property within the administrator's jurisdiction that is currently or was previously subject to a property use restriction order. Requires the administrator to make this information available to the public either upon request or by other means. Defines key terms.

**Section 5** recodifies the prohibited fertilizer activities currently codified at sections 18C.201 and 18D.331. (These provisions are repealed in **article 1, section 12**.) In addition, adds two new crimes: stealing or unlawfully taking or carrying away any amount of anhydrous ammonia; and purchasing/possessing/transferring/distributing any amount of anhydrous ammonia, knowing or having reason to know that it will be used to unlawfully manufacture a controlled substance. Violation of either provision is a five-year/\$50,000 felony.

**Section 6** criminalizes various methamphetamine-related activities that may impact children or vulnerable adults. The prohibited activities include manufacturing or attempting to manufacture methamphetamine, storing chemical substances, storing methamphetamine waste products, and storing methamphetamine paraphernalia. A person may not engage in these activities in the presence of a child or vulnerable adult; in the residence of a child or vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a

room offered to the public for overnight accommodation; or in any multiple unit residential building. Also prohibits persons from knowingly causing or permitting a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia. Violation of these provisions is a five-year/\$10,000 felony. Provides that a prosecution for or conviction under this section is not a bar to conviction or punishment for any other crime committed by the defendant as part of the same conduct. Authorizes peace officers to take into protective custody children present in areas where prohibited activities under this section are occurring. Provides for health screening both for children taken into protective custody and for those who were not but who are known to have been exposed to methamphetamine. Requires peace officers to make reports of suspected maltreatment of vulnerable adults in certain situations involving methamphetamine exposure. Defines key terms.

**Section 7** requires the Registrar of Motor Vehicles to include the term "hazardous waste contaminated vehicle" on a motor vehicle's title if the Registrar has received the notice and the vehicle's title as required in **article 1, section 4**.

**Section 8** requires that if a child who is enrolled in school is taken into protective custody after being found in an area where methamphetamine was being manufactured or where chemical substances, methamphetamine paraphernalia, or methamphetamine waste products were stored, the officer who took the child into custody must notify the chief administrative officer of the child's school of this fact. Defines key terms.

**Section 9** requires the Public Facilities Authority to establish a methamphetamine laboratory cleanup revolving fund. The purpose of the fund is to provide low-interest loans to counties and cities to remediate clandestine lab sites. Specifies the criteria for awarding loans, the loan application process, the eligibility requirements for loans, the loan conditions and terms, etc. Defines key terms.

**Section 10** expands the definition of "violent crime" in the criminal code's sentencing provision for certain dangerous and repeat felony offenders to include within it the new child/vulnerable adult methamphetamine endangerment crime created in **article 1, section 6**.

**Section 11** directs the Revisor to recodify the possession of methamphetamine precursors with the intent to manufacture methamphetamine crime enacted in the 2003 First Special Session (as amended by **article 1, sections 2 and 3**) into a new stand-alone section of law.

**Section 12** repeals statutory provisions in chapters 18C and 18D, relating to anhydrous ammonia that are recodified by this bill in chapter 152 (see **article 1, section 5**).

## Article 2

### Methamphetamine Appropriations

**Section 1** specifies the following regarding the article's appropriations: the fiscal years that they are for, the fund from which they are made, and a summary of their amounts.

**Section 2** appropriates unspecified sums to the Commissioner of Corrections for the increased prison population caused by this act.

**Section 3** appropriates unspecified sums to the Board of Public Defense for a methamphetamine trial team.

**Section 4** appropriates unspecified sums to the Commissioner of Human Services for grants to counties to fund three pilot projects addressing methamphetamine treatment. Describes how a county shall apply for a grant and requires the commissioner to ensure to the extent possible that one pilot project has an emphasis on adolescence and one has a maternal/early childhood emphasis.

**Section 5** appropriates unspecified sums to the Commissioner of Employment and Economic Development for the methamphetamine laboratory cleanup revolving fund (see **article 1, section 9**).

**Section 6** appropriates unspecified sums to the Commissioner of Public Safety for ten new Bureau of Criminal Apprehension agents to be assigned exclusively to methamphetamine enforcement, including the investigation of manufacturing and distributing methamphetamine and related violence.

**Section 7** appropriates unspecified sums to the Commissioner of Health to provide technical assistance on methamphetamine lab remediation.

**Section 8** appropriates unspecified sums to the Commissioner of Education to develop and distribute to school districts materials addressing the dangers of methamphetamine.

KPB:ph

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*Last review or update: 02/23/2005*

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## 1 A bill for an act

2 relating to public safety; further regulating while  
3 recodifying activities involving anhydrous ammonia;  
4 requiring courts to order restitution in certain  
5 situations involving controlled substances; imposing  
6 property restrictions in certain situations involving  
7 controlled substances; increasing the criminal  
8 penalties for possessing certain substances with the  
9 intent to manufacture methamphetamine and recodifying  
10 this crime; establishing new methamphetamine-related  
11 crimes; clarifying the definition of "narcotic drug";  
12 expanding the definition of "violent crime" for  
13 mandatory sentencing purposes; requiring that vehicles  
14 and other property used to manufacture methamphetamine  
15 indicate this in the title or by an affidavit;  
16 requiring notice to schools when children are taken  
17 into protective custody after being found at a  
18 methamphetamine laboratory; establishing a  
19 methamphetamine laboratory cleanup revolving fund and  
20 authorizing loans to assist counties and cities in  
21 conducting methamphetamine cleanup; imposing criminal  
22 penalties; providing for ten new Bureau of Criminal  
23 Apprehension agents dedicated to methamphetamine  
24 enforcement; appropriating money; amending Minnesota  
25 Statutes 2004, sections 152.01, subdivision 10;  
26 152.021, subdivisions 2a, 3; 168A.05, subdivision 3;  
27 260C.171, by adding a subdivision; 609.1095,  
28 subdivision 1; proposing coding for new law in  
29 Minnesota Statutes, chapters 152; 446A; repealing  
30 Minnesota Statutes 2004, sections 18C.005,  
31 subdivisions 1a, 35a; 18C.201, subdivisions 6, 7;  
32 18D.331, subdivision 5.

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

34 ARTICLE 1

35 METHAMPHETAMINE PROVISIONS

36 Section 1. Minnesota Statutes 2004, section 152.01,  
37 subdivision 10, is amended to read:

38 Subd. 10. [NARCOTIC DRUG.] "Narcotic drug" means any of  
39 the following, whether produced directly or indirectly by



1 extraction from substances of vegetable origin, or independently  
2 by means of chemical synthesis, or by a combination of  
3 extraction and chemical synthesis:

4 (1) Opium, coca leaves, and opiates, and methamphetamine;

5 (2) A compound, manufacture, salt, derivative, or  
6 preparation of opium, coca leaves, or opiates, or  
7 methamphetamine;

8 (3) A substance, and any compound, manufacture, salt,  
9 derivative, or preparation thereof, which is chemically  
10 identical with any of the substances referred to in clauses (1)  
11 and (2), except that the words "narcotic drug" as used in this  
12 chapter shall not include decocainized coca leaves or extracts  
13 of coca leaves, which extracts do not contain cocaine or  
14 ecgonine.

15 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
16 and applies to crimes committed on or after that date.

17 Sec. 2. Minnesota Statutes 2004, section 152.021,  
18 subdivision 2a, is amended to read:

19 Subd. 2a. [METHAMPHETAMINE MANUFACTURE CRIMES CRIME;  
20 POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE

21 METHAMPHETAMINE CRIME.] (a) Notwithstanding subdivision 1,  
22 sections 152.022, subdivision 1, 152.023, subdivision 1, and  
23 152.024, subdivision 1, a person is guilty of controlled  
24 substance crime in the first degree if the person manufactures  
25 any amount of methamphetamine.

26 ~~(b) Notwithstanding-paragraph-(a)-and-section-609.17,~~ A  
27 person is guilty of ~~attempted-manufacture-of-methamphetamine~~ a  
28 crime if the person possesses any chemical reagents or  
29 precursors with the intent to manufacture methamphetamine. As  
30 used in this section, "chemical reagents or precursors" ~~refers~~  
31 ~~to-one-or-more~~ includes any of the following substances, or any  
32 similar substances that can be used to manufacture  
33 methamphetamine, or their the salts, isomers, and salts of  
34 isomers of a listed or similar substance:

35 (1) ephedrine;

36 (2) pseudoephedrine;

- 1 (3) phenyl-2-propanone;
- 2 (4) phenylacetone;
- 3 (5) anhydrous ammonia~~7-as-defined-in-section-18C-0057~~
- 4 ~~subdivision-1a;~~
- 5 (6) organic solvents;
- 6 (7) hydrochloric acid;
- 7 (8) lithium metal;
- 8 (9) sodium metal;
- 9 (10) ether;
- 10 (11) sulfuric acid;
- 11 (12) red phosphorus;
- 12 (13) iodine;
- 3 (14) sodium hydroxide;
- 14 (15) benzaldehyde;
- 15 (16) benzyl methyl ketone;
- 16 (17) benzyl cyanide;
- 17 (18) nitroethane;
- 18 (19) methylamine;
- 19 (20) phenylacetic acid;
- 20 (21) hydriodic acid; or
- 21 (22) hydriotic acid.

22 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
 23 and applies to crimes committed on or after that date.

24 Sec. 3. Minnesota Statutes 2004, section 152.021,  
 25 subdivision 3, is amended to read:

26 Subd. 3. [PENALTY.] (a) A person convicted under  
 27 subdivisions 1 to 2a, paragraph (a), may be sentenced to  
 28 imprisonment for not more than 30 years or to payment of a fine  
 29 of not more than \$1,000,000, or both; a person convicted under  
 30 subdivision 2a, paragraph (b), may be sentenced to imprisonment  
 31 for not more than ~~three~~ ten years or to payment of a fine of not  
 32 more than ~~\$5,000~~ \$20,000, or both.

33 (b) If the conviction is a subsequent controlled substance  
 34 conviction, a person convicted under subdivisions 1 to 2a,  
 35 paragraph (a), shall be committed to the commissioner of  
 36 corrections for not less than four years nor more than 40 years

1 and, in addition, may be sentenced to payment of a fine of not  
2 more than \$1,000,000; a person convicted under subdivision 2a,  
3 paragraph (b), may be sentenced to imprisonment for not more  
4 than ~~four~~ 15 years or to payment of a fine of not more than  
5 ~~\$5,000~~ \$30,000, or both.

6 (c) In a prosecution under subdivision 1 involving sales by  
7 the same person in two or more counties within a 90-day period,  
8 the person may be prosecuted for all of the sales in any county  
9 in which one of the sales occurred.

10 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
11 and applies to crimes committed on or after that date.

12 Sec. 4. [152.0275] [CERTAIN CONTROLLED SUBSTANCE OFFENSES;  
13 RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.]

14 Subdivision 1. [RESTITUTION.] (a) As used in this  
15 subdivision:

16 (1) "clandestine lab site" means any structure or  
17 conveyance or outdoor location occupied or affected by  
18 conditions or chemicals typically associated with the  
19 manufacturing of methamphetamine;

20 (2) "emergency response" includes, but is not limited to,  
21 removing and collecting evidence, securing the site, removal,  
22 remediation, and hazardous chemical assessment or inspection of  
23 the site where the relevant offense or offenses took place,  
24 regardless of whether these actions are performed by the public  
25 entities themselves or by private contractors paid by the public  
26 entities, or the property owner;

27 (3) "remediation" means proper cleanup, treatment, or  
28 containment of hazardous substances or methamphetamine at or in  
29 a clandestine lab site, and may include demolition or disposal  
30 of structures or other property when an assessment so indicates;  
31 and

32 (4) "removal" means the removal from the clandestine lab  
33 site of precursor or waste chemicals, chemical containers, or  
34 equipment associated with the manufacture, packaging, or storage  
35 of illegal drugs.

36 (b) A court shall require a person convicted of

1 manufacturing or attempting to manufacture a controlled  
2 substance or of an illegal activity involving a precursor  
3 substance, where the response to the crime involved an emergency  
4 response, to pay restitution to all public entities that  
5 participated in the response. The restitution ordered must  
6 cover the reasonable costs of their participation in the  
7 response.

8 (c) In addition to the restitution required in paragraph  
9 (b), a court shall require a person convicted of manufacturing  
10 or attempting to manufacture a controlled substance or of  
11 illegal activity involving a precursor substance to pay  
12 restitution to a property owner who incurred removal or  
13 remediation costs because of the crime.

14 (d) Notwithstanding paragraphs (b) and (c), if the court  
15 finds that the convicted person is indigent or that payment of  
16 the restitution would create undue hardship for the convicted  
17 person's immediate family, the court may reduce the amount of  
18 restitution to an appropriate level.

19 Subd. 2. [PROPERTY-RELATED PROHIBITIONS; NOTICE; WEB  
20 SITE.] (a) As used in this subdivision:

21 (1) "clandestine lab site" has the meaning given in  
22 subdivision 1, paragraph (a);

23 (2) "property" means publicly or privately owned real  
24 property including buildings and other structures, motor  
25 vehicles as defined in section 609.487, subdivision 2a, public  
26 waters, and public rights-of-way;

27 (3) "remediation" has the meaning given in subdivision 1,  
28 paragraph (a); and

29 (4) "removal" has the meaning given in subdivision 1,  
30 paragraph (a).

31 (b) A peace officer who arrests a person at a clandestine  
32 lab site shall notify the appropriate county or local health  
33 department, state duty officer, and child protection services of  
34 the arrest and the location of the site.

35 (c) A county or local health department or sheriff shall  
36 order that any property or portion of a property that has been

1 found to be a clandestine lab site and contaminated by  
2 substances, chemicals, or items of any kind used in the  
3 manufacture of methamphetamine or any part of the manufacturing  
4 process, or the by-products or degradates of manufacturing  
5 methamphetamine be prohibited from being occupied or used until  
6 it has been assessed and remediated as provided in the  
7 Department of Health's clandestine drug labs general cleanup  
8 guidelines. The remediation shall be accomplished by a  
9 contractor who will make the verification required under  
10 paragraph (e).

11 (d) Unless clearly inapplicable, the procedures specified  
12 in chapter 145A and any related rules adopted under that chapter  
13 addressing the enforcement of public health laws, the removal  
14 and abatement of public health nuisances, and the remedies  
15 available to property owners or occupants apply to this  
16 subdivision.

17 (e) Upon the proper removal and remediation of any property  
18 used as a clandestine lab site, the contractor shall verify to  
19 the applicable authority that issued the order under paragraph  
20 (c) that the work was completed according to the Department of  
21 Health's clandestine drug labs general cleanup guidelines and  
22 best practices and that levels of contamination have been  
23 reduced to levels set forth in the guidelines. The contractor  
24 shall provide the verification to the property owner and the  
25 applicable authority within five days from the completion of the  
26 remediation. Following this, the applicable authority shall  
27 vacate its order.

28 (f) If a contractor issues a verification and the property  
29 was not remediated according to the Department of Health's  
30 clandestine drug labs general cleanup guidelines or the levels  
31 of contamination were not reduced to levels set forth in the  
32 guidelines, the contractor is liable to the property owner for  
33 the additional costs relating to the proper remediation of the  
34 property according to the guidelines and reducing the levels of  
35 contamination to levels set in the guidelines and for reasonable  
36 attorney fees for collection of costs by the property owner. An

1 action under this paragraph must be commenced within six years  
2 from the date on which the verification was issued by the  
3 contractor.

4 (g) If the applicable authority determines under paragraph  
5 (c) that a motor vehicle has been contaminated by substances,  
6 chemicals, or items of any kind used in the manufacture of  
7 methamphetamine or any part of the manufacturing process, or the  
8 by-products or degradates of manufacturing methamphetamine and  
9 if the authority is able to obtain the certificate of title for  
10 the motor vehicle, the authority shall notify the registrar of  
11 motor vehicles of this fact and in addition, forward the  
12 certificate of title to the registrar. The authority shall also  
13 notify the registrar when it vacates its order under paragraph  
14 (e).

15 (h) The applicable authority issuing an order under  
16 paragraph (c) shall record with the county recorder or registrar  
17 of titles of the county where the clandestine lab is located an  
18 affidavit containing the name of the owner, a legal description  
19 of the property where the clandestine lab was located, and a map  
20 drawn from available information showing the boundary of the  
21 property and the location of the contaminated area on the  
22 property that is prohibited from being occupied or used that  
23 discloses to any potential transferee:

24 (1) that the property, or a portion of the property, was  
25 the site of a clandestine lab;

26 (2) the location, condition, and circumstances of the  
27 clandestine lab, to the full extent known or reasonably  
28 ascertainable; and

29 (3) that the use of the property or some portion of it may  
30 be restricted as provided by paragraph (c).

31 If an inaccurate drawing or description is filed, the authority,  
32 on request of the owner or another interested person, shall file  
33 a supplemental affidavit with a corrected drawing or description.

34 If the authority vacates its order under paragraph (e), the  
35 authority shall record an affidavit that contains the recording  
36 information of the above affidavit and states that the order is

1 vacated. Upon filing the affidavit vacating the order, the  
2 affidavit and the affidavit filed under this paragraph, together  
3 with the information set forth in the affidavits, cease to  
4 constitute either actual or constructive notice.

5 (i) If proper removal and remediation has occurred on the  
6 property, an interested party may record an affidavit indicating  
7 that this has occurred. Upon filing the affidavit described in  
8 this paragraph, the affidavit and the affidavit filed under  
9 paragraph (h), together with the information set forth in the  
10 affidavits, cease to constitute either actual or constructive  
11 notice. Failure to record an affidavit under this section does  
12 not affect or prevent any transfer of ownership of the property.

13 (j) The county recorder or registrar of titles must record  
14 all affidavits presented under paragraph (h) or (i) in a manner  
15 that assures their disclosure in the ordinary course of a title  
16 search of the subject property.

17 (k) The commissioner of health shall post on the Internet  
18 contact information for each local community health services  
19 administrator.

20 (l) Each local community health services administrator  
21 shall maintain information related to property within the  
22 administrator's jurisdiction that is currently or was previously  
23 subject to an order issued under paragraph (c). The information  
24 maintained must include the name of the owner, the location of  
25 the property, the extent of the contamination, the status of the  
26 removal and remediation work on the property, and whether the  
27 order has been vacated. The administrator shall make this  
28 information available to the public either upon request or by  
29 other means.

30 (m) Before signing an agreement to sell or transfer real  
31 property, the seller or transferor must disclose in writing to  
32 the buyer or transferee if, to the seller's or transferor's  
33 knowledge, methamphetamine production has occurred on the  
34 property. If methamphetamine production has occurred on the  
35 property, the disclosure shall include a statement to the buyer  
36 or transferee informing the buyer or transferee:

1 (1) whether an order has been issued on the property as  
2 described in paragraph (c);

3 (2) whether any orders issued against the property under  
4 paragraph (c) have been vacated under paragraph (i); or

5 (3) if there was no order issued against the property and  
6 the seller or transferor is aware that methamphetamine  
7 production has occurred on the property, the status of removal  
8 and remediation on the property.

9 Unless the buyer or transferee and seller or transferor  
10 agree to the contrary in writing before the closing of the sale,  
11 a seller or transferor who fails to disclose, to the best of  
12 their knowledge, at the time of sale any of the facts required  
13 above, and who knew or had reason to know of methamphetamine  
14 production on the property, is liable to the buyer or transferee  
15 for:

16 (1) costs relating to remediation of the property according  
17 to the Department of Health's clandestine drug labs general  
18 cleanup guidelines and best practices so that contamination is  
19 reduced to levels set forth in the guidelines; and

20 (2) reasonable attorney fees for collection of costs from  
21 the seller or transferor.

22 An action under this paragraph must be commenced within six  
23 years after the date on which the buyer or transferee closed the  
24 purchase or transfer of the real property where the  
25 methamphetamine production occurred.

26 [EFFECTIVE DATE.] This section is effective January 1,  
27 2006, and applies to crimes committed on or after that date.

28 Sec. 5. [152.136] [ANHYDROUS AMMONIA; PROHIBITED CONDUCT;  
29 CRIMINAL PENALTIES; CIVIL LIABILITY.]

30 Subdivision 1. [DEFINITIONS.] As used in this section,  
31 "tamper" means action taken by a person not authorized to take  
32 that action by law or by the owner or authorized custodian of an  
33 anhydrous ammonia container or of equipment where anhydrous  
34 ammonia is used, stored, distributed, or transported.

35 Subd. 2. [PROHIBITED CONDUCT.] (a) A person may not:

36 (1) steal or unlawfully take or carry away any amount of



1 anhydrous ammonia;

2 (2) purchase, possess, transfer, or distribute any amount  
3 of anhydrous ammonia, knowing, or having reason to know, that it  
4 will be used to unlawfully manufacture a controlled substance;

5 (3) place, have placed, or possess anhydrous ammonia in a  
6 container that is not designed, constructed, maintained, and  
7 authorized to contain or transport anhydrous ammonia;

8 (4) transport anhydrous ammonia in a container that is not  
9 designed, constructed, maintained, and authorized to transport  
10 anhydrous ammonia;

11 (5) use, deliver, receive, sell, or transport a container  
12 designed and constructed to contain anhydrous ammonia without  
13 the express consent of the owner or authorized custodian of the  
14 container; or

15 (6) tamper with any equipment or facility used to contain,  
16 store, or transport anhydrous ammonia.

17 (b) For the purposes of this subdivision, containers  
18 designed and constructed for the storage and transport of  
19 anhydrous ammonia are described in rules adopted under section  
20 18C.121, subdivision 1, or in Code of Federal Regulations, title  
21 49.

22 Subd. 3. [NO CAUSE OF ACTION.] (a) Except as provided in  
23 paragraph (b), a person tampering with anhydrous ammonia  
24 containers or equipment under subdivision 2 shall have no cause  
25 of action for damages arising out of the tampering against:

26 (1) the owner or lawful custodian of the container or  
27 equipment;

28 (2) a person responsible for the installation or  
29 maintenance of the container or equipment; or

30 (3) a person lawfully selling or offering for sale the  
31 anhydrous ammonia.

32 (b) Paragraph (a) does not apply to a cause of action  
33 against a person who unlawfully obtained the anhydrous ammonia  
34 or anhydrous ammonia container or who possesses the anhydrous  
35 ammonia or anhydrous ammonia container for any unlawful purpose.

36 Subd. 4. [CRIMINAL PENALTY.] A person who knowingly

1 violates subdivision 2 is guilty of a felony and may be  
2 sentenced to imprisonment for not more than five years or to  
3 payment of a fine of not more than \$50,000, or both.

4 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
5 and applies to crimes committed on or after that date.

6 Sec. 6. [152.137] [METHAMPHETAMINE-RELATED CRIMES  
7 INVOLVING CHILDREN AND VULNERABLE ADULTS.]

8 Subdivision 1. [DEFINITIONS.] (a) As used in this section,  
9 the following terms have the meanings given.

10 (b) "Chemical substance" means a substance intended to be  
11 used as a precursor in the manufacture of methamphetamine or any  
12 other chemical intended to be used in the manufacture of  
3 methamphetamine.

14 (c) "Child" means any person under the age of 18 years.

15 (d) "Methamphetamine paraphernalia" means all equipment,  
16 products, and materials of any kind that are used, intended for  
17 use, or designed for use in manufacturing, injecting, ingesting,  
18 inhaling, or otherwise introducing methamphetamine into the  
19 human body.

20 (e) "Methamphetamine waste products" means substances,  
21 chemicals, or items of any kind used in the manufacture of  
22 methamphetamine or any part of the manufacturing process, or the  
23 by-products or degradates of manufacturing methamphetamine.

24 (f) "Vulnerable adult" has the meaning given in section  
25 609.232, subdivision 11.

26 Subd. 2. [PROHIBITED CONDUCT.] (a) No person may knowingly  
27 engage in any of the following activities in the presence of a  
28 child or vulnerable adult; in the residence of a child or a  
29 vulnerable adult; in a building, structure, conveyance, or  
30 outdoor location where a child or vulnerable adult might  
31 reasonably be expected to be present; in a room offered to the  
32 public for overnight accommodation; or in any multiple unit  
33 residential building:

34 (1) manufacturing or attempting to manufacture  
35 methamphetamine;

36 (2) storing any chemical substance;

1 (3) storing any methamphetamine waste products; or

2 (4) storing any methamphetamine paraphernalia.

3 (b) No person may knowingly cause or permit a child or  
4 vulnerable adult to inhale, be exposed to, have contact with, or  
5 ingest methamphetamine, a chemical substance, or methamphetamine  
6 paraphernalia.

7 Subd. 3. [CRIMINAL PENALTY.] A person who violates  
8 subdivision 2 is guilty of a felony and may be sentenced to  
9 imprisonment for not more than five years or to payment of a  
10 fine of not more than \$10,000, or both.

11 Subd. 4. [MULTIPLE SENTENCES.] Notwithstanding sections  
12 609.035 and 609.04, a prosecution for or conviction under this  
13 section is not a bar to conviction of or punishment for any  
14 other crime committed by the defendant as part of the same  
15 conduct.

16 Subd. 5. [PROTECTIVE CUSTODY.] A peace officer may take  
17 any child present in an area where any of the activities  
18 described in subdivision 2, paragraph (a), clauses (1) to (4),  
19 are taking place into protective custody in accordance with  
20 section 260C.175, subdivision 1, paragraph (b), clause (2). A  
21 child taken into protective custody under this subdivision shall  
22 be provided health screening to assess potential health concerns  
23 related to methamphetamine as provided in section 260C.188. A  
24 child not taken into protective custody under this subdivision  
25 but who is known to have been exposed to methamphetamine shall  
26 be offered health screening for potential health concerns  
27 related to methamphetamine as provided in section 260C.188.

28 Subd. 6. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] (a)  
29 A peace officer shall make a report of suspected maltreatment of  
30 a vulnerable adult if the vulnerable adult is present in an area  
31 where any of the activities described in subdivision 2,  
32 paragraph (a), clauses (1) to (4), are taking place, and the  
33 peace officer has reason to believe the vulnerable adult  
34 inhaled, was exposed to, had contact with, or ingested  
35 methamphetamine, a chemical substance, or methamphetamine  
36 paraphernalia. The peace officer shall immediately report to

1 the county common entry point as described in section 626.557,  
2 subdivision 9b.

3 (b) As required in section 626.557, subdivision 9b, law  
4 enforcement is the primary agency to conduct investigations of  
5 any incident when there is reason to believe a crime has been  
6 committed. Law enforcement shall initiate a response  
7 immediately. If the common entry point notified a county agency  
8 for adult protective services, law enforcement shall cooperate  
9 with that county agency when both agencies are involved and  
10 shall exchange data to the extent authorized in section 626.557,  
11 subdivision 12b, paragraph (g). County adult protection shall  
12 initiate a response immediately.

3 (c) The county social services agency shall immediately  
14 respond as required in section 626.557, subdivision 10, upon  
15 receipt of a report from the common entry point staff.

16 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
17 and applies to crimes committed on or after that date.

18 Sec. 7. Minnesota Statutes 2004, section 168A.05,  
19 subdivision 3, is amended to read:

20 Subd. 3. [CONTENT OF CERTIFICATE.] Each certificate of  
21 title issued by the department shall contain:

22 (1) the date issued;

23 (2) the first, middle, and last names, the dates of birth,  
24 and addresses of all owners who are natural persons, the full  
25 names and addresses of all other owners;

26 (3) the names and addresses of any secured parties in the  
27 order of priority as shown on the application, or if the  
28 application is based on a certificate of title, as shown on the  
29 certificate, or as otherwise determined by the department;

30 (4) any liens filed pursuant to a court order or by a  
31 public agency responsible for child support enforcement against  
32 the owner;

33 (5) the title number assigned to the vehicle;

34 (6) a description of the vehicle including, so far as the  
35 following data exists, its make, model, year, identifying  
36 number, type of body, whether new or used, and if a new vehicle,

1 the date of the first sale of the vehicle for use;

2 (7) with respect to motor vehicles subject to the  
3 provisions of section 325E.15, the true cumulative mileage  
4 registered on the odometer or that the actual mileage is unknown  
5 if the odometer reading is known by the owner to be different  
6 from the true mileage;

7 (8) with respect to vehicles subject to sections 325F.6641  
8 and 325F.6642, the appropriate term "flood damaged," "rebuilt,"  
9 "prior salvage," or "reconstructed"; and

10 (9) with respect to a vehicle contaminated by  
11 methamphetamine production, if the registrar has received the  
12 certificate of title and notice described in section 152.0275,  
13 subdivision 2, paragraph (g), the term "hazardous waste  
14 contaminated vehicle"; and

15 (10) any other data the department prescribes.

16 [EFFECTIVE DATE.] This section is effective August 1, 2005.

17 Sec. 8. Minnesota Statutes 2004, section 260C.171, is  
18 amended by adding a subdivision to read:

19 Subd. 6. [NOTICE TO SCHOOL.] (a) As used in this  
20 subdivision, the following terms have the meanings given.  
21 "Chemical substance," "methamphetamine paraphernalia," and  
22 "methamphetamine waste products" have the meanings given in  
23 section 152.137, subdivision 1. "School" means a charter school  
24 or a school as defined in section 120A.22, subdivision 4, except  
25 a home school.

26 (b) If a child has been taken into protective custody after  
27 being found in an area where methamphetamine was being  
28 manufactured or attempted to be manufactured or where any  
29 chemical substances, methamphetamine paraphernalia, or  
30 methamphetamine waste products were stored, and the child is  
31 enrolled in school, the officer who took the child into custody  
32 shall notify the chief administrative officer of the child's  
33 school of this fact.

34 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
35 and applies to acts occurring on or after that date.

36 Sec. 9. [446A.083] [METHAMPHETAMINE LABORATORY CLEANUP

1 REVOLVING FUND.]

2 Subdivision 1. [DEFINITIONS.] As used in this section:

3 (1) "clandestine lab site" has the meaning given in section  
4 152.0275, subdivision 1, paragraph (a);

5 (2) "property" has the meaning given in section 152.0275,  
6 subdivision 2, paragraph (a), but does not include motor  
7 vehicles; and

8 (3) "remediate" has the meaning given to remediation in  
9 section 152.0275, subdivision 1, paragraph (a).

10 Subd. 2. [FUND ESTABLISHED.] The authority shall establish  
11 a methamphetamine laboratory cleanup revolving fund to provide  
12 loans to counties and cities to remediate clandestine lab  
13 sites. The fund must be credited with repayments.

14 Subd. 3. [APPLICATIONS.] Applications by a county or city  
15 for a loan from the fund must be made to the authority on the  
16 forms prescribed by the authority. The application must  
17 include, but is not limited to:

18 (1) the amount of the loan requested and the proposed use  
19 of the loan proceeds;

20 (2) the source of revenues to repay the loan; and

21 (3) certification by the county or city that it meets the  
22 loan eligibility requirements of subdivision 4.

23 Subd. 4. [LOAN ELIGIBILITY.] A county or city is eligible  
24 for a loan under this section if the county or city:

25 (1) identifies a site or sites designated by a local public  
26 health department or law enforcement as a clandestine lab site;

27 (2) has required the site's property owner to remediate the  
28 site at cost, under chapter 145A or a local public health

29 nuisance ordinance that addresses clandestine lab remediation;

30 (3) certifies that the property owner cannot pay for the  
31 remediation immediately;

32 (4) certifies that the property owner has not properly  
33 remediated the site; and

34 (5) issues a revenue bond payable to the authority to  
35 secure the loan.

36 Subd. 5. [USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY

1 OWNER.] (a) A loan recipient shall use the loan to remediate the  
2 clandestine lab site or if this has already been done to  
3 reimburse the applicable county or city fund for costs paid by  
4 the recipient to remediate the clandestine lab site.

5 (b) A loan recipient shall seek reimbursement from the  
6 owner of the property containing the clandestine lab site for  
7 the costs of the remediation. In addition to other lawful means  
8 of seeking reimbursement, the loan recipient may recover its  
9 costs through a property tax assessment by following the  
10 procedures specified in section 145A.08, subdivision 2,  
11 paragraph (c).

12 Subd. 6. [AWARD AND DISBURSEMENT OF FUNDS.] The authority  
13 shall award loans to recipients on a first-come, first-served  
14 basis, provided that the recipient is able to comply with the  
15 terms and conditions of the authority loan, which must be in  
16 conformance with this section. The authority shall make a  
17 single disbursement of the loan upon receipt of a payment  
18 request that includes a list of remediation expenses and  
19 evidence that a second-party sampling was undertaken to ensure  
20 that the remediation work was successful or a guarantee that  
21 such a sampling will be undertaken.

22 Subd. 7. [LOAN CONDITIONS AND TERMS.] (a) When making  
23 loans from the revolving fund, the authority shall comply with  
24 the criteria in paragraphs (b) to (e).

25 (b) Loans must be made at a two percent per annum interest  
26 rate for terms not to exceed ten years unless the recipient  
27 requests a 20-year term due to financial hardship.

28 (c) The annual principal and interest payments must begin  
29 no later than one year after completion of the clean up. Loans  
30 must be amortized no later than 20 years after completion of the  
31 clean up.

32 (d) A loan recipient must identify and establish a source  
33 of revenue for repayment of the loan and must undertake whatever  
34 steps are necessary to collect payments within one year of  
35 receipt of funds from the authority.

36 (e) The fund must be credited with all payments of

1 principal and interest on all loans, except the costs as  
2 permitted under section 446A.04, subdivision 5, paragraph (a).

3 (f) Loans must be made only to recipients with clandestine  
4 lab ordinances that address remediation.

5 Subd. 8. [AUTHORITY TO INCUR DEBT.] Counties and cities  
6 may incur debt under this section by resolution of the board or  
7 council authorizing issuance of a revenue bond to the authority.

8 [EFFECTIVE DATE.] This section is effective July 1, 2005.

9 Sec. 10. Minnesota Statutes 2004, section 609.1095,  
10 subdivision 1, is amended to read:

11 Subdivision 1. [DEFINITIONS.] (a) As used in this section,  
12 the following terms have the meanings given.

13 (b) "Conviction" means any of the following accepted and  
14 recorded by the court: a plea of guilty, a verdict of guilty by  
15 a jury, or a finding of guilty by the court. The term includes  
16 a conviction by any court in Minnesota or another jurisdiction.

17 (c) "Prior conviction" means a conviction that occurred  
18 before the offender committed the next felony resulting in a  
19 conviction and before the offense for which the offender is  
20 being sentenced under this section.

21 (d) "Violent crime" means a violation of or an attempt or  
22 conspiracy to violate any of the following laws of this state or  
23 any similar laws of the United States or any other state:

24 section sections 152.137; 609.165; 609.185; 609.19; 609.195;  
25 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228;  
26 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662;  
27 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268;  
28 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1;  
29 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision  
30 1e; 609.687; and 609.855, subdivision 5; any provision of  
31 sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is  
32 punishable by a felony penalty; or any provision of chapter 152  
33 that is punishable by a maximum sentence of 15 years or more.

34 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
35 and applies to crimes committed on or after that date.

36 Sec. 11. [REVISOR'S INSTRUCTION.]



1 The revisor of statutes shall recodify the provisions of  
 2 Minnesota Statutes, section 152.021, subdivision 2a, paragraph  
 3 (b), and subdivision 3, as amended by this act, that relate to  
 4 the possession of chemical reagents or precursors with the  
 5 intent to manufacture methamphetamine and the penalties for  
 6 doing this into a new section of law codified as Minnesota  
 7 Statutes, section 152.0262. The revisor shall make any  
 8 necessary technical changes, including, but not limited to,  
 9 changes to statutory cross-references, to Minnesota Statutes,  
 10 section 152.021, and any other statutory sections to accomplish  
 11 this.

12 Sec. 12. [REPEALER.]

13 Minnesota Statutes 2004, sections 18C.005, subdivisions 1a  
 14 and 35a; 18C.201, subdivisions 6 and 7; and 18D.331, subdivision  
 15 5, are repealed.

16 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
 17 and applies to crimes committed on or after that date.

18 ARTICLE 2

19 METHAMPHETAMINE APPROPRIATIONS

20 Section 1. [TOTAL APPROPRIATIONS.]

21 The dollar amounts in the columns under "APPROPRIATIONS"  
 22 are appropriated to the specified agencies for the purposes  
 23 specified. The appropriations are from the general fund and are  
 24 available for the fiscal years indicated for each purpose. The  
 25 figures "2006" and "2007" used in this article mean that the  
 26 addition to or subtraction from the appropriations listed under  
 27 the figure is for the fiscal years ending June 30, 2006, and  
 28 June 30, 2007, respectively.

29 SUMMARY

	2006	2007	TOTAL
30 GENERAL	\$,.....	\$,.....	\$,.....

32 APPROPRIATIONS  
 33 Available for the Year  
 34 Ending June 30  
 35 2006 2007

36 Sec. 2. CORRECTIONS

37 For the increased prison  
 38 population based on this act. \$ ..... \$ .....

1 Sec. 3. BOARD OF PUBLIC DEFENSE .....

2 For a methamphetamine trial team.

3 Sec. 4. HUMAN SERVICES .....

4 For grants to counties to fund three  
5 pilot projects addressing  
6 methamphetamine.

7 A county seeking a grant under this  
8 section shall submit a detailed  
9 application to the commissioner that  
10 specifies how the money will be used.  
11 The application must demonstrate a  
12 comprehensive countywide plan to combat  
13 methamphetamine. At a minimum, this  
14 plan must address how the county will  
15 handle: (1) methamphetamine-related  
16 child endangerment cases; (2)  
17 methamphetamine-related cleanup and  
18 remediation; (3) enforcing  
19 methamphetamine-related criminal laws;  
20 and (4) methamphetamine-related  
21 treatment. To the extent possible, the  
22 commissioner shall ensure that one  
23 pilot project has an emphasis on  
24 adolescents and one has a  
25 maternal/early childhood emphasis.

26 Sec. 5. EMPLOYMENT AND  
27 ECONOMIC DEVELOPMENT .....

28 To carry out the public facilities  
29 authority's duties involving the  
30 methamphetamine laboratory cleanup  
31 revolving fund under Minnesota  
32 Statutes, section 446A.083.

33 Sec. 6. PUBLIC SAFETY .....

34 For ten Bureau of Criminal Apprehension  
35 agents to be assigned exclusively to  
36 methamphetamine enforcement, including  
37 the investigation of manufacturing and  
38 distributing methamphetamine and  
39 related violence. These appropriations  
40 are intended to increase the current  
41 allocation of Bureau of Criminal  
42 Apprehension resources dedicated to  
43 methamphetamine enforcement. Positions  
44 funded by these appropriations may not  
45 supplant existing agent assignments or  
46 positions.

47 Sec. 7. HEALTH .....

48 To provide technical assistance on  
49 methamphetamine lab remediation.

50 Sec. 8. EDUCATION .....

51 To develop and distribute to school  
52 districts materials addressing the  
53 dangers of methamphetamine.

Article 1 METHAMPHETAMINE PROVISIONS..... page 1  
Article 2 METHAMPHETAMINE APPROPRIATIONS..... page 18

APPENDIX  
Repealed Minnesota Statutes for S0423-2

**18C.005 DEFINITIONS.**

Subd. 1a. **Anhydrous ammonia.** "Anhydrous ammonia" means a compound formed by the chemical combination of the elements nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen. This relationship is shown by the chemical formula,  $NH_3$ . On a weight basis, the ratio is 14 parts nitrogen to three parts hydrogen or approximately 82 percent nitrogen to 18 percent hydrogen. Anhydrous ammonia may exist in either a gaseous or a liquid state.

Subd. 35a. **Tamper.** "Tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

**18C.201 PROHIBITED FERTILIZER ACTIVITIES.**

Subd. 6. **Anhydrous ammonia.** (a) A person may not:

(1) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

(2) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;

(3) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or

(4) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 7. **No cause of action.** (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 6 shall have no cause of action for damages arising out of the tampering against (1) the owner or lawful custodian of the container or equipment; (2) a person responsible for the installation or maintenance of the container or equipment; or (3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

**18D.331 CRIMINAL PENALTIES.**

Subd. 5. **Anhydrous ammonia containment, tampering, theft, transport.** A person who knowingly violates section 18C.201, subdivision 6, is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than \$50,000, or both.

1 Senator ..... moves to amend S.F. No. 423 as follows:

2 Page 16, after line 11, insert:

3 "(c) A mortgagee is not responsible for cleanup costs under  
4 this section solely because the mortgagee becomes an owner of  
5 real property through foreclosure of the mortgage or by receipt  
6 of the deed to the mortgaged property in lieu of foreclosure."

1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was re-referred

3 S.F. No. 423: A bill for an act relating to public safety;  
4 further regulating while recodifying activities involving  
5 anhydrous ammonia; requiring courts to order restitution in  
6 certain situations involving controlled substances; imposing  
7 property restrictions in certain situations involving controlled  
8 substances; increasing the criminal penalties for possessing  
9 certain substances with the intent to manufacture  
10 methamphetamine and recodifying this crime; establishing new  
11 methamphetamine-related crimes; clarifying the definition of  
12 "narcotic drug"; expanding the definition of "violent crime" for  
13 mandatory sentencing purposes; requiring that vehicles and other  
14 property used to manufacture methamphetamine indicate this in  
15 the title or by an affidavit; requiring notice to schools when  
16 children are taken into protective custody after being found at  
17 a methamphetamine laboratory; establishing a methamphetamine  
18 laboratory cleanup revolving fund and authorizing loans to  
19 assist counties and cities in conducting methamphetamine  
20 cleanup; imposing criminal penalties; providing for ten new  
21 Bureau of Criminal Apprehension agents dedicated to  
22 methamphetamine enforcement; appropriating money; amending  
23 Minnesota Statutes 2004, sections 152.01, subdivision 10;  
24 152.021, subdivisions 2a, 3; 168A.05, subdivision 3; 260C.171,  
25 by adding a subdivision; 609.1095, subdivision 1; proposing  
26 coding for new law in Minnesota Statutes, chapters 152; 446A;  
27 repealing Minnesota Statutes 2004, sections 18C.005,  
28 subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331,  
29 subdivision 5.

30 Reports the same back with the recommendation that the bill  
31 be amended as follows:

32 Page 15, line 28, delete "chapter 145A or"

33 Page 17, line 3, delete "clandestine" and insert "a local  
34 public health nuisance ordinance that addresses clandestine lab  
35 remediation."

36 Page 17, delete line 4

37 And when so amended the bill do pass and be re-referred to  
38 the Committee on Finance. Amendments adopted. Report adopted.

39  
40 .....  
41 (Committee Chair)

42  
43 March 14, 2005.....  
44 (Date of Committee recommendation)

# Methamphetamine Trends and Activities

## Background

In an effort to implement a statewide methamphetamine (meth) strategy *before* the problem of meth use and manufacturing reached epidemic proportions in Minnesota, the Minnesota Department of Public Safety (DPS), including the DPS Bureau of Criminal Apprehension (BCA), the Minnesota Department of Health and other state agencies created the Minnesota Multi-Agency Meth Taskforce in 2001.

DPS, MDH and the Minnesota Pollution Control Agency (MPCA) have since provided guidance and leadership in this effort. In 2004, methamphetamine use and making expanded from a mainly rural to whole-state problem, as use increased in major population centers. This rapid expansion of use has resulted in a proportionally dramatic increase of demands on state and local resources in all areas.

## Meth Distinctions

State and federal experts on drug abuse trends describe these differences and distinctions that make meth a far-reaching public safety issue:

- A growing body of research tells us that meth addiction and disability are uncommonly rapid, causing functional brain disease in chronic users and a host of other physical and psychological problems. This addiction commonly occurs in 1 to 3 months, rather than the 2 to 3 years seen with cocaine and other amphetamines.
- Experts have identified a group of users who begin using meth for "practical" reasons such as weight loss, alertness, and mental acuity. These users are commonly identified as high achieving students, working mothers and other busy people who often have no previous drug abuse or criminal history.

- Meth is inexpensive to buy and easy to make.
- Nationwide statistics tell us that 25 percent of users are under 16 years of age.
- Networks unfamiliar to narcotics officers, often small friendship and family groups, typically distribute meth. Minnesota peace officers report multi-generational meth-making and using families.



- By the time meth users reach jail or treatment, most are poly-substance abusers, using meth with concurrent heavy alcohol and/or marijuana use. Some concurrent cocaine and heroin use is also reported.
- Meth is a drug of sexual enhancement. Children living with meth users are at high risk for sexual exploitation, sexually transmitted disease, and such blood-borne viruses as HIV and hepatitis.
- The majority of drugs are used more heavily by males than females (70 percent vs. 30 percent) but meth use among women and girls equals or exceeds use by males.
- States where drug-endangered children have been studied document a broad list of potential harms to children exposed In Utero and living with users and makers.
- Finally, methamphetamine is made easily but explosively in homes, vehicles, and in the outdoors throughout our state. Meth labs add a dangerous and costly extra risk for peace officers and the community.

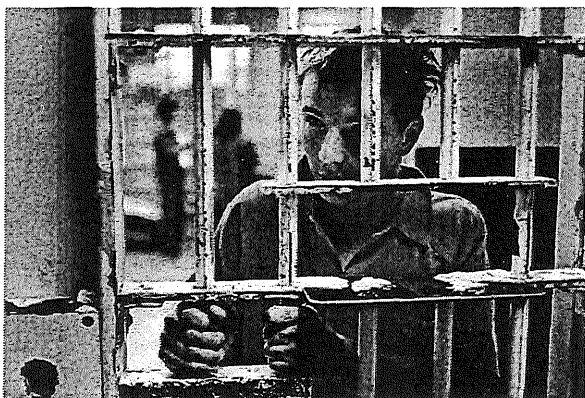
# BCA

Superintendent's Office:  
Bureau of Criminal Apprehension  
1430 Maryland Avenue East  
St. Paul, MN 55106  
<http://www.dps.state.mn.us/bca/bca.html>

# Methamphetamine Trends and Activities – page 2

## Meth Stats and Trends

- One indication of the upward national and local trend in meth use comes from data released in July 2004 by Quest Inc., the nation's largest provider of workplace drug testing. Quest announced that the overall number of workplaces drug positives did not increase from 2003 to 2004; however the number of meth positives grew an alarming 68 percent in one year.
- The number of methamphetamine analyses performed at the BCA laboratory has increased steadily over the past six years. BCA records show 713 samples determined to be meth in 1999 and 2,304 meth positives in 2004.
- Similar increases were seen in prison incarceration rates. Meth crimes added 139 inmates to the system in 2001 and 869 in 2004.



- Many peace officers in rural Minnesota report that 70 to 90 percent of all crimes in their counties are meth-related. These include DWIs, crimes against persons and property, as well as drug related charges. For example, Sheriff Pat Medure of Itasca County recently reported that 93 percent of his county inmates were meth users.
- The Minnesota Department of Health has collected meth labs reports from local law enforcement since 1999. These are voluntary reports and do not reflect the total number of labs seized. However, MDH numbers have consistently exceeded reports to the Drug Enforcement Administration (DEA).

- The following numbers of labs were reported to MDH from 1999 to 2004: 18 (1999), 43 (2000), 53 (2001), 216 (2002), 497 (2003) and 319 labs in 2004. According to an informal MDH poll of 22 Minnesota narcotics officers and sheriffs, the 2004 figure does not reflect an accurate picture of lab activity. Reports are down because 1) labs are more mobile and harder to find, 2) meth is currently being made in as little as 2 hours, and 3) reporting is a low priority.
- The average Minnesota meth cook makes an ounce of meth every 2 to 4 days, providing drugs for himself and 1 to 5 others. An ounce of meth requires 1000 30-milligram pseudoephedrine tablets. It is estimated that the average Minnesota meth cook uses over-the-counter medications valued at \$13,500 each year.

## Statewide Meth Costs

The Minnesota Department of Public Safety has compiled cost estimates from data received from state and local agencies. The total statewide public costs related to 2004 methamphetamine events were estimated at \$176,054,000 and included the following:

• Law Enforcement	\$39,250,000
• Prosecution	\$14,822,000
• Corrections	\$88,622,000
• Environmental	\$ 3,500,000
• Treatment	\$14,129,000
• Child Welfare	\$ 9,780,000

## Law Enforcement Concerns

- Local Enforcement Capacity  
Many small agencies in Minnesota lack the numbers of staff needed to respond to meth events and crimes. It may take a small sheriff's office six to ten days of staff time for all employees to seize, process and prosecute one meth lab. This is time taken away from normal duties, including lesser drug crimes and public service.



# Methamphetamine Trends and Activities – page 2

## Law Enforcement Concerns, continued.

- Training and Equipment  
Currently there are approximately 120 officers trained to perform clandestine lab investigation and seizure. Cost to train and equip one officer is 8 to 12 thousand dollars initially, with an additional \$2000 a year for equipment and training. Many counties have one or two trained officers, and do not meet minimum OSHA safety standards.
- Officer Health and Safety  
Few agencies have medical surveillance programs. Many clan lab officers must serve broad geographic areas. Many of the stresses of this work would be relieved by the addition of more trained responders.

## Meth-Related Crime

Most individuals who are sentenced to Minnesota jails and prisons for meth-related offenses are not prosecuted for sales or manufacture of methamphetamine. Rather, they are arrested for a variety of other crimes, including, child and domestic abuse, driving while intoxicated, theft and burglary, and crimes against persons.

The most serious of these have been an increasing number of violent personal assaults and homicides over the past several years, including:

- **1998. Erhard.** Suicide and murder of 3 year old son.
- **1999. Anoka.** Undetermined cause of death; believed to be connected to meth trafficking.
- **1999. Hancock, Morris, Minneapolis.** Meth lab explosion; residences in three communities raid; death of one suspect who fired on officers.
- **2000. Eagan.** Charges involving sexual molestation of 12 and 14 year old girls for whom suspect provided meth.
- **2000. Burnsville.** Rape and meth overdose death of 16 year old girl.

- **2001. Austin.** First prosecution case in connection with death in a meth lab fire. Two suspects charge and convicted.
- **2001. Grove City.** Attempted murder of a Sheriff's officer at a residence where a large-scale meth lab was discovered.
- **2002. Elizabeth.** A 2 year old and an 11 year old child died in a meth-related fire.
- **2003. Saint Paul.** Two people killed and one wounded when a meth buy went bad.
- **2003. Chatfield.** Meth user on a crime spree later pleads guilty to 1<sup>st</sup> degree burglary, attempted 3<sup>rd</sup> degree murder, and 3 counts of 2<sup>nd</sup> degree assault.
- **2003. Pillager.** Meth-related triple homicide. Suspect committed suicide before he could be arrested.
- **2003. Little Canada.** Two charged with murder of teen while meth-intoxicated.
- **2003. Northeast Minneapolis, Long Prairie.** Murders, by two meth users, of a father and daughter in NE Minneapolis; a family of three in Long Prairie. One suspect committed suicide in his jail cell.
- **2004. Ashby.** Other charged with child endangerment after abandoning infant in freezing apartment while high on meth.
- **2004. Ramsey.** Random spree murders of two people in their homes, by meth user.
- **2004. Princeton.** Nineteen year old meth user charged with murder of his infant son.
- **2004. Fountain.** Death by fire of a Fountain man when his meth lab exploded.
- **2004. Dillworth.** Three charged with murder by hatchet related to a meth buy.

These events do not include all violent crimes related to meth use and manufacture. Nor do they include injury or death by suicide, overdose or vehicular accident, though there have been such incidents.

## For more information

See the MDH Meth Website:

<http://www.health.state.mn.us/divs/eh/meth/index.html>. Or contact BCA Narcotics Supervisor, Larry Bergsgaard, (651) 793-7000, [larry.bergsgaard@state.mn.us](mailto:larry.bergsgaard@state.mn.us).

Minnesota	Meth Lab Task Force
Name	Organization
Sub	Committee
Paul Stevens	BCA
Deborah Durkin	MN Dept of Health
Rebecca Kenow	MN Dept of Health
Steve Lee	MN Pollution Control Agency
Tom Rime	DFO Community Corrections Supervisor
Brad Gerhardt	Martin Co Sheriff
Ginger Peterson	MN River Valley Drug Task Force
Greg Brolsma	Fairmont Police Dept Chief
Mark Harig	Freeborn Co Sheriff
Steve Borchardt	Olmsted Co Sheriff
Nancy Schroeder	Dept of Corrections
Jim Franklin	MN Sheriffs Assoc-Exec Director
Tracy Perzel	Assistant Attorney General
Scott Hersey	Dakota Co Attorney's Office & MCAA
Bob Nance	BCA
Paul Liemandt	MN Dept of Ag
Terese Amazi	Mower Co Sheriff
Tim Gallagher	Astrup Drug/MN Pharm Assn
Paul Philipp	Austin PD Chief
Kate Gaynor	MN Pollution Control Agency
Robert Walker	5th District Court Judge
Greg Herzog	Dept of Pub Safety Grants Specialist
Mary Ellison	DPS, Deputy Commissioner
Sue Perkins	Dept of Pub Safety
Nancy Schouweiler	Dakota Co Commissioner
Elizabeth Carpenter	MN Pharmacists Assn
Laura LaCroix	Local Pub Health Assn of MN c/o AMC
Dan Griffin	MN Supreme Court
Ruth Clinard	Dept of Human Services
Megan Helge	MN Dept of Health
Jay McLaren	Dept of Health
Abbie Laugtug	MN Pharmacists Assn
Jenn O'Rourke	League of MN Cities
Anne Finn	League of MN Cities
Ed Kaiser	MN Dept of Ag
Dr. Barbara Knox	Pediatric & Adolescent Medicine, Mayo
Clara James	Social Worker
Joanne Smith	Ramsey Co Judge
Scott Simmons	AMC
Terry Whitman	Jackson Co Human Services
Amy Rudolph	Dept of Education
Kevin Spading	MN Prevention Resource Center

1 Senator Anderson from the Committee on Jobs, Energy and  
2 Community Development, to which was referred

3 S.F. No. 952: A bill for an act relating to taxation;  
4 providing that certain personal property of an electric  
5 generation facility is exempt from property taxation; amending  
6 Minnesota Statutes 2004, section 272.02, by adding a subdivision.

7 Reports the same back with the recommendation that the bill  
8 do pass and be re-referred to the Committee on Taxes. Report  
9 adopted.

10

11

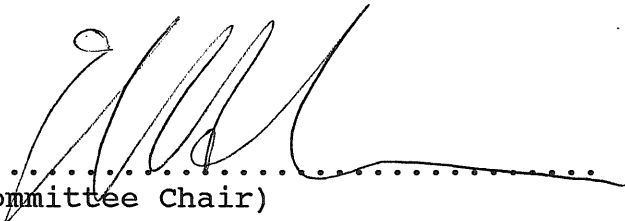
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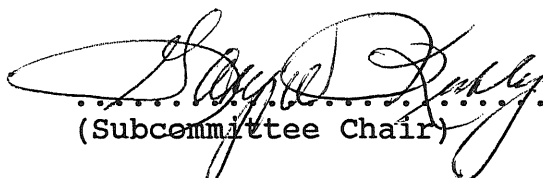
  
.....  
(Committee Chair)

March 14, 2005.....  
(Date of Committee recommendation)

1 To: Senator Anderson, Chair  
 2 Committee on Jobs, Energy and Community Development  
 3 Senator Kubly,  
 4 Chair of the Subcommittee on Energy, to which was referred  
 5 S.F. No. 952: A bill for an act relating to taxation;  
 6 providing that certain personal property of an electric  
 7 generation facility is exempt from property taxation; amending  
 8 Minnesota Statutes 2004, section 272.02, by adding a subdivision.

9 Reports the same back with the recommendation that the bill  
 10 do pass and be referred to the full committee.

11  
 12  
 13  
 14  
 15  
 16  
 17

  
 .....  
 (Subcommittee Chair)

March 9, 2005.....  
 (Date of Subcommittee action)

Senators Nienow, Wergin and Jungbauer introduced--

S.F. No. 952: Referred to the Committee on Jobs, Energy and Community Development.

1                                   A bill for an act

2           relating to taxation; providing that certain personal

3           property of an electric generation facility is exempt

4           from property taxation; amending Minnesota Statutes

5           2004, section 272.02, by adding a subdivision.

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

7           Section 1. Minnesota Statutes 2004, section 272.02, is

8           amended by adding a subdivision to read:

9           Subd. 68. [ELECTRIC GENERATION FACILITY; PERSONAL

10          PROPERTY.] (a) Notwithstanding subdivision 9, clause (a),

11          attached machinery and other personal property which is part of

12          a simple-cycle combustion-turbine electric generation facility

13          that exceeds 150 megawatts of installed capacity and that meets

14          the requirements of this subdivision is exempt. At the time of

15          construction, the facility must:

16               (1) utilize natural gas as a primary fuel;

17               (2) be owned by an electric generation and transmission

18          cooperative;

19               (3) be located within five miles of parallel existing

20          12-inch and 16-inch natural gas pipelines and a 69-kilovolt

21          high-voltage electric transmission line;

22               (4) be designed to provide peaking, emergency backup, or

23          contingency services;

24               (5) have received a certificate of need under section

25          216B.243 demonstrating demand for its capacity; and

1       (6) have received by resolution the approval from the  
2 governing body of the county and township in which the proposed  
3 facility is to be located for the exemption of personal property  
4 under this subdivision.

5       (b) Construction of the facility must be commenced after  
6 July 1, 2005, and before January 1, 2009. Property eligible for  
7 this exemption does not include electric transmission lines and  
8 interconnections or gas pipelines and interconnections  
9 appurtenant to the property or the facility.

10       [EFFECTIVE DATE.] This section is effective for assessment  
11 year 2006 and thereafter, for taxes payable in 2007 and  
12 thereafter.