

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

1.3 S.F. No. 3011: A bill for an act relating to human services; awarding a grant;
1.4 appropriating money for the Commission Serving Deaf and Hard-of-Hearing People.

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

1.6 Delete everything after the enacting clause and insert:

1.7 "Section 1. APPROPRIATION FOR THE COMMISSION SERVING DEAF
1.8 AND HARD-OF-HEARING PEOPLE.

1.9 \$240,000 is appropriated from the Department of Commerce telecommunications
1.10 access Minnesota fund to the commissioner of human services for the fiscal year
1.11 beginning July 1, 2006, to supplement the ongoing operational expenses of the Minnesota
1.12 Commission Serving Deaf and Hard-of-Hearing People. This appropriation shall become
1.13 part of base level funding for the commission for the biennium beginning July 1, 2007."

1.4 Amend the title accordingly

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

1.17
1.18 (Committee Chair)

1.19 April 3, 2006
1.20 (Date of Committee recommendation)

Senators Metzen, Sams, Kelley and Belanger introduced—
S.F. No. 3011: Referred to the Committee on Finance.

A bill for an act
relating to human services; awarding a grant; appropriating money for the
Commission Serving Deaf and Hard-of-Hearing People.

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

Section 1. GRANT.

The Department of Human Services shall award a grant in the amount of \$240,000 to
the Commission Serving Deaf and Hard-of-Hearing People to fund operational expenses.

Sec. 2. APPROPRIATION.

\$298,500 is appropriated from the telecommunications access fund to the
Commission Serving Deaf and Hard-of-Hearing People in fiscal year 2007 to fund
operational expenses.

1.1 Senator moves to amend S.F. No. 3011 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **APPROPRIATION FOR THE COMMISSION SERVING DEAF**
1.4 **AND HARD-OF-HEARING PEOPLE.**

1.5 \$240,000 is appropriated from the Department of Commerce telecommunications
1.6 access Minnesota fund to the commissioner of human services for the fiscal year
1.7 beginning July 1, 2006, to supplement the ongoing operational expenses of the Minnesota
1.8 Commission Serving Deaf and Hard-of-Hearing People. This appropriation shall become
1.9 part of base level funding for the commission for the biennium beginning July 1, 2007."



Wednesday, March 29, 2006

RE: MCDHH funding support

To Whom It May Concern:

I am writing in support of **Senate File 3011 and HF3396**: the funding bills currently in the Legislature for the Minnesota Commission Serving Deaf and Hard of Hearing People (MCDHH).

As Program Manager of DeafBlind Services Minnesota, a non-profit agency which provides community supports, activities and rehabilitation training to deaf and deafblind Minnesotans, I have seen the positive impact that the Commission has had on our community and the amount of work it does on our behalf.

The Commission advocates for equal opportunity for deaf, hard of hearing and deafblind children and adults. Their goals are to improve success in employment, education, and improve access to services and communication and increase citizen engagement. Their track record is impressive, and even more so knowing that it has functioned with only one full-time staff person. The funding would provide support in the form of two half-time positions: administrative assistant and interpreter.

Here are but a few of the Commission's accomplishments:

- The K-12 Education Interpreter Law that established minimum training and certification standards for deaf and hard of hearing persons. After the law was passed, MN went from having five certified interpreters in the classroom to over 300.
- Voluntary New Born Infant Screening Program for Deaf and Hard of Hearing that has resulted in 95% of Minnesota hospitals testing newborns at birth for hearing loss.
- Legislation that created the Minnesota Employment Center, which prepares deaf and hard of hearing people for the workforce, finds them jobs, and provides on going supports.
- Legislation that requires minimum competencies in sign language proficiency for teachers of the deaf and hard of hearing.

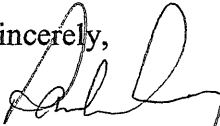
Funding would also help to pay for required communication access to meetings for deaf, hard of hearing and deafblind consumers whom the Commission serves. This access is, as you know, is mandated by law (Americans with Disabilities Act), and therefore, the Commission *must* have funding to meet this requirement. For example, interpreter and captioning costs for just one 2-hour meeting can cost an average of \$1,200-1,500.00!

1936 Lyndale Avenue South
Minneapolis, MN
55403

voice (612) 362-8454
TTY (612) 362-8422
fax (612) 362-8437

It is high time to "up the ante". The Commission has not had a budget increase in 12 years, and I would assume its Director, Mary Hartnett, has not had a raise in that same period. Please support this extremely important need for increased funding!

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Deeming". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Paul Deeming, M.S., C.I.
Program Manager
DeafBlind Services Minnesota

Letters of Support



MINNESOTA SPEECH-LANGUAGE-HEARING ASSOCIATION

1821 University Ave W, Ste S256 • St. Paul, MN 55104-2897

Phone: 651/999-5350 • Fax: 651/917-1835 • E-mail: office@msha.net • Web: www.msha.net

March 28, 2006

To whom it may concern:

The Minnesota Speech-Language-Hearing Association, MSHA, is a not-for-profit organization with approximately 700 members in the professions of speech-language pathology and audiology. Our goals are concerned with the prevention, assessment, and treatment of communication disorders and the study of normal and disordered human communication. One of our specific missions is to promote awareness of, and advocacy for, the rights of persons with communication disorders, including hearing loss.

The Minnesota Speech-Language-Hearing Association supports Senate File 3011 and House File 3396 bills, which would increase funding for the Minnesota Commission Serving Deaf and Hard of Hearing People (MCDHH). The MCDHH advocates for equal opportunity for deaf, hard of hearing, and deaf/blind children and adults. Its goal is to improve success in employment and education, to improve access to services and communication, and to increase citizen engagement. While success has been seen in these endeavors, more funding is needed for this commission to continue to operate. MCDHH has not had a budget increase in 12 years. It has only one staff person and has to limit the number of meetings it holds because of these resource constraints. More funding is needed to pay for interpreters and captionists for meetings and for additional staff to do the work of the commission. Funding for these needed services would come from the Telecommunications Access Fund.

The Minnesota Speech-Language-Hearing Association supports this increased funding to help provide equal opportunity to Minnesota's deaf, hard of hearing and deaf/blind children and adults.

Sincerely yours,

THE MINNESOTA SPEECH-LANGUAGE-HEARING ASSOCIATION

Mary Garrison, MS CCC SLP
MSHA President



March 28, 2006

Mary Hartnett
Executive Director
Minnesota Commission Serving Deaf and Hard of Hearing People
444 Lafayette Road North
St. Paul, MN 55155-3814

Dear Ms. Hartnett:

Minnesota Association for Deaf Citizens has been advocating for the rights of individuals with hearing loss in Minnesota for over 120 years. MADC is pleased to be working alongside with MCDHH in obtaining equal rights for Minnesotans who are deaf and hard of hearing.

Both MADC and MCDHH serve 418,000 Minnesotans with hearing loss. MADC is aware that the current MCDHH operating budget is only \$95,000 per year; they can no longer operate within this budget. This budget has not been increased in 15 years and funds are sorely needed to hire sign language interpreters and captionists for MCDHH meetings. We are asking for support for an increase that will result in improved outcomes/access and increased citizen engagement.

MADC is in full support of the bill that would give MCDHH \$175,000 from the Telecommunications Access Fund for additional staff and funds for additional access. The \$175,000 would cover the cost of sign language interpreters, captionists, part-time administrative assistant, part-time sign language interpreter and a policy analyst/educator.

MCDHH has a long history of accomplishments that have increased the quality of life for Minnesotans who are deaf and hard of hearing. They include but are not limited to the following:

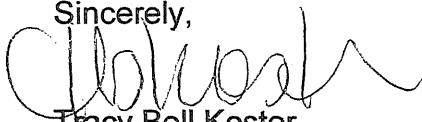
- The K-12 Education Interpreter Law that established minimum training and certification standards for deaf and hard of hearing persons. After the law was passed, MN went from having five certified interpreters in the classroom to over 300.
- Voluntary New Born Infant Screening Program for Deaf and Hard of Hearing that has resulted in 95% of Minnesota hospitals testing newborns at birth for hearing loss.

- Legislation that created the Minnesota Employment Center, which prepares deaf and hard of hearing people for the workforce, finds them jobs, and provides on going supports.
- Legislation that allocates funds for sign language interpreters so deaf, deafblind and hard of hearing people can access the legislative process.
- Legislation that requires full-insured health plans in Minnesota to cover hearing aids for children birth through 18 with a congenital hearing loss.
- Acoustics Bill that requires that all new school construction follow ANSI acoustics standards Helped to produce a video in American Sign Language on voting.
- Organized the first statewide Get Out the Vote effort for deaf, hard of hearing and deafblind individuals, which resulted in over 500 new deaf, hard of hearing and deafblind registered voters.

Their work, along with MADC's work is not done. There is a long way to go before there is equal access for Minnesotans with hearing loss. Without additional funding from Legislation, MCDHH will not have the funds or manpower to continue doing their work to the fullest.

MADC is in full support of the bill to provide MCDHH with additional funding to serve Minnesotans who are deaf and hard of hearing.

Sincerely,



Tracy Bell Koster
President



04 Winner of the Nonprofit Excellence Award

March 27, 2006

Minnesota Commission Serving Deaf and Hard of Hearing People
444 Lafayette Road North
St. Paul, MN 55155-3814
Attention: Mary Hartnett

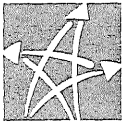
RE: Senate File 3011 and HF 3396: Use of Telecommunication Access Fund to Assist MCDHH

Dear Mary Hartnett:

I am pleased to write a letter of support for using the Telecommunications Access Fund as a source of additional funding for the Minnesota Commission Serving Deaf and Hard of Hearing People (MCDHH.) As the Coordinator of a parent-led program providing support to families with children who have hearing loss, I have seen first-hand the success of MCDHH and the benefit to Minnesota children who have hearing loss. Please consider just a few examples of the work MCDHH has done that has greatly impacted our community:

- Voluntary New Born Infant Screening Program for Deaf and Hard of Hearing that has resulted in 95% of Minnesota hospitals testing newborns at birth for hearing loss.
- The K-12 Education Interpreter Law that established minimum training and certification standards for deaf and hard of hearing persons. After the law was passed, MN went from having five certified interpreters in the classroom to over 300.
- Legislation that requires minimum competencies in sign language proficiency for teachers of the deaf and hard of hearing.
- Legislation that requires captioning for all state produced educational videotapes.
- Legislation that requires full-insured health plans in Minnesota to cover hearing aids for children birth through 18 years of age who have a congenital hearing loss.
- Advocacy for parents who are not covered by the hearing aid insurance bill secure hearing aids insurance coverage for their children.
- Acoustics Bill that requires that all new school construction to follow ANSI acoustics standards.

The Commission has had great success improving the lives of children who are deaf and hard of hearing. However, there is so much more work to be done. Our children who have hearing loss are still graduating with abysmal reading proficiency scores. Adults who have hearing loss still remain underutilized and underemployed today. In order to better prepare our youth for the future as productive, contributing members of society, we must invest in them now.



Lifetrack Resources

Founded in 1948 as
St. Paul Rehabilitation Center.

2004 Winner of the Nonprofit Excellence Award

Please allow MCDHH to continue and expand the good work they are doing by having access to greater financial resources. This investment will provide a priceless return.

I will look forward to hearing the decision on whether to grant the Minnesota Commission Serving Deaf and Hard of Hearing People money from the Telecommunications Access Fund.

Sincerely,

Candace Lindow-Davies
Parent of a Child who is Deaf/
Family Support Coordinator
Family Support Connection
651-265-2435 Voice
651-265-2379 TTY
866-DHOHKID Toll-free Voice
866-857-2379 Toll-free TTY
Candaced@lifetrackresources.org
www.familysupportconnection.org

"Build better lives for children who are deaf and hard of hearing by providing parent-to-parent support to families"

UNIVERSITY OF MINNESOTA

Twin Cities Campus

*Special Education Programs
Department of Educational Psychology
College of Education and Human
Development*

*206 Burton Hall
178 Pillsbury Drive S.E.
Minneapolis, MN 55455*

*Office: 612-624-6083
Fax: 612-624-8241
<http://education.umn.edu/edpsych/special/>
Email: sped-adm@umn.edu*

ATTN: House File 3396

Dear Committee Members,

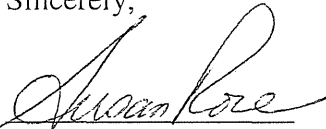
The purpose of this letter is to provide support for House File 3396. Since its inception The Minnesota Commission for the Deaf and Hard of Hearing (MCDHH) has evolved into a hub of communication, coordination, and access for individuals with hearing loss. The Commission has provided leadership and guidance to the Deaf and Hard of Hearing Community in the areas of employment, early identification, citizenship, and voter participation. This is only a fraction of the extensive list of activities.

MCCDH has operated on a set budget of \$95,000 annually for the past 15 years. Given the inadequacy of funding, resources have been cut from a staff of 6 to the current level of 1 person. Diminishing resources has had a profound effect on the community in general and on deaf and hard of hearing individuals and their families specifically. Inadequate funding for MCDHH has created a highly inefficient system with duplication of services, multiple contacts required by deaf individuals seeking employment, unequal distribution of services for individuals with hearing loss, and a myriad of additional problem solving requests placed on the legislature. Failure to financially support MCCDH has actually cost the state considerably more.

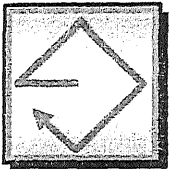
Please approve the requested \$175,000 to provide additional staff and services. Funds currently available in the Telecommunication Access Fund rightly are designed to provide access, communication, and coordination. These funds should be used to support MCCDH.

Thank you for your attention and support for House File 3396

Sincerely,



Susan Rose, Ph.D.
Associate Professor



E.A. Acoustical Engineering, Inc.

Acoustical and Noise Control Consulting

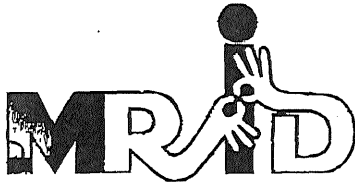
To whom it may concern:

As a hard of hearing senior, I fully support MCDHH in their quest to secure more funding so they can expand in their mission to serve the deaf and hard of hearing community in the state of Minnesota. The deaf and hard of hearing community represents the largest group of people in the state with disabilities. The MCDHH has done a notable job of advocating for its constituents but can do more; therefore it is imperative that secures the appropriate funding to continue and expand its mission.

I therefore urge you to support MDCHH in their quest for increased funding.

Sincerely

Mike Nixon
President



Minnesota Registry of Interpreters for the Deaf

P.O. Box 4414 Saint Paul, MN 55104

March 29, 2006

Mary Hartnett
Executive Director
Minnesota Commission Serving Deaf and Hard of Hearing People
444 Lafayette Road North
St. Paul, MN 55155-3814

Dear Ms. Hartnett:

Minnesota Registry of Interpreters for the Deaf (MRID) would like to extend its support to the Minnesota Commission Serving Deaf and Hard of Hearing People (MCDHH) in its effort to increase funding from the state legislature for its ongoing advocacy for equal opportunity for deaf, hard of hearing and deafblind children and adults. MRID appreciates the continued work of MCDHH, which has given members of the deaf community the opportunity to be successful in employment, education, and to gain access to services and communication.

MCDHH worked to create the K-12 Educational Interpreter Law which not only improved the quality but also the quantity of interpreting services in classrooms across the state of Minnesota. This law had a monumental impact on deaf and hard of hearing students and interpreters alike and became a benchmark for educational interpreter legislation around the country.

MCDHH also advocated for legislation that requires minimum competencies in sign language proficiency for teachers of the deaf and hard of hearing. This legislation has been crucial to ongoing efforts to improve the education of students who are deaf or hard of hearing in Minnesota.

Minnesota Registry of Interpreters for the Deaf recognizes the work of the Minnesota Commission Serving Deaf and Hard of Hearing People in these areas and many others. MRID fully supports an increase in funding for MCDHH and looks forward to continuing its relationship with MCDHH in its advocacy efforts.

Sincerely,

A handwritten signature in cursive script that reads "Eileen M. Gray".

Eileen M. Gray
President
MRID

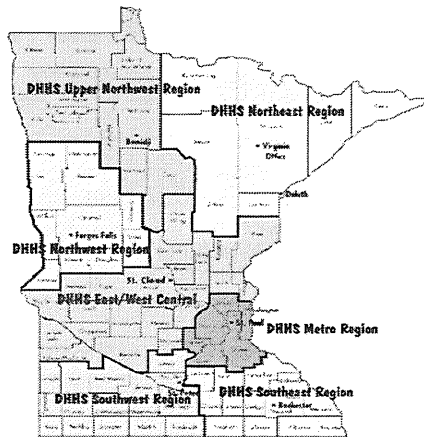
THE MINNESOTA COMMISSION SERVING DEAF AND HARD OF HEARING PEOPLE

“the
principal agency of the state to advocate on behalf
of deaf,
deaf-blind, and hard-of-hearing Minnesotans by
working to ensure
those persons have equal access to the services,
programs, and
opportunities available to others. MS256C “

History and Composition

- Founded in 1985
- Created by Members of the Deaf, Hard of Hearing and DeafBlind Communities.
- 15 Governor appointed commission members- 8 regional advisory members selected by advisory councils and seven at large.
- We are the only state agency that looks at bills as a whole in state and assess their impact on people who are deaf and hard of hearing and deafblind people.
- One staff person.

Regional Representation of Eight Advisory Councils



MCDHH DUTY # 1

- advocating for equal access to services, programs, and opportunities;

Example

- Advocated with the Supreme Court to hire certified legal interpreters for the court system. MCDHH received over 30 complaints from deaf people who had problems getting qualified interpreters in court.
- Result- a court settlement that included, training for judges and court personnel and an agreement to hire certified legal interpreters and to put a complaint system in place.

MCDHH DUTY # 2

2)advise the governor, the legislature, state agencies on the development of policies, programs, and services affecting deaf, deaf-blind, and hard-of-hearing persons, and on the use of appropriate federal and state money.

Examples

- Deaf representation with the Pathways to Employment grant.
- Advocate for Recommendations from DeafBlind Task Force to improve employment outcomes.
- Coordinate meetings for improving educational interpreter law.
- Department of Corrections to track data on deaf and hard of hearing clients.
- Department of Health with Newborn Hearing Screening- provided intern to work with department on barriers in voluntary screening.
- Department of Emergency Management and Department of Commerce and FCC- coordinated a training for TV and cable stations- re: their obligations with emergency captioning.
- House of Representatives- recommendations on how to make the House more accessible.

Duties 4 and 6

- provide the governor, the legislature, and state agencies with , proposed legislation affecting deaf, deaf-blind, and hard-of-hearing persons and legislation designed to improve the economic and social conditions of deaf, deaf-blind, and hard-of-hearing persons in Minnesota;

Examples

The K-12 Education Interpreter Law that established minimum training and certification standards interpreters in the classroom. Went from 5 certified interpreters before the law to over 300 after the bill was implemented.

Voluntary New Born Infant Screening Program for Deaf and Hard of Hearing that has resulted in 95% of Minnesota hospitals testing newborns at birth for hearing loss.

Legislation that created the Minnesota Employment Center, which prepares deaf and hard of hearing people for the workforce, finds them jobs, and provides on going supports.

MNDOT truck driver law amended so that deaf people can now get a license to drive commercial trucks within the state. (As a result, several deaf people now drive commercial trucks in Minnesota for a living.)

Creation of a specialist within the Division of Rehabilitation Services (DRS) to address the needs of deaf and hard of hearing consumers.

Examples

- State law requiring that companies that produce more than 500 videos for sale to educational institutions, training facilities or government entities in Minnesota must open or close caption their videos.
- State funds to establish statewide psycho/social assessment services for deaf, hard of hearing and deafblind children and their families in Greater Minnesota.
- Minimum competencies in sign language proficiency for teachers of the deaf and hard of hearing.
- Legislation that requires captioning for all state produced educational videotapes.
- Legislation that requires captioning for all televised legislative sessions.
- Legislation that allocates funds for sign language interpreters so deaf, deafblind and hard of hearing people can access the legislative process.
- Legislation that requires that fully insured insurance plans provide children birth through 18 who are born with a hearing loss with hearing aids once every three years.
- Captioning Bill that provides real-time captioning during live news broadcasts in Greater Minnesota.

Duty 10

- coordinate its efforts with other state and local agencies serving deaf, deaf-blind, and hard-of-hearing persons.

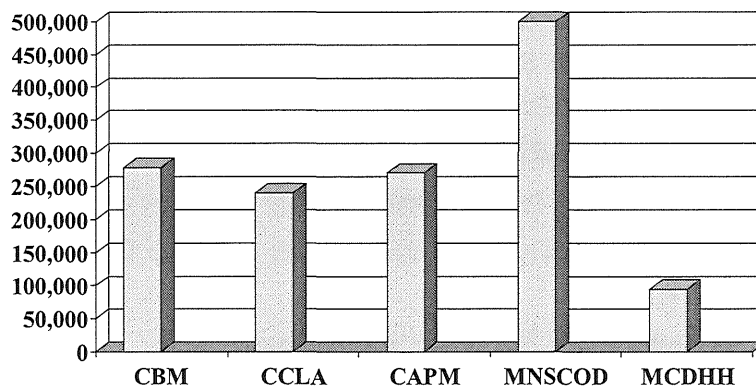
Some of the groups we worked with in 2005

- MN Association of Deaf Citizens
- MN DeafBlind Association
- Hearing Loss Association
- St. Paul Neighborhood Network
- Twin Cities Public Television
- Capitol Hill Associates
- AARP- Minnesota Chapter
- American National Standards Acoustics Standards Board
- Acoustical Engineering, Inc.
- MN Academy of Audiologists
- MN Speech and Hearing Association
- Minnesota Association of Certified Rehabilitation Organizations
- Black Deaf Advocates
- Council on Asian Pacific Minnesotans
- Council on Black Minnesotans
- Council of Chicano Latino Affairs
- Department of Commerce- insurance and interpreting issues.
- Minnesota Supreme Court- follow up for court settlement.
- Minnesota Disability Law Center
- Coalition for Children with Disabilities
- Children's Defense Fund
- CSD Minnesota
- Minnesota Employment Center for the Deaf and Hard of Hearing
- AG Bell
- The Department of Education
- DEED
- University of Minnesota Teachers of Deaf and Hard of Hearing

Budget History

- \$95,000 for 15 years from DHS.
- Covers costs of one staff person
- Interpreters, Captionists
- Per diems, mileage, food for meetings
- Mileage for staff
- Each year need fund transfer from DHS of \$12,000 to cover costs- not reliable, not enough.

COMPARISON OF BUDGETS OF MINNESOTA MINORITY COUNCILS



Why the TAM Fund

- Arizona funds their commission with the fund.
- MCDHH advocated for the fund to be created to ensure access for deaf, hard of hearing and deafblind people.
- We want the fund to continue to be used for deaf, hard of hearing and deafblind access- our efforts will ensure they do

Increase of Funds will:

- **Increased accountability:** Millions of dollars are spent every year on education and employment. We track and advocate for improvements.
- **Improved outcomes and access:** Can continue and increase the scope of our work.
- **Increased citizen engagement**

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 3488:** A bill for an act relating to economic development; modifying the
1.4 purpose of the Minnesota Investment Fund; adding a new condition for the evaluation
1.5 of Minnesota Investment Fund projects; amending Minnesota Statutes 2004, section
1.6 116J.8731, subdivisions 1, 4.

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

1.8 Page 2, line 3, delete "manufacturing" and after "safe" insert "manufacturing
1.9 processes or the production of environmentally safe products"

1.10 Page 2, line 4, delete "products"

1.11 And when so amended the bill do pass. Amendments adopted. Report adopted.

1.12 
1.13 (Committee Chair)

1.14 April 3, 2006
1.15 (Date of Committee recommendation)

Senator Anderson introduced—

S.F. No. 3488: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

relating to economic development; modifying the purpose of the Minnesota Investment Fund; adding a new condition for the evaluation of Minnesota Investment Fund projects; amending Minnesota Statutes 2004, section 116J.8731, subdivisions 1, 4.

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

Section 1. Minnesota Statutes 2004, section 116J.8731, subdivision 1, is amended to read:

Subdivision 1. Purpose. The Minnesota investment fund is created to provide financial assistance, through partnership with communities, for the creation of new employment or to maintain existing employment, and for business start-up, expansions, and retention. It shall accomplish these goals by the following means:

(1) creation or retention of permanent private-sector jobs in order to create above-average economic growth consistent with environmental protection, which includes investments in technology and equipment that increase productivity and provide for a higher wage;

(2) stimulation or leverage of private investment to ensure economic renewal and competitiveness;

(3) increasing the local tax base, based on demonstrated measurable outcomes, to guarantee a diversified industry mix;

(4) improving the quality of existing jobs, based on increases in wages or improvements in the job duties, training, or education associated with those jobs;

(5) improvement of employment and economic opportunity for citizens in the region to create a reasonable standard of living, consistent with federal and state guidelines on low- to moderate-income persons; and

- 2.1 (6) stimulation of productivity growth through improved manufacturing or new
2.2 technologies, including cold weather testing; and
2.3 (7) promoting businesses that convert to manufacturing environmentally safe
2.4 products.

2.5 Sec. 2. Minnesota Statutes 2004, section 116J.8731, subdivision 4, is amended to read:

2.6 Subd. 4. **Eligible projects.** Assistance must be evaluated on the existence of the
2.7 following conditions:

2.8 (1) creation of new jobs, retention of existing jobs, or improvements in the quality of
2.9 existing jobs as measured by the wages, skills, or education associated with those jobs;

2.10 (2) increase in the tax base;

2.11 (3) the project can demonstrate that investment of public dollars induces private
2.12 funds;

2.13 (4) the project can demonstrate an excessive public infrastructure or improvement
2.14 cost beyond the means of the affected community and private participants in the project;

2.15 (5) the project provides higher wage levels to the community or will add value to
2.16 current workforce skills;

2.17 (6) the project encourages environmentally safe production and products;

2.18 (7) whether assistance is necessary to retain existing business; and

2.19 ~~(7)~~ (8) whether assistance is necessary to attract out-of-state business.

2.20 A grant or loan cannot be made based solely on a finding that the conditions in
2.21 clause ~~(6)~~ or (7) or (8) exist. A finding must be made that a condition in clause (1), (2),
2.22 (3), (4), or (5) also exists.

2.23 Applications recommended for funding shall be submitted to the commissioner.

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 1217:** A bill for an act relating to landlord and tenant; clarifying provisions
4 relating to utility metering and billing; amending Minnesota Statutes 2004, section
1.5 504B.215, subdivisions 1, 2, 2a.

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

1.7 Delete everything after the enacting clause and insert:

1.8 "Section 1. Minnesota Statutes 2004, section 504B.215, is amended by adding a
1.9 subdivision to read:

1.10 Subd. 2b. De minimis exception. Any tariff approved by the Public Utilities
1.11 Commission regarding a violation of subdivision 2 shall include a de minimis exception.
1.12 The de minimis exception shall provide that electrical service in a common area that
1.13 does not exceed an aggregate 1,752 kilowatt hours per year, which service is measured
1.14 through a meter serving an individual residential unit, shall not cause a building to be a
1.15 "single-metered residential building" as used in this section. The amount of common
1.16 area usage may be determined by actual measurement or, when such measurement is not
1.17 possible, it may be determined not likely to exceed 1,752 kilowatt hours per year by a
1.18 licensed tradesperson or a housing inspector. The landlord shall bear the burden and
1.19 cost associated with proving an exception.

1.20 If a tariff is not adopted this subdivision shall have no effect."

1.21 Amend the title accordingly

1.22 And when so amended the bill do pass and be placed on the Consent Calendar.
1.23 Amendments adopted. Report adopted.

1.24
1.25 (Committee Chair)

1.26 April 3, 2006
1.27 (Date of Committee recommendation)

1.1 Senator moves to amend S.F. No. 1217 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2004, section 504B.215, is amended by adding a
1.4 subdivision to read:

1.5 Subd. 2b. De minimis exception. Any tariff approved by the Public Utilities
1.6 Commission regarding a violation of subdivision 2 shall include a de minimis exception.
1.7 The de minimis exception shall provide that electrical service in a common area that
1.8 does not exceed an aggregate 1,752 kilowatt hours per year, which service is measured
1.9 through a meter serving an individual residential unit, shall not cause a building to be a
1.10 "single-metered residential building" as used in this section. The amount of common
1.11 area usage may be determined by actual measurement or, when such measurement is not
1.12 possible, it may be determined not likely to exceed 1,752 kilowatt hours per year by a
1.13 licensed tradesperson or a housing inspector. The landlord shall bear the burden and
1.14 cost associated with proving an exception.

1.15 If a tariff is not adopted this subdivision shall have no effect."

1.16 Amend the title accordingly

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

1.3 S.F. No. 3619: A bill for an act relating to the city of Hibbing; dissolving the
1.4 Hibbing Area Redevelopment Agency; transferring the assets of the Hibbing Area
1.5 Redevelopment Agency to the Hibbing Economic Development Authority; providing for
1.6 the assumption of debts and obligations.

1.7 Reports the same back with the recommendation that the bill do pass. Report
1.8 adopted.

1.9
1.10 
(Committee Chair)

1.11 April 3, 2006
1.12 (Date of Committee recommendation)

Senator Tomassoni introduced—

S.F. No. 3619: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
 1.1 relating to the city of Hibbing; dissolving the Hibbing Area Redevelopment
 1.3 Agency; transferring the assets of the Hibbing Area Redevelopment Agency to
 1.4 the Hibbing Economic Development Authority; providing for the assumption of
 1.5 debts and obligations.

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

1.7 Section 1. **DISSOLUTION AND DISCONTINUANCE OF HIBBING AREA**
 1.8 **REDEVELOPMENT AGENCY.**

1.9 The Hibbing Area Redevelopment Agency is dissolved and discontinued.

1.10 Sec. 2. **TRANSFER OF ASSETS.**

1.11 The assets of the Hibbing Area Redevelopment Agency are transferred to the
 1.12 Hibbing Economic Development Authority by deed signed by the president and secretary
 1.13 of the Hibbing Area Redevelopment Agency.

1.14 Sec. 3. **ASSUMPTION OF DEBTS AND OBLIGATIONS.**

1.15 After acceptance of the deed, the Hibbing Economic Development Authority shall
 1.16 assume any and all of the obligations and debts of the Hibbing Area Redevelopment
 1.17 Agency.

SELLMAN LAW OFFICE

Richard K. Sellman
Andy Borland

Attorneys at Law

1907 Third Avenue East, Suite 1
P.O. Box 37
Hibbing, Minnesota 55746
Telephone (218) 262-5501

March 9, 2006

Senator David J. Tomassoni
111 Capitol
75 Constitution Avenue
St. Paul, Minnesota 55155-1606

Representative Anthony Sertich
233 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Re: City of Hibbing
Request for Special Legislation
dissolving Hibbing Area
Redevelopment Agency

Dear Senator Tomassoni and Representative Sertich:

The Hibbing City Council asked me, as their attorney, to forward the enclosed request for Special Legislation dissolving the Hibbing Area Redevelopment Agency and transferring its assets and liabilities to the Hibbing Economic Development Authority. A copy of this special legislation is attached. Also attached are copies of resolutions passed by the Hibbing Area Redevelopment Agency and the Hibbing Economic Development Authority relating to this matter.

Your assistance and cooperation on this matter is appreciated.

Very truly yours,

CITY OF HIBBING



Richard K. Sellman
City Attorney

RKS:mt

Attachments

cc: Marvin Vuicich, President, HEDA
cc: Duane Northagen, Executive Director, HEDA
cc: Peter J. Mulvahill, Attorney, HARA

December 15, 2005

**EXCERPTS OF THE MINUTES
HIBBING AREA REDEVELOPMENT AGENCY
WEDNESDAY, DECEMBER 14, 2005**

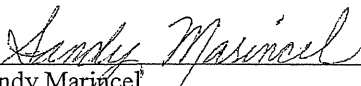
The following is an Excerpt of the Minutes of a meeting of the Hibbing Area Redevelopment Agency held on Wednesday, December 14, 2005, 5:48 p.m., City Hall Council Chamber.

Marvin Vuicich, supported by Larry Furlong, moved to direct Attorney Richard Sellman to prepare a resolution to present to local Legislators to request special legislation to disband the HARA and fold into the HEDA.

Motion CARRIED.

CERTIFICATION

I hereby certify that the above is a true and correct copy of a motion adopted and passed by the Hibbing Area Redevelopment Agency at a meeting held on Wednesday, December 14, 2005.



Sandy Marincel
HEDA Secretary



March 9, 2006

**EXCERPTS OF THE MINUTES
HIBBING ECONOMIC DEVELOPMENT AUTHORITY
WEDNESDAY, MARCH 8, 2006**

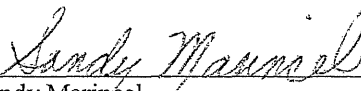
The following is an Excerpt of the Minutes of the regular meeting of the Hibbing Economic Development Authority held on Wednesday, March 8, 2006.

President Marvin Vuicich, supported by Councilor Dan Marich, moved to approve the proposed Legislation to dissolve the Hibbing Area Redevelopment Agency.

Motion CARRIED.

CERTIFICATION

I hereby certify that the above is a true and correct copy of a motion adopted and passed at a regular meeting of the Hibbing Economic Development Authority held on Wednesday, March 8, 2006.



Sandy Marinčel
HEDA Secretary

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 3667:** A bill for an act relating to taxes; extending the eligibility period
1.4 for the commencement of construction of biomass electric generation facilities that
1.5 qualify for property tax exemptions; amending Minnesota Statutes 2004, section 272.02,
1.6 subdivision 45.

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

1.8 Delete everything after the enacting clause and insert:

1.9 "Section 1. Minnesota Statutes 2004, section 216B.2424, subdivision 5, is amended
1.10 to read:

1.11 Subd. 5. **Mandate.** (a) A public utility, as defined in section 216B.02, subdivision 4,
1.12 that operates a nuclear-powered electric generating plant within this state must construct
1.13 and operate, purchase, or contract to construct and operate (1) by December 31, 1998,
1.14 50 megawatts of electric energy installed capacity generated by farm-grown closed-loop
1.15 biomass scheduled to be operational by December 31, 2001; and (2) by December 31,
1.16 1998, an additional 75 megawatts of installed capacity so generated scheduled to be
1.17 operational by December 31, 2002.

1.18 (b) Of the 125 megawatts of biomass electricity installed capacity required under
1.19 this subdivision, no more than 55 megawatts of this capacity may be provided by a facility
1.20 that uses poultry litter as its primary fuel source and any such facility:

1.21 (1) need not use biomass that complies with the definition in subdivision 1;

1.22 (2) must enter into a contract with the public utility for such capacity, that has an
1.23 average purchase price per megawatt hour over the life of the contract that is equal to or
1.24 less than the average purchase price per megawatt hour over the life of the contract in
1.25 contracts approved by the Public Utilities Commission before April 1, 2000, to satisfy
1.26 the mandate of this section, and file that contract with the Public Utilities Commission
1.27 prior to September 1, 2000; and

1.28 (3) must schedule such capacity to be operational by December 31, 2002.

1.29 (c) Of the total 125 megawatts of biomass electric energy installed capacity required
1.30 under this section, no more than 75 megawatts may be provided by a single project.

1.31 (d) Of the 75 megawatts of biomass electric energy installed capacity required under
1.32 paragraph (a), clause (2), no more than 33 megawatts of this capacity may be provided by
1.33 a St. Paul district heating and cooling system cogeneration facility utilizing waste wood
1.34 as a primary fuel source. The St. Paul district heating and cooling system cogeneration
35 facility need not use biomass that complies with the definition in subdivision 1.

6 (e) The public utility must accept and consider on an equal basis with other biomass
1.37 proposals:

2.1 (1) a proposal to satisfy the requirements of this section that includes a project that
2.2 exceeds the megawatt capacity requirements of either paragraph (a), clause (1) or (2), and
2.3 that proposes to sell the excess capacity to the public utility or to other purchasers; and

2.4 (2) a proposal for a new facility to satisfy more than ten but not more than 20
2.5 megawatts of the electrical generation requirements by a small business-sponsored
2.6 independent power producer facility to be located within the northern quarter of the state,
2.7 which means the area located north of Constitutional Route No. 8 as described in section
2.8 161.114, subdivision 2, and that utilizes biomass residue wood, sawdust, bark, chipped
2.9 wood, or brush to generate electricity. A facility described in this clause is not required
2.10 to utilize biomass complying with the definition in subdivision 1, but must be under
2.11 construction by December 31, 2005.

2.12 (f) If a public utility files a contract with the commission for electric energy installed
2.13 capacity that uses poultry litter as its primary fuel source, the commission must do a
2.14 preliminary review of the contract to determine if it meets the purchase price criteria
2.15 provided in paragraph (b), clause (2), of this subdivision. The commission shall perform
2.16 its review and advise the parties of its determination within 30 days of filing of such a
2.17 contract by a public utility. A public utility may submit by September 1, 2000, a revised
2.18 contract to address the commission's preliminary determination.

2.19 (g) The commission shall finally approve, modify, or disapprove no later than July
2.20 1, 2001, all contracts submitted by a public utility as of September 1, 2000, to meet the
2.21 mandate set forth in this subdivision.

2.22 (h) If a public utility subject to this section exercises an option to increase the
2.23 generating capacity of a project in a contract approved by the commission prior to April
2.24 25, 2000, to satisfy the mandate in this subdivision, the public utility must notify the
2.25 commission by September 1, 2000, that it has exercised the option and include in the
2.26 notice the amount of additional megawatts to be generated under the option exercised.
2.27 Any review by the commission of the project after exercise of such an option shall be
2.28 based on the same criteria used to review the existing contract.

2.29 (i) A facility specified in this subdivision qualifies for exemption from property
2.30 taxation under section 272.02, subdivision ~~43~~ 45.

2.31 Sec. 2. Minnesota Statutes 2004, section 272.02, subdivision 45, is amended to read:

2.32 Subd. 45. **Biomass electrical generation facility; personal property.**

2.33 Notwithstanding subdivision 9, clause (a), attached machinery and other personal property
2.34 which is part of an electrical generating facility that meets the requirements of this
2.35 subdivision is exempt. At the time of construction, the facility must:

3.1 (1) be designed to utilize biomass as established in section 216B.2424 as a primary
3.2 fuel source; and

3.3 (2) be constructed for the purpose of generating power at the facility that will be sold
3.4 pursuant to a contract approved by the Public Utilities Commission in accordance with
3.5 the biomass mandate imposed under section 216B.2424.

3.6 Construction of the facility must be commenced after January 1, 2000, and before
3.7 December 31, ~~2002~~ 2005. Property eligible for this exemption does not include electric
3.8 transmission lines and interconnections or gas pipelines and interconnections appurtenant
3.9 to the property or facility.

3.10 Sec. 3. Minnesota Statutes 2004, section 272.02, subdivision 54, is amended to read:

3.11 Subd. 54. **Small biomass electric generation facility; personal property.**

3.12 Notwithstanding subdivision 9, clause (a), attached machinery and other personal property
3.13 which is part of an electrical generating facility that meets the requirements of this
3.14 subdivision is exempt. At the time of construction the facility must:

- 3.15 (1) have a generation capacity of less than 25 megawatts;
- 3.16 (2) provide process heating needs in addition to electrical generation; and
- 3.17 (3) utilize agricultural by-products from the malting process and other biomass
3.18 fuels as its primary fuel source.

3.19 Construction of the facility must be commenced after January 1, 2002, and before
3.20 ~~January 1, 2006~~ June 30, 2007. Property eligible for this exemption does not include
3.21 electric transmission lines and interconnections or gas pipelines and interconnections
3.22 appurtenant to the property or facility.

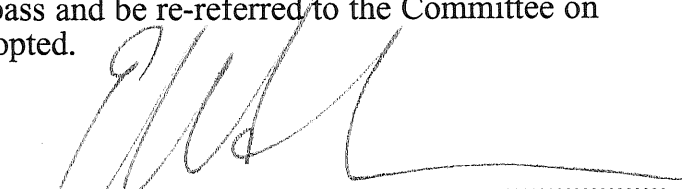
23 **EFFECTIVE DATE.** This section is effective for taxes levied in 2008, payable
3.24 in 2009, and thereafter.

3.25 Sec. 4. **EFFECTIVE DATE.**

3.26 Sections 1 and 2 are effective for taxes levied in 2006, payable in 2007, and
3.27 thereafter."

3.28 Amend the title accordingly

3.29 And when so amended the bill do pass and be re-referred to the Committee on
3.30 Taxes. Amendments adopted. Report adopted.


.....
(Committee Chair)

3.31
3.32

3.33 April 3, 2006
3.34 (Date of Committee recommendation)

Senators Tomassoni and Saxhaug introduced—
S.F. No. 3667: Referred to the Committee on Taxes.

A bill for an act
relating to taxes; extending the eligibility period for the commencement of
construction of biomass electric generation facilities that qualify for property tax
exemptions; amending Minnesota Statutes 2004, section 272.02, subdivision 45.

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

Section 1. Minnesota Statutes 2004, section 272.02, subdivision 45, is amended to read:

Subd. 45. **Biomass electrical generation facility; personal property.**

Notwithstanding subdivision 9, clause (a), attached machinery and other personal property
which is part of an electrical generating facility that meets the requirements of this
subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize biomass as established in section 216B.2424 as a primary
fuel source; and

(2) be constructed for the purpose of generating power at the facility that will be sold
pursuant to a contract approved by the Public Utilities Commission in accordance with
the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2000, and before
December 31, ~~2002~~ 2005. Property eligible for this exemption does not include electric
transmission lines and interconnections or gas pipelines and interconnections appurtenant
to the property or facility.

EFFECTIVE DATE. This section is effective for taxes levied in 2006, payable
in 2007, and thereafter.

1.1 Senator moves to amend S.F. No. 3667 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 Page ..., after line ..., insert:

1.4 "Section 1. Minnesota Statutes 2004, section 216B.2424, subdivision 5, is amended
1.5 to read:

1.6 Subd. 5. **Mandate.** (a) A public utility, as defined in section 216B.02, subdivision 4,
1.7 that operates a nuclear-powered electric generating plant within this state must construct
1.8 and operate, purchase, or contract to construct and operate (1) by December 31, 1998,
1.9 50 megawatts of electric energy installed capacity generated by farm-grown closed-loop
1.10 biomass scheduled to be operational by December 31, 2001; and (2) by December 31,
1.11 1998, an additional 75 megawatts of installed capacity so generated scheduled to be
1.12 operational by December 31, 2002.

1 (b) Of the 125 megawatts of biomass electricity installed capacity required under
1.14 this subdivision, no more than 55 megawatts of this capacity may be provided by a facility
1.15 that uses poultry litter as its primary fuel source and any such facility:

1.16 (1) need not use biomass that complies with the definition in subdivision 1;

1.17 (2) must enter into a contract with the public utility for such capacity, that has an
1.18 average purchase price per megawatt hour over the life of the contract that is equal to or
1.19 less than the average purchase price per megawatt hour over the life of the contract in
1.20 contracts approved by the Public Utilities Commission before April 1, 2000, to satisfy
1.21 the mandate of this section, and file that contract with the Public Utilities Commission
1.22 prior to September 1, 2000; and

(3) must schedule such capacity to be operational by December 31, 2002.

1.24 (c) Of the total 125 megawatts of biomass electric energy installed capacity required
1.25 under this section, no more than 75 megawatts may be provided by a single project.

1.26 (d) Of the 75 megawatts of biomass electric energy installed capacity required under
1.27 paragraph (a), clause (2), no more than 33 megawatts of this capacity may be provided by
1.28 a St. Paul district heating and cooling system cogeneration facility utilizing waste wood
1.29 as a primary fuel source. The St. Paul district heating and cooling system cogeneration
1.30 facility need not use biomass that complies with the definition in subdivision 1.

1.31 (e) The public utility must accept and consider on an equal basis with other biomass
1.32 proposals:

(1) a proposal to satisfy the requirements of this section that includes a project that
1.34 exceeds the megawatt capacity requirements of either paragraph (a), clause (1) or (2), and
1.35 that proposes to sell the excess capacity to the public utility or to other purchasers; and

2.1 (2) a proposal for a new facility to satisfy more than ten but not more than 20
2.2 megawatts of the electrical generation requirements by a small business-sponsored
2.3 independent power producer facility to be located within the northern quarter of the state,
2.4 which means the area located north of Constitutional Route No. 8 as described in section
2.5 161.114, subdivision 2, and that utilizes biomass residue wood, sawdust, bark, chipped
2.6 wood, or brush to generate electricity. A facility described in this clause is not required
2.7 to utilize biomass complying with the definition in subdivision 1, but must be under
2.8 construction by December 31, 2005.

2.9 (f) If a public utility files a contract with the commission for electric energy installed
2.10 capacity that uses poultry litter as its primary fuel source, the commission must do a
2.11 preliminary review of the contract to determine if it meets the purchase price criteria
2.12 provided in paragraph (b), clause (2), of this subdivision. The commission shall perform
2.13 its review and advise the parties of its determination within 30 days of filing of such a
2.14 contract by a public utility. A public utility may submit by September 1, 2000, a revised
2.15 contract to address the commission's preliminary determination.

2.16 (g) The commission shall finally approve, modify, or disapprove no later than July
2.17 1, 2001, all contracts submitted by a public utility as of September 1, 2000, to meet the
2.18 mandate set forth in this subdivision.

2.19 (h) If a public utility subject to this section exercises an option to increase the
2.20 generating capacity of a project in a contract approved by the commission prior to April
2.21 25, 2000, to satisfy the mandate in this subdivision, the public utility must notify the
2.22 commission by September 1, 2000, that it has exercised the option and include in the
2.23 notice the amount of additional megawatts to be generated under the option exercised.
2.24 Any review by the commission of the project after exercise of such an option shall be
2.25 based on the same criteria used to review the existing contract.

2.26 (i) A facility specified in this subdivision qualifies for exemption from property
2.27 taxation under section 272.02, subdivision ~~43~~ 45.

2.28 Sec. 2. Minnesota Statutes 2004, section 272.02, subdivision 45, is amended to read:

2.29 **Subd. 45. Biomass electrical generation facility; personal property.**

2.30 Notwithstanding subdivision 9, clause (a), attached machinery and other personal property
2.31 which is part of an electrical generating facility that meets the requirements of this
2.32 subdivision is exempt. At the time of construction, the facility must:

2.33 (1) be designed to utilize biomass as established in section 216B.2424 as a primary
2.34 fuel source; and

3.1 (2) be constructed for the purpose of generating power at the facility that will be sold
3.2 pursuant to a contract approved by the Public Utilities Commission in accordance with
3.3 the biomass mandate imposed under section 216B.2424.

3.4 Construction of the facility must be commenced after January 1, 2000, and before
3.5 December 31, ~~2002~~ 2005. Property eligible for this exemption does not include electric
3.6 transmission lines and interconnections or gas pipelines and interconnections appurtenant
3.7 to the property or facility.

3.8 Sec. 3. Minnesota Statutes 2004, section 272.02, subdivision 54, is amended to read:

3.9 Subd. 54. **Small biomass electric generation facility; personal property.**
3.10 Notwithstanding subdivision 9, clause (a), attached machinery and other personal property
3.11 which is part of an electrical generating facility that meets the requirements of this
3.12 subdivision is exempt. At the time of construction the facility must:

- 3 (1) have a generation capacity of less than 25 megawatts;
- 3.14 (2) provide process heating needs in addition to electrical generation; and
- 3.15 (3) utilize agricultural by-products from the malting process and other biomass
3.16 fuels as its primary fuel source.

3.17 Construction of the facility must be commenced after January 1, 2002, and before
3.18 ~~January 1, 2006~~ June 30, 2007. Property eligible for this exemption does not include
3.19 electric transmission lines and interconnections or gas pipelines and interconnections
3.20 appurtenant to the property or facility.

3.21 EFFECTIVE DATE. This section is effective for taxes levied in 2008, payable
3.22 in 2009, and thereafter.

3.23 Sec. 4. EFFECTIVE DATE.

3.24 Sections 1 and 2 are effective for taxes levied in 2006, payable in 2007, and
3.25 thereafter."

3.26 Amend the title accordingly

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
 1.2 **Development, to which was referred**

1.3 **S.F. No. 3109:** A bill for an act relating to unemployment insurance; making various
 1.4 policy, housekeeping, and style changes to the Minnesota Unemployment Insurance Law;
 1.5 incorporating certain administrative rules into Minnesota Statutes; modifying fraud
 1.6 penalties; amending Minnesota Statutes 2004, sections 268.001; 268.03, subdivision
 1.7 2; 268.035, subdivisions 1, 4, 10, 11, 12, 15, 17, 21a, 23, 23a, 24, 29, 30, by adding a
 1.8 subdivision; 268.042, subdivisions 3, 4; 268.044, subdivisions 1a, 4; 268.047, subdivisions
 1.9 1, 2, 3, 5; 268.051, subdivisions 1a, 2, 3, 5, 8, 9; 268.052, subdivisions 1, 3, 4, 5; 268.0525;
 1.10 268.053, subdivisions 2, 3; 268.057, subdivisions 1, 2, 3, 4, 5, 6, 10; 268.058; 268.059;
 1.11 268.0625, subdivisions 4, 5; 268.063; 268.064; 268.065, subdivisions 1, 3; 268.066;
 1.12 268.067; 268.0675; 268.068; 268.069, subdivisions 2, 3; 268.07, subdivisions 1, 2, 3a;
 1.13 268.084; 268.085, subdivisions 3a, 4, 6, 7, 9, 11, 13, 13a, 13b, 16; 268.086, subdivisions 1,
 1.14 5, 6, 7, 8, 9; 268.087; 268.095, subdivisions 2, 3, 5, 6, 6a; 268.101, as amended; 268.103,
 1.15 subdivision 1; 268.115; 268.125, subdivisions 3, 4, 5; 268.131, subdivision 1; 268.135;
 1.16 268.145, subdivisions 2, 3; 268.155; 268.18, subdivisions 4, 5, 6; 268.182, subdivision
 1.17 1; 268.186; 268.188; 268.19, subdivisions 1a, 2; 268.192; 268.194, subdivisions 1,
 1.18 2, 3, 4, 5, 6; 268.196, subdivisions 1, 3; 268.20; 268.21; 268.22; 268.23; Minnesota
 1.19 Statutes 2005 Supplement, sections 268.03, subdivision 1; 268.035, subdivisions 9, 13,
 1.20 14, 20, 26; 268.042, subdivision 1; 268.043; 268.0435; 268.044, subdivisions 1, 2, 3;
 1.21 268.045, subdivision 1; 268.046; 268.051, subdivisions 1, 4, 4a, 6, 7; 268.052, subdivision
 1.22 2; 268.053, subdivision 1; 268.057, subdivision 7; 268.069, subdivision 1; 268.07,
 1.23 subdivision 3b; 268.085, subdivisions 1, 2, 3, 5, 8, 12, 13c; 268.086, subdivisions 2, 3;
 1.24 268.095, subdivisions 1, 4, 7, 10, 11; 268.103, subdivision 2; 268.105, subdivisions 1, 2,
 1.25 3, 3a, 4, 5, 6, 7, by adding a subdivision; 268.145, subdivision 1; 268.18, subdivisions 1,
 1.26 2, 2b; 268.182, subdivision 2; 268.184, subdivisions 1, 1a; 268.19, subdivision 1; Laws
 1.27 2003, First Special Session chapter 3, article 1, section 9; proposing coding for new law in
 1.28 Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2004, sections 268.0511;
 1.29 268.085, subdivision 10; 268.103, subdivision 4; Minnesota Rules, parts 3315.0210;
 1.30 3315.0220; 3315.0515; 3315.0520; 3315.0525; 3315.0530; 3315.0540; 3315.0550;
 1.31 3315.0910; 3315.1005; 3315.1315, subpart 4; 3315.2010; 3315.2810.

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

1.33 Page 4, line 24, delete "60" and insert "600"

1.34 Page 21, line 10, delete "20" and insert "30"

1.35 Page 27, delete lines 16 to 19 and insert "applicant's wages paid in covered
 1.36 employment in another state only if the applicant is combining Minnesota wage credits
 7 with the wages paid in covered employment from another state or states."

1.38 Page 27, line 20, delete "(2) the applicant" and insert "(c) Regardless of section
 1.39 268.23, only if the United States Secretary of Labor, after conducting a hearing under
 1.40 Code of Federal Regulations, title 20, part 601.5(d), holds that paragraph (b) does not
 1.41 conform to the requirements of federal law, is the commissioner then authorized to pay
 1.42 unemployment benefits to an applicant who"

1.43 Page 27, line 21, delete ", but" and insert ". This paragraph applies"

1.44 Page 27, line 23, delete "(c)" and insert "(d)"

1.45 Page 27, line 28, delete everything after "effective" and insert "the day following
 1.46 final enactment."

Page 27, delete line 29

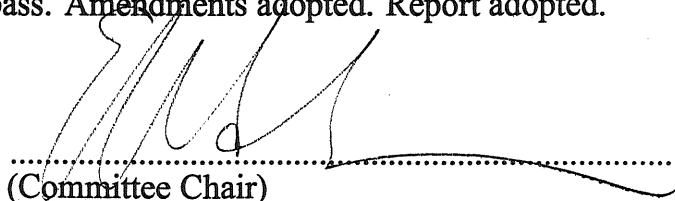
1.48 Page 33, line 19, strike "on" and insert "during the payroll period that includes"

1.49 Page 47, after line 20, insert:

1.50 "(e) The revisor of statutes shall change the term "electronic mail address" to
"electronic mail address or telephone number" in Minnesota Statutes, section 268.086."

Page 68, line 8, strike "preceding" and insert "prior"

2.2 And when so amended the bill do pass. Amendments adopted. Report adopted.



.....
(Committee Chair)

2.5 April 3, 2006
2.6 (Date of Committee recommendation)

**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. 3109 - Department of Employment and Economic Development Unemployment Insurance Bill

Author: Senator Ellen Anderson
Prepared by: John C. Fuller, Senate Counsel (651/296-3914) *JCF*
Date: March 31, 2006

Overview

This is the Department of Employment and Economic Development's unemployment insurance bill. It is divided into six articles. What follows is a summary of the more substantive provisions.

Article 1

Section 1. Base period. This bill would establish an alternative base period for applicants who do not have sufficient wages during the usual base period to qualify for benefits. The alternative base period would take into account an applicant's wages during the last four completed calendar quarters before applying for benefits. The alternative base period would apply to applications filed on or after September 30, 2007, but only if they are filed 30 days or more after the end of the last completed quarter (when a wage detail report will be on file).

Section 2. Filing; filed. Eliminates references to the protest affirmation and redetermination process abolished in section 3 .

Section 3. Determinations of coverage. Abolishes the protest affirmation and redetermination process that employers currently use to challenge most tax determinations, meaning that employers would be able to directly appeal all tax determinations.

Shortens from 30 days to 20 days the appeal period for employers challenging a determination that an employer is covered by the unemployment system.

Section 4. Exceptions for all employers (noncharge provisions). Adds a new noncharge provision for employers in the tourist or recreation industry who actively operate a business for less than 15 weeks per year. These employers would not be "charged" for an applicant's wage credits if the applicant's wage credits amount to less than 600 times the minimum wage.

Section 5. Notice of unemployment benefits paid. Eliminates references to the protest affirmation and redetermination process abolished in section 3 .

Section 6. Payments. With section 23 , requires all employers to pay unemployment taxes quarterly, effective January 1, 2007. Under current law, some small employers are permitted to pay unemployment taxes on an annual basis.

Section 7. Tax rate for new employers. Eliminates references to the protest affirmation and redetermination process abolished in section 3 .

Section 8. Notice of tax rate. Eliminates references to the protest affirmation and redetermination process abolished in section 3 . Shortens from 30 days to 20 days the period of time that employers have to challenge their tax rate.

Section 9. Determination and appeal. Eliminates references to the protest affirmation and redetermination process abolished in section 3 . Shortens from 30 days to 20 days the period of time that nonprofit organizations have to challenge a determination of their status as employers.

Section 10. Credit adjustments, refunds. Eliminates references to the protest affirmation and redetermination process abolished in section 3 . Shortens from 30 days to 20 days the period of time that employers have to challenge denials of credit adjustments or refunds.

Section 11. Personal liability. Eliminates references to the protest affirmation and redetermination process abolished in section 3 . Shortens from 30 days to 20 days the period of time that individuals have to challenge determinations of personal liability.

Section 12. Benefit account requirements and weekly unemployment benefit amount and maximum amount of unemployment benefits. Under current law, the weekly benefit amount paid to an applicant is the higher of two possible amounts: (1) one-half the employee's average weekly wage during the entire base period, capped at two-thirds of the state's average weekly wage; or (2) one-half of the employee's average weekly wage during the high quarter only, capped at 45 percent of the state's average weekly wage. This bill lowers the cap on the second amount from 45 percent to 43 percent of the state's average weekly wage.

Section 13. Not eligible. Makes an applicant ineligible to receive unemployment benefits for any week that the applicant, at the beginning of the week, has an outstanding fraud overpayment balance (including penalties and interest).

Section 14. Payments that delay unemployment benefits. Modifies definition of payments that delay unemployment benefits to eliminate references to the Federal Insurance Contribution Act. Eliminates statutory provision providing that holiday pay delays an applicant's receipt of unemployment benefits.

Section 15. Quit. Creates a new exception to allow benefits in certain situations where an applicant quits employment due to loss of child care. The exception would apply only in situations where an applicant has made reasonable efforts to obtain other child care and requested time off (or another accommodation) from the applicant's employer and no reasonable accommodation was available. To collect benefits, an applicant would have to demonstrate an ability to work (i.e., that the child care problem has been resolved). Also clarifies that applicants who quit work due to serious illness or injury also must demonstrate an ability to work before receiving benefits.

Section 16. Employment misconduct defined. Conforming change, consistent with section 15.

Section 17. Evidentiary hearing by an unemployment law judge. Gives an unemployment law judge discretion to dismiss an appeal if the appealing party does not personally participate in the hearing, unless the appealing party files a request for reconsideration and establishes good cause for failing to participate.

Section 18. Assessment of an administrative fee. Allows an unemployment law judge to assess a \$500 administrative fee on an employer if: (1) an applicant was initially determined eligible for benefits; (2) the applicant's employer successfully appealed that determination; and (3) the applicant's employer:

- failed to respond to a request for information before the initial eligibility determination was issued;
- provided substantially different information at the evidentiary hearing than the employer provided before the initial eligibility determination was issued; or
- provided substantively inadequate information before the initial eligibility determination was issued (as compared to information provided at the hearing).

creates a good cause exception. Requires fees to be credited to the administration account.

Section 19. Overpayment because of fraud. Increases the penalty assessed on applicants receiving overpayments due to fraud from 25 percent of the amount fraudulently obtained to 40 percent of the amount fraudulently obtained, effective August 1, 2006.

Shortens from 30 days to 20 days the period of time that applicants have to challenge determinations of overpayment by fraud.

Section 20. Establishment (Unemployment Insurance Trust Fund). Provides that, if allowed by federal law, five percent of amounts recovered on overpaid unemployment benefits shall be credited to the administration account.

Section 21. Administration account. Consistent with section 20 , requires five percent of any money recovered on any overpaid unemployment benefits to be deposited in the administration account for use in deterring, detecting, and collecting overpaid unemployment benefits.

Section 22. Sunset; weekly unemployment benefits. Extends from September 1, 2006, until January 1, 2008, the sunset on a provision modifying the statutory cap on weekly benefit amounts calculated based on high quarter wages. Article 1, section 13 , changes the statutory cap to 43 percent of the state's average weekly wage, and this provision requires that the cap be not less than \$350, even if 43 percent of the state's average weekly wage is less than \$350.

Section 23. Repealer. Repeals a provision allowing some small employers to pay unemployment taxes annually, rather than quarterly. Repeals statutory language specifying that wage credits from recreational or tourist industry employment cannot be considered when establishing a benefit account. Repeals language describing the protest affirmation and redetermination process abolished in section 3.

Article 2

Article 2 makes a variety of policy changes to the unemployment law that, for the most part, will not become effective until at least August 1, 2007.

Section 1. State's average annual and average weekly wage. Provides that the state's calculation of average weekly wage, used to calculate the state's maximum weekly benefit amount, applies to the one-year period beginning the last Sunday in October (rather than the first Sunday in August, as under current law) during the calendar year of the calculation. Makes this section effective August 1, 2007.

Section 2. Electronic payment required. Broadens the group of employers required to submit unemployment payments electronically to require all employers of at least 50 employees to make payments electronically. (Current law requires only employers of at least 500 employees to make payments electronically.)

Section 3. Notice and right to hearing. Shortens from 30 days to 20 days the appeal period for business licensees challenging the commissioner's notice of an action to revoke a business license for failure to pay amounts due under the unemployment insurance law.

Section 4. Determination of liability. Shortens from 30 days to 20 days the appeal period for contractors and employee leasing firms to appeal the commissioner's determination of liability for failure to comply with unemployment insurance law.

Section 5. Application for unemployment benefits; determination of benefit account. Requires any determination or amended determination of overpayment of benefits to state the amount of the overpayment and the statutory requirements for repaying the overpayment.

Section 6. Right of appeal. Shortens from 30 days to 20 days the appeal period for applicants and employers to challenge determinations and amended determinations.

Section 7. Deductible earnings. Includes holiday pay in the earnings that are deductible from an applicant's weekly benefit amount. Modifies the formula for deducting earnings (currently 25 percent of earnings or \$50, whichever is higher, is deducted) to provide that 55 percent of earnings are deducted from the weekly benefit amount.

Also modifies current deduction of \$200 for earnings from service in the National Guard or the U.S. military reserve to provide that none of these earnings will be deducted, effective the Sunday following final enactment.

Section 8. Overpayment. Requires any determination or amended determination of overpayment of benefits to state the amount of the overpayment and the statutory requirements for repaying the overpayment.

Section 9. Request for reconsideration. Shortens from 30 days to 20 days the period for applicants, employers, and the commissioner to file a request for reconsideration of an unemployment law judge's decision.

Section 10. Decisions. Requires any decision or order that results in an overpayment of benefits to state the amount of the overpayment and the statutory requirements for repaying the overpayment.

Section 11. Cooperation with states on combining wages. Modifies the commissioner's authority to enter reciprocal agreements with other states for the purpose of allowing applicants with wages from multiple states to collect benefits from a single state. Allows the commissioner to pay benefits based upon an applicant's wages from another state only if the applicant is combining those wages with wages credits earned in Minnesota. Provides that, only if the U.S. Secretary of Labor determines that this standard does not conform to federal law, the commissioner may pay benefits to an applicant who is combining wages earned in two or more states (not including Minnesota) (but only if the applicant is a resident of Minnesota who is actually living in Minnesota when the benefit application is filed).

Section 12. Nonfraud overpayment. Strikes language requiring separate overpayment determinations.

Section 13. Interest. Makes the assessment of interest on fraud overpayments mandatory rather than discretionary. Interest would be assessed at the same rate specified in current law - one and one-half percent.

Section 14. Cancellation of overpayments. Provides that overpayment debts will be cancelled 15 years after the date of determination.

Section 15. Administrative penalties (applicant's false representations). Shortens from 30 days to 20 days the appeal period for an applicant to challenge a finding of ineligibility due to the applicant's false representations or concealment of facts.

Section 16. Administrative penalties (employer misconduct). Shortens from 30 days to 20 days the appeal period for employers challenging a notice of penalty for employer misconduct.

Section 17. Notification and misreporting penalties. Shortens from 30 days to 20 days the appeal period for employers challenging a penalty assessed for failure to comply with the notification requirements related to transfers of experience ratings between employers.

Section 18. Day of the week and date requirement. Requires that: (1) every unemployment determination subject to appeal must state the day of the week and the date that the determination will become final and no longer be subject to appeal, and (2) every unemployment determination subject to reconsideration must state the day of the week and the date that the determination will become final and no longer be subject to reconsideration.

Section 19. Revisor's instruction. Directs the revisor to change "30 days" to "20 days" everywhere that the term appears in statutory sections regulating liability for debts upon acquisition of a business and eligibility determinations.

Article 3

Pure housekeeping matters, no substantive changes.

Article 4

Incorporates longstanding administrative rules into the statute, dealing with the definition of wages and the employer's responsibilities on termination, change, or a reactivation of business.

Article 5

Changes the term "disqualification" or similar terms to "ineligibility" or similar terms throughout chapter 268.

Article 6

Style changes to conform to the Revisor of Statutes suggested use of language.

1.1 Senator moves to amend S.F. No. 3109 as follows:

2 Page 4, line 24, delete "60" and insert "600"

Page 21, line 10, delete "20" and insert "30"

1.4 Page 27, delete lines 16 to 19 and insert "applicant's wages paid in covered
1.5 employment in another state only if the applicant is combining Minnesota wage credits
1.6 with the wages paid in covered employment from another state or states."

1.7 Page 27, line 20, delete "(2) the applicant" and insert "(c) Regardless of section
1.8 268.23, only if the United States Secretary of Labor, after conducting a hearing under
1.9 Code of Federal Regulations, title 20, part 601.5(d), holds that paragraph (b) does not
1.10 conform to the requirements of federal law, is the commissioner then authorized to pay
1.11 unemployment benefits to an applicant who"

1.12 Page 27, line 21, delete ", but" and insert ". This paragraph applies"

1.13 Page 27, line 23, delete "(c)" and insert "(d)"

1.14 Page 27, line 28, delete everything after "effective" and insert "the day following
1.15 final enactment."

1.16 Page 27, delete line 29

1.17 Page 33, line 19, strike "on" and insert "during the payroll period that includes"

1.18 Page 47, after line 20, insert:

1.19 "(e) The revisor of statutes shall change the term "electronic mail address" to
1.20 "electronic mail address or telephone number" in Minnesota Statutes, section 268.086."

Page 68, line 8, strike "preceding" and insert "prior"

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
 1.2 **Development, to which was referred**

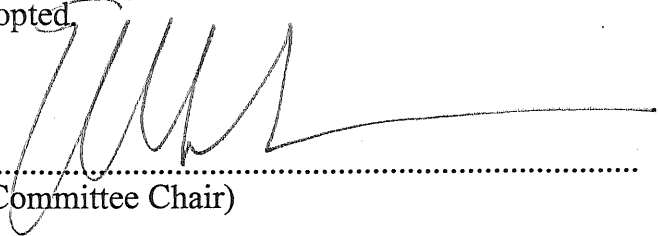
1.3 **S.F. No. 3609:** A bill for an act relating to energy; extending eligibility to receive
 1.4 renewable energy production incentive under certain circumstances; amending Minnesota
 1.5 Statutes 2004, section 216C.41, subdivision 4; Minnesota Statutes 2005 Supplement,
 1.6 section 216C.41, subdivision 3.

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

1.8 Page 1, line 14, strike "2007" and insert "2008"

1.9 Page 1, line 21, strike "2017" and insert "2018"

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

1.12 
 1.13
 (Committee Chair)

1.14 April 3, 2006
 1.15 (Date of Committee recommendation)

Senator Bonoff introduced—

S.F. No. 3609: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

1 relating to energy; extending eligibility to receive renewable energy production
 1.3 incentive under certain circumstances; amending Minnesota Statutes 2004,
 1.4 section 216C.41, subdivision 4; Minnesota Statutes 2005 Supplement, section
 1.5 216C.41, subdivision 3.

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

1.7 Section 1. Minnesota Statutes 2005 Supplement, section 216C.41, subdivision 3, is
 1.8 amended to read:

1.9 Subd. 3. **Eligibility window.** Payments may be made under this section only for
 1.10 electricity generated:

1.11 (1) from a qualified hydroelectric facility that is operational and generating
 1.12 electricity before December 31, ~~2007~~ 2009;

1.13 (2) from a qualified wind energy conversion facility that is operational and
 1.14 generating electricity before January 1, 2007; or

1.15 (3) from a qualified on-farm biogas recovery facility from July 1, 2001, through
 1.16 December 31, 2017.

1.17 Sec. 2. Minnesota Statutes 2004, section 216C.41, subdivision 4, is amended to read:

1.18 Subd. 4. **Payment period.** (a) A facility may receive payments under this section for
 1.19 a ten-year period. No payment under this section may be made for electricity generated:

1.20 (1) by a qualified hydroelectric facility after December 31, ~~2017~~ 2019;

1.21 (2) by a qualified wind energy conversion facility after December 31, 2017; or

(3) by a qualified on-farm biogas recovery facility after December 31, 2015.

1.23 (b) The payment period begins and runs consecutively from the date the facility
 1.24 begins generating electricity or, in the case of refurbishment of a hydropower facility, after

- 2.1 substantial repairs to the hydropower facility dam funded by the incentive payments are
- 2.2 initiated.

- 1.1 Senator moves to amend S.F. No. 3609 as follows:
- 1.2 Page 1, line 14, strike "2007" and insert "2008"
- 1.3 Page 1, line 21, strike "2017" and insert "2018"

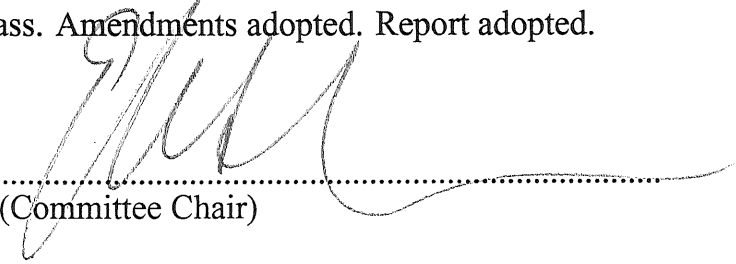
1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 3706:** A bill for an act relating to energy; requiring study to investigate
4 building codes and standards for various hydrogen-related technologies.

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

1.6 Page 1, line 10, delete "December 31, 2006" and insert "January 15, 2007"

1.7 And when so amended the bill do pass. Amendments adopted. Report adopted.

1.8 
1.9 (Committee Chair)

1.10 April 3, 2006
1.11 (Date of Committee recommendation)

Senator Anderson introduced-

S.F. No. 3706: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act relating to energy; requiring study to investigate building codes and standards for various hydrogen-related technologies.

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

Section 1. UNIFORM CODES AND STANDARDS FOR HYDROGEN, FUEL CELLS, AND RELATED TECHNOLOGIES.

The Department of Labor and Industry shall, in consultation with the Department of Commerce, develop recommendations regarding the adoption of uniform codes and standards for hydrogen infrastructure, fuel cells, and related technologies, and report those recommendations to the legislature by December 31, 2006. The report must, at a minimum, examine the following:

(1) codes and standards that already exist for hydrogen, fuel cell, and related technologies;

(2) codes and standards under development by various official standard-making bodies;

(3) gaps between existing codes and standards, those under development, and those that may still be needed but are not yet being developed; and

(4) additional education and training for code officials regarding hydrogen, fuel cell, and related technologies.

EFFECTIVE DATE. This section is effective the day following final enactment.

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

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DIRECTOR

Senate

State of Minnesota

**S.F. No. 3109 - Department of Employment and Economic
Development Unemployment Insurance Bill**

Author: Senator Ellen Anderson

Prepared by: John C. Fuller, Senate Counsel (651/296-3914)

Date: March 31, 2006

JCF

Overview

This is the Department of Employment and Economic Development's unemployment insurance bill. It is divided into six articles. What follows is a summary of the more substantive provisions.

Article 1

Section 1. Base period. This bill would establish an alternative base period for applicants who do not have sufficient wages during the usual base period to qualify for benefits. The alternative base period would take into account an applicant's wages during the last four completed calendar quarters before applying for benefits. The alternative base period would apply to applications filed on or after September 30, 2007, but only if they are filed 30 days or more after the end of the last completed quarter (when a wage detail report will be on file).

Section 2. Filing; filed. Eliminates references to the protest affirmation and redetermination process abolished in section 3 .

Section 3. Determinations of coverage. Abolishes the protest affirmation and redetermination process that employers currently use to challenge most tax determinations, meaning that employers would be able to directly appeal all tax determinations.

Shortens from 30 days to 20 days the appeal period for employers challenging a determination that an employer is covered by the unemployment system.

Section 4. Exceptions for all employers (noncharge provisions). Adds a new noncharge provision for employers in the tourist or recreation industry who actively operate a business for less than 15 weeks per year. These employers would not be "charged" for an applicant's wage credits if the applicant's wage credits amount to less than 600 times the minimum wage.

Section 5. Notice of unemployment benefits paid. Eliminates references to the protest affirmation and redetermination process abolished in section 3 .

Section 6. Payments. With section 23 , requires all employers to pay unemployment taxes quarterly, effective January 1, 2007. Under current law, some small employers are permitted to pay unemployment taxes on an annual basis.

Section 7. Tax rate for new employers. Eliminates references to the protest affirmation and redetermination process abolished in section 3 .

Section 8. Notice of tax rate. Eliminates references to the protest affirmation and redetermination process abolished in section 3 . Shortens from 30 days to 20 days the period of time that employers have to challenge their tax rate.

Section 9. Determination and appeal. Eliminates references to the protest affirmation and redetermination process abolished in section 3 . Shortens from 30 days to 20 days the period of time that nonprofit organizations have to challenge a determination of their status as employers.

Section 10. Credit adjustments, refunds. Eliminates references to the protest affirmation and redetermination process abolished in section 3 . Shortens from 30 days to 20 days the period of time that employers have to challenge denials of credit adjustments or refunds.

Section 11. Personal liability. Eliminates references to the protest affirmation and redetermination process abolished in section 3 . Shortens from 30 days to 20 days the period of time that individuals have to challenge determinations of personal liability.

Section 12. Benefit account requirements and weekly unemployment benefit amount and maximum amount of unemployment benefits. Under current law, the weekly benefit amount paid to an applicant is the higher of two possible amounts: (1) one-half the employee's average weekly wage during the entire base period, capped at two-thirds of the state's average weekly wage; or (2) one-half of the employee's average weekly wage during the high quarter only, capped at 45 percent of the state's average weekly wage. This bill lowers the cap on the second amount from 45 percent to 43 percent of the state's average weekly wage.

Section 13. Not eligible. Makes an applicant ineligible to receive unemployment benefits for any week that the applicant, at the beginning of the week, has an outstanding fraud overpayment balance (including penalties and interest).

Section 14. Payments that delay unemployment benefits. Modifies definition of payments that delay unemployment benefits to eliminate references to the Federal Insurance Contribution Act. Eliminates statutory provision providing that holiday pay delays an applicant's receipt of unemployment benefits.

Section 15. Quit. Creates a new exception to allow benefits in certain situations where an applicant quits employment due to loss of child care. The exception would apply only in situations where an applicant has made reasonable efforts to obtain other child care and requested time off (or another accommodation) from the applicant's employer and no reasonable accommodation was available. To collect benefits, an applicant would have to demonstrate an ability to work (i.e., that the child care problem has been resolved). Also clarifies that applicants who quit work due to serious illness or injury also must demonstrate an ability to work before receiving benefits.

Section 16. Employment misconduct defined. Conforming change, consistent with section 15.

Section 17. Evidentiary hearing by an unemployment law judge. Gives an unemployment law judge discretion to dismiss an appeal if the appealing party does not personally participate in the hearing, unless the appealing party files a request for reconsideration and establishes good cause for failing to participate.

Section 18. Assessment of an administrative fee. Allows an unemployment law judge to assess a \$500 administrative fee on an employer if: (1) an applicant was initially determined eligible for benefits; (2) the applicant's employer successfully appealed that determination; and (3) the applicant's employer:

- failed to respond to a request for information before the initial eligibility determination was issued;
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creates a good cause exception. Requires fees to be credited to the administration account.

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Section 21. Administration account. Consistent with section 20 , requires five percent of any money recovered on any overpaid unemployment benefits to be deposited in the administration account for use in deterring, detecting, and collecting overpaid unemployment benefits.

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Article 2

Article 2 makes a variety of policy changes to the unemployment law that, for the most part, will not become effective until at least August 1, 2007.

Section 1. State's average annual and average weekly wage. Provides that the state's calculation of average weekly wage, used to calculate the state's maximum weekly benefit amount, applies to the one-year period beginning the last Sunday in October (rather than the first Sunday in August, as under current law) during the calendar year of the calculation. Makes this section effective August 1, 2007.

Section 2. Electronic payment required. Broadens the group of employers required to submit unemployment payments electronically to require all employers of at least 50 employees to make payments electronically. (Current law requires only employers of at least 500 employees to make payments electronically.)

Section 3. Notice and right to hearing. Shortens from 30 days to 20 days the appeal period for business licensees challenging the commissioner's notice of an action to revoke a business license for failure to pay amounts due under the unemployment insurance law.

Section 4. Determination of liability. Shortens from 30 days to 20 days the appeal period for contractors and employee leasing firms to appeal the commissioner's determination of liability for failure to comply with unemployment insurance law.

Section 5. Application for unemployment benefits; determination of benefit account. Requires any determination or amended determination of overpayment of benefits to state the amount of the overpayment and the statutory requirements for repaying the overpayment.

Section 6. Right of appeal. Shortens from 30 days to 20 days the appeal period for applicants and employers to challenge determinations and amended determinations.

Section 7. Deductible earnings. Includes holiday pay in the earnings that are deductible from an applicant's weekly benefit amount. Modifies the formula for deducting earnings (currently 25 percent of earnings or \$50, whichever is higher, is deducted) to provide that 55 percent of earnings are deducted from the weekly benefit amount.

Also modifies current deduction of \$200 for earnings from service in the National Guard or the U.S. military reserve to provide that none of these earnings will be deducted, effective the Sunday following final enactment.

Section 8. Overpayment. Requires any determination or amended determination of overpayment of benefits to state the amount of the overpayment and the statutory requirements for repaying the overpayment.

Section 9. Request for reconsideration. Shortens from 30 days to 20 days the period for applicants, employers, and the commissioner to file a request for reconsideration of an unemployment law judge's decision.

Section 10. Decisions. Requires any decision or order that results in an overpayment of benefits to state the amount of the overpayment and the statutory requirements for repaying the overpayment.

Section 11. Cooperation with states on combining wages. Modifies the commissioner's authority to enter reciprocal agreements with other states for the purpose of allowing applicants with wages from multiple states to collect benefits from a single state. Allows the commissioner to pay benefits based upon an applicant's wages from another state only if the applicant is combining those wages with wages credits earned in Minnesota. Provides that, only if the U.S. Secretary of Labor determines that this standard does not conform to federal law, the commissioner may pay benefits to an applicant who is combining wages earned in two or more states (not including Minnesota) (but only if the applicant is a resident of Minnesota who is actually living in Minnesota when the benefit application is filed).

Section 12. Nonfraud overpayment. Strikes language requiring separate overpayment determinations.

Section 13. Interest. Makes the assessment of interest on fraud overpayments mandatory rather than discretionary. Interest would be assessed at the same rate specified in current law - one and one-half percent.

Section 14. Cancellation of overpayments. Provides that overpayment debts will be cancelled 15 years after the date of determination.

Senators Anderson and Frederickson introduced—

S.F. No. 3109: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

relating to unemployment insurance; making various policy, housekeeping, and style changes to the Minnesota Unemployment Insurance Law; incorporating certain administrative rules into Minnesota Statutes; modifying fraud penalties; amending Minnesota Statutes 2004, sections 268.001; 268.03, subdivision 2; 268.035, subdivisions 1, 4, 10, 11, 12, 15, 17, 21a, 23, 23a, 24, 29, 30, by adding a subdivision; 268.042, subdivisions 3, 4; 268.044, subdivisions 1a, 4; 268.047, subdivisions 1, 2, 3, 5; 268.051, subdivisions 1a, 2, 3, 5, 8, 9; 268.052, subdivisions 1, 3, 4, 5; 268.0525; 268.053, subdivisions 2, 3; 268.057, subdivisions 1, 2, 3, 4, 5, 6, 10; 268.058; 268.059; 268.0625, subdivisions 4, 5; 268.063; 268.064; 268.065, subdivisions 1, 3; 268.066; 268.067; 268.0675; 268.068; 268.069, subdivisions 2, 3; 268.07, subdivisions 1, 2, 3a; 268.084; 268.085, subdivisions 3a, 4, 6, 7, 9, 11, 13, 13a, 13b, 16; 268.086, subdivisions 1, 5, 6, 7, 8, 9; 268.087; 268.095, subdivisions 2, 3, 5, 6, 6a; 268.101, as amended; 268.103, subdivision 1; 268.115; 268.125, subdivisions 3, 4, 5; 268.131, subdivision 1; 268.135; 268.145, subdivisions 2, 3; 268.155; 268.18, subdivisions 4, 5, 6; 268.182, subdivision 1; 268.186; 268.188; 268.19, subdivisions 1a, 2; 268.192; 268.194, subdivisions 1, 2, 3, 4, 5, 6; 268.196, subdivisions 1, 3; 268.20; 268.21; 268.22; 268.23; Minnesota Statutes 2005 Supplement, sections 268.03, subdivision 1; 268.035, subdivisions 9, 13, 14, 20, 26; 268.042, subdivision 1; 268.043; 268.0435; 268.044, subdivisions 1, 2, 3; 268.045, subdivision 1; 268.046; 268.051, subdivisions 1, 4, 4a, 6, 7; 268.052, subdivision 2; 268.053, subdivision 1; 268.057, subdivision 7; 268.069, subdivision 1; 268.07, subdivision 3b; 268.085, subdivisions 1, 2, 3, 5, 8, 12, 13c; 268.086, subdivisions 2, 3; 268.095, subdivisions 1, 4, 7, 10, 11; 268.103, subdivision 2; 268.105, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, by adding a subdivision; 268.145, subdivision 1; 268.18, subdivisions 1, 2, 2b; 268.182, subdivision 2; 268.184, subdivisions 1, 1a; 268.19, subdivision 1; Laws 2003, First Special Session chapter 3, article 1, section 9; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2004, sections 268.0511; 268.085, subdivision 10; 268.103, subdivision 4; Minnesota Rules, parts 3315.0210; 3315.0220; 3315.0515; 3315.0520; 3315.0525; 3315.0530; 3315.0540; 3315.0550; 3315.0910; 3315.1005; 3315.1315, subpart 4; 3315.2010; 3315.2810.

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

2.1 **ARTICLE 1**
 2.2 **POLICY CHANGES EFFECTIVE AUGUST 1, 2006, AND THEREAFTER**

2.3 Section 1. Minnesota Statutes 2004, section 268.035, subdivision 4, is amended to read:

2.4 Subd. 4. **Base period.** "Base period" means:

2.5 (1) the first four of the last five completed calendar quarters ~~prior to~~ before the
 2.6 effective date of an applicant's ~~benefit account~~ application for unemployment benefits
 2.7 as set forth below:

2.8 If the ~~benefit account~~ application
 2.9 for unemployment benefits is

2.10 effective on or between these
 2.11 dates:

The base period is the
 prior:

2.12 January 1 - March 31

October 1 - September 30

2.13 April 1 - June 30

January 1 - December 31

2.14 July 1 - September 30

April 1 - March 31

2.15 October 1 - December 31

July 1 - June 30

2.16 (2) if during the base period under clause (1) an applicant received workers'
 2.17 compensation for temporary disability under chapter 176 or a similar federal law or similar
 2.18 law of another state, or if an applicant whose own serious illness caused a loss of work for
 2.19 which the applicant received compensation for loss of wages from some other source, the
 2.20 applicant may request a an extended base period as follows:

2.21 (i) if an applicant was compensated for a loss of work of seven to 13 weeks, the base
 2.22 period ~~shall be~~ is the first four of the last six completed calendar quarters ~~prior to~~ before
 2.23 the effective date of the ~~benefit account~~ application for unemployment benefits;

2.24 (ii) if an applicant was compensated for a loss of work of 14 to 26 weeks, the base
 2.25 period ~~shall be~~ is the first four of the last seven completed calendar quarters ~~prior to~~ before
 2.26 the effective date of the ~~benefit account~~ application for unemployment benefits;

2.27 (iii) if an applicant was compensated for a loss of work of 27 to 39 weeks, the base
 2.28 period ~~shall be~~ is the first four of the last eight completed calendar quarters ~~prior to~~ before
 2.29 the effective date of the ~~benefit account~~ application for unemployment benefits; and

2.30 (iv) if an applicant was compensated for a loss of work of 40 to 52 weeks, the base
 2.31 period ~~shall be~~ is the first four of the last nine completed calendar quarters ~~prior to~~ before
 2.32 the effective date of the ~~benefit account~~ application for unemployment benefits;

3.1 (3) if the applicant ~~qualifies for a base period under clause (2), but~~ has insufficient
 3.2 wage credits to establish a benefit account, ~~the applicant may request a~~ under clause (1),
 3.3 an alternate base period of the last four completed calendar quarters prior to before the
 3.4 date the applicant's benefit account application for unemployment benefits is effective will
 3.5 be used. This base period may can be used only once during any five-calendar-year period
 3.6 30 calendar days or more after the end of the last completed quarter, when a wage detail
 3.7 report has been, or should have been, filed for that quarter under section 268.044; and

3.8 (4) no base period under clause (1), (2), or (3) ~~shall~~ may include wage credits upon
 3.9 which a prior benefit account was established.

3.10 **EFFECTIVE DATE.** The changes to clause (3) apply to applications for
 3.11 unemployment benefits filed effective on or after September 30, 2007, except the change
 3.12 from "benefit account" to "application for unemployment benefits," which is effective
 3.3 August 1, 2006.

3.14 Sec. 2. Minnesota Statutes 2004, section 268.035, subdivision 17, is amended to read:

3.15 Subd. 17. **Filing; filed.** "Filing" or "filed" means the delivery of any document to
 3.16 the commissioner or any of the commissioner's agents, or the depositing of the document
 3.17 in the United States mail properly addressed to the department with postage prepaid,
 3.18 in which case the document ~~shall be~~ is considered filed on the day indicated by the
 3.19 cancellation mark of the United States Postal Service.

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

3.23 Sec. 3. Minnesota Statutes 2005 Supplement, section 268.043, is amended to read:

3.24 **268.043 DETERMINATIONS OF COVERAGE.**

3.25 (a) The commissioner, upon the commissioner's own motion or upon application
 3.26 of a person, shall determine if that ~~organization or~~ person is an employer or whether
 3.27 services performed for it constitute employment and covered employment, or whether
 3.28 the compensation for services constitutes wages, and ~~shall~~ notify the person of the
 3.29 determination. The determination ~~shall be~~ is final unless the ~~organization or~~ person, within
 3.30 ~~30~~ 20 calendar days after sending of the determination by mail or electronic transmission,
 3.31 ~~files a protest. Upon receipt of a protest, the commissioner shall review all available~~
 3.32 ~~evidence and determine whether an error has been made. The commissioner shall send~~
 3.33 ~~to the person, by mail or electronic transmission, an affirmation or redetermination. The~~

4.1 ~~affirmation or redetermination shall be final unless, within 30 calendar days after sending~~
 4.2 ~~of the affirmation or redetermination to the person by mail or electronic transmission, an~~
 4.3 ~~appeal is filed.~~ Proceedings on the appeal ~~shall be~~ are conducted in accordance with
 4.4 section 268.105.

4.5 (b) No person ~~shall~~ may be initially determined an employer, or that services
 4.6 performed for it were in employment or covered employment, for periods more than four
 4.7 years ~~prior to~~ before the year in which the determination is made, unless the commissioner
 4.8 finds that there was fraudulent action to avoid liability under this chapter.

4.9 EFFECTIVE DATE. The change to 20 calendar days in this section applies to
 4.10 determinations issued on or after September 30, 2007.

4.11 Sec. 4. Minnesota Statutes 2004, section 268.047, subdivision 2, is amended to read:

4.12 Subd. 2. **Exceptions for all employers.** Unemployment benefits paid ~~shall~~ will not
 4.13 be used in computing the future tax rate of a taxpaying base period employer or charged
 4.14 to the reimbursable account of a base period nonprofit or government employer that has
 4.15 elected to be liable for reimbursements when:

4.16 (1) the applicant was discharged from the employment because of aggravated
 4.17 employment misconduct as determined under section 268.095. This exception ~~shall apply~~
 4.18 applies only to unemployment benefits paid for periods after the applicant's discharge
 4.19 from employment;

4.20 (2) an applicant's discharge from that employment occurred because a law required
 4.21 removal of the applicant from the position the applicant held;

4.22 (3) the employer is in the tourist or recreation industry and is in active operation of
 4.23 business less than 15 calendar weeks each year and the applicant's wage credits from the
 4.24 employer are less than 60 times the applicable state or federal minimum wage;

4.25 (4) the employer provided regularly scheduled part-time employment to the
 4.26 applicant during the applicant's base period and continues to provide the applicant with
 4.27 regularly scheduled part-time employment during the benefit year of at least 90 percent
 4.28 of the part-time employment provided in the base period, and is an involved employer
 4.29 because of the applicant's loss of other employment. This exception ~~shall terminate~~
 4.30 terminates effective the first week that the employer fails to meet the benefit year
 4.31 employment requirements. This exception ~~shall apply~~ applies to educational institutions
 4.32 without consideration of the period between academic years or terms;

4.33 ~~(4)~~ (5) the employer is a fire department or firefighting corporation or operator
 4.34 of a life-support transportation service, and continues to provide employment for the
 4.35 applicant as a volunteer firefighter or a volunteer ambulance service personnel during the

5.1 benefit year on the same basis that employment was provided in the base period. This
 5.2 exception ~~shall terminate~~ terminates effective the first week that the employer fails to meet
 5.3 the benefit year employment requirements;

5.4 ~~(5)~~ (6) the applicant's unemployment from this employer was a direct result of
 5.5 the condemnation of property by a governmental agency, a fire, flood, or act of nature,
 5.6 where 25 percent or more of the employees employed at the affected location, including
 5.7 the applicant, became unemployed as a result. This exception ~~shall~~ does not apply where
 5.8 the unemployment was a direct result of the intentional act of the employer or a person
 5.9 acting on behalf of the employer;

5.10 ~~(6)~~ (7) the unemployment benefits were paid by another state as a result of the
 5.11 transferring of wage credits under a combined wage arrangement provided for in section
 5.12 268.131;

5.13 ~~(7)~~ (8) the applicant stopped working because of a labor dispute at the applicant's
 5.14 primary place of employment if the employer was not a party to the labor dispute;

5.15 ~~(8)~~ (9) the unemployment benefits were determined overpaid unemployment benefits
 5.16 under section 268.18; or

5.17 ~~(9)~~ (10) the trust fund was reimbursed for the unemployment benefits by the federal
 5.18 government.

5.19 Sec. 5. Minnesota Statutes 2004, section 268.047, subdivision 5, is amended to read:

5.20 Subd. 5. **Notice of unemployment benefits paid.** (a) The commissioner shall notify
 5.21 each employer at least quarterly by mail or electronic transmission of the unemployment
 5.22 benefits paid each applicant that will be used in computing the future tax rate of a
 5.23 taxpaying employer, or that have been charged to the reimbursable account of a nonprofit
 5.24 or government employer that has elected to be liable for reimbursements.

5.25 (b) A notice under this subdivision ~~shall is not be~~ subject to ~~protest or appeal~~. The
 5.26 commissioner may at any time upon the commissioner's own motion correct any error that
 5.27 resulted in an incorrect notice under paragraph (a) and issue a corrected notice.

5.28 Sec. 6. Minnesota Statutes 2005 Supplement, section 268.051, subdivision 1, is
 5.29 amended to read:

5.30 Subdivision 1. **Payments.** (a) Unemployment insurance taxes and any additional
 5.31 assessments, fees, or surcharges ~~shall~~ accrue and become payable by each employer for
 5.32 each calendar year on the taxable wages that the employer paid to employees in covered
 5.33 employment, except for:

6.1 (1) nonprofit organizations that elect to make reimbursements as provided in section
6.2 268.053; and

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

6.5 ~~Except as allowed under section 268.0511,~~ Each employer ~~shall~~ must pay taxes
6.6 quarterly, at the employer's assigned tax rate under subdivision 6, on the taxable wages
6.7 paid to each employee. The commissioner shall compute the tax due from the wage
6.8 detail report required under section 268.044 and notify the employer of the tax due. The
6.9 taxes and any ~~additional~~ special assessments, fees, or surcharges ~~shall~~ must be paid to the
6.10 trust fund and must be received by the department on or before the last day of the month
6.11 following the end of the calendar quarter.

6.12 (b) The tax amount computed, if not a whole dollar, ~~shall be~~ is rounded down to the
6.13 next lower whole dollar.

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

6.17 **EFFECTIVE DATE.** This section is effective January 1, 2007.

6.18 Sec. 7. Minnesota Statutes 2004, section 268.051, subdivision 5, is amended to read:

6.19 Subd. 5. **Tax rate for new employers.** (a) Each new taxpaying employer that does
6.20 not qualify for an experience rating under subdivision 3, except new employers in a high
6.21 experience rating industry, ~~shall~~ must be assigned, for a calendar year, a tax rate the higher
6.22 of (1) one percent, or (2) the tax rate computed, to the nearest one-hundredth of a percent,
6.23 by dividing the total amount of unemployment benefits paid all applicants during the 48
6.24 calendar months ending on June 30 of the prior calendar year by the total taxable wages of
6.25 all taxpaying employers during the same period, plus the applicable base tax rate and any
6.26 additional assessments under subdivision 2, paragraph (d).

6.27 (b) Each new taxpaying employer in a high experience rating industry that does not
6.28 qualify for an experience rating under subdivision 3, ~~shall~~ must be assigned, for a calendar
6.29 year, a tax rate of 8.00 percent, plus the applicable base tax rate and any additional
6.30 assessments under subdivision 2, paragraph (d).

6.31 An employer is considered to be in a high experience rating industry if:

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

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

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

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

7.5 (c) The commissioner shall send to the new employer, by mail or electronic
7.6 transmission, notice of the tax rate assigned. An employer may ~~protest~~ appeal the
7.7 assignment of a tax rate in accordance with the procedures in subdivision 6, paragraph (c).

7.8 Sec. 8. Minnesota Statutes 2005 Supplement, section 268.051, subdivision 6, is
7.9 amended to read:

7.10 Subd. 6. **Notice of tax rate.** (a) On or before each December 15, the commissioner
7.11 shall notify each employer by mail or electronic transmission of the employer's tax rate,
7.12 along with any additional assessments, fees, or surcharges, for the following calendar
7.13 year. The notice ~~shall~~ must contain the base tax rate and the factors used in determining
7.14 the employer's experience rating. Unless ~~a protest~~ an appeal of the tax rate is made,
7.15 the computed tax rate ~~shall be~~ is final, except for fraud or recomputation required
7.16 under subdivision 4 or 4a, and ~~shall be~~ is the rate at which taxes ~~shall~~ must be paid. A
7.17 recomputed tax rate under subdivision 4 or 4a ~~shall be~~ is the rate applicable for the quarter
7.18 that includes the date of acquisition and any quarter thereafter during the calendar year in
7.19 which the acquisition occurred. The tax rate ~~shall~~ is not be subject to collateral attack by
7.20 way of claim for a credit adjustment or refund, or otherwise.

7.21 (b) If the legislature, ~~subsequent to~~ after the sending of the tax rate, changes any of
7.22 the factors used to determine the rate, a new tax rate based on the new factors ~~shall~~ must
7.23 be computed and sent to the employer.

7.24 (c) A review of an employer's tax rate may be obtained by the employer filing
7.25 ~~a protest~~ an appeal within ~~30~~ 20 calendar days from the date the tax rate notice was sent
7.26 to the employer. ~~Upon receipt of the protest, the commissioner shall review the tax rate~~
7.27 ~~to determine whether or not there has been any error in computation or assignment of~~
7.28 ~~the tax rate. The commissioner shall either affirm or make a redetermination of the~~
7.29 ~~rate and a notice of the affirmation or redetermination shall be sent to the employer by~~
7.30 ~~mail or electronic transmission. The affirmation or redetermination shall be final unless~~
7.31 ~~the employer files an appeal within 30 calendar days after the date the affirmation or~~
7.32 ~~redetermination was sent. Proceedings on the appeal shall be~~ are conducted in accordance
7.33 with section 268.105.

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

8.1 EFFECTIVE DATE. The change to 20 calendar days in this section is effective for
 8.2 determinations issued on or after September 30, 2007.

8.3 Sec. 9. Minnesota Statutes 2004, section 268.053, subdivision 2, is amended to read:

8.4 Subd. 2. **Determination, protest, and appeal.** The commissioner shall notify each
 8.5 nonprofit organization by mail or electronic transmission of any determination of its
 8.6 status as an employer with covered employment and of the effective date of any election
 8.7 or termination of election. ~~The determinations shall be final unless a protest is filed~~
 8.8 ~~within 30 calendar days after sending of the determination. Upon receipt of a protest, the~~
 8.9 ~~commissioner shall review all available evidence and determine whether an error has been~~
 8.10 ~~made. The commissioner shall send to the nonprofit organization, by mail or electronic~~
 8.11 ~~transmission, an affirmation or redetermination. The affirmation or redetermination shall~~
 8.12 be determination is final unless an appeal is filed within 20 calendar days of sending
 8.13 the affirmation or redetermination determination. Proceedings on the appeal ~~shall be~~ are
 8.14 conducted in accordance with section 268.105.

8.15 EFFECTIVE DATE. The change to 20 calendar days in this section is effective
 8.16 September 30, 2007.

8.17 Sec. 10. Minnesota Statutes 2005 Supplement, section 268.057, subdivision 7, is
 8.18 amended to read:

8.19 Subd. 7. **Credit adjustments, refunds.** (a) If an employer makes an application
 8.20 for a credit adjustment of any amount paid under this chapter or section 116L.20 within
 8.21 four years of the date that the payment was due, in a manner and format prescribed by
 8.22 the commissioner, and the commissioner determines that the payment or any portion was
 8.23 erroneous, the commissioner shall make an adjustment and issue a credit without interest.
 8.24 If a credit cannot be used, the commissioner shall refund, without interest, the amount
 8.25 erroneously paid. The commissioner, on the commissioner's own motion, may make a
 8.26 credit adjustment or refund under this subdivision.

8.27 Any refund returned to the commissioner ~~shall be~~ is considered unclaimed property
 8.28 under chapter 345.

8.29 (b) If a credit adjustment or refund is denied in whole or in part, a notice of denial
 8.30 ~~shall~~ must be sent to the employer by mail or electronic transmission. ~~Within 30 calendar~~
 8.31 ~~days after sending of~~ The notice of denial; ~~the employer may protest.~~

8.32 ~~Upon receipt of a timely protest, the commissioner shall review the denial and~~
 8.33 ~~either affirm the denial or redetermine the credit adjustment or refund. The affirmation of~~
 8.34 ~~denial or redetermination of the credit adjustment or refund, sent by mail or electronic~~

9.1 ~~transmission, shall be~~ is final unless an employer files an appeal within ~~30~~ 20 calendar
 9.2 days after sending. Proceedings on the appeal ~~shall be~~ are conducted in accordance with
 9.3 section 268.105.

9.4 **EFFECTIVE DATE.** The change to 20 calendar days in this section is effective for
 9.5 all denials issued on or after September 30, 2007.

9.6 Sec. 11. Minnesota Statutes 2004, section 268.063, is amended to read:

9.7 **268.063 PERSONAL LIABILITY.**

9.8 (a) Any officer, director, or employee of a corporation or any manager, governor,
 9.9 member, or employee of a limited liability company who

9.10 (1) either individually or jointly with others, have or should have had control
 11 of, supervision over, or responsibility for paying the amounts due under this chapter
 9.12 or section 116L.20, and

9.13 (2) knowingly fails to pay the amounts due, ~~shall be~~ is personally liable for the
 9.14 amount due in the event the employer does not pay.

9.15 For purposes of this section, "knowingly" means that the facts demonstrate that the
 9.16 responsible individual used or allowed the use of corporate or company assets to pay other
 9.17 creditors knowing that the amounts due under this chapter were unpaid. An evil motive or
 9.18 intent to defraud is not necessary.

9.19 (b) Any partner of a limited liability partnership, or professional limited liability
 9.20 partnership, ~~shall be~~ is jointly and severally liable for any amount due under this chapter
 9.21 or section 116L.20 in the event the employer does not pay.

9.22 (c) Any personal representative of the estate of a decedent or fiduciary who
 9.23 voluntarily distributes the assets without reserving a sufficient amount to pay the amount
 9.24 due ~~shall be~~ is personally liable for the deficiency.

9.25 (d) The personal liability of any individual ~~shall survive~~ survives dissolution,
 9.26 reorganization, receivership, or assignment for the benefit of creditors. For the purposes
 9.27 of this section, all wages paid by the employer ~~shall be~~ are considered earned from the
 9.28 individual determined to be personally liable.

9.29 (e) The commissioner shall make a determination as to personal liability. The
 9.30 determination ~~shall be~~ is final unless the individual found to be personally liable,
 31 within ~~30~~ 20 calendar days after sending, by mail or electronic transmission, a notice
 9.32 of determination, files a protest. ~~Upon receipt of the protest, the commissioner shall~~
 9.33 ~~reexamine the personal liability determination and either affirm or redetermine the~~
 9.34 ~~assessment of personal liability and a notice of the affirmation or redetermination~~

10.1 ~~shall be sent to the individual by mail or electronic transmission. The affirmation or~~
 10.2 ~~redetermination shall become final unless an appeal is filed within 30 calendar days after~~
 10.3 ~~the date of sending.~~ Proceedings on the appeal ~~shall be~~ are conducted in accordance
 10.4 with section 268.105.

10.5 EFFECTIVE DATE. The change to 20 calendar days in this section is effective
 10.6 September 30, 2007.

10.7 Sec. 12. Minnesota Statutes 2004, section 268.07, subdivision 2, is amended to read:

10.8 Subd. 2. **Benefit account requirements and weekly unemployment benefit**
 10.9 **amount and maximum amount of unemployment benefits.** (a) To establish a benefit
 10.10 account, an applicant must have:

10.11 (1) high quarter wage credits of ~~at least~~ \$1,000 or more; and

10.12 (2) wage credits, in other than the high quarter, of ~~at least~~ \$250 or more.

10.13 (b) If an applicant has established a benefit account, the weekly unemployment
 10.14 benefit amount available during the benefit year ~~shall be~~ is the higher of:

10.15 (1) 50 percent of the applicant's average weekly wage during the base period, to a
 10.16 maximum of 66-2/3 percent of the state's average weekly wage; or

10.17 (2) 50 percent of the applicant's average weekly wage during the high quarter, to a
 10.18 maximum of ~~45~~ 43 percent of the state's average weekly wage.

10.19 The applicant's average weekly wage under clause (1) ~~shall be~~ is computed by
 10.20 dividing the total wage credits by 52. The applicant's average weekly wage under clause
 10.21 (2) ~~shall be~~ is computed by dividing the high quarter wage credits by 13.

10.22 (c) The state's maximum weekly unemployment benefit amount and an applicant's
 10.23 weekly unemployment benefit amount and maximum amount of unemployment benefits
 10.24 available ~~shall be~~ is rounded down to the next lower whole dollar. The state's maximum
 10.25 weekly benefit amount, computed in accordance with section 268.035, subdivision 23,
 10.26 ~~shall apply~~ applies to a benefit account established effective on or after the ~~first last~~
 10.27 ~~Sunday in August~~ October. Once established, an applicant's weekly unemployment
 10.28 benefit amount ~~shall~~ is not be affected by the ~~first last~~ Sunday in August ~~October~~ change
 10.29 in the state's maximum weekly unemployment benefit amount.

10.30 (d) The maximum amount of unemployment benefits available on any benefit
 10.31 account ~~shall be~~ is the lower of:

10.32 (1) 33-1/3 percent of the applicant's total wage credits; or

10.33 (2) 26 times the applicant's weekly unemployment benefit amount.

11.1 **EFFECTIVE DATE.** The change to the last Sunday in October is effective August
 11.2 1, 2007.

11.3 Sec. 13. Minnesota Statutes 2005 Supplement, section 268.085, subdivision 2, is
 11.4 amended to read:

11.5 Subd. 2. **Not eligible.** An applicant ~~shall not be eligible to receive~~ is ineligible for
 11.6 unemployment benefits for any week:

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

11.8 (2) that the applicant, at the beginning of the week, has an outstanding fraud
 11.9 overpayment balance under section 268.18, subdivision 2, including any penalties and
 11.10 interest;

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

11.13 ~~(3)~~ (4) that the applicant is incarcerated or performing court ordered community
 11.14 service. The applicant's weekly unemployment benefit amount ~~shall be~~ is reduced by
 11.15 one-fifth for each day the applicant is incarcerated or performing court ordered community
 11.16 service. If the computation of the reduced unemployment benefits is not a whole dollar, it
 11.17 ~~shall be~~ is rounded down to the next lower whole dollar;

11.18 ~~(4)~~ (5) that the applicant fails or refuses to provide information on an issue of
 11.19 ~~eligibility~~ ineligibility required under section 268.101 ~~or an issue of disqualification~~
 11.20 ~~required under section 268.101;~~

11.21 ~~(5)~~ (6) that the applicant is performing services 32 hours or more, in employment,
 11.22 covered employment, noncovered employment, volunteer work, or self-employment
 11.23 regardless of the amount of any earnings; or

11.24 ~~(6)~~ (7) with respect to which the applicant is receiving, has received, or has filed
 11.25 an application for unemployment benefits under any federal law or the law of any other
 11.26 state. If the appropriate agency finally determines that the applicant is not entitled to the
 11.27 unemployment benefits, this clause ~~shall~~ does not apply.

11.28 **EFFECTIVE DATE.** The new language in clause (2) applies to all outstanding
 11.29 fraud overpayment balances, including penalty and interest, as of September 30, 2007.

11.30 Sec. 14. Minnesota Statutes 2005 Supplement, section 268.085, subdivision 3, is
 11.31 amended to read:

11.32 Subd. 3. **Payments that delay unemployment benefits.** (a) An applicant ~~shall~~ is
 11.33 ~~not be~~ eligible to receive unemployment benefits for any week with respect to which the

12.1 applicant is receiving, has received, or has filed for payment, equal to or in excess of the
 12.2 applicant's weekly unemployment benefit amount, in the form of:

12.3 (1) vacation pay paid upon temporary, indefinite, or seasonal separation. This clause
 12.4 ~~shall~~ does not apply to vacation pay paid upon a permanent separation from employment;

12.5 (2) severance pay, bonus pay, sick pay, and any other ~~money~~ payments, except
 12.6 earnings under subdivision 5, and back pay under subdivision 6, paid by an employer
 12.7 because of, upon, or after separation from employment, but only if the ~~money~~ payment is
 12.8 considered wages at the time of payment under section 268.035, subdivision 29, ~~or United~~
 12.9 ~~States Code, title 26, section 3121, clause (2), of the Federal Insurance Contribution Act, or~~

12.10 (3) pension, retirement, or annuity payments from any plan contributed to by a base
 12.11 period employer including the United States government, except Social Security benefits
 12.12 ~~which that~~ are provided for in subdivision 4. The base period employer is considered to
 12.13 have contributed to the plan if the contribution is excluded from the definition of wages
 12.14 under section 268.035, subdivision 29, clause (1), ~~or United States Code, title 26, section~~
 12.15 ~~3121, clause (2), of the Federal Insurance Contribution Act.~~

12.16 An applicant ~~shall~~ is not ~~be~~ considered to have received the lump sum payment if the
 12.17 applicant immediately deposits that payment in a qualified pension plan or account, ~~or,~~

12.18 ~~(4) holiday pay.~~

12.19 (b) This subdivision ~~shall apply~~ applies to all the weeks of payment ~~and shall be,~~
 12.20 Payments under paragraph (a), clauses (1) and (2), are applied to the period immediately
 12.21 following the last day of employment. The number of weeks of payment shall be is
 12.22 determined as follows:

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

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

12.27 (c) If the payment is less than the applicant's weekly unemployment benefit
 12.28 amount, unemployment benefits ~~shall be~~ are reduced by the amount of the payment. If
 12.29 the computation of reduced unemployment benefits is not a whole dollar, it ~~shall be~~ is
 12.30 rounded down to the next lower whole dollar.

12.31 **EFFECTIVE DATE.** The striking of clause (4) in paragraph (a) is effective for
 12.32 unemployment benefits paid on or after September 30, 2007, regardless of when the
 12.33 continued request was filed or the week for which the unemployment benefits are paid.

12.34 Sec. 15. Minnesota Statutes 2005 Supplement, section 268.095, subdivision 1, is
 12.35 amended to read:

13.1 Subdivision 1. **Quit.** An applicant who quit employment ~~shall be disqualified from~~
 13.2 is ineligible for all unemployment benefits according to subdivision 10 except when:

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

13.5 (2) the applicant quit the employment to accept other covered employment that
 13.6 provided substantially better terms and conditions of employment, but the applicant did
 13.7 not work long enough at the second employment to have sufficient subsequent earnings to
 13.8 satisfy the ~~disqualification~~ period of ineligibility that would otherwise be imposed under
 13.9 subdivision 10 for quitting the first employment;

13.10 (3) the applicant quit the employment within 30 calendar days of beginning the
 13.11 employment because the employment was unsuitable for the applicant;

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

13.14 (5) the employment was part time and the applicant also had full-time employment
 13.15 in the base period, from which full-time employment the applicant separated because
 13.16 of ~~nondisqualifying~~ reasons for which the applicant was held not to be ineligible, and
 13.17 the wage credits from the full-time employment are sufficient to meet the minimum
 13.18 requirements to establish a benefit account under section 268.07;

13.19 (6) the applicant quit because the employer notified the applicant that the applicant
 13.20 was going to be laid off ~~due to~~ because of lack of work within 30 calendar days. An
 13.21 applicant who quit employment within 30 calendar days of a notified date of layoff ~~due to~~
 13.22 because of lack of work ~~shall be disqualified from~~ is ineligible for unemployment benefits
 13.23 through the end of the week that includes the scheduled date of layoff;

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

13.28 If the applicant's serious illness is chemical dependency, this exception ~~shall~~ does
 13.29 not apply if the applicant was previously diagnosed as chemically dependent or had
 13.30 treatment for chemical dependency, and since that diagnosis or treatment has failed to
 13.31 make consistent efforts to control the chemical dependency; ~~or.~~

13.32 This exception raises an issue of the applicant's being able to work under section
 13.33 268.085, subdivision 1, that the commissioner shall determine;

13.34 (8) the applicant's loss of child care for the applicant's minor child caused the
 13.35 applicant to quit the employment, provided the applicant made reasonable effort to obtain

14.1 other child care and requested time off or other accommodation from the employer and no
 14.2 reasonable accommodation is available.

14.3 This exception raises an issue of the applicant's availability for suitable employment
 14.4 under section 268.085, subdivision 1, that the commissioner shall determine; or

14.5 (9) domestic abuse of the applicant or the applicant's minor child, necessitated
 14.6 the applicant's quitting the employment. Domestic abuse ~~shall~~ must be shown by one
 14.7 or more of the following:

14.8 (i) a district court order for protection or other documentation of equitable relief
 14.9 issued by a court;

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

14.11 (iii) documentation that the perpetrator of the domestic abuse has been convicted
 14.12 of the offense of domestic abuse;

14.13 (iv) medical documentation of domestic abuse; or

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

14.18 Domestic abuse for purposes of this clause ~~shall be~~ is defined under section 518B.01.

14.19 Sec. 16. Minnesota Statutes 2004, section 268.095, subdivision 6, is amended to read:

14.20 Subd. 6. **Employment misconduct defined.** (a) Employment misconduct means
 14.21 any intentional, negligent, or indifferent conduct, on the job or off the job (1) that displays
 14.22 clearly a serious violation of the standards of behavior the employer has the right to
 14.23 reasonably expect of the employee, or (2) that displays clearly a substantial lack of
 14.24 concern for the employment.

14.25 Inefficiency, inadvertence, simple unsatisfactory conduct, a single incident that does
 14.26 not have a significant adverse impact on the employer, conduct an average reasonable
 14.27 employee would have engaged in under the circumstances, poor performance because of
 14.28 inability or incapacity, good faith errors in judgment if judgment was required, or absence
 14.29 because of illness or injury with proper notice to the employer, are not employment
 14.30 misconduct.

14.31 (b) Conduct that was a direct result of the applicant's chemical dependency is not
 14.32 employment misconduct unless the applicant was previously diagnosed chemically
 14.33 dependent or had treatment for chemical dependency, and since that diagnosis or treatment
 14.34 has failed to make consistent efforts to control the chemical dependency.

15.1 (c) Conduct that was a result of the applicant, or the applicant's minor child,
15.2 being a victim of domestic abuse as defined under section 518B.01, is not employment
15.3 misconduct. Domestic abuse ~~shall~~ must be shown as provided for in section 268.095,
15.4 subdivision 1, clause ~~(8)~~ (9).

15.5 (d) A driving offense in violation of sections 169A.20, 169A.31, or 169A.50
15.6 to 169A.53 that interferes with or adversely affects the employment is employment
15.7 misconduct.

15.8 (e) The definition of employment misconduct provided by this subdivision ~~shall be~~
15.9 is exclusive and no other definition ~~shall apply~~ applies.

15.10 Sec. 17. Minnesota Statutes 2005 Supplement, section 268.105, subdivision 1, is
15.11 amended to read:

15.12 Subdivision 1. **Evidentiary hearing by an unemployment law judge.** (a) Upon
15.13 a timely appeal having been filed, the department ~~shall~~ must send, by mail or electronic
15.14 transmission, a notice of appeal to all involved parties that an appeal has been filed, that
15.15 a de novo due process evidentiary hearing will be scheduled, and that the parties have
15.16 certain rights and responsibilities regarding the hearing. The department ~~shall~~ must set a
15.17 time and place for a de novo due process evidentiary hearing and send notice to any
15.18 involved applicant and any involved employer, by mail or electronic transmission, not less
15.19 than ten calendar days ~~prior to~~ before the date of the hearing.

15.20 (b) The evidentiary hearing ~~shall be~~ is conducted by an unemployment law judge
15.21 without regard to any ~~common-law~~ burden of proof as an evidence gathering inquiry and
15.22 not an adversarial proceeding. The unemployment law judge ~~shall~~ must ensure that all
15.23 relevant facts are clearly and fully developed. The department ~~shall~~ may adopt rules on
15.24 evidentiary hearings. The rules need not conform to common law or statutory rules of
15.25 evidence and other technical rules of procedure. The department ~~shall have~~ has discretion
15.26 regarding the method by which the evidentiary hearing is conducted. A report of any
15.27 employee of the department, except a determination, made in the regular course of the
15.28 employee's duties, ~~shall be~~ is competent evidence of the facts contained in it.

15.29 (c) After the conclusion of the hearing, upon the evidence obtained, the
15.30 unemployment law judge ~~shall~~ must make findings of fact and decision and send those,
15.31 by mail or electronic transmission, to all involved parties. When the credibility of an
32 involved party or witness testifying in an evidentiary hearing has a significant effect on the
15.33 outcome of a decision, the unemployment law judge must set out the reason for crediting
15.34 or discrediting that testimony. The unemployment law judge's decision is final unless a
15.35 request for reconsideration is filed ~~pursuant to~~ under subdivision 2.

16.1 (d) Regardless of paragraph (c), if the appealing party fails to participate in the
16.2 evidentiary hearing, the unemployment law judge has the discretion to dismiss the appeal
16.3 by summary order. By failing to participate, the appealing party is considered to have
16.4 failed to exhaust available administrative remedies unless the appealing party files a
16.5 request for reconsideration under subdivision 2 and establishes good cause for failing to
16.6 participate in the evidentiary hearing under subdivision 2, paragraph (d). Submission
16.7 of a written statement does not constitute participation. The applicant must participate
16.8 personally and appearance solely by a representative does not constitute participation.

16.9 (e) Only employees of the department who are attorneys ~~shall~~ licensed to practice
16.10 law in Minnesota may serve as unemployment law judges. The commissioner may transfer
16.11 to another unemployment law judge any proceedings pending before an unemployment
16.12 law judge.

16.13 **EFFECTIVE DATE.** This section applies to evidentiary hearings conducted on
16.14 or after August 1, 2006.

16.15 Sec. 18. Minnesota Statutes 2005 Supplement, section 268.105, is amended by adding
16.16 a subdivision to read:

16.17 Subd. 2b. **Assessment of administrative fee.** (a) If, on an appeal filed by an
16.18 employer, an unemployment law judge reverses a determination of eligibility resulting in
16.19 an overpayment of unemployment benefits, the unemployment law judge may assess a
16.20 \$500 administrative fee on the employer, if the employer:

16.21 (1) failed to respond to the department's request for information before the
16.22 determination of eligibility was issued;

16.23 (2) provided substantially different information at the evidentiary hearing than the
16.24 employer provided before the determination of eligibility was issued; or

16.25 (3) provided information before the determination of eligibility was issued that was
16.26 substantively inadequate when compared to the information the employer presented at
16.27 the evidentiary hearing.

16.28 (b) This subdivision does not apply if the employer had good cause for its action
16.29 under paragraph (a) or the applicant did not provide complete information on the issue
16.30 of ineligibility as required under section 268.101. Good cause requires a showing by the
16.31 employer that it was acting with due diligence. The employer had good cause for its
16.32 action under paragraph (a) if the employer was not given a reasonable opportunity to
16.33 respond to a request for information before the department issued the determination of
16.34 eligibility under section 268.101.

17.1 (c) Payments made toward the administrative fee are credited to the administration
17.2 account.

17.3 Sec. 19. Minnesota Statutes 2005 Supplement, section 268.18, subdivision 2, is
17.4 amended to read:

17.5 Subd. 2. **Overpayment due to because of fraud.** (a) Any applicant who receives
17.6 unemployment benefits by knowingly misrepresenting, misstating, or failing to disclose
17.7 any material fact, or who makes a false statement or representation without a good faith
17.8 belief as to the correctness of the statement or representation, has committed fraud. After
17.9 the discovery of facts indicating fraud, the commissioner shall make a determination
17.10 that the applicant obtained unemployment benefits by fraud and that the applicant must
17.11 promptly repay the unemployment benefits to the trust fund. In addition, the commissioner
17.12 shall assess a penalty equal to ~~25 percent of the amount fraudulently obtained. If the~~
17.13 ~~applicant had a prior overpayment due to fraud, the commissioner shall, on the present~~
17.14 ~~overpayment, assess a penalty equal to 50~~ 40 percent of the amount fraudulently obtained.
17.15 This penalty is in addition to penalties under section 268.182.

17.16 (b) Unless the applicant files an appeal within ~~30~~ 20 calendar days after the sending
17.17 of the determination of overpayment by fraud to the applicant by mail or electronic
17.18 transmission, the determination ~~shall become~~ is final. Proceedings on the appeal ~~shall be~~
17.19 are conducted in accordance with section 268.105.

17.20 (c) If the applicant fails to repay the unemployment benefits, penalty, and interest
17.21 assessed, ~~the commissioner shall offset from future unemployment benefits otherwise~~
17.22 ~~payable the total amount due.~~ The total due may also be collected by the same methods
17.23 as delinquent payments from an employer. A determination of overpayment by fraud
17.24 ~~shall~~ must state the methods of collection the commissioner may use to recover the
17.25 overpayment. Money received in repayment of fraudulently obtained unemployment
17.26 benefits, penalties, and interest ~~shall~~ is first be applied to the unemployment benefits
17.27 overpaid, then to the penalty amount due, then to any interest due. 62.5 percent of the
17.28 payments made toward the penalty shall be are credited to the contingent account and
17.29 37.5 percent credited to the administration account for deterring, detecting, or collecting
17.30 overpayments.

17.31 (d) If an applicant has been overpaid unemployment benefits under the law of
17.32 another state because of fraud and that state certifies that the applicant is liable to repay
17.33 the unemployment benefits and requests the commissioner to recover the overpayment,
17.34 the commissioner may offset from future unemployment benefits otherwise payable the
17.35 amount of overpayment.

18.1 (e) Unemployment benefits paid for weeks more than four years ~~prior to~~ before the
 18.2 date of a determination of overpayment by fraud issued under this subdivision ~~shall be~~ are
 18.3 not ~~be~~ considered overpaid unemployment benefits.

18.4 EFFECTIVE DATE. The change to 20 calendar days in paragraph (b) and the
 18.5 striking of everything after "assessed" in the first sentence of paragraph (c) are effective
 18.6 for all determinations of overpayment issued on or after September 30, 2007. The
 18.7 remainder of this section is effective for all determinations of overpayment by fraud
 18.8 issued on or after August 1, 2006.

18.9 Sec. 20. Minnesota Statutes 2004, section 268.194, subdivision 1, is amended to read:

18.10 Subdivision 1. **Establishment.** There is ~~hereby~~ established as a special state
 18.11 trust fund, separate and apart from all other public money or funds of this state, an
 18.12 unemployment insurance trust fund, that ~~shall be~~ is administered by the commissioner
 18.13 exclusively for the payment of unemployment benefits. This trust fund ~~shall consist~~
 18.14 consists of:

18.15 (1) all taxes collected;

18.16 (2) interest earned upon any money in the trust fund;

18.17 (3) reimbursements paid by nonprofit organizations and the state and political
 18.18 subdivisions;

18.19 (4) ~~voluntary~~ tax rate buydown payments under section 268.051, subdivision 7;

18.20 (5) any money received as a loan from the federal unemployment trust fund in
 18.21 accordance with United States Code, title 42, section 1321, of the Social Security Act;

18.22 (6) any other money received ~~pursuant to~~ under a reciprocal unemployment benefit
 18.23 arrangement with the federal government or any other state;

18.24 (7) ~~all~~ money recovered on overpaid unemployment benefits except, if allowed by
 18.25 federal law, five percent of any recovered amount is credited to the administration account;

18.26 (8) all money recovered on losses sustained by the trust fund;

18.27 (9) all money received from the contingent account under section 268.196,
 18.28 subdivision 3;

18.29 (10) all money credited to the account of Minnesota in the federal unemployment
 18.30 trust fund ~~pursuant to~~ under United States Code, title 42, section 1103, of the Social
 18.31 Security Act, also known as the Reed Act; and

18.32 (11) all money received for the trust fund from any other source.

18.33 Sec. 21. Minnesota Statutes 2004, section 268.196, subdivision 1, is amended to read:

19.1 Subdivision 1. **Administration account.** (a) There is ~~hereby~~ created in the state
 19.2 treasury a special account to be known as the administration account. All money that is
 19.3 deposited or paid into this account ~~shall be~~ is continuously available to the commissioner
 19.4 for expenditure to administer the Minnesota unemployment insurance program, and ~~shall~~
 19.5 does not lapse at any time. The administration account ~~shall consist~~ consists of:

19.6 (1) all money received from the federal government to administer the Minnesota
 19.7 unemployment insurance program;

19.8 (2) five percent of any money recovered on overpaid unemployment benefits as
 19.9 provided for in section 268.194, subdivision 1, clause (7), which must be used for
 19.10 detering, detecting, and collecting overpaid unemployment benefits;

19.11 (3) any money received as compensation for services or facilities supplied to the
 19.12 federal government or any other state;

13 (3) (4) any amounts received for losses sustained by this account or by reason of
 19.14 damage to equipment or supplies; and

19.15 (4) (5) any proceeds from the sale or disposition of any equipment or supplies that
 19.16 may no longer be necessary for the proper administration of those sections.

19.17 (b) All money in this account ~~shall~~ must be deposited, administered, and disbursed
 19.18 in the same manner and under the same conditions and requirements as are provided by
 19.19 law for the other special accounts in the state treasury. The commissioner of finance, as
 19.20 treasurer and custodian of this account, ~~shall be~~ is liable for the faithful performance
 19.21 of duties in connection with this account.

19.22 (c) All money in this account ~~shall~~ must be spent ~~solely~~ for the purposes and in the
 19.23 amounts found necessary by the United States Secretary of Labor for the proper and
 19.24 efficient administration of the Minnesota unemployment insurance program.

19.25 Sec. 22. Laws 2003, First Special Session chapter 3, article 1, section 9, the effective
 19.26 date, is amended to read:

19.27 **EFFECTIVE DATE.** This section is effective the day following final enactment
 19.28 and sunsets ~~September 1, 2006~~ January 1, 2008.

19.29 Sec. 23. **REPEALER.**

19.30 (a) Minnesota Statutes 2004, section 268.0511, is repealed effective January 1, 2007.

31 (b) Minnesota Statutes 2004, sections 268.085, subdivision 10; and 268.103,
 19.32 subdivision 4, are repealed.

20.1

ARTICLE 2

20.2

POLICY CHANGES EFFECTIVE AUGUST 1, 2007, AND THEREAFTER

20.3

Section 1. Minnesota Statutes 2004, section 268.035, subdivision 23, is amended to

20.4

read:

20.5

Subd. 23. **State's average annual and average weekly wage.** (a) On or before

20.6

June 30 of each year, the commissioner shall calculate the state's average annual wage and

20.7

the state's average weekly wage in the following manner:

20.8

(1) The sum of the total monthly covered employment reported by all employers

20.9

for the prior calendar year ~~shall be~~ is divided by 12 to calculate the average monthly

20.10

covered employment.

20.11

(2) The sum of the total wages paid for all covered employment reported by all

20.12

employers for the prior calendar year ~~shall be~~ is divided by the average monthly covered

20.13

employment to calculate the state's average annual wage.

20.14

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

20.15

average weekly wage.

20.16

(b) For purposes of calculating the amount of taxable wages, the state's average

20.17

annual wage ~~shall apply~~ applies to the calendar year following the calculation.

20.18

(c) For purposes of calculating the state's maximum weekly unemployment benefit

20.19

amount available on any benefit account under section 268.07, subdivision 2, the state's

20.20

average weekly wage ~~shall apply~~ applies to the one-year period beginning the first last

20.21

Sunday in ~~August~~ October of the calendar year of the calculation.

20.22

EFFECTIVE DATE. This section is effective August 1, 2007.

20.23

Sec. 2. Minnesota Statutes 2004, section 268.051, subdivision 1a, is amended to read:

20.24

Subd. 1a. **Payments by electronic payment required.** (a) Every employer that

20.25

reports ~~500~~ 50 or more employees in any calendar quarter on the wage detail report

20.26

required under section 268.044 ~~shall~~ must make any payments due under this chapter and

20.27

section 116L.20 by electronic payment.

20.28

(b) All third-party processors, paying ~~quarterly taxes~~ on behalf of a client company,

20.29

~~shall~~ must make any payments due under this chapter and section 116L.20 by electronic

20.30

payment.

20.31

(c) Regardless of paragraph (a) or (b), the commissioner ~~shall have~~ has the discretion

20.32

to accept payment by other means.

20.33

EFFECTIVE DATE. This section is effective January 1, 2008.

21.1 Sec. 3. Minnesota Statutes 2004, section 268.0625, subdivision 4, is amended to read:

21.2 Subd. 4. **Notice and right to hearing.** At least 30 calendar days before the
 21.3 commissioner notifies a licensing authority, a notice of action under this section ~~shall~~ must
 21.4 be sent to the licensee by mail or electronic transmission. If the licensee disputes the
 21.5 action, the licensee must appeal within ~~30~~ 20 calendar days after the sending of the notice
 21.6 to the licensee. The only issue on any appeal is whether the commissioner has complied
 21.7 with the requirements of this section. Proceedings on the appeal ~~shall be~~ are conducted in
 21.8 accordance with section 268.105.

21.9 **EFFECTIVE DATE.** This section is effective for notices sent on or after September
 21.10 20, 2007.

21.11 Sec. 4. Minnesota Statutes 2004, section 268.065, subdivision 3, is amended to read:

21.12 Subd. 3. **Determination of liability.** The commissioner shall make a determination
 21.13 as to the liability under this section. The determination ~~shall be~~ is final unless the
 21.14 contractor or person found to be liable files an appeal within ~~30~~ 20 calendar days after
 21.15 being sent the determination by mail or electronic transmission. Proceedings on the appeal
 21.16 ~~shall be~~ are conducted in accordance with section 268.105.

21.17 **EFFECTIVE DATE.** This section applies to determinations issued on or after
 21.18 September 30, 2007.

21.19 Sec. 5. Minnesota Statutes 2004, section 268.07, subdivision 1, is amended to read:

21.20 Subdivision 1. **Application for unemployment benefits; determination of benefit**
 21.21 **account.** (a) An application for unemployment benefits may be filed in person, by mail, or
 21.22 by electronic transmission as the commissioner ~~shall~~ may require. The applicant must be
 21.23 unemployed at the time the application is filed and must provide all requested information
 21.24 in the manner required. If the applicant is not unemployed at the time of the application or
 21.25 fails to provide all requested information, the communication ~~shall~~ is not be considered
 21.26 an application for unemployment benefits.

21.27 (b) The commissioner shall examine each application for unemployment benefits to
 21.28 determine the base period and the benefit year, and based upon all the covered employment
 21.29 in the base period the commissioner shall determine the weekly unemployment benefit
 21.30 amount available, if any, and the maximum amount of unemployment benefits available,
 21.31 if any. The determination ~~shall be~~ is known as the determination of benefit account. A
 21.32 determination of benefit account ~~shall~~ must be sent to the applicant and all base period
 21.33 employers, by mail or electronic transmission.

22.1 (c) If a base period employer did not provide wage information for the applicant as
 22.2 provided for in section 268.044, or provided erroneous information, the commissioner
 22.3 may accept an applicant certification as to wage credits, based upon the applicant's
 22.4 records, and issue a determination of benefit account.

22.5 (d) The commissioner may, at any time within 24 months from the establishment of
 22.6 a benefit account, reconsider any determination of benefit account and make an amended
 22.7 determination if the commissioner finds that the determination was incorrect for any
 22.8 reason. An amended determination ~~shall~~ must be promptly sent to the applicant and all
 22.9 base period employers, by mail or electronic transmission.

22.10 (e) If an amended determination of benefit account reduces the weekly
 22.11 unemployment benefit amount or maximum amount of unemployment benefits available,
 22.12 any unemployment benefits that have been paid greater than the applicant was entitled is
 22.13 considered an overpayment of unemployment benefits ~~under section 268.18, subdivision~~
 22.14 ~~4~~. A determination or amended determination issued under this section that results in an
 22.15 overpayment of unemployment benefits must set out the amount of the overpayment and
 22.16 the requirement under section 268.18, subdivision 1, that the overpaid unemployment
 22.17 benefits must be repaid.

22.18 **EFFECTIVE DATE.** This section applies to all determinations issued on or after
 22.19 September 30, 2007.

22.20 Sec. 6. Minnesota Statutes 2004, section 268.07, subdivision 3a, is amended to read:

22.21 Subd. 3a. **Right of appeal.** (a) A determination or amended determination of benefit
 22.22 account ~~shall be~~ is final unless an applicant or base period employer within ~~30~~ 20 calendar
 22.23 days after the sending of the determination or amended determination files an appeal.
 22.24 Every determination or amended determination of benefit account ~~shall~~ must contain a
 22.25 prominent statement indicating in clear language the consequences of not appealing.
 22.26 Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

22.27 (b) Any applicant or base period employer may appeal from a determination or
 22.28 amended determination of benefit account on the issue of whether services performed
 22.29 constitute employment and covered employment. Proceedings on the appeal ~~shall be~~ are
 22.30 conducted in accordance with section 268.105.

22.31 **EFFECTIVE DATE.** This section applies to determinations issued on or after
 22.32 September 30, 2007.

23.1 Sec. 7. Minnesota Statutes 2005 Supplement, section 268.085, subdivision 5, is
 23.2 amended to read:

23.3 Subd. 5. **Deductible earnings.** (a) If the applicant has earnings, including
 23.4 holiday pay, with respect to any week, from employment, covered employment,
 23.5 noncovered employment, self-employment, or volunteer work, equal to or in excess of
 23.6 the applicant's weekly unemployment benefit amount, the applicant ~~shall be~~ is ineligible
 23.7 for unemployment benefits for that week.

23.8 (b) If the applicant has earnings, with respect to any week, that is less than
 23.9 the applicant's weekly unemployment benefit amount, from employment, covered
 23.10 employment, noncovered employment, self-employment, or volunteer work, ~~that amount~~
 23.11 ~~over the following shall be~~ 55 percent of the earnings are deducted from the weekly
 23.12 unemployment benefit amount.

23.13 ~~(1) 25 percent of earnings or \$50, whichever is higher, and~~

23.14 ~~(2) \$200 for earnings from service in the National Guard or a United States military~~
 23.15 ~~reserve unit.~~

23.16 The resulting unemployment benefit, if not a whole dollar, ~~shall be~~ is rounded down
 23.17 to the next lower whole dollar.

23.18 (c) No deduction ~~shall be~~ is made from an applicant's weekly unemployment benefit
 23.19 amount for earnings from service in the National Guard or a United States military reserve
 23.20 unit or from direct service as a volunteer firefighter or volunteer ambulance service
 23.21 personnel. This exception to paragraphs (a) and (b) does not apply to on-call or standby
 23.22 pay provided to a volunteer firefighter or volunteer ambulance service personnel. No
 23.23 deduction ~~shall be~~ is made for jury duty pay or for pay as an election judge.

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

23.26 (e) Deductible earnings ~~shall~~ does not include any money considered a deductible
 23.27 payment under subdivision 3, but ~~shall include~~ includes all ~~other money compensation~~
 23.28 considered wages under section 268.035, subdivision 29, and any other ~~money~~
 23.29 compensation considered earned income under state and federal law for income tax
 23.30 purposes.

23.31 **EFFECTIVE DATE.** The striking of paragraph (b), clause (2), and the insertion
 23.32 of "service in the National Guard or a United States military reserve unit or from" in
 23.33 paragraph (c) are effective the Sunday following final enactment. The remainder of
 23.34 the section is effective for all unemployment benefits paid on or after September 30,
 23.35 2007, regardless of when the continued request was filed or the week for which the
 23.36 unemployment benefits are paid.

24.1 Sec. 8. Minnesota Statutes 2004, section 268.101, subdivision 6, is amended to read:

24.2 Subd. 6. **Overpayment.** A determination or amended determination that holds an
24.3 applicant ~~disqualified or ineligible~~ for unemployment benefits for periods an applicant
24.4 has been paid benefits is considered an overpayment of those unemployment benefits
24.5 ~~under section 268.18, subdivision 1.~~ A determination or amended determination issued
24.6 under this section that results in an overpayment of unemployment benefits must set out
24.7 the amount of the overpayment and the requirement under section 268.18, subdivision 1,
24.8 that the overpaid unemployment benefits must be repaid.

24.9 **EFFECTIVE DATE.** This section applies to determinations issued on or after
24.10 September 30, 2007.

24.11 Sec. 9. Minnesota Statutes 2005 Supplement, section 268.105, subdivision 2, is
24.12 amended to read:

24.13 Subd. 2. **Request for reconsideration.** (a) Any involved applicant, involved
24.14 employer, or the commissioner may, within ~~30~~20 calendar days of the sending of the
24.15 unemployment law judge's decision under subdivision 1, file a request for reconsideration
24.16 asking the unemployment law judge to reconsider that decision. Section 268.103 ~~shall~~
24.17 ~~apply~~ applies to a request for reconsideration. If a request for reconsideration is timely
24.18 filed, the unemployment law judge ~~shall~~ must issue an order:

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

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

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

24.23 (b) Upon a timely request for reconsideration having been filed, the department ~~shall~~
24.24 must send a notice, by mail or electronic transmission, to all involved parties that a request
24.25 for reconsideration has been filed. The notice ~~shall~~ must inform the involved parties:

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

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

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

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

24.35 This paragraph ~~shall~~ does not apply if paragraph (d) is applicable.

25.1 (c) In deciding a request for reconsideration, the unemployment law judge ~~shall~~ must
25.2 not, except for purposes of determining whether to order an additional evidentiary hearing,
25.3 consider any evidence that was not submitted at the evidentiary hearing conducted under
25.4 subdivision 1.

25.5 The unemployment law judge must order an additional evidentiary hearing if an
25.6 involved party shows that evidence which was not submitted at the evidentiary hearing:
25.7 (1) would likely change the outcome of the decision and there was good cause for not
25.8 having previously submitted that evidence; or (2) would show that the evidence that was
25.9 submitted at the evidentiary hearing was likely false and that the likely false evidence had
25.10 an effect on the outcome of the decision.

25.11 (d) If the involved applicant or involved employer who filed the request for
25.12 reconsideration failed to participate in the evidentiary hearing conducted under subdivision
25.13 1, an order setting aside the findings of fact and decision and directing that an additional
25.14 evidentiary hearing be conducted must be issued if the party who failed to participate
25.15 had good cause for failing to do so. In the notice of the request for reconsideration, the
25.16 party who failed to participate ~~shall~~ must be informed of the requirement, and provided
25.17 the opportunity, to show good cause for failing to participate. If the unemployment
25.18 law judge determines that good cause for failure to participate has not been shown, the
25.19 unemployment law judge must state that in the order issued under paragraph (a).

25.20 Submission of a written statement at the evidentiary hearing under subdivision 1
25.21 ~~shall~~ does not constitute participation for purposes of this paragraph.

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

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

25.26 (e) A request for reconsideration ~~shall~~ must be decided by the unemployment
25.27 law judge who issued the findings of fact and decision under subdivision 1 unless that
25.28 unemployment law judge: (1) is no longer employed by the department; (2) is on an
25.29 extended or indefinite leave; (3) has been disqualified from the proceedings on the judge's
25.30 own motion; or (4) has been removed from the proceedings as provided for under
25.31 subdivision 1 or applicable rule.

25.32 (f) The unemployment law judge ~~shall~~ must send to any involved applicant or
25.33 involved employer, by mail or electronic transmission, the order issued under this
25.34 subdivision. An order modifying the previously issued findings of fact and decision or
25.35 an order affirming the previously issued findings of fact and decision ~~shall be~~ is the final

26.1 department decision on the matter and ~~shall be~~ is final and binding on the involved
 26.2 applicant and involved employer unless judicial review is sought under subdivision 7.

26.3 **EFFECTIVE DATE.** This section applies to decisions issued on or after September
 26.4 30, 2007.

26.5 Sec. 10. Minnesota Statutes 2005 Supplement, section 268.105, subdivision 3a,
 26.6 is amended to read:

26.7 Subd. 3a. **Decisions.** (a) If an unemployment law judge's decision or order allows
 26.8 unemployment benefits to an applicant, the unemployment benefits ~~shall~~ must be paid
 26.9 regardless of any request for reconsideration or any appeal to the Minnesota Court of
 26.10 Appeals having been filed.

26.11 (b) If an unemployment law judge's decision or order modifies or reverses a
 26.12 determination, or prior decision of the unemployment law judge, allowing unemployment
 26.13 benefits to an applicant, any benefits paid ~~pursuant to~~ in accordance with the determination,
 26.14 or prior decision of the unemployment law judge, is considered an overpayment of those
 26.15 unemployment benefits ~~under section 268.18, subdivision 1.~~ A decision or order issued
 26.16 under this section that results in an overpayment of unemployment benefits must set out
 26.17 the amount of the overpayment and the requirement under section 268.18, subdivision 1,
 26.18 that the overpaid unemployment benefits must be repaid.

26.19 (c) If an unemployment law judge's order under subdivision 2 allows unemployment
 26.20 benefits to an applicant under section 268.095 because of a quit or discharge and the
 26.21 unemployment law judge's decision is reversed by the Minnesota Court of Appeals or
 26.22 the Supreme Court of Minnesota, any unemployment benefits paid the applicant ~~shall~~ is
 26.23 ~~not be~~ considered an overpayment of those unemployment benefits under section 268.18,
 26.24 subdivision 1.

26.25 (d) If an unemployment law judge, ~~pursuant to~~ under subdivision 2, orders the taking
 26.26 of additional evidence, the unemployment law judge's prior decision ~~shall~~ must continue
 26.27 to be enforced until new findings of fact and decision are made by the unemployment
 26.28 law judge.

26.29 **EFFECTIVE DATE.** This section applies to decisions issued on or after September
 26.30 30, 2007.

26.31 Sec. 11. Minnesota Statutes 2004, section 268.131, subdivision 1, is amended to read:

26.32 Subdivision 1. **Cooperation with other state and federal government states on**
 26.33 **combining wages.** (a) In accordance with the requirements of United States Code, title

27.1 26, section 3304(a)(9)(B), the Federal Unemployment Tax Act, the commissioner shall
 27.2 participate in reciprocal arrangements with other states and the federal government, or
 27.3 both, for the payment of unemployment benefits on the basis of combining an applicant's
 27.4 wages and employment covered under this law with wages and employment covered
 27.5 under the unemployment insurance programs of other states or the federal government that
 27.6 from multiple states for the purposes of collecting unemployment benefits from a single
 27.7 state. The reciprocal agreement must include provisions for applying the base period of a
 27.8 single state law to an a benefit account involving the combining of an applicant's wages
 27.9 and employment and avoiding the duplicate use of wages by reason of such combining.
 27.10 ~~No~~ The commissioner may not enter into any reciprocal arrangement shall be entered
 27.11 into unless it contains provisions for reimbursements to the trust fund, by the other
 27.12 state or the federal government, for unemployment benefits paid from the trust fund to
 27.13 applicants based upon wages and employment covered under the laws of the other state or
 27.14 the federal government.

27.15 (b) The commissioner is authorized to pay unemployment benefits based upon an
 27.16 applicant's wages paid in covered employment in another state only under the following
 27.17 conditions:

27.18 (1) the applicant is combining Minnesota wage credits with the wages paid in
 27.19 covered employment from another state or states; or

27.20 (2) the applicant is combining wages paid in covered employment from two or more
 27.21 states, not including Minnesota, but only if the applicant is a resident of Minnesota and is
 27.22 actually living in Minnesota at the time the application for unemployment benefits is filed.

27.23 (c) On any reciprocal arrangement, the wages paid an applicant from employment
 27.24 covered under an unemployment insurance program of another state or of the federal
 27.25 government, shall be are considered wages from covered employment for the purpose
 27.26 of determining the applicant's rights to unemployment benefits under the Minnesota
 27.27 Unemployment Insurance Law.

27.28 **EFFECTIVE DATE.** This section is effective for applications for unemployment
 27.29 benefits filed on or after September 30, 2007.

27.30 Sec. 12. Minnesota Statutes 2005 Supplement, section 268.18, subdivision 1, is
 27.31 amended to read:

27.32 Subdivision 1. **Nonfraud overpayment.** (a) Any applicant who (1) ~~by reason of the~~
 27.33 ~~applicant's own mistake, or (2) because of an error by any employee of the department, or~~
 27.34 ~~(3) because of a determination or amended determination issued pursuant to~~ under section
 27.35 268.07 or 268.101, or any other section of this chapter, or (4) (2) because of an appeal

28.1 decision or order under section 268.105, has received any unemployment benefits that the
 28.2 applicant was held not entitled to, ~~shall~~ must promptly repay the unemployment benefits
 28.3 to the trust fund. ~~The commissioner shall, as soon as the overpayment is discovered,~~
 28.4 ~~determine the amount due and notify the applicant to repay the unemployment benefits.~~

28.5 (b) ~~Unless the applicant files an appeal within 30 calendar days after the sending~~
 28.6 ~~of the determination of overpayment to the applicant by mail or electronic transmission,~~
 28.7 ~~the determination shall become final. Proceedings on the appeal shall be conducted in~~
 28.8 ~~accordance with section 268.105. An applicant may not collaterally attack, by way of an~~
 28.9 ~~appeal to an overpayment determination, any prior determination issued pursuant to section~~
 28.10 ~~268.07 or 268.101, or decision issued pursuant to section 268.105, that has become final.~~

28.11 (c) If the applicant fails to repay the unemployment benefits ~~determined~~ overpaid
 28.12 ~~under this subdivision~~, the commissioner may offset from any future unemployment
 28.13 benefits otherwise payable the amount of the overpayment. Except when the overpayment
 28.14 resulted because the applicant failed to report deductible earnings or deductible or
 28.15 benefit delaying payments, no single offset ~~shall~~ may exceed 50 percent of the amount
 28.16 of the payment from which the offset is made. The overpayment may also be collected
 28.17 by the same methods as delinquent payments from an employer. ~~A determination of~~
 28.18 ~~overpayment shall state the methods of collection the commissioner may use to recover~~
 28.19 ~~the overpayment.~~

28.20 (d) (c) If an applicant has been overpaid unemployment benefits under the law of
 28.21 another state, ~~due to~~ because of a reason other than fraud, and that state certifies that the
 28.22 applicant is liable under its law to repay the unemployment benefits and requests the
 28.23 commissioner to recover the overpayment, the commissioner may offset from future
 28.24 unemployment benefits otherwise payable the amount of overpayment, except that no
 28.25 single offset ~~shall~~ may exceed 50 percent of the amount of the payment from which the
 28.26 offset is made.

28.27 (e) (d) If under paragraph (b) or (c) ~~or (d)~~ the reduced unemployment benefits as
 28.28 a result of a 50 percent offset is not a whole dollar amount, it ~~shall be~~ is rounded down
 28.29 to the next lower whole dollar.

28.30 (f) ~~Unemployment benefits paid for weeks more than three years prior to the date~~
 28.31 ~~of a determination of overpayment issued under this subdivision shall not be considered~~
 28.32 ~~overpaid unemployment benefits.~~

28.33 **EFFECTIVE DATE.** This section is effective September 30, 2007.

28.34 Sec. 13. Minnesota Statutes 2005 Supplement, section 268.18, subdivision 2b, is
 28.35 amended to read:

29.1 Subd. 2b. **Interest.** (a) On any unemployment benefits fraudulently obtained,
 29.2 and any penalty amounts assessed under subdivision 2, the commissioner ~~may~~ shall
 29.3 assess interest at the rate of 1-1/2 percent per month on any amount that remains unpaid
 29.4 beginning 30 calendar days after the date of the determination of overpayment by fraud. A
 29.5 determination of overpayment by fraud ~~shall~~ must state that interest ~~shall~~ will be assessed.

29.6 (b) ~~If this subdivision became effective after the date of the determination, or the~~
 29.7 ~~determination did not state that interest shall will be assessed, interest shall be~~ is assessed
 29.8 beginning 30 calendar days after notification, by mail or electronic transmission, to the
 29.9 applicant that interest is now assessed.

29.10 (c) Interest payments under this section ~~shall be~~ are credited to the administration
 29.11 account.

29.12 **EFFECTIVE DATE.** This section is effective September 30, 2007, and applies to
 29.13 all outstanding fraud overpayment balances as of that date.

29.14 Sec. 14. Minnesota Statutes 2004, section 268.18, subdivision 4, is amended to read:

29.15 Subd. 4. **Cancellation of overpayments.** (a) If unemployment benefits determined
 29.16 overpaid under subdivision 1 are not repaid or offset from subsequent unemployment
 29.17 benefits as provided for in subdivision 1 within six years after the date of the determination
 29.18 of overpayment, the commissioner shall cancel the overpayment balance, and no
 29.19 administrative or legal proceedings ~~shall~~ may be used to enforce collection of those
 29.20 amounts.

29.21 (b) If unemployment benefits determined overpaid under subdivision 2 including
 29.22 penalties and interest are not repaid ~~or offset from subsequent unemployment benefits as~~
 29.23 ~~provided for in subdivision 2~~ within ~~ten~~ 15 years after the date of the determination of
 29.24 overpayment by fraud, the commissioner shall cancel the overpayment balance and any
 29.25 penalties and interest due, and no administrative or legal proceeding ~~shall~~ may be used to
 29.26 enforce collection of those amounts.

29.27 (c) The commissioner may cancel at any time any overpayment, including penalties
 29.28 and interest, that the commissioner determines is uncollectible ~~due to~~ because of death
 29.29 or bankruptcy.

29.30 **EFFECTIVE DATE.** This section is effective September 30, 2007, and applies to
 29.31 all overpayments existing as of that date.

29.32 Sec. 15. Minnesota Statutes 2005 Supplement, section 268.182, subdivision 2, is
 29.33 amended to read:

30.1 Subd. 2. **Administrative penalties.** Any applicant who knowingly makes a false
 30.2 statement or representation, who knowingly fails to disclose a material fact, or who makes
 30.3 a false statement or representation without a good faith belief as to the correctness of the
 30.4 statement or representation, in order to obtain or in an attempt to obtain unemployment
 30.5 benefits may be assessed, in addition to any other penalties, an administrative penalty of
 30.6 being ineligible for unemployment benefits for 13 to 104 weeks. A determination of
 30.7 ineligibility setting out the weeks the applicant ~~shall be~~ is ineligible ~~shall~~ must be sent to
 30.8 the applicant by mail or electronic transmission. Unless an appeal is filed within ~~30~~ 20
 30.9 calendar days of sending, the determination ~~shall be~~ is final. ~~Proceeding~~ Proceedings on
 30.10 the appeal ~~shall be~~ are conducted in accordance with section 268.105.

30.11 **EFFECTIVE DATE.** This section applies to determinations issued on or after
 30.12 September 30, 2007.

30.13 Sec. 16. Minnesota Statutes 2005 Supplement, section 268.184, subdivision 1, is
 30.14 amended to read:

30.15 Subdivision 1. **Administrative penalties.** (a) If the commissioner finds that any
 30.16 employer or any employee, officer, or agent of any employer, is in collusion with any
 30.17 applicant for the purpose of assisting the applicant to receive unemployment benefits
 30.18 fraudulently, the employer ~~shall~~ must be penalized \$500 or the amount of unemployment
 30.19 benefits determined to be overpaid, whichever is greater.

30.20 (b) If the commissioner finds that any employer or any employee, officer, or agent
 30.21 of an employer has made (1) a false statement or representation knowing it to be false,
 30.22 including reporting employees on a wage detail report under section 268.044 knowing
 30.23 the employees actually are employed by a different employer, or (2) has made a false
 30.24 statement or representation without a good faith belief as to correctness of the statement
 30.25 or representation, or (3) who knowingly fails to disclose a material fact, to prevent or
 30.26 reduce the payment of unemployment benefits to any applicant or to reduce or avoid any
 30.27 payment required from an employer under this chapter or section 116L.20, the employer
 30.28 ~~shall~~ must be penalized \$500, or 50 percent of the reduced unemployment benefits or
 30.29 payment required, whichever is greater.

30.30 (c) If the commissioner finds that an employer failed or refused to honor a subpoena
 30.31 issued under section 268.105, subdivision 4, or section 268.188, the employer ~~shall~~ must
 30.32 be penalized \$500 and any costs of enforcing the subpoena, including attorney fees.

30.33 (d) Penalties under this subdivision ~~shall be~~ are in addition to any other penalties
 30.34 and subject to the same collection procedures that apply to past due taxes. Penalties ~~shall~~

31.1 must be paid to the department within 30 calendar days of assessment and credited to
31.2 the contingent account.

31.3 (e) The assessment of the penalty ~~shall be~~ is final unless the employer files an appeal
31.4 within ~~30~~ 20 calendar days after the sending of notice of the penalty to the employer by
31.5 mail or electronic transmission. Proceedings on the appeal ~~shall be~~ are conducted in
31.6 accordance with section 268.105.

31.7 **EFFECTIVE DATE.** This section applies to assessments made on or after
31.8 September 30, 2007.

31.9 Sec. 17. Minnesota Statutes 2005 Supplement, section 268.184, subdivision 1a,
31.10 is amended to read:

31.11 Subd. 1a. **Notification and misreporting penalties.** (a) If the commissioner finds
31.12 that any employer or agent of an employer failed to meet the notification requirements
31.13 of section 268.051, subdivision 4, the employer ~~shall~~ must be assessed a penalty of
31.14 \$5,000 or two percent of the first full quarterly payroll acquired, whichever is higher.
31.15 Payroll is wages paid as defined in section 268.035, subdivision 30. The penalty under
31.16 this paragraph ~~shall~~ must be canceled if the commissioner determines that the failure
31.17 occurred because of ignorance or inadvertence.

31.18 (b) If the commissioner finds that any individual advised an employer to violate the
31.19 employer's notification requirements under section 268.051, subdivision 4, the individual,
31.20 and that individual's employer, ~~shall~~ must each be assessed the penalty in paragraph (a).

31.21 (c) If the commissioner finds that any person or agent of a person violated the
31.22 reporting requirements of section 268.0435 or 268.046, the person ~~shall~~ must be assessed
31.23 a penalty of \$5,000 or two percent of the quarterly payroll reported in violation of section
31.24 268.0435 or 268.046, whichever is higher. Payroll is wages paid as defined in section
31.25 268.035, subdivision 30.

31.26 (d) Penalties under this subdivision ~~shall be~~ are in addition to any other penalties and
31.27 subject to the same collection procedures that apply to past due amounts from an employer.
31.28 Penalties must be paid within 30 calendar days after sending of the notice of penalty.

31.29 (e) The assessment of a penalty ~~shall be~~ is final unless the person assessed files an
31.30 appeal within ~~30~~ 20 calendar days after sending of the notice of the penalty by mail or
31.31 electronic transmission. Proceedings on the appeal ~~shall be~~ are conducted in accordance
31.32 with section 268.105.

31.33 **EFFECTIVE DATE.** This section applies to assessments done on or after
31.34 September 30, 2007.

32.1 Sec. 18. [268.215] DAY OF THE WEEK AND DATE REQUIREMENT.

32.2 (a) Every determination issued under this chapter that is subject to an appeal to an
 32.3 unemployment law judge must indicate the day of the week and the date, for example,
 32.4 Tuesday, August 1, 2006, that the determination is final and no longer subject to an appeal.

32.5 (b) Every decision issued by an unemployment law judge under section 268.105,
 32.6 subdivision 1, must indicate the day of the week and the date, for example, Tuesday,
 32.7 August 1, 2006, that the decision is final and no longer subject to reconsideration.

32.8 EFFECTIVE DATE. This section is effective September 30, 2007.

32.9 Sec. 19. REVISOR'S INSTRUCTION.

32.10 In Minnesota Statutes, sections 268.064, subdivision 2, and 268.101, the revisor of
 32.11 statutes shall change the term "30 calendar days" to "20 calendar days" in each place
 32.12 that it appears.

32.13 EFFECTIVE DATE. This change applies to determinations issued on or after
 32.14 September 30, 2007.

32.15 **ARTICLE 3**

32.16 **HOUSEKEEPING PROVISIONS**

32.17 Section 1. Minnesota Statutes 2004, section 268.035, subdivision 1, is amended to read:

32.18 Subdivision 1. **Scope.** ~~Unless the language or context clearly indicates that a~~
 32.19 ~~different meaning is intended,~~ The words, terms, and phrases in this section ~~shall~~, for the
 32.20 purposes of the Minnesota Unemployment Insurance Law, have the meaning stated.

32.21 Sec. 2. Minnesota Statutes 2005 Supplement, section 268.035, subdivision 14, is
 32.22 amended to read:

32.23 Subd. 14. **Employer.** "Employer" means any person ~~which~~ that has had one or more
 32.24 employees during the current or the prior calendar year including any person that has
 32.25 elected, under section 268.042, to be subject to the Minnesota Unemployment Insurance
 32.26 Law and a joint venture composed of one or more employers.

32.27 An employee leasing company, professional employer organization, or similar
 32.28 person that has been assigned a tax ~~or reimbursable~~ account under section 268.046 is
 32.29 an employer for purposes of this chapter.

32.30 Sec. 3. Minnesota Statutes 2004, section 268.035, subdivision 24, is amended to read:

33.1 Subd. 24. **Taxable wages.** (a) "Taxable wages" means those wages paid to an
 33.2 employee in covered employment each calendar year up to an amount equal to 60 percent
 33.3 of the state's average annual wage, rounded to the nearest \$1,000.

33.4 (b) Taxable wages includes the amount of wages paid for covered employment by
 33.5 the employer's predecessor when there has been an experience rating history transfer
 33.6 under section 268.051, subdivision 4.

33.7 Sec. 4. Minnesota Statutes 2005 Supplement, section 268.044, subdivision 1, is
 33.8 amended to read:

33.9 Subdivision 1. **Wage detail report.** (a) Each employer that has employees in
 33.10 covered employment ~~shall~~ must submit, under the account provided for in section
 33.11 268.045 or 268.046, a quarterly wage detail report by electronic transmission, in a format
 33.12 prescribed by the commissioner. The report ~~shall~~ must include for each employee in
 33.13 covered employment, the employee's name, Social Security number, the total wages paid
 33.14 to the employee, and total number of paid hours worked. For employees exempt from
 33.15 the definition of employee in section 177.23, subdivision 7, clause (6), the employer
 33.16 ~~shall~~ must report 40 hours worked for each week any duties were performed by a full-time
 33.17 employee and ~~shall~~ must report a reasonable estimate of the hours worked for each week
 33.18 duties were performed by a part-time employee. In addition, the wage detail report ~~shall~~
 33.19 must include the number of employees employed on the 12th day of each calendar month
 33.20 and, if required by the commissioner, the report ~~shall~~ must be broken down by business
 33.21 location and, if section 268.046, subdivision 1, paragraph (b), or subdivision 2, paragraph
 33.22 (b), applies, by separate unit. ~~If the information required is not submitted in a manner and~~
 33.23 ~~format prescribed by the commissioner, it shall not be considered a wage detail report.~~
 33.24 The report is due and must be received by the commissioner on or before the last day of
 33.25 the month following the end of the calendar quarter. The commissioner may delay the
 33.26 due date on a specific calendar quarter in the event the department is unable to accept
 33.27 wage detail reports electronically.

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

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

33.32 (d) A wage detail report must be submitted for each calendar quarter even though
 33.33 no wages were paid, unless the employer has notified the commissioner, under section
 33.34 268.042, subdivision 1, paragraph (c), of termination of business.

34.1 Sec. 5. Minnesota Statutes 2005 Supplement, section 268.044, subdivision 3, is
34.2 amended to read:

34.3 Subd. 3. **Missing or erroneous information.** (a) Any employer that submits the
34.4 wage detail report, but fails to include all employee information or enters erroneous
34.5 information, ~~shall be~~ is subject to an administrative service fee of \$25 for each employee
34.6 for whom the information is partially missing or erroneous.

34.7 (b) Any employer that submits the wage detail report, but fails to include an
34.8 employee, ~~shall be~~ is subject to an administrative service ~~penalty~~ fee equal to two percent
34.9 of the total wages for each employee for whom the information is completely missing.

34.10 (c) An administrative service fee ~~or penalty~~ under this subdivision ~~shall~~ must be
34.11 canceled if the commissioner determines that the failure or error by the employer occurred
34.12 because of ignorance or inadvertence.

34.13 Sec. 6. Minnesota Statutes 2004, section 268.051, subdivision 2, is amended to read:

34.14 Subd. 2. **Computation of tax rates; additional assessments.** (a) For each calendar
34.15 year the commissioner shall compute the tax rate of each taxpaying employer that qualifies
34.16 for an experience rating by adding the base tax rate to the employer's experience rating
34.17 along with assigning any appropriate additional assessment under paragraph (d).

34.18 (b) The base tax rate for the calendar year and any additional assessments under this
34.19 subdivision ~~shall be~~ are determined based upon the amount in the trust fund on March
34.20 31 of the prior year as a percentage of total wages paid in covered employment. The
34.21 base tax rate ~~shall be~~ is:

34.22 (1) one-tenth of one percent if the trust fund is equal to or more than 0.75 percent;

34.23 (2) two-tenths of one percent if the trust fund is less than 0.75 percent but equal to or
34.24 more than 0.65 percent;

34.25 (3) three-tenths of one percent if the trust fund is less than 0.65 percent but equal
34.26 to or more than 0.55 percent; or

34.27 (4) four-tenths of one percent if the trust fund is less than 0.55 percent.

34.28 (c) There ~~shall be~~ is a "falling trust fund adjustment" to the base tax rate for the
34.29 calendar year if the amount in the trust fund on March 31 of the prior year is less than 0.75
34.30 percent of total wages paid in covered employment and:

34.31 (1) the amount in the trust fund on March 31 of the prior year is ten percent or more
34.32 below the amount in the trust fund on March 31 of the year ~~prior to~~ before that; or

34.33 (2) the amount in the trust fund on March 31 of the prior year is greater than the
34.34 amount in the trust fund on June 30 of that same year.

35.1 If a "falling trust fund adjustment" is applicable, then the base tax rate ~~shall be 0.1~~ is
 35.2 one-tenth of one percent greater than otherwise provided for under paragraph (b).

35.3 (d) In addition to the base tax rate ~~under paragraph (b)~~, there ~~shall be~~ is an additional
 35.4 assessment for the calendar year on ~~all~~ the quarterly unemployment taxes due from every
 35.5 taxpaying employer if the amount in the trust fund on March 31 of the prior year is less
 35.6 than ~~.55~~ 0.55 percent of total wages paid in covered employment. The assessment ~~shall be~~
 35.7 is as follows:

35.8 (1) a five percent assessment if the trust fund is less than 0.55 percent but equal to or
 35.9 more than 0.45 percent;

35.10 (2) a ten percent assessment if the trust fund is less than 0.45 percent but equal
 35.11 to or more than 0.35 percent; or

35.12 (3) a 14 percent assessment if the trust fund is less than 0.35 percent.

35.13 (e) For the purposes of this subdivision, the trust fund ~~shall~~ does not include any
 35.14 money borrowed from the federal unemployment trust fund ~~pursuant to~~ provided for in
 35.15 section 268.194, subdivision 6.

35.16 (f) For the purposes of this subdivision, total wages paid in covered employment
 35.17 ~~shall be~~ are those wages paid to all employees in covered employment during the calendar
 35.18 year ~~prior to~~ before the March 31 date used in paragraph (b).

35.19 ~~(g) The commissioner may compute any assessment under this subdivision, and any~~
 35.20 ~~assessment under subdivision 8, as a percentage of the employer's experience rating and~~
 35.21 ~~the base tax rate, rounded to the nearest hundredth of a percent.~~

35.22 ~~On tax rate notices sent under subdivision 6, any assessments under this subdivision~~
 35.23 ~~may be combined with any special assessments for interest on federal loans provided for~~
 35.24 ~~in subdivision 8 into a single combined assessment.~~

35.25 (g) The base tax rate and any additional assessments are assessed on all taxpaying
 35.26 employers to cover a portion of the costs to the trust fund for unemployment benefits paid
 35.27 that do not affect any single employer's future experience rating because:

35.28 (1) the employer's experience rating is limited by the maximum under subdivision 3,
 35.29 paragraph (b);

35.30 (2) the employer has ceased doing business; or

35.31 (3) the unemployment benefits paid have been determined not to be used in
 35.32 computing the employer's experience rating under section 268.047, subdivision 2 or 3.

35.33 Sec. 7. Minnesota Statutes 2004, section 268.051, subdivision 3, is amended to read:

35.34 Subd. 3. **Computation of a taxpaying employer's experience rating.** (a) On
 35.35 or before each December 15, the commissioner shall compute an experience rating for

36.1 each taxpaying employer who has been ~~subject required~~ to ~~paying unemployment taxes~~
 36.2 file wage detail reports for the 12 calendar months ending on the prior June 30. The
 36.3 experience rating computed ~~shall be~~ is applicable for the following calendar year.

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

36.8 (b) The experience rating ~~shall be~~ is computed to the nearest one-hundredth of a
 36.9 percent, to a maximum of 8.90 percent.

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

36.15 Sec. 8. Minnesota Statutes 2005 Supplement, section 268.051, subdivision 4, is
 36.16 amended to read:

36.17 Subd. 4. **Experience rating history transfer.** (a) When:

36.18 (1) a taxpaying employer acquires all of the organization, trade or business, or
 36.19 workforce of another taxpaying employer; and

36.20 (2) there is 25 percent or more common ownership or there is substantially common
 36.21 management or control between the predecessor and successor, the experience rating
 36.22 history of the predecessor employer ~~shall be~~ is transferred as of the date of acquisition to
 36.23 the successor employer.

36.24 (b) When:

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

36.27 (2) there is 25 percent or more common ownership or there is substantially
 36.28 common management or control between the predecessor and successor, the successor
 36.29 employer ~~shall acquire~~ acquires, as of the date of acquisition, the experience rating
 36.30 history attributable to the portion it acquired, and the predecessor employer ~~shall retain~~
 36.31 retains the experience rating history attributable to the portion that it has retained. If the
 36.32 commissioner determines that sufficient information is not available to substantiate that a
 36.33 distinct severable portion was acquired and to assign the appropriate distinct severable
 36.34 portion of the experience rating history, the commissioner shall assign the successor
 36.35 employer that percentage of the predecessor employer's experience rating history equal to

37.1 that percentage of the employment positions it has obtained, and the predecessor employer
 37.2 ~~shall retain~~ retains that percentage of the experience rating history equal to the percentage
 37.3 of the employment positions it has retained.

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

37.7 (d) Each successor employer that is subject to paragraph (a) or (b) must notify the
 37.8 commissioner of the acquisition by electronic transmission, in a format prescribed by the
 37.9 commissioner, within 30 calendar days of the date of acquisition. Any successor employer
 37.10 that fails to notify the commissioner is subject to the penalties under section 268.184,
 37.11 subdivision 1a, if the successor's experience rating was lower than the predecessor's
 37.12 experience rating at the time of the acquisition. Payments made toward the penalties
 37.13 ~~shall be~~ are credited to the administration account to be used to ensure integrity in the
 37.14 unemployment insurance program.

37.15 (e) If the successor employer under paragraphs (a) and (b) had an experience rating
 37.16 at the time of the acquisition, the transferred experience rating history of the predecessor
 37.17 ~~shall be~~ is combined with the successor's experience rating history, as of the date of
 37.18 acquisition, for purposes of recomputing a tax rate.

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

37.23 (g) The commissioner, upon notification of an employer, or upon the commissioner's
 37.24 own motion if the employer fails to provide the required notification, shall determine if an
 37.25 employer is a successor within the meaning of this subdivision. The commissioner shall,
 37.26 after determining the issue of succession or nonsuccession, recompute the tax rate under
 37.27 subdivision 6 of all employers affected. The commissioner shall send the recomputed
 37.28 tax rate to all affected employers by mail or electronic transmission. Any affected
 37.29 employer may ~~protest~~ appeal the recomputed tax rate in accordance with the procedures
 37.30 in subdivision 6, paragraph (c).

37.31 (h) The "experience rating history" for purposes of this subdivision and subdivision
 37.32 4a means ~~those factors set out in subdivision 3, paragraph (b), that make up an experience~~
 37.33 rating the amount of unemployment benefits paid and the taxable wages that are being
 37.34 used and would be used in computing the current and any future experience rating.

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

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

38.6 (i) Regardless of the ownership, management, or control requirements of paragraph
38.7 (a), if there is an acquisition or merger of a publicly held corporation by or with another
38.8 publicly held corporation the experience rating histories of the corporations ~~shall be~~ are
38.9 combined as of the date of acquisition or merger for the purpose of recomputing a tax rate.

38.10 Sec. 9. Minnesota Statutes 2005 Supplement, section 268.051, subdivision 7, is
38.11 amended to read:

38.12 Subd. 7. **Tax rate buydown.** (a) Any taxpaying employer ~~who~~ that has been
38.13 assigned a tax rate based upon an experience rating, and has no amounts past due under
38.14 this chapter, may, upon the ~~voluntary~~ payment of an amount equivalent to any portion or
38.15 all of the unemployment benefits used in computing the experience rating plus a surcharge
38.16 of 25 percent, obtain a cancellation of unemployment benefits used equal to the payment
38.17 made, less the surcharge. Upon the payment, the commissioner shall compute a new
38.18 experience rating for the employer, and compute a new tax rate.

38.19 (b) ~~Voluntary~~ Payments for a tax rate buydown may be made only by electronic
38.20 payment and must be received within 120 calendar days from the beginning of the
38.21 calendar year for which the tax rate is effective.

38.22 Sec. 10. Minnesota Statutes 2004, section 268.051, subdivision 8, is amended to read:

38.23 Subd. 8. **Special assessment for interest on federal loan.** (a) If on October 31 of
38.24 any year, the commissioner, in consultation with the commissioner of finance, determines
38.25 that an interest payment will be due during the following calendar year on any loan from
38.26 the federal unemployment trust fund under section 268.194, subdivision 6, a special
38.27 assessment on taxpaying employers will be in effect for the following calendar year. The
38.28 legislature authorizes the commissioner, in consultation with the commissioner of finance,
38.29 to determine the appropriate level of the assessment, from two percent to eight percent of
38.30 the total quarterly unemployment taxes due based upon determined rates and assigned
38.31 assessments under subdivision 2, that will be necessary to pay the interest due on the loan.

38.32 (b) The special assessment ~~shall~~ must be placed into a special account from which
38.33 the commissioner shall pay any interest that has accrued on any loan from the federal
38.34 unemployment trust fund provided for under section 268.194, subdivision 6. If, at the

39.1 end of each calendar quarter, the commissioner, in consultation with the commissioner
 39.2 of finance, determines that the balance in this special account, including interest earned
 39.3 on the special account, is more than is necessary to pay the interest ~~which~~ that has
 39.4 accrued on any loan as of that date, or will accrue over the following calendar quarter,
 39.5 the commissioner shall immediately pay to the trust fund the amount in excess of that
 39.6 necessary to pay the interest on any loan.

39.7 Sec. 11. Minnesota Statutes 2004, section 268.066, is amended to read:

39.8 **268.066 CANCELLATION OF AMOUNTS DUE FROM AN EMPLOYER.**

39.9 (a) The commissioner shall cancel as uncollectible any amounts due from an
 39.10 employer under this chapter or section 116L.20, ~~which~~ that remain unpaid six years after
 39.11 the amounts have been first determined due, except where the delinquent amounts are
 39.12 secured by a notice of lien, a judgment, are in the process of garnishment, or are under a
 39.13 payment plan.

39.14 (b) The commissioner may cancel at any time as uncollectible any amount due, or
 39.15 any portion of an amount due, from an employer under this chapter or section 116L.20,
 39.16 that (1) are uncollectible due to death or bankruptcy, (2) the ~~Minnesota~~ Enterprise Collection
 39.17 Division of the Department of Revenue under section 16D.04 was unable to
 39.18 collect, or (3) the commissioner determines that it is not in the public interest to pursue
 39.19 collection of the amount due.

39.20 Sec. 12. Minnesota Statutes 2005 Supplement, section 268.07, subdivision 3b, is
 39.21 amended to read:

39.22 Subd. 3b. **Limitations on applications and benefit accounts.** (a) ~~A benefit~~
 39.23 ~~account shall be established~~ An application for unemployment benefits is effective the
 39.24 Sunday of the calendar week that the application for unemployment benefits was filed.
 39.25 Upon specific request of an applicant, an application for unemployment benefits may be
 39.26 backdated one calendar week ~~prior to~~ before the Sunday of the week the application
 39.27 was actually filed. An application ~~shall~~ may be backdated only if the applicant was
 39.28 unemployed throughout the period of the backdating. If an individual attempted to file
 39.29 an application for unemployment benefits, but was prevented from filing an application
 39.30 by the department, the ~~benefit account shall be~~ application is effective the Sunday of the
 31 calendar week the individual first attempted to file an application.

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

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

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

40.3 (2) the applicant has not served a the nonpayable waiting week under section
40.4 268.085, subdivision 1, clause (5).

40.5 A determination or amended determination ~~pursuant to~~ under section 268.101, that
40.6 was issued before the withdrawal of the benefit account, ~~shall remain~~ remains in effect
40.7 and ~~shall~~ is not be voided by the withdrawal of the benefit account. A determination of
40.8 ~~disqualification~~ ineligibility requiring subsequent earnings to satisfy the ~~disqualification~~
40.9 period of ineligibility under section 268.095, subdivision 10, ~~shall apply~~ applies to the
40.10 weekly unemployment benefit amount on the new benefit account.

40.11 ~~(c)~~ (d) An application for unemployment benefits ~~shall~~ is not be allowed ~~prior to~~
40.12 before the Sunday following the expiration of the benefit year on a prior benefit account.
40.13 Except as allowed under paragraph (b), a an applicant may establish only one benefit
40.14 account each 52 calendar weeks.

40.15 Sec. 13. Minnesota Statutes 2005 Supplement, section 268.085, subdivision 1, is
40.16 amended to read:

40.17 Subdivision 1. **Eligibility conditions.** An applicant ~~shall~~ may be eligible to receive
40.18 unemployment benefits for any week if:

40.19 (1) the applicant has an active benefit account and has filed a continued ~~biweekly~~
40.20 request for unemployment benefits for that week ~~pursuant to~~ under section 268.086;

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

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

40.24 (4) the applicant was able to work and was available for suitable employment, and
40.25 was actively seeking suitable employment. The applicant's weekly unemployment benefit
40.26 amount ~~shall be~~ is reduced one-fifth for each day the applicant is unable to work or is
40.27 unavailable for suitable employment. If the computation of the reduced unemployment
40.28 benefits is not a whole dollar, it ~~shall be~~ is rounded down to the next lower whole dollar.

40.29 This clause ~~shall~~ does not apply to an applicant who is in reemployment assistance
40.30 training, or each day the applicant is on jury duty or serving as an election judge;

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

41.1 (6) the applicant has been participating in reemployment assistance services, such as
 41.2 job search and resume writing classes, if the applicant has been determined in need of
 41.3 reemployment assistance services by the commissioner, unless ~~there is~~ the applicant has
 41.4 good cause for ~~the applicant's failure~~ failing to participate.

41.5 Sec. 14. Minnesota Statutes 2004, section 268.085, subdivision 9, is amended to read:

41.6 Subd. 9. **Business owners.** Wage credits from an employer may not be used for
 41.7 unemployment benefit purposes by any applicant who:

41.8 (1) individually, jointly, or in combination with the applicant's spouse, parent, or
 41.9 child owns or controls directly or indirectly 25 percent or more interest in the employer, or
 41.10 is the spouse, parent, or minor child of any individual who owns or controls directly or
 41.11 indirectly 25 percent or more interest in the employer; and

41.12 (2) is temporarily, seasonally, or indefinitely unemployed and not permanently
 41.13 separated from the employment.

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

41.16 Sec. 15. Minnesota Statutes 2005 Supplement, section 268.085, subdivision 13c,
 41.17 is amended to read:

41.18 Subd. 13c. **Offers of suitable employment.** (a) An applicant ~~shall be~~ is ineligible
 41.19 for all unemployment benefits for eight calendar weeks if the applicant, without good
 41.20 cause:

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

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

41.24 (3) avoided an offer of suitable employment.

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

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

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

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

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

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

42.7 (d) The period of ineligibility under this subdivision ~~and section 268.095 shall begin~~
42.8 begins the Sunday of the week the applicant failed to apply for, failed to accept, or avoided
42.9 suitable employment without good cause.

42.10 (e) This subdivision ~~and section 268.095 shall apply~~ applies to offers of suitable
42.11 employment that occur ~~prior to~~ before the effective date of the benefit account and that
42.12 occur during the benefit year.

42.13 (f) This subdivision ~~and section 268.095 shall only apply~~ applies to offers of suitable
42.14 employment that are considered covered employment under section 268.035, subdivision
42.15 12.

42.16 Sec. 16. Minnesota Statutes 2005 Supplement, section 268.086, subdivision 2, is
42.17 amended to read:

42.18 Subd. 2. **Continued ~~biweekly~~ request for unemployment benefits defined.** A
42.19 continued ~~biweekly~~ request for unemployment benefits is a certification by an applicant,
42.20 done on a weekly or biweekly basis as the commissioner designates, that the applicant is
42.21 unemployed and meets the ongoing eligibility requirements for unemployment benefits
42.22 under section 268.085 for a specific week or two-week period. A continued ~~biweekly~~
42.23 request ~~shall~~ must include information on possible issues of ~~eligibility and disqualification~~
42.24 ineligibility in accordance with section 268.101, subdivision 1, paragraph (c).

42.25 Sec. 17. Minnesota Statutes 2004, section 268.086, subdivision 7, is amended to read:

42.26 Subd. 7. **In-person continued ~~biweekly~~ request for unemployment benefits.** The
42.27 commissioner may require any applicant who has been designated to make a continued
42.28 ~~biweekly~~ request for unemployment benefits by ~~telephone~~, by electronic transmission; or
42.29 by mail to appear for a personal interview at a place, time, and date designated, during
42.30 which a written continued ~~biweekly~~ request for unemployment benefits form ~~shall~~ must be
42.31 completed and submitted by the applicant.

42.32 An applicant ~~shall be~~ is ineligible for unemployment benefits for the week or
42.33 biweekly period covered by a continued ~~biweekly~~ request and the benefit account ~~shall~~
42.34 be is considered inactive if the applicant fails, without good cause, to comply with the

43.1 requirement that the applicant appear for a personal interview and at that time complete
 43.2 and submit a written continued ~~biweekly~~ request form.

43.3 Sec. 18. Minnesota Statutes 2005 Supplement, section 268.105, subdivision 4, is
 43.4 amended to read:

43.5 Subd. 4. ~~Testimonial powers~~ Oaths; subpoenas. An unemployment law judge ~~may~~
 43.6 has authority to administer oaths and affirmations, take depositions, and issue subpoenas
 43.7 to compel the attendance of witnesses and the production of documents and other personal
 43.8 property considered necessary as evidence in connection with the subject matter of
 43.9 an evidentiary hearing. The subpoenas ~~shall be~~ are enforceable through the district
 43.10 court in ~~the district that the subpoena is issued~~ Ramsey County. Witnesses subpoenaed,
 43.11 other than an involved applicant or involved employer or officers and employees of an
 43.12 involved employer, ~~shall~~ must be paid by the department the same witness fees as in a
 43.13 civil action in district court.

43.14 Sec. 19. Minnesota Statutes 2004, section 268.188, is amended to read:

43.15 **268.188 SUBPOENAS; OATHS.**

43.16 (a) The commissioner ~~shall have power~~ has authority to administer oaths and
 43.17 affirmations, take depositions, certify to official acts, and issue subpoenas to compel
 43.18 the attendance of individuals and the production of documents and other personal
 43.19 property necessary in connection with the administration of the Minnesota unemployment
 43.20 insurance program.

43.21 (b) Individuals subpoenaed, other than applicants or officers and employees of an
 43.22 employer that is the subject of the inquiry, ~~shall be allowed~~ are paid witness fees the same
 43.23 as witness fees in civil actions in district court. The fees need not be paid in advance.

43.24 (c) The subpoena ~~shall be~~ is enforceable through the district court in ~~the district that~~
 43.25 ~~the subpoena is issued~~ Ramsey County.

43.26 Sec. 20. Minnesota Statutes 2005 Supplement, section 268.19, subdivision 1, is
 43.27 amended to read:

43.28 Subdivision 1. **Use of data.** (a) Except as ~~otherwise~~ provided by this section,
 43.29 data gathered from any person ~~pursuant to~~ under the administration of the Minnesota
 43.30 Unemployment Insurance Law are private data on individuals or nonpublic data not on
 43.31 individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed
 43.32 except ~~pursuant~~ according to a district court order or section 13.05. A subpoena ~~shall~~ is

44.1 not be considered a district court order. These data may be disseminated to and used by
44.2 the following agencies without the consent of the subject of the data:

44.3 (1) state and federal agencies specifically authorized access to the data by state
44.4 or federal law;

44.5 (2) any agency of any other state or any federal agency charged with the
44.6 administration of an unemployment insurance program;

44.7 (3) any agency responsible for the maintenance of a system of public employment
44.8 offices for the purpose of assisting individuals in obtaining employment;

44.9 (4) the public authority responsible for child support in Minnesota or any other
44.10 state in accordance with section 256.978;

44.11 ~~(4)~~ (5) human rights agencies within Minnesota that have enforcement powers;

44.12 ~~(5)~~ (6) the Department of Revenue ~~only~~ to the extent necessary for its duties under
44.13 Minnesota laws;

44.14 ~~(6)~~ (7) public and private agencies responsible for administering publicly financed
44.15 assistance programs for the purpose of monitoring the eligibility of the program's
44.16 recipients;

44.17 ~~(7)~~ (8) the Department of Labor and Industry and the Division of Insurance
44.18 Fraud Prevention in the Department of Commerce ~~on an interchangeable basis with the~~
44.19 ~~department~~ for uses consistent with the administration of their duties under Minnesota law;

44.20 ~~(8)~~ (9) local and state welfare agencies for monitoring the eligibility of the data
44.21 subject for assistance programs, or for any employment or training program administered
44.22 by those agencies, whether alone, in combination with another welfare agency, or in
44.23 conjunction with the department or to monitor and evaluate the statewide Minnesota
44.24 family investment program by providing data on recipients and former recipients of food
44.25 stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care
44.26 assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

44.27 ~~(9)~~ (10) local and state welfare agencies for the purpose of identifying employment,
44.28 wages, and other information to assist in the collection of an overpayment debt in an
44.29 assistance program;

44.30 ~~(10)~~ (11) local, state, and federal law enforcement agencies for the ~~sole~~ purpose of
44.31 ascertaining the last known address and employment location of ~~a person~~ an individual
44.32 who is the subject of a criminal investigation;

44.33 ~~(11)~~ (12) the federal Bureau of Citizenship and Immigration and Naturalization
44.34 ~~Service shall have~~ Services has access to data on specific individuals and specific
44.35 employers provided the specific individual or specific employer is the subject of an
44.36 investigation by that agency; and

45.1 ~~(12)~~ (13) the Department of Health ~~solely~~ for the purposes of epidemiologic
 45.2 investigations.

45.3 (b) Data on individuals and employers that are collected, maintained, or used by
 45.4 the department in an investigation ~~pursuant to~~ under section 268.182 are confidential
 45.5 as to data on individuals and protected nonpublic data not on individuals as defined in
 45.6 section 13.02, subdivisions 3 and 13, and must not be disclosed except ~~pursuant to~~ under
 45.7 statute or district court order or to a party named in a criminal proceeding, administrative
 45.8 or judicial, for preparation of a defense.

45.9 (c) Data gathered by the department ~~pursuant to~~ in the administration of the
 45.10 Minnesota unemployment insurance program must not be made the subject or the basis for
 45.11 any suit in any civil proceedings, administrative or judicial, unless the action is initiated
 45.12 by the department.

45.13 Sec. 21. Minnesota Statutes 2004, section 268.194, subdivision 2, is amended to read:

45.14 Subd. 2. **Commissioner of finance to be custodian; separate accounts.** (a) The
 45.15 commissioner of finance ~~shall be~~ is the treasurer and custodian of the trust fund, and shall
 45.16 administer the trust fund in accordance with the directions of the commissioner, ~~and~~
 45.17 ~~issue warrants upon it.~~ The commissioner of finance shall maintain within the trust fund
 45.18 three separate accounts:

- 45.19 (1) a clearing account;
- 45.20 (2) an unemployment trust fund account; and
- 45.21 (3) an unemployment benefit payment account.

45.22 All money payable to the trust fund, upon receipt by the commissioner, ~~shall~~ must be
 45.23 forwarded to the commissioner of finance who shall immediately deposit the money in
 45.24 the clearing account. All money in the clearing account, after clearance, ~~shall~~ must be
 45.25 deposited to the credit of Minnesota's account in the federal unemployment trust fund.
 45.26 Tax refunds payable ~~pursuant to~~ under section 268.057 may be paid from the clearing
 45.27 account or the unemployment benefit payment account.

45.28 (b) The unemployment benefit payment account ~~shall consist~~ consists of all money
 45.29 requisitioned from Minnesota's account in the federal unemployment trust fund for the
 45.30 payment of unemployment benefits. Money in the clearing and unemployment benefit
 45.31 payment accounts may be deposited by the commissioner of finance, under the direction
 45.32 of the commissioner, in any depository bank that general funds of Minnesota may be
 45.33 deposited, but no public deposit insurance charge or premium ~~shall~~ may be paid out of
 45.34 the trust fund. Money in the clearing and unemployment benefit payment accounts ~~shall~~
 45.35 must be maintained in separate accounts on the books of the depository bank. This money

46.1 ~~shall~~ must be secured by the depository bank to the same extent and in the same manner
46.2 as required by the general depository law of Minnesota.

46.3 Sec. 22. Minnesota Statutes 2004, section 268.194, subdivision 3, is amended to read:

46.4 Subd. 3. **Exclusive use.** (a) Money requisitioned from Minnesota's account in
46.5 the federal unemployment trust fund ~~shall~~ must be used exclusively for the payment of
46.6 unemployment benefits and for tax refunds ~~pursuant to~~ under section 268.057, except that
46.7 money credited to Minnesota's account ~~pursuant to~~ under United States Code, title 42,
46.8 section 1103 of the Social Security Act, also known as the Reed Act, may be used for
46.9 the payment of expenses of administration. The commissioner ~~shall from time to time~~
46.10 may requisition from the federal unemployment trust fund the amounts necessary for the
46.11 payment of unemployment benefits and tax refunds for a reasonable future period. Upon
46.12 receipt the commissioner of finance shall deposit the money in the unemployment benefit
46.13 payment account and ~~issue warrants for the payment of unemployment benefits solely~~
46.14 ~~from the unemployment benefit payment account.~~

46.15 (b) Expenditures of money in the unemployment benefit payment account and
46.16 tax refunds from the clearing account ~~shall~~ are not be subject to any provisions of law
46.17 requiring specific appropriations or other formal release by state officers.

46.18 ~~(c) All warrants issued for the payment of unemployment benefits and tax refunds~~
46.19 ~~shall bear the signature of the commissioner of finance and the counter signature of the~~
46.20 ~~commissioner.~~

46.21 Sec. 23. Minnesota Statutes 2004, section 268.196, subdivision 3, is amended to read:

46.22 Subd. 3. **Contingent account.** (a) There is ~~hereby~~ created in the state treasury a
46.23 special account, to be known as the contingent account, that ~~shall~~ does not lapse nor
46.24 revert to any other ~~trust fund~~ or account. This account ~~shall consist~~ consists of all money
46.25 appropriated ~~therefor~~ by the legislature, all money ~~in the form of interest and penalties~~
46.26 collected ~~pursuant to sections 268.057, 268.18, and 268.184, all money received in the~~
46.27 ~~form of voluntary contributions to this account~~ under this chapter that is required to be
46.28 placed in this account, and any interest earned on the account. All money in this account
46.29 ~~shall be~~ is supplemental to all federal money available to the commissioner. Money in
46.30 this account is ~~hereby~~ appropriated to the commissioner and ~~shall be~~ is available to the
46.31 commissioner for ~~those expenditures the commissioner considers necessary in connection~~
46.32 ~~with the administration of the Minnesota unemployment insurance program.~~

46.33 (b) ~~Whenever the commissioner spends money from the contingent account for the~~
46.34 ~~administration of the Minnesota unemployment insurance program for which money will~~

47.1 ~~later be made available by the federal government, the contingent account shall, when~~
 47.2 ~~money is available, be reimbursed from the administration account. The commissioner~~
 47.3 ~~shall certify to the commissioner of finance the amount of the reimbursement and the~~
 47.4 ~~commissioner of finance shall transfer that amount from the administration account to~~
 47.5 ~~the contingent account.~~

47.6 (e) All money in this account ~~shall~~ must be deposited, administered, and disbursed
 47.7 in the same manner and under the same conditions and requirements as is provided by law
 47.8 for the other special accounts in the state treasury. On June 30 of each year, all amounts in
 47.9 excess of \$300,000 in this account ~~shall~~ must be paid over to the ~~unemployment insurance~~
 47.10 trust fund.

47.11 Sec. 24. **REVISOR'S INSTRUCTION.**

47.12 (a) The revisor of statutes shall change the word "attorney" to "attorney licensed
 47.13 to practice law in Minnesota" in Minnesota Statutes, sections 268.067 and 268.105,
 47.14 subdivision 7.

47.15 (b) The revisor of statutes shall change the term "common law burden of proof" to
 47.16 "burden of proof" in Minnesota Statutes, section 268.069.

47.17 (c) The revisor of statutes shall change the term "continued biweekly request" to
 47.18 "continued request" in Minnesota Statutes, chapter 268.

47.19 (d) The revisor of statutes shall change the term "14 days" to "14 calendar days" in
 47.20 Minnesota Statutes, section 268.086.

47.21 **ARTICLE 4**

47.22 **ADMINISTRATIVE RULES INCORPORATED INTO STATUTES**

47.23 Section 1. **STATEMENT OF INTENT.**

47.24 This article incorporates long-standing administrative rules into the statute. This
 47.25 incorporation is not intended to effect the application or interpretation of any provision.

47.26 Sec. 2. Minnesota Statutes 2004, section 268.035, subdivision 15, is amended to read:

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

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

47.30 (2) an officer of a corporation;

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

48.1 (4) product demonstrators in retail stores or other locations to aid in the sale of
 48.2 products. The person that pays the wages is considered the employer; or

48.3 (5) an individual who performs services for a person for compensation, as:

48.4 (i) an agent-driver or commission-driver engaged in distributing meat products,
 48.5 vegetable products, fruit products, beverages, or laundry or dry cleaning services; or

48.6 (ii) a traveling or city salesperson, other than as an agent-driver or commission-driver,
 48.7 engaged full-time in the solicitation on behalf of the person, of orders from wholesalers,
 48.8 retailers, contractors, or operators of hotels, restaurants, or other similar establishments for
 48.9 merchandise for resale or supplies for use in their business operations.

48.10 This clause ~~shall apply~~ applies only if the contract of service provides that
 48.11 substantially all of the services are to be performed personally by the individual, and the
 48.12 services are part of a continuing relationship with the person for whom the services are
 48.13 performed, and the individual does not have a substantial investment in facilities used in
 48.14 connection with the performance of the services, other than facilities for transportation.

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

48.16 Sec. 3. Minnesota Statutes 2004, section 268.035, is amended by adding a subdivision
 48.17 to read:

48.18 Subd. 25b. Trucking industry/independent contractors. In the trucking industry,
 48.19 an owner-operator of a vehicle that is licensed and registered as a truck, tractor, or
 48.20 truck-tractor by a governmental motor vehicle regulatory agency is an independent
 48.21 contractor, and is not considered an employee, while performing services in the operation
 48.22 of the truck only if each of the following factors is present:

48.23 (1) the individual owns the equipment or holds it under a bona fide lease arrangement;

48.24 (2) the individual is responsible for the maintenance of the equipment;

48.25 (3) the individual bears the principal burdens of the operating costs, including fuel,
 48.26 repairs, supplies, vehicle insurance, and personal expenses while on the road;

48.27 (4) the individual is responsible for supplying the necessary personal services
 48.28 to operate the equipment;

48.29 (5) the individual's compensation is based on factors related to the work performed,
 48.30 such as a percentage of any schedule of rates, and not on the basis of the hours or time
 48.31 expended; and

48.32 (6) the individual enters into a written contract that specifies the relationship to be
 48.33 that of an independent contractor and not that of an employee.

48.34 Sec. 4. Minnesota Statutes 2004, section 268.035, subdivision 29, is amended to read:

49.1 Subd. 29. **Wages.** (a) "Wages" means all compensation for services, including
 49.2 commissions; bonuses, awards, and prizes; severance payments; standby pay; vacation and
 49.3 holiday pay; back pay as of the date of payment; tips and gratuities paid to an employee by
 49.4 a customer of an employer and accounted for by the employee to the employer; sickness
 49.5 and accident disability payments, except as otherwise provided in this subdivision; and the
 49.6 cash value of ~~all compensation in any medium other than cash~~ housing, utilities, meals,
 49.7 exchanges of services, and any other goods and services provided to compensate for
 49.8 an employee's services, except:

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

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

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

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

49.28 (5) customary and reasonable directors' fees paid to individuals who are not
 49.29 otherwise employed by the corporation of which they are directors;

49.30 (6) the payment to employees for reimbursement of meal expenses when employees
 49.31 are required to perform work after their regular hours;

49.32 (7) the payment into a trust or plan for purposes of providing legal or dental services
 49.33 if provided for all employees generally or for a class or classes of employees;

49.34 (8) the value of parking facilities provided or paid for by an employer, in whole or in
 49.35 part, if provided for all employees generally or for a class or classes of employees;

50.1 (9) royalties to an owner of a franchise, license, copyright, patent, oil, mineral,
50.2 or other right;

50.3 (10) advances or reimbursements for traveling or other bona fide ordinary and
50.4 necessary expenses incurred or reasonably expected to be incurred in the business of the
50.5 employer. Traveling and other reimbursed expenses must be identified either by making
50.6 separate payments or by specifically indicating the separate amounts where both wages
50.7 and expense allowances are combined in a single payment;

50.8 (11) residual payments to radio, television, and similar artists that accrue after
50.9 the production of television commercials, musical jingles, spot announcements, radio
50.10 transcriptions, film sound tracks, and similar activities;

50.11 (12) supplemental unemployment benefits paid under a plan established by an
50.12 employer, that makes provisions for employees generally or for a class or classes of
50.13 employees for the supplementing of unemployment benefits under the written terms
50.14 of an agreement, contract, trust arrangement, or other instrument if the plan provides
50.15 benefits that are only supplemental to, and does not replace or duplicate any state or
50.16 federal unemployment benefits. The plan must provide that funds are paid solely for the
50.17 supplementing of state or federal unemployment benefits. The plan must provide that
50.18 any supplemental benefits are payable only if the applicant is receiving unemployment
50.19 benefits or has exhausted the maximum amount of unemployment benefits available. The
50.20 plan must provide that supplemental benefits, when combined with the applicant's weekly
50.21 unemployment benefits available, may not exceed the applicant's regular weekly pay.
50.22 The plan must not allow the assignment of supplemental benefits or payment upon the
50.23 employee's withdrawal from the plan, or quitting of employment or the termination of the
50.24 plan. The plan must not be designed for the purpose of avoiding the payment of Social
50.25 Security obligations, or unemployment taxes on money disbursed from the plan;

50.26 (13) sickness or accident disability payments made by the employer after the
50.27 expiration of six calendar months following the last calendar month that the individual
50.28 worked for the employer;

50.29 ~~(5)~~ (14) disability payments made under the provisions of any workers'
50.30 compensation law;

50.31 ~~(6)~~ (15) sickness or accident disability payments made by a third party payer such as
50.32 an insurance company; or

50.33 ~~(7)~~ (16) payments made into a trust fund, or for the purchase of insurance or an
50.34 annuity, to provide for sickness or accident disability payments to employees ~~pursuant~~
50.35 ~~to~~ under a plan or system established by the employer that provides for the employer's
50.36 employees generally or for a class or classes of employees; ~~or.~~

51.1 ~~(8)~~ (b) Nothing in this subdivision ~~shall exclude~~ excludes from the term "wages" any
 51.2 payment made under any type of salary reduction agreement, including payments made
 51.3 under a cash or deferred arrangement and cafeteria plan, as defined in United States Code,
 51.4 title 26, sections 401(k) and 125 of the federal Internal Revenue Code, to the extent that
 51.5 the employee has the option to receive the payment in cash.

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

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

51.15 (e) Wages includes advances or draws against future earnings, when paid, unless
 51.16 the payments are designated as a loan or return of capital on the books of the employer
 51.17 at the time of payment.

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

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

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

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

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

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

51.32 Sec. 5. Minnesota Statutes 2005 Supplement, section 268.042, subdivision 1, is
 51.33 amended to read:

51.34 Subdivision 1. **Employer registration.** (a) Each employer ~~shall~~ must, upon or
 51.35 before the submission of its first wage detail report under section 268.044, register with

52.1 the commissioner for a tax account or a reimbursable account, by electronic transmission
 52.2 in a format prescribed by the commissioner. The employer must provide all required
 52.3 information for registration, including the actual physical street and city address of the
 52.4 employer.

52.5 (b) Within 30 calendar days, each employer must notify the commissioner by
 52.6 electronic transmission, in a format prescribed, of a change in legal entity, of the
 52.7 transfer, sale, or acquisition of a business conducted in Minnesota, in whole or in part,
 52.8 if the transaction results in the creation of a new or different employer or affects the
 52.9 establishment of employer accounts, the assignment of tax rates, or the transfer of
 52.10 experience rating history.

52.11 (c) Except as provided in subdivision 3, any person that is or becomes an employer
 52.12 subject to the Minnesota Unemployment Insurance Law because of the application of
 52.13 section 268.035, subdivision 20, clause (14), (17), or (33), within any calendar year shall
 52.14 be is considered to be subject to this chapter the entire calendar year.

52.15 ~~(c) Upon~~ (d) Within 30 calendar days of the termination of business, an employer
 52.16 that has been assigned a tax account or reimbursable account shall must notify the
 52.17 commissioner by electronic transmission, in a format prescribed by the commissioner,
 52.18 that the employer no longer has employees and does not intend or expect to pay wages
 52.19 to any employees in the next calendar year and into the foreseeable future. Upon such
 52.20 notification, the commissioner shall not require the employer is no longer required to file
 52.21 wage detail reports under section 268.044, subdivision 1, paragraph (d).

52.22 (e) An employer that has terminated business regains its previous tax account under
 52.23 section 268.045, with the experience rating history of that account, if the employer again
 52.24 commences business and if:

52.25 (1) less than 14 calendar quarters have elapsed in which no wages were paid for
 52.26 covered employment;

52.27 (2) the experience rating history regained contains taxable wages; and

52.28 (3) the experience rating history has not been transferred to a successor under
 52.29 section 268.051, subdivision 4.

52.30 **Sec. 6. REVISOR'S INSTRUCTION.**

52.31 (a) In Minnesota Rules, chapter 3310, the revisor of statutes shall change the term
 52.32 "appellate office" to "appeals office."

52.33 (b) In Minnesota Rules, chapter 3310, the revisor of statutes shall change the term
 52.34 "referee" to "unemployment law judge."

53.1 (c) In Minnesota Rules, chapter 3310, the revisor of statutes shall change the word
53.2 "shall" to "must," except the last "shall" in Minnesota Rules, part 3310.2917, should be
53.3 changed to "may."

53.4 (d) In Minnesota Rules, chapter 3310, the revisor of statutes shall change the word
53.5 "claim" to "benefit account."

53.6 (e) In Minnesota Rules, chapter 3310, the revisor of statutes shall change the term
53.7 "voluntary termination without good cause attributable to the employer" to "quit for other
53.8 than a good reason caused by the employer."

53.9 (f) In Minnesota Rules, chapter 3310, the revisor of statutes shall change the word
53.10 "claimant" to "applicant."

53.11 (g) In Minnesota Rules, chapter 3310, the revisor of statutes shall change the term
53.12 "pursuant to" to "under."

53.13 (h) In Minnesota Rules, chapter 3310, the revisor of statutes shall change the term
53.14 "tape recording" to "recording."

53.15 (i) In Minnesota Rules, part 3310.2901, the revisor of statutes shall change the words
53.16 "eligibility or disqualification from" to "eligibility or ineligibility for."

53.17 (j) In Minnesota Rules, chapter 3315, the revisor of statutes shall change the word
53.18 "shall" to "must."

53.19 (k) In Minnesota Rules, chapter 3315, the revisor of statutes shall change the term
53.20 "employing unit" to "employer."

53.21 (l) In Minnesota Rules, part 3315.0200, the revisor of statutes shall change "268.04,
53.22 subdivision 25" to "268.035, subdivision 29."

53.23 (m) In Minnesota Rules, part 3315.0801, the revisor of statutes shall change "section
53.24 268.04, subdivision 12, clause (15)(a)" to "section 268.035, subdivisions 2, 11, and 20,
53.25 clause (33)."

53.26 (n) In Minnesota Rules, part 3315.0810, the revisor of statutes shall change "section
53.27 268.04, subdivision 12, clause (15)(a)(4)" to "section 268.035, subdivision 2."

53.28 (o) In Minnesota Rules, part 3315.0825, the revisor of statutes shall change "section
53.29 268.04, subdivision 12, clause (15)(a)(5)" to "section 268.035, subdivision 2."

53.30 (p) In Minnesota Rules, part 3315.0825, item D, the revisor of statutes shall change
53.31 "section 268.04, subdivision 12, clause (15)(a)(1)" to "section 268.035, subdivisions 2
53.32 and 11."

53.33 (q) In Minnesota Rules, part 3315.0830, subpart 2, the revisor of statutes shall
53.34 change "section 268.04, subdivision 12, clauses (15)(a)(2) and (4)" to "section 268.035,
53.35 subdivisions 2 and 11."

54.1 (r) In Minnesota Rules, part 3315.0840, the revisor of statutes shall change "section
 54.2 268.04, subdivision 12, clause (15)(a)(4)" to "section 268.035, subdivisions 2 and 11."

54.3 (s) In Minnesota Rules, part 3315.0901, the revisor of statutes shall change "section
 54.4 268.04, subdivision 12, clause (14)" to "section 268.035, subdivision 20, clause (17)."

54.5 Sec. 7. REPEALER.

54.6 Minnesota Rules, parts 3315.0210; 3315.0220; 3315.0515; 3315.0520; 3315.0525;
 54.7 3315.0530; 3315.0540; 3315.0550; 3315.0910; 3315.1005; 3315.1315, subpart 4;
 54.8 3315.2010; and 3315.2810, are repealed.

54.9 **ARTICLE 5**
 54.10 **TERMINOLOGY CHANGE**

54.11 Section 1. STATEMENT OF INTENT.

54.12 This article substitutes the term "disqualify" or similar terms with the term
 54.13 "ineligible" or similar terms in Minnesota Statutes, chapter 268. Both terms are currently
 54.14 used throughout the unemployment insurance law. This substitution is not intended as
 54.15 a substantive change. It is done for simplification, to achieve consistency and avoid
 54.16 confusion, as the terms have the same common meaning and the same effect under the
 54.17 statute.

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

54.19 Subd. 12. **Covered employment.** "Covered employment" means the following
 54.20 unless excluded as "noncovered employment" under subdivision 20:

54.21 (1) an employee's entire employment if:

54.22 (i) the employment is performed entirely in Minnesota;

54.23 (ii) the employment is performed primarily in Minnesota, and the employment
 54.24 performed outside Minnesota is incidental to the employment in Minnesota; or

54.25 (iii) the employment is not performed primarily in any one state but some of the
 54.26 employment is performed in Minnesota and the base of operations or the place from which
 54.27 the employment is directed or controlled is in Minnesota; or the base of operations or
 54.28 place from which the employment is directed or controlled is not in any state ~~in which~~
 54.29 where part of the employment is performed, but the employee's residence is in Minnesota;

54.30 (2) an employee's employment wherever performed within the United States or
 54.31 Canada, if:

54.32 (i) the employment is not covered under the unemployment insurance program of
 54.33 any other state or Canada; and

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

55.2 (3) the employment of an employee who is a citizen of the United States, performed
55.3 outside the United States, except in Canada, in the employ of an American employer if:

55.4 (i) the employer's principal place of business in the United States is located in
55.5 Minnesota;

55.6 (ii) the employer has no place of business in the United States, but the employer
55.7 is an individual who is a resident of Minnesota, or the employer is a corporation that is
55.8 organized under the laws of Minnesota, or the employer is a partnership or a trust and the
55.9 number of partners or trustees who are residents of Minnesota is greater than the number
55.10 who are residents of any one other state;

55.11 (iii) none of the criteria of subclauses (i) and (ii) is met but the employer has elected
55.12 coverage in Minnesota, or the employer having failed to elect coverage in any state,
55.13 an applicant has made an application for unemployment benefits under section 268.07,
55.14 based on the employment;

55.15 (iv) an "American employer," for the purposes of this subdivision, means an
55.16 individual who is a resident of the United States, or a partnership if two-thirds or more
55.17 of the partners are residents of the United States, or a trust, if all of the trustees are
55.18 residents of the United States, or a corporation organized under the laws of the United
55.19 States, or of any state; or

55.20 (v) as used in this subdivision, the term "United States" includes the states, the
55.21 District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

55.22 (4) all employment performed by an officer or member of the crew of an American
55.23 vessel on or in connection with the vessel, if the operating office from which the
55.24 operations of the vessel operating on navigable waters within, or within and without, the
55.25 United States are ordinarily and regularly supervised, managed, directed, and controlled is
55.26 in Minnesota; and

55.27 (5) for the purposes of satisfying ~~disqualifications~~ the period of ineligibility under
55.28 section 268.095, subdivision 10, "covered employment" ~~shall include~~ includes covered
55.29 employment under an unemployment insurance program of any other state or employment
55.30 covered under an unemployment insurance program established by an act of Congress.

55.31 Sec. 3. Minnesota Statutes 2005 Supplement, section 268.069, subdivision 1, is
32 amended to read:

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

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

56.3 (2) the applicant ~~is has~~ not ~~subject to a disqualification from~~ been held ineligible for
56.4 unemployment benefits under section 268.095 because of a quit or discharge;

56.5 (3) the applicant has met all of the ongoing eligibility requirements under sections
56.6 268.085 and 268.086;

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

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

56.11 Sec. 4. Minnesota Statutes 2005 Supplement, section 268.095, subdivision 4, is
56.12 amended to read:

56.13 Subd. 4. **Discharge.** An applicant who was discharged from employment by an
56.14 employer ~~shall be disqualified from~~ is ineligible for all unemployment benefits according
56.15 to subdivision 10 only if:

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

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

56.20 Sec. 5. Minnesota Statutes 2005 Supplement, section 268.095, subdivision 7, is
56.21 amended to read:

56.22 Subd. 7. **Act or omissions after separation.** An applicant ~~shall~~ may not be
56.23 ~~disqualified from~~ held ineligible for unemployment benefits under ~~section 268.085,~~
56.24 ~~subdivision 13c,~~ and this section for any acts or omissions occurring after the applicant's
56.25 separation from employment with the employer. A layoff ~~due to~~ because of lack of work
56.26 is considered a separation from employment.

56.27 Sec. 6. Minnesota Statutes 2005 Supplement, section 268.095, subdivision 10, is
56.28 amended to read:

56.29 Subd. 10. **Disqualification Ineligibility duration.** (a) ~~A disqualification~~
56.30 Ineligibility from the payment of all unemployment benefits under subdivisions 1 and
56.31 4 ~~shall be~~ is for the duration of the applicant's unemployment and until the end of the
56.32 calendar week that the applicant had total earnings in subsequent covered employment of
56.33 eight times the applicant's weekly unemployment benefit amount.

57.1 (b) ~~Any disqualification~~ Ineligibility imposed under subdivisions 1 and 4 ~~shall begin~~
57.2 begins on the Sunday of the week that the applicant became separated from employment.

57.3 (c) In addition to paragraph (a), if the applicant was discharged from employment
57.4 because of aggravated employment misconduct, wage credits from that employment
57.5 ~~shall be~~ are canceled.

57.6 Sec. 7. Minnesota Statutes 2004, section 268.101, as amended by Laws 2005, chapter
57.7 112, article 2, sections 30, 31, and 32, is amended to read:

57.8 **268.101 DETERMINATIONS ON ISSUES OF ~~DISQUALIFICATION AND~~**
57.9 **ELIGIBILITY INELIGIBILITY.**

57.10 Subdivision 1. **Notification.** (a) In an application for unemployment benefits,
57.11 each applicant ~~shall~~ must report the name and the reason for no longer working for the
57.12 applicant's most recent employer, as well as the names of all employers and the reasons
57.13 for no longer working for all employers during the six calendar months ~~prior to~~ before
57.14 the date of the application. If the reason reported for no longer working for any of those
57.15 employers is other than a layoff ~~due to~~ because of lack of work, that ~~shall raise~~ raises
57.16 an issue of ~~disqualification~~ ineligibility that the department ~~shall~~ must determine. An
57.17 applicant ~~shall~~ must report any offers of employment refused during the eight calendar
57.18 weeks ~~prior to~~ before the date of the application for unemployment benefits and the name
57.19 of the employer that made the offer. An applicant's failure to report the name of an
57.20 employer, or giving an incorrect reason for no longer working for an employer, or failing
57.21 to disclose an offer of employment that was refused, ~~shall be considered~~ is a violation of
57.22 section 268.182, subdivision 2.

57.23 In an application, the applicant ~~shall~~ must also provide all information necessary to
57.24 determine the applicant's eligibility for unemployment benefits under ~~section 268.085~~ this
57.25 chapter. If the applicant fails or refuses to provide information necessary to determine
57.26 the applicant's eligibility for unemployment benefits ~~under section 268.085~~, the applicant
57.27 ~~shall be~~ is ineligible for unemployment benefits under section 268.085, subdivision 2, until
57.28 the applicant provides this required information.

57.29 (b) Upon establishment of a benefit account under section 268.07, subdivision 2, the
57.30 commissioner shall notify, by mail or electronic transmission, all employers the applicant
57.31 was required to report on the application and all base period employers and determined
57.32 successors to those employers under section 268.051, subdivision 4, in order to provide the
57.33 employer an opportunity to raise, in a manner and format prescribed by the commissioner,
57.34 any issue of ~~disqualification or any issue of eligibility~~ ineligibility. An employer ~~shall~~
57.35 must be informed of the effect that failure to raise an issue of ~~disqualification~~ ineligibility

58.1 as a result of a quit or discharge of the applicant, within ten calendar days after sending of
 58.2 the notice, as provided for under subdivision 2, paragraph (b), may have on the employer
 58.3 under section 268.047.

58.4 (c) Each applicant ~~shall~~ must report any employment, and loss of employment, and
 58.5 offers of employment refused, during those weeks the applicant filed continued ~~biweekly~~
 58.6 requests for unemployment benefits ~~pursuant to~~ under section 268.086. Each applicant
 58.7 who stops filing continued ~~biweekly~~ requests during the benefit year and later begins
 58.8 filing continued ~~biweekly~~ requests during that same benefit year ~~shall~~ must report the
 58.9 name of any employer the applicant worked for during the period between the filing
 58.10 of continued ~~biweekly~~ requests and the reason the applicant stopped working for the
 58.11 employer. The applicant ~~shall~~ must report any offers of employment refused during the
 58.12 period between the filing of continued ~~biweekly~~ requests for unemployment benefits.
 58.13 Those employers from which the applicant has reported a loss of employment ~~pursuant~~
 58.14 to under this paragraph ~~shall~~ must be notified by mail or electronic transmission and
 58.15 provided an opportunity to raise, in a manner prescribed by the commissioner, any issue
 58.16 of ~~disqualification or any issue of eligibility~~ ineligibility. An employer ~~shall~~ must be
 58.17 informed of the effect that failure to raise an issue of ineligibility as a result of a quit or a
 58.18 discharge of the applicant may have on the employer under section 268.047.

58.19 (d) The purpose for requiring the applicant to report the name of employers and the
 58.20 reason for no longer working for those employers, or offers of employment refused, under
 58.21 paragraphs (a) and (c) is for the commissioner to obtain information from an applicant
 58.22 raising all issues that may ~~have the potential of disqualifying result in~~ the applicant ~~from~~
 58.23 being ineligible for unemployment benefits under section 268.095, because of a quit or
 58.24 discharge, or the applicant being ineligible for unemployment benefits under section
 58.25 268.085, subdivision 13c. If the reason given by the applicant for no longer working for
 58.26 an employer is other than a layoff ~~due to~~ because of lack of work, that ~~shall raise~~ raises
 58.27 an issue of ~~disqualification~~ ineligibility and the applicant ~~shall be~~ is required, as part
 58.28 of the determination process under subdivision 2, paragraph (a), to state all the facts
 58.29 about the cause for no longer working for the employer, if known. If the applicant fails
 58.30 or refuses to provide any required information, the applicant ~~shall be~~ is ineligible for
 58.31 unemployment benefits under section 268.085, subdivision 2, until the applicant provides
 58.32 this required information.

58.33 Subd. 2. ~~Disqualification Determination.~~ (a) The commissioner shall determine
 58.34 any issue of ~~disqualification~~ ineligibility raised by information required from an applicant
 58.35 under subdivision 1, paragraph (a) or (c), and send to the applicant and any involved
 58.36 employer, by mail or electronic transmission, a determination of ~~disqualification~~ eligibility

59.1 or a determination of ~~nondisqualification~~ ineligibility, as is appropriate. The determination
 59.2 ~~shall~~ on an issue of ineligibility as a result of a quit or a discharge of the applicant must
 59.3 state the effect on the employer under section 268.047. A determination ~~shall~~ must be
 59.4 made ~~pursuant to~~ in accordance with this paragraph even if a notified employer has not
 59.5 raised the issue of ~~disqualification~~ ineligibility.

59.6 (b) The commissioner shall determine any issue of ~~disqualification~~ ineligibility
 59.7 raised by an employer and send to the applicant and that employer, by mail or electronic
 59.8 transmission, a determination of ~~disqualification~~ eligibility or a determination of
 59.9 ~~nondisqualification~~ ineligibility as is appropriate. The determination ~~shall~~ on an issue of
 59.10 ineligibility as a result of a quit or discharge of the applicant must state the effect on the
 59.11 employer under section 268.047.

59.12 If a base period employer:

59.13 (1) was not the applicant's most recent employer ~~prior to~~ before the application for
 59.14 unemployment benefits;

59.15 (2) did not employ the applicant during the six calendar months ~~prior to~~ before the
 59.16 application for unemployment benefits; and

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

59.20 then any exception under section 268.047, subdivisions 2 and 3, ~~shall begin~~ begins the
 59.21 Sunday two weeks following the week that the issue of ~~disqualification~~ ineligibility as a
 59.22 result of a quit or discharge of the applicant was raised by the employer.

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

59.28 ~~(c) If any time within 24 months from the establishment of a benefit account~~
 59.29 ~~the commissioner finds that an applicant failed to report any employment, or loss of~~
 59.30 ~~employment that was required to be provided by the applicant under this section, the~~
 59.31 ~~commissioner shall determine any issue of disqualification on that loss of employment~~
 59.32 ~~and send to the applicant and involved employer, by mail or electronic transmission,~~
 59.33 ~~a determination of disqualification or a determination of nondisqualification, as is~~
 59.34 ~~appropriate. The determination shall state the effect on the employer under section~~
 59.35 ~~268.047.~~

60.1 ~~This paragraph shall not prevent the imposition of any penalty under section 268.18,~~
 60.2 ~~subdivision 2, or 268.182.~~

60.3 ~~(d)~~ (c) An issue of ~~disqualification shall be~~ ineligibility is determined based upon
 60.4 that information required of an applicant, any information that may be obtained from an
 60.5 applicant or employer, and information from any other source, without regard to any
 60.6 common law burden of proof.

60.7 ~~(e) A determination of disqualification or a determination of nondisqualification shall~~
 60.8 ~~be final unless an appeal is filed by the applicant or notified employer within 30 calendar~~
 60.9 ~~days after sending. The determination shall contain a prominent statement indicating~~
 60.10 ~~the consequences of not appealing. Proceedings on the appeal shall be conducted in~~
 60.11 ~~accordance with section 268.105.~~

60.12 ~~(f) An issue of disqualification for purposes of this section shall include any reason~~
 60.13 ~~for no longer working for an employer other than a layoff due to lack of work, any~~
 60.14 ~~question of a disqualification from unemployment benefits under section 268.095, any~~
 60.15 ~~question of an exception to disqualification under section 268.095, any question of effect~~
 60.16 ~~on an employer under section 268.047, and any question of an otherwise imposed~~
 60.17 ~~disqualification that an applicant has satisfied under section 268.095, subdivision 10.~~

60.18 ~~(g)~~ (d) Regardless of the requirements of this subdivision, the commissioner is not
 60.19 required to send to an applicant a copy of the determination where the applicant has
 60.20 satisfied any otherwise ~~potential disqualification~~ period of ineligibility because of a quit or
 60.21 a discharge under section 268.095, subdivision 10.

60.22 (e) The commissioner may issue a determination on an issue of ineligibility at any
 60.23 time within 24 months from the establishment of a benefit account based upon information
 60.24 from any source, even if the issue of ineligibility was not raised by the applicant or an
 60.25 employer.

60.26 This paragraph does not prevent the imposition of a penalty under section 268.18,
 60.27 subdivision 2, or 268.182.

60.28 (f) A determination of eligibility or determination of ineligibility is final unless an
 60.29 appeal is filed by the applicant or notified employer within 30 calendar days after sending.
 60.30 The determination must contain a prominent statement indicating the consequences of not
 60.31 appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

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

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

61.5 ~~Subd. 3. Eligibility determination. (a) The commissioner shall determine any~~
 61.6 ~~issue of eligibility raised by an employer, and send to the applicant and that employer,~~
 61.7 ~~by mail or electronic transmission, a determination of eligibility or a determination~~
 61.8 ~~of ineligibility, as is appropriate.~~

61.9 ~~(b) The commissioner shall determine any issue of eligibility raised by information~~
 61.10 ~~obtained from an applicant and send to the applicant, by mail or electronic transmission,~~
 61.11 ~~a determination of eligibility or a determination of ineligibility, as is appropriate. A~~
 61.12 ~~determination shall be made pursuant to this paragraph even if a notified employer has~~
 61.13 ~~not raised the issue of eligibility.~~

61.14 ~~(c) If any time within 24 months from the establishment of a benefit account the~~
 61.15 ~~commissioner finds the applicant failed to provide, on an application for unemployment~~
 61.16 ~~benefits or on a continued biweekly request for unemployment benefits, requested~~
 61.17 ~~information on an issue of eligibility, the commissioner shall determine the issue of~~
 61.18 ~~eligibility and send to the applicant, by mail or electronic transmission, a determination of~~
 61.19 ~~eligibility or a determination of ineligibility, as is appropriate.~~

61.20 ~~This paragraph shall not prevent the imposition of a penalty under section 268.18,~~
 61.21 ~~subdivision 2, or 268.182.~~

61.22 ~~(d) A determination of eligibility or determination of ineligibility shall be final~~
 61.23 ~~unless an appeal is filed by the applicant or notified employer within 30 calendar~~
 61.24 ~~days after sending. The determination shall contain a prominent statement indicating~~
 61.25 ~~the consequences of not appealing. Proceedings on the appeal shall be conducted in~~
 61.26 ~~accordance with section 268.105.~~

61.27 ~~(e) An issue of eligibility for purposes of this section shall include any question~~
 61.28 ~~regarding the denial or allowing of unemployment benefits under sections 268.085,~~
 61.29 ~~268.086, 268.115, 268.125, 268.135, and 268.155.~~

61.30 ~~(f) Only if an employer raised the issue of eligibility shall the employer be: (1) sent~~
 61.31 ~~the determination of eligibility or a determination of ineligibility, or (2) considered an~~
 61.32 ~~involved employer for purposes of an appeal under section 268.105.~~

61.33 Subd. 3a. Direct hearing. Regardless of any provision of the Minnesota
 61.34 Unemployment Insurance Law, the commissioner or an unemployment law judge
 61.35 may, prior to before a determination being made under this chapter, refer any issue of
 61.36 disqualification, any issue of eligibility ineligibility, or any other issue under this chapter,

62.1 directly for hearing in accordance with section 268.105, subdivision 1. The status of the
62.2 issue ~~shall be~~ is the same as if a determination had been made and an appeal filed.

62.3 Subd. 4. **Amended determination.** Unless an appeal has been filed, the
62.4 commissioner, on the commissioner's own motion, may reconsider ~~a determination of~~
62.5 ~~disqualification or nondisqualification~~ or a determination of eligibility or ineligibility that
62.6 has not become final and issue an amended determination. Any amended determination
62.7 ~~shall~~ must be sent to the applicant and any involved employer by mail or electronic
62.8 transmission. Any amended determination ~~shall be~~ is final unless an appeal is filed by the
62.9 applicant or notified employer within 30 calendar days after sending. Proceedings on the
62.10 appeal ~~shall be~~ are conducted in accordance with section 268.105.

62.11 Subd. 5. **Unemployment benefit payment.** If a determination or amended
62.12 determination allows unemployment benefits to an applicant, the unemployment benefits
62.13 ~~shall~~ must be paid regardless of any appeal period or any appeal having been filed.

62.14 Subd. 6. **Overpayment.** A determination or amended determination that holds an
62.15 applicant ~~disqualified or ineligible~~ for unemployment benefits for periods an applicant
62.16 has been paid benefits is considered an overpayment of those unemployment benefits
62.17 under section 268.18, subdivision 1.

62.18 Sec. 8. Minnesota Statutes 2004, section 268.125, subdivision 3, is amended to read:

62.19 Subd. 3. **Eligibility conditions.** An applicant is eligible to receive additional
62.20 unemployment benefits for any week during the applicant's benefit year if:

62.21 (1) the applicant was laid off from employment as a result of a reduction under
62.22 subdivision 1 or was laid off ~~due to~~ because of lack of work from that employer during the
62.23 three-month period before, or the three-month period after, the month of the reduction
62.24 under subdivision 1;

62.25 (2) the applicant meets the eligibility requirements under section 268.085;

62.26 (3) the applicant is not ~~subject to a disqualification~~ ineligible under section 268.095
62.27 because of a quit or a discharge; ~~for the purpose of this subdivision, the disqualifying~~
62.28 ~~conditions in section 268.095, and the requalifying requirements, apply to the receipt of~~
62.29 ~~additional unemployment benefits~~;

62.30 (4) the applicant has exhausted regular unemployment benefits under section 268.07,
62.31 is not entitled to receive extended unemployment benefits under section 268.115, and
62.32 is not entitled to receive unemployment benefits under any other state or federal law
62.33 for that week; and

62.34 (5) a majority of the applicant's wage credits were from the employer that had a
62.35 reduction in operations under subdivision 1.

63.1 Sec. 9. REVISOR'S INSTRUCTION.

63.2 In the headnote of Minnesota Statutes, section 268.095, the revisor of statutes shall
 63.3 change the term "DISQUALIFICATION" to "INELIGIBILITY."

63.4 Sec. 10. EFFECTIVE DATE.

63.5 This article applies to all department determinations, appeal decisions, and other
 63.6 actions done on or after August 1, 2006.

63.7 ARTICLE 6

63.8 STYLE CHANGES

63.9 Section 1. STATEMENT OF INTENT.

63.10 This article is limited to style changes that conform to preferred modern statutory
 63.11 drafting conventions for the use of clear, concise, and plain language.

63.12 Sec. 2. Minnesota Statutes 2004, section 268.001, is amended to read:

63.13 **268.001 CITATION; MINNESOTA UNEMPLOYMENT INSURANCE LAW.**

63.14 This chapter ~~shall~~ will be known and may be cited as the "Minnesota Unemployment
 63.15 Insurance Law."

63.16 Sec. 3. Minnesota Statutes 2005 Supplement, section 268.03, subdivision 1, is
 63.17 amended to read:

63.18 Subdivision 1. **Statement.** The public purpose of this chapter is: Economic
 63.19 insecurity ~~due to~~ because of involuntary unemployment of workers in Minnesota is a
 63.20 subject of general concern that requires appropriate action by the legislature. The public
 63.21 good will be promoted by providing workers who are unemployed through no fault of
 63.22 their own a temporary partial wage replacement to assist the unemployed worker to
 63.23 become reemployed. This program will be known as the "Minnesota unemployment
 63.24 insurance program."

63.25 Sec. 4. Minnesota Statutes 2004, section 268.03, subdivision 2, is amended to read:

63.26 Subd. 2. **Standard of proof.** All issues of fact under the Minnesota Unemployment
 63.27 Insurance Law ~~shall be~~ are determined by a preponderance of the evidence. Preponderance
 28 of the evidence means evidence in substantiation of a fact that, when weighed against the
 63.29 evidence opposing the fact, is more convincing and has a greater probability of truth.

64.1 Sec. 5. Minnesota Statutes 2005 Supplement, section 268.035, subdivision 9, is
64.2 amended to read:

64.3 Subd. 9. **Construction/independent contractor.** A worker doing commercial
64.4 or residential building construction or improvement, in the public or private sector,
64.5 performing services in the course of the trade, business, profession, or occupation of the
64.6 employer, ~~shall be~~ is considered an employee and not an "independent contractor" unless
64.7 the worker meets all the following conditions:

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

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

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

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

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

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

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

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

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

64.27 Sec. 6. Minnesota Statutes 2004, section 268.035, subdivision 10, is amended to read:

64.28 Subd. 10. **Corporation.** "Corporation" includes associations, joint-stock
64.29 companies, and insurance companies. This definition ~~shall~~ is not be exclusive.

64.30 Sec. 7. Minnesota Statutes 2004, section 268.035, subdivision 11, is amended to read:

64.31 Subd. 11. **Covered agricultural employment.** "Covered agricultural employment"
64.32 means agricultural employment where:

64.33 (1) The employment is performed for a person who:

65.1 (i) during any calendar quarter in either the current or the prior calendar year paid
65.2 wages of \$20,000 or more to employees in agricultural employment; or

65.3 (ii) for some portion of a day in each of 20 different calendar weeks, whether or
65.4 not the weeks were consecutive, in either the current or prior calendar year employed
65.5 in agricultural employment four or more employees, regardless of whether they were
65.6 employed at the same time.

65.7 (2) Any employee who is a member of a crew furnished by a crew leader to be
65.8 employed in agricultural employment for any other person ~~shall be~~ is treated as an
65.9 employee of the crew leader:

65.10 (i) if the crew leader holds a valid certificate of registration under United States
65.11 Code, title 29, section 1802, the Migrant and Seasonal Agricultural Worker Protection
65.12 Act; or substantially all of the members of the crew operate or maintain tractors,
65.13 mechanized harvesting or crop dusting equipment, or any other mechanized equipment,
65.14 that is provided by the crew leader; and

65.15 (ii) if the employee is not an employee of another person.

65.16 (3) Any employee who is furnished by a crew leader to be employed in agricultural
65.17 employment for any other person and who is not treated as an employee of the crew
65.18 leader under clause (2):

65.19 (i) the other person and not the crew leader ~~shall be~~ is treated as the employer of
65.20 the employee; and

65.21 (ii) the other person ~~shall be~~ is treated as having paid wages to the employee in an
65.22 amount equal to the amount of wages paid to the employee by the crew leader (either on
65.23 the crew leader's behalf or on behalf of the other person) for the agricultural employment
65.24 performed for the other person.

65.25 (4) The term "crew leader" means an individual who:

65.26 (i) furnishes employees to be employed in agricultural employment for any other
65.27 person;

65.28 (ii) pays (either on the crew leader's own behalf or on behalf of the other person)
65.29 the employees furnished by the crew leader for the agricultural employment performed
65.30 by them; and

65.31 (iii) has not entered into a written agreement with the other person under which the
65.32 furnished employee is designated as an employee of the other person.

65.33 (5) Employment of an officer or shareholder of a family farm corporation ~~shall be~~ is
65.34 excluded from covered agricultural employment unless the corporation is an employer
65.35 under United States Code, title 26, section 3306(a)(2) of the Federal Unemployment
65.36 Tax Act.

66.1 (6) Employment of an individual 16 years of age or under ~~shall be~~ is excluded from
66.2 covered agricultural employment unless the employer is an employer under United States
66.3 Code, title 26, section 3306(a)(2) of the Federal Unemployment Tax Act.

66.4 Sec. 8. Minnesota Statutes 2005 Supplement, section 268.035, subdivision 13, is
66.5 amended to read:

66.6 Subd. 13. **Employee.** "Employee" means:

66.7 (1) every individual who is performing or has performed services for an employer
66.8 in employment; or

66.9 (2) each individual employed to perform or assist in performing the work of any
66.10 agent or employee of the employer ~~shall be~~ is considered to be an employee of that
66.11 employer whether the individual was hired or paid directly by that employer or by the agent
66.12 or employee, provided the employer had actual or constructive knowledge of the work.

66.13 Sec. 9. Minnesota Statutes 2005 Supplement, section 268.035, subdivision 20, is
66.14 amended to read:

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

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

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

66.20 (3) employment for a foreign government;

66.21 (4) employment for an instrumentality wholly owned by a foreign government,
66.22 if the employment is of a character similar to that performed in foreign countries by
66.23 employees of the United States government or an instrumentality thereof and the United
66.24 States Secretary of State has certified that the foreign government grants an equivalent
66.25 exemption to similar employment performed in the foreign country by employees of the
66.26 United States government and instrumentalities thereof;

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

66.29 (6) employment covered by a reciprocal arrangement between the commissioner
66.30 and another state or the federal government ~~which~~ that provides that all employment
66.31 performed by an individual for an employer during the period covered by the reciprocal
66.32 arrangement is considered performed entirely within another state;

66.33 (7) employment for a church or convention or association of churches, or an
66.34 organization operated primarily for religious purposes that is operated, supervised,

67.1 controlled, or principally supported by a church or convention or association of churches
67.2 described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue
67.3 Code and exempt from income tax under section 501(a);

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

67.9 (9) employment of an individual receiving rehabilitation of "sheltered" work in
67.10 a facility conducted for the purpose of carrying out a program of rehabilitation for
67.11 individuals whose earning capacity is impaired by age or physical or mental deficiency
67.12 or injury or a program providing "sheltered" work for individuals who because of an
67.13 impaired physical or mental capacity cannot be readily absorbed in the competitive labor
67.14 market. This clause applies only to services performed for Minnesota or a political
67.15 subdivision or an organization described in United States Code, title 26, section 501(c)(3)
67.16 of the federal Internal Revenue Code and exempt from income tax under section 501(a)
67.17 in a facility certified by the Rehabilitation Services Branch of the department or in a day
67.18 training or habilitation program licensed by the Department of Human Services;

67.19 (10) employment of an individual receiving work relief or work training as part of
67.20 an unemployment work relief or work training program assisted or financed in whole or
67.21 in part by any federal agency or an agency of a state or political subdivision thereof.
67.22 This clause applies only to employment for Minnesota or a political subdivision or an
67.23 organization described in United States Code, title 26, section 501(c)(3) of the federal
67.24 Internal Revenue Code and exempt from income tax under section 501(a). This clause
67.25 ~~shall~~ does not apply to programs that require unemployment benefit coverage for the
67.26 participants;

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

67.29 (12) employment as a member of the Minnesota National Guard or Air National
67.30 Guard;

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

67.34 (14) employment as an election official or election worker for Minnesota or a
67.35 political subdivision, but only if the compensation for that employment was less than
67.36 \$1,000 in a calendar year;

68.1 (15) employment for Minnesota that is a major policy making or advisory position
68.2 in the unclassified service, including those positions established ~~pursuant to~~ under section
68.3 43A.08, subdivision 1a;

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

68.6 (17) domestic employment in a private household, local college club, or local
68.7 chapter of a college fraternity or sorority performed for a person, only if the wages paid in
68.8 any calendar quarter in either the current or preceding calendar year to all individuals in
68.9 domestic employment totaled less than \$1,000.

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

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

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

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

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

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

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

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

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

69.1 (26) employment as an insurance salesperson, by other than a corporate officer, if all
 69.2 the wages from the employment is solely by way of commission. The word "insurance"
 69.3 ~~shall include~~ includes an annuity and an optional annuity;

69.4 (27) employment as an officer of a township mutual insurance company or farmer's
 69.5 mutual insurance company operating ~~pursuant to~~ under chapter 67A;

69.6 (28) employment of a corporate officer, if the officer owns 25 percent or more of the
 69.7 employer corporation, and employment of a member of a limited liability company, if the
 69.8 member owns 25 percent or more of the employer limited liability company;

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

69.11 (30) employment as a direct seller as defined in United States Code, title 26, section
 69.12 3508;

69.13 (31) employment of an individual under the age of 18 in the delivery or distribution
 69.14 of newspapers or shopping news, not including delivery or distribution to any point for
 69.15 subsequent delivery or distribution;

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

69.19 (33) employment in "agricultural employment" unless considered "covered
 69.20 agricultural employment" under subdivision 11; or

69.21 (34) if employment during one-half or more of any pay period was covered
 69.22 employment, all the employment for the pay period ~~shall be~~ is considered covered
 69.23 employment; but if during more than one-half of any pay period the employment was
 69.24 noncovered employment, then all of the employment for the pay period ~~shall be~~ is
 69.25 considered noncovered employment. "Pay period" means a period of not more than a
 69.26 calendar month for which a payment or compensation is ordinarily made to the employee
 69.27 by the employer.

69.28 Sec. 10. Minnesota Statutes 2004, section 268.035, subdivision 21a, is amended to
 69.29 read:

69.30 Subd. 21a. **Reemployment assistance training.** (a) An applicant is in
 69.31 "reemployment assistance training" when:

32 (1) reasonable and suitable employment for the applicant does not exist in the labor
 33 market area and it is necessary that the applicant receive training in order to obtain
 69.34 suitable employment;

70.1 (2) the curriculum, facilities, staff, and other essentials are adequate to achieve the
70.2 training objective;

70.3 (3) the training is vocational in nature or short term academic training vocationally
70.4 directed to an occupation or skill for which there are reasonable employment opportunities
70.5 available to the applicant;

70.6 (4) the training course is considered full time by the training provider; and

70.7 (5) the applicant is making satisfactory progress in the training.

70.8 (b) Full-time training provided through the dislocated worker program, the Trade
70.9 Act of 1974, as amended, or the North American Free Trade Agreement ~~shall be~~ is
70.10 considered "reemployment assistance training," if that training course is in accordance
70.11 with the requirements of that program.

70.12 (c) An applicant ~~will be~~ is considered in reemployment assistance training only if
70.13 the training course has actually started or is scheduled to start within 30 calendar days.

70.14 Sec. 11. Minnesota Statutes 2004, section 268.035, subdivision 23a, is amended to read:

70.15 Subd. 23a. **Suitable employment.** (a) Suitable employment means employment in
70.16 the applicant's labor market area that is reasonably related to the applicant's qualifications.

70.17 In determining whether any employment is suitable for an applicant, the degree of risk
70.18 involved to the health and safety, physical fitness, prior training, experience, length
70.19 of unemployment, prospects for securing employment in the applicant's customary
70.20 occupation, and the distance of the employment from the applicant's residence ~~shall be~~
70.21 is considered.

70.22 (b) In determining what is suitable employment, primary consideration ~~shall~~
70.23 be is given to the temporary or permanent nature of the applicant's separation from
70.24 employment and whether the applicant has favorable prospects of finding employment in
70.25 the applicant's usual or customary occupation at the applicant's past wage level within a
70.26 reasonable period of time.

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

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

70.33 (c) When potential employment is at a rate of pay lower than the applicant's former
70.34 rate, consideration must be given to the length of the applicant's unemployment and
70.35 the proportion of difference in the rates. Employment that may not be suitable because

71.1 of lower wages during the early weeks of the applicant's unemployment may become
71.2 suitable as the duration of unemployment lengthens.

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

71.6 (e) If a majority of the applicant's wage credits were earned from part-time
71.7 employment, part-time employment in a position with comparable skills and comparable
71.8 hours that pays average gross weekly wages equal to or more than 150 percent of
71.9 the applicant's weekly unemployment benefit amount ~~shall be~~ is considered suitable
71.10 employment.

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

71.15 (g) Employment ~~shall~~ is not ~~be~~ considered suitable if:

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

71.17 (2) the wages, hours, or other conditions of employment are substantially less
71.18 favorable than those prevailing for similar employment in the labor market area; or

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

71.21 Sec. 12. Minnesota Statutes 2005 Supplement, section 268.035, subdivision 26,
71.22 is amended to read:

71.23 Subd. 26. **Unemployed.** An applicant ~~shall be~~ is considered "unemployed" (1) in
71.24 any week that the applicant performs less than 32 hours of service in employment, covered
71.25 employment, noncovered employment, self-employment, or volunteer work; and (2) any
71.26 earnings with respect to that week are less than the applicant's weekly unemployment
71.27 benefit amount.

71.28 Sec. 13. Minnesota Statutes 2004, section 268.035, subdivision 30, is amended to read:

71.29 Subd. 30. **Wages paid.** (a) "Wages paid" means the amount of wages that have been
71.30 actually paid or that have been credited to or set apart so that payment and disposition
71.31 is under the control of the employee. Wage payments delayed beyond the regularly
71.32 scheduled pay date are considered "wages paid" on the missed pay date. Back pay ~~shall~~
71.33 be is considered "wages paid" on the date of actual payment. Any wages earned but

72.1 not paid with no scheduled date of payment ~~shall be~~ is considered "wages paid" on the
72.2 last day of employment.

72.3 (b) Wages paid ~~shall~~ does not include wages earned but not paid except as provided
72.4 for in this subdivision.

72.5 Sec. 14. Minnesota Statutes 2004, section 268.042, subdivision 3, is amended to read:

72.6 Subd. 3. **Election to have noncovered employment considered covered**
72.7 **employment.** (a) Any employer that has employment performed for it that is noncovered
72.8 employment under section 268.035, subdivision 20, may file with the commissioner, by
72.9 electronic transmission in a format prescribed by the commissioner, an election that all
72.10 ~~such~~ employment, in one or more distinct establishments or places of business, ~~shall be~~ is
72.11 considered covered employment for not less than two calendar years. The commissioner
72.12 ~~shall have~~ has discretion on the approval of any election. Upon the approval of the
72.13 commissioner, sent by mail or electronic transmission, the employment ~~shall constitute~~
72.14 constitutes covered employment beginning the calendar quarter after the date of approval
72.15 or beginning a later calendar quarter if requested by the employer. The employment
72.16 ~~shall cease~~ ceases to be considered covered employment as of the first day of January of
72.17 any calendar year only if at least 30 calendar days ~~prior to~~ before the first day of January
72.18 the employer has filed with the commissioner, by electronic transmission in a format
72.19 prescribed by the commissioner, a notice to that effect.

72.20 (b) The commissioner must terminate any election agreement under this subdivision
72.21 upon 30 calendar days' notice sent by mail or electronic transmission, if the employer is
72.22 delinquent on any taxes due or reimbursements due the trust fund.

72.23 Sec. 15. Minnesota Statutes 2004, section 268.042, subdivision 4, is amended to read:

72.24 Subd. 4. **Authorization.** The commissioner is authorized to enter into reciprocal
72.25 arrangements with other states and the federal government, or both, whereby employment
72.26 by an employee or employees for a single employer that is customarily performed in more
72.27 than one state ~~shall be~~ is considered performed entirely within any one of the states:

72.28 (1) where any part of the employee's employment is performed, or

72.29 (2) where the employee has a residence, or

72.30 (3) where the employer maintains a place of business; provided, there is in effect,

72.31 as to the employment, an election, approved by the state, ~~pursuant to~~ under which all

72.32 the employment by the employee or employees for the employer is considered to be

72.33 performed entirely within that state.

73.1 Sec. 16. Minnesota Statutes 2005 Supplement, section 268.0435, is amended to read:

73.2 **268.0435 SINGLE MEMBER LIMITED LIABILITY COMPANIES.**

73.3 If the only member of a limited liability company is a corporation, and the limited
73.4 liability company is disregarded for purposes of filing federal corporate income tax, all
73.5 the workers performing services for the limited liability company must be reported on
73.6 the corporation's wage detail report under section 268.044. A corporation that violates
73.7 this section ~~shall be~~ is subject to the penalties under section 268.184, subdivision 1a.
73.8 Penalties ~~shall be~~ are credited to the administration account to be used to ensure integrity
73.9 in the unemployment insurance program.

73.10 Sec. 17. Minnesota Statutes 2004, section 268.044, subdivision 1a, is amended to read:

73.11 Subd. 1a. **Electronic transmission of report required.** Each employer must submit
73.12 the quarterly wage detail report by electronic transmission in a format prescribed by the
73.13 commissioner. The commissioner ~~shall have~~ has the discretion to accept wage detail
73.14 reports that are submitted by any other means or the commissioner may return the report
73.15 submitted by other than electronic transmission to the employer, and reports returned ~~shall~~
73.16 be are considered as not submitted and the late fees under subdivision 2 may be imposed.

73.17 Sec. 18. Minnesota Statutes 2005 Supplement, section 268.044, subdivision 2, is
73.18 amended to read:

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

- 73.22 (1) the number of employees reported on the last wage detail report submitted;
- 73.23 (2) the number of employees reported in the corresponding quarter of the prior
73.24 calendar year; or
- 73.25 (3) if no wage detail report has ever been submitted, the number of employees
73.26 listed at the time of employer registration.

73.27 The late fee ~~shall be~~ is waived if the wage detail report is received within 30
73.28 calendar days after a demand for the report is sent to the employer by mail or electronic
73.29 transmission. A late fee assessed an employer may not be waived more than twice each 12
73.30 months. The amount of the late fee assessed ~~shall~~ may not be less than \$250.

73.31 (b) If the wage detail report is not received in a manner and format prescribed by
73.32 the commissioner within 30 calendar days after demand is sent under paragraph (a),
73.33 the late fee assessed under paragraph (a) ~~shall double~~ doubles and a renewed demand

74.1 notice and notice of the increased late fee ~~shall~~ will be sent to the employer by mail or
74.2 electronic transmission.

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

74.5 Sec. 19. Minnesota Statutes 2004, section 268.044, subdivision 4, is amended to read:

74.6 Subd. 4. **fees.** The fees provided for in subdivisions 2 and 3 are in addition to
74.7 interest and other penalties imposed by this chapter and ~~shall be~~ are collected in the same
74.8 manner as delinquent taxes and ~~shall be~~ credited to the contingent account.

74.9 Sec. 20. Minnesota Statutes 2005 Supplement, section 268.045, subdivision 1, is
74.10 amended to read:

74.11 Subdivision 1. **Account for each employer.** The commissioner shall maintain
74.12 (1) a tax account for each taxpaying employer and (2) a reimbursable account for each
74.13 nonprofit or government employer that has elected under section 268.052 or 268.053 to
74.14 be liable for reimbursements, except as provided in section 268.046. The commissioner
74.15 shall assess the tax account for all the taxes due under section 268.051 and credit the tax
74.16 account with all taxes paid. The commissioner shall charge the reimbursable account for
74.17 any unemployment benefits determined chargeable under section 268.047 and ~~shall~~ credit
74.18 the reimbursable account with the payments made.

74.19 Sec. 21. Minnesota Statutes 2005 Supplement, section 268.046, is amended to read:

74.20 **268.046 TAX AND REIMBURSABLE ACCOUNTS ASSIGNED TO**
74.21 **EMPLOYEE LEASING COMPANIES, PROFESSIONAL EMPLOYER**
74.22 **ORGANIZATIONS, OR SIMILAR PERSON.**

74.23 Subdivision 1. **Tax accounts assigned.** (a) Any person that contracts with a
74.24 taxpaying employer to have that person obtain the taxpaying employer's workforce and
74.25 provide workers to the taxpaying employer for a fee ~~shall~~ is, as of the effective date
74.26 of the contract, ~~be~~ assigned for the duration of the contract the taxpaying employer's
74.27 account under section 268.045. That tax account must be maintained by the person
74.28 separate and distinct from every other tax account held by the person and identified in a
74.29 manner prescribed by the commissioner. The tax account ~~shall~~ is, for the duration of the
74.30 contract, ~~be~~ considered that person's account for all purposes of this chapter. The workers
74.31 obtained from the taxpaying employer and any other workers provided by that person to
74.32 the taxpaying employer must, under section 268.044, be reported on the wage detail

75.1 report under that tax account, and that person ~~shall~~ must pay any taxes due at the tax rate
75.2 computed for that account under section 268.051, subdivision 2.

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

75.8 (c) If the taxpaying employer that contracts with a person under paragraph (a) does
75.9 not have a tax account at the time of the execution of the contract, an account must be
75.10 registered for the taxpaying employer under section 268.042 and the new employer tax
75.11 rate under section 268.051, subdivision 5, must be assigned. The tax account ~~shall~~ is then
75.12 ~~be~~ assigned to the person as provided for in paragraph (a).

75.13 (d) A person that contracts with a taxpaying employer under paragraph (a)
75.14 must, within 30 calendar days of the execution or termination of a contract, notify the
75.15 commissioner by electronic transmission, in a format prescribed by the commissioner,
75.16 of that execution or termination. The taxpaying employer's name, the account number
75.17 assigned, and any other information required by the commissioner must be provided
75.18 by that person.

75.19 (e) Any contract subject to paragraph (a) must specifically inform the taxpaying
75.20 employer of the assignment of the tax account under this section and the taxpaying
75.21 employer's obligation under paragraph (b). If there is a termination of the contract, the tax
75.22 account ~~shall~~ is, as of the date of termination, immediately ~~be~~ assigned to the taxpaying
75.23 employer.

75.24 **Subd. 2. Nonprofit and government reimbursable accounts assigned.** (a) Any
75.25 person that contracts with a nonprofit or government employer that is a reimbursing
75.26 employer to have that person obtain the nonprofit or government employer's workforce
75.27 and provide workers to the nonprofit or government employer for a fee, ~~shall~~ is, as of the
75.28 effective date of the contract, ~~be~~ assigned for the duration of the contract the nonprofit or
75.29 government employer's account under section 268.045. That reimbursable account must
75.30 be maintained by the person separate and distinct from every other account held by the
75.31 person and identified in a manner prescribed by the commissioner. That reimbursable
75.32 account ~~shall~~ is, for the duration of the contract, ~~be~~ considered that person's account for
75.33 all purposes of this chapter. The workers obtained from the nonprofit or government
75.34 employer and any other workers provided by that person to the nonprofit or government
75.35 employer must, under section 268.044, be reported on the wage detail report under that
75.36 reimbursable account, and that person ~~shall~~ must pay any reimbursements due.

76.1 (b) Any workers of the nonprofit or government employer who are not covered
76.2 by the contract under paragraph (a) must be reported by the nonprofit or government
76.3 employer as a separate unit on the wage detail report under the reimbursable account
76.4 assigned under paragraph (a). Reimbursements and any other amounts due on the wages
76.5 reported by the nonprofit or government employer under this paragraph may be paid
76.6 directly by the nonprofit or government employer.

76.7 (c) If the nonprofit or government employer that contracts with a person under
76.8 paragraph (a) does not have an account at the time of the execution of the contract, an
76.9 account must be registered for the nonprofit or government employer under section
76.10 268.042. The reimbursable account ~~shall~~ is then be assigned to the person as provided
76.11 for in paragraph (a).

76.12 (d) A person that contracts with a nonprofit or government employer under
5.13 paragraph (a) must, within 30 calendar days of the execution or termination of a contract,
76.14 notify the commissioner of that execution or termination by electronic transmission, in a
76.15 format prescribed by the commissioner. The nonprofit or government employer's name,
76.16 the account number assigned, and any other information required by the commissioner
76.17 must be provided by that person.

76.18 (e) Any contract subject to paragraph (a) must specifically inform the nonprofit or
76.19 government employer of the assignment of the reimbursable account under this section
76.20 and the nonprofit or government employer's obligation under paragraph (b). If there is a
76.21 termination of the contract, the reimbursable account ~~shall~~ is, as of the date of termination,
76.22 immediately ~~be~~ assigned to the nonprofit or government employer.

6.23 **Subd. 3. Penalties; application.** (a) Any person that violates the requirements of
76.24 this section and any taxpaying employer that violates subdivision 1, paragraph (b), or any
76.25 nonprofit or government employer that violates subdivision 2, paragraph (b), ~~shall be~~ is
76.26 subject to the penalties under section 268.184, subdivision 1a. Penalties ~~shall be~~ are
76.27 credited to the administration account to be used to ensure integrity in the unemployment
76.28 insurance program.

76.29 (b) Section 268.051, subdivision 4, does not apply to contracts under this section.
76.30 This section ~~shall~~ does not limit or prevent the application of section 268.051, subdivision
76.31 4, to any other transactions or acquisitions involving the taxpaying employer. This section
76.32 ~~shall~~ does not limit or prevent the application of section 268.051, subdivision 4a.

5.33 (c) An assignment of an account upon the execution of a contract under this section
76.34 and a termination of a contract with the corresponding assignment of the account ~~shall~~ is
76.35 not ~~be~~ considered a separation from employment of any worker covered by the contract.
76.36 Nothing under this subdivision ~~shall cause~~ causes the person to be liable for any amounts

77.1 past due under this chapter from the taxpaying employer or the nonprofit or government
 77.2 employer.

77.3 (d) This section applies to, but is not limited to, persons registered under section
 77.4 79.255, but does not apply to persons that obtain an exemption from registration under
 77.5 section 79.255, subdivision 9.

77.6 Sec. 22. Minnesota Statutes 2004, section 268.047, subdivision 1, is amended to read:

77.7 Subdivision 1. **General rule.** Unemployment benefits paid to an applicant,
 77.8 including extended, additional, and shared work benefits, ~~shall~~ will be used in computing
 77.9 the future tax rate of a taxpaying base period employer or charged to the reimbursable
 77.10 account of a base period nonprofit or government employer that has elected to be liable for
 77.11 reimbursements except as provided in subdivisions 2 and 3. The amount of unemployment
 77.12 benefits used in computing the future tax rate of taxpaying employers or charged to the
 77.13 reimbursable account of a nonprofit or government employer that has elected to be liable
 77.14 for reimbursements ~~shall be~~ is the same percentage of the total amount of unemployment
 77.15 benefits paid as the percentage of wage credits from the employer is of the total amount of
 77.16 wage credits from all the applicant's base period employers.

77.17 In making computations under this subdivision, the amount of wage credits, if not a
 77.18 whole dollar, ~~shall~~ must be computed to the nearest whole dollar.

77.19 Sec. 23. Minnesota Statutes 2004, section 268.047, subdivision 3, is amended to read:

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

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

77.23 (2) the applicant quit the employment, unless it was determined under section
 77.24 268.095, to have been because of a good reason caused by the employer or because the
 77.25 employer notified the applicant of discharge within 30 calendar days. This exception
 77.26 ~~shall apply~~ applies only to unemployment benefits paid for periods after the applicant's
 77.27 quitting the employment; or

77.28 (3) the employer discharged the applicant from employment because of employment
 77.29 misconduct as determined under section 268.095. This exception ~~shall apply~~ applies
 77.30 only to unemployment benefits paid for periods after the applicant's discharge from
 77.31 employment.

77.32 Sec. 24. Minnesota Statutes 2005 Supplement, section 268.051, subdivision 4a,
 77.33 is amended to read:

78.1 Subd. 4a. **Actions that avoid taxes.** (a) If the commissioner determines that any
78.2 action was done, in whole or in part, to avoid:

78.3 (1) an experience rating history;

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

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

78.10 (b) This subdivision ~~shall apply~~ applies to any action between persons regardless
78.11 of whether there is any commonality of ownership, management, or control between the
78.12 persons. The authority granted to the commissioner under this subdivision is in addition to
78.13 any other authority granted to the commissioner.

78.14 Sec. 25. Minnesota Statutes 2004, section 268.051, subdivision 9, is amended to read:

78.15 Subd. 9. **Assessments, fees, and surcharges; treatment.** Any assessment, fee, or
78.16 surcharge imposed under the Minnesota Unemployment Insurance Law ~~shall be~~ is treated
78.17 the same as, and considered as, a tax. Any assessment, fee, or surcharge ~~shall be~~ is subject
78.18 to the same collection procedures that apply to past due taxes.

78.19 Sec. 26. Minnesota Statutes 2004, section 268.052, subdivision 1, is amended to read:

78.20 Subdivision 1. **Payments.** In lieu of taxes payable on a quarterly basis, the state
78.21 of Minnesota or its political subdivisions ~~shall~~ must reimburse the trust fund the amount
78.22 of unemployment benefits charged to its reimbursable account under section 268.047.
78.23 Reimbursements in the amount of unemployment benefits charged to the reimbursable
78.24 account during a calendar quarter must be received by the department on or before the last
78.25 day of the month following the month that the notice of unemployment benefits paid is sent
78.26 ~~pursuant to~~ under section 268.047, subdivision 5. Past due reimbursements ~~shall be~~ are
78.27 subject to the same interest charges and collection procedures that apply to past due taxes.

78.28 Sec. 27. Minnesota Statutes 2005 Supplement, section 268.052, subdivision 2, is
78.29 amended to read:

78.30 Subd. 2. **Election by state or political subdivision to be a taxpaying employer.**

78.31 (a) The state or political subdivision may elect to be a taxpaying employer for any calendar
78.32 year if a notice of election is filed within 30 calendar days following January 1 of that
78.33 calendar year. Upon election, the state or political subdivision ~~shall~~ must be assigned the

79.1 new employer tax rate under section 268.051, subdivision 5, for the calendar year of the
79.2 election and until it qualifies for an experience rating under section 268.051, subdivision 3.

79.3 (b) An election ~~shall be~~ is for a minimum period of two calendar years following the
79.4 effective date of the election and continue unless a notice terminating the election is filed
79.5 not later than 30 calendar days before the beginning of the calendar year. The termination
79.6 ~~shall be~~ is effective at the beginning of the next calendar year. Upon election, the
79.7 commissioner shall establish a reimbursable account for the state or political subdivision.
79.8 A termination of election ~~shall be~~ is allowed only if the state or political subdivision has,
79.9 since the beginning of the experience rating period under section 268.051, subdivision
79.10 3, paid taxes equal to or more than 125 percent of the unemployment benefits used
79.11 in computing the experience rating. In addition, any unemployment benefits paid after
79.12 the experience rating period ~~shall be~~ are transferred to the new reimbursable account of
79.13 the state or political subdivision. If the amount of taxes paid since the beginning of the
79.14 experience rating period exceeds 125 percent of the amount of unemployment benefits
79.15 paid during the experience rating period, that amount in excess ~~shall be~~ is applied against
79.16 any unemployment benefits paid after the experience rating period.

79.17 (c) The method of payments to the trust fund under subdivisions 3 and 4 ~~shall apply~~
79.18 applies to all taxes paid by or due from the state or political subdivision that elects to be
79.19 taxpaying employers under this subdivision.

79.20 (d) A notice of election or a notice terminating election ~~shall~~ must be filed by
79.21 electronic transmission in a format prescribed by the commissioner.

9.22 Sec. 28. Minnesota Statutes 2004, section 268.052, subdivision 3, is amended to read:

9.23 Subd. 3. **Method of payment by state.** To discharge its liability, the state and its
79.24 wholly owned instrumentalities ~~shall~~ must pay the trust fund as follows:

79.25 (1) Every self-sustaining department, institution and wholly owned instrumentality
79.26 ~~shall~~ must pay the trust fund in accordance with subdivision 1. For the purposes of this
79.27 clause a "self-sustaining department, institution or wholly owned instrumentality" is one
79.28 where the dedicated income and revenue substantially offsets its cost of operation.

79.29 (2) Every partially self-sustaining department, institution and wholly owned
79.30 instrumentality ~~shall~~ must pay the trust fund that same proportion of the amount that has
79.31 been charged to its employer account as the proportion of the total of its income and
79.32 revenue is to its annual cost of operation.

9.33 (3) Every department, institution or wholly owned instrumentality that is not
79.34 self-sustaining ~~shall~~ must pay the trust fund to the extent funds are available from
79.35 appropriated funds.

80.1 (4) The departments, institutions and wholly owned instrumentalities, including
 80.2 the University of Minnesota, that have money available ~~shall~~ must pay the trust fund in
 80.3 accordance with subdivision 1. If an applicant was paid during the base period from
 80.4 a special account provided by law, the payment to the trust fund ~~shall~~ must be made
 80.5 from the special account with the approval of the Department of Administration and the
 80.6 amounts are hereby appropriated.

80.7 (5) For those departments, institutions and wholly owned instrumentalities that
 80.8 cannot pay the trust fund, the commissioner shall certify on November 1 of each calendar
 80.9 year to the commissioner of finance the unpaid balances. Upon receipt of the certification,
 80.10 the commissioner of finance shall include the unpaid balances in the biennial budget
 80.11 submitted to the legislature.

80.12 Sec. 29. Minnesota Statutes 2004, section 268.052, subdivision 4, is amended to read:

80.13 Subd. 4. **Method of payment by political subdivision.** A political subdivision or
 80.14 instrumentality thereof is authorized and directed to pay its liabilities by money collected
 80.15 from taxes or other revenues. Every political subdivision authorized to levy taxes except
 80.16 school districts may include in its tax levy the amount necessary to pay its liabilities.
 80.17 School districts may levy according to section 126C.43, subdivision 2. If the taxes
 80.18 authorized to be levied cause the total amount of taxes levied to exceed any limitation
 80.19 upon the power of a political subdivision to levy taxes, the political subdivision may
 80.20 levy taxes in excess of the limitations in the amounts necessary to meet its liability. The
 80.21 expenditures authorized ~~shall~~ must not be included in computing the cost of government
 80.22 as defined in any home rule charter. The governing body of a municipality, for the purpose
 80.23 of meeting its liabilities, in the event of a deficit, may issue its obligations payable in not
 80.24 more than two years, in an amount that may cause its indebtedness to exceed any statutory
 80.25 or charter limitations, without an election, and may levy taxes in the manner provided
 80.26 in section 475.61.

80.27 Sec. 30. Minnesota Statutes 2004, section 268.052, subdivision 5, is amended to read:

80.28 Subd. 5. **Considered an election.** If the state of Minnesota or its political
 80.29 subdivisions choose not to be a taxpaying employer under subdivision 2, the state or its
 80.30 political subdivision ~~shall be~~ are considered, for purposes of the Minnesota unemployment
 80.31 insurance program, to have elected to be liable for reimbursements under subdivision 1.

80.32 Sec. 31. Minnesota Statutes 2004, section 268.0525, is amended to read:

80.33 **268.0525 INDIAN TRIBES.**

81.1 (a) An Indian tribe, as defined under United States Code, title 25, section 450b(e)
81.2 of the Indian Self-Determination and Education Assistance Act, and any subdivision,
81.3 subsidiary, or business enterprise owned by the Indian tribe, ~~shall~~ must be treated the same
81.4 as the state of Minnesota, or a political subdivision of the state, for all purposes of the
81.5 Minnesota Unemployment Insurance Law.

81.6 (b) The Indian tribe may make separate elections under section 268.052, subdivision
81.7 2, for itself and each subdivision, subsidiary, or business enterprise wholly owned by
81.8 the Indian tribe.

81.9 (c) If an Indian tribe, subdivision, subsidiary, or business enterprise wholly owned
81.10 by the tribe, which has elected to be liable for reimbursements, fails to make the required
81.11 payments within 90 calendar days of the notice of delinquency, the commissioner shall
81.12 terminate the election to make reimbursements as of the beginning of the next calendar
81.13 year, unless all past due reimbursements, and any interest and penalties, have been paid
81.14 before the beginning of the next calendar year.

81.15 An Indian tribe, subdivision, subsidiary, or business enterprise wholly owned by the
81.16 tribe that has its election terminated under this paragraph ~~shall~~ must become a taxpaying
81.17 employer and assigned the new employer tax rate under section 268.051, subdivision 5,
81.18 until the tribe, subdivision, subsidiary, or business enterprise wholly owned by the Indian
81.19 tribe qualifies for an experience rating under section 268.051, subdivision 3.

81.20 Sec. 32. Minnesota Statutes 2005 Supplement, section 268.053, subdivision 1, is
81.21 amended to read:

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

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

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

81.33 (c) A nonprofit organization that has been making reimbursements that files a notice
81.34 of termination of election ~~shall~~ must be assigned the new employer tax rate under section

82.1 268.051, subdivision 5, for the calendar year of the termination of election and until it
82.2 qualifies for an experience rating under section 268.051, subdivision 3.

82.3 (d) Any nonprofit organization that has been paying taxes may elect to make
82.4 reimbursements by filing no less than 30 calendar days before January 1 of any calendar
82.5 year a notice of election. Upon election, the commissioner shall establish a reimbursable
82.6 account for the nonprofit organization. An election ~~shall be~~ is allowed only if the nonprofit
82.7 organization has, since the beginning of the experience rating period under section
82.8 268.051, subdivision 3, paid taxes equal to or more than 125 percent of the unemployment
82.9 benefits used in computing the experience rating. In addition, any unemployment benefits
82.10 paid after the experience rating period ~~shall be~~ are transferred to the new reimbursable
82.11 account of the nonprofit organization. If the amount of taxes paid since the beginning of
82.12 the experience rating period exceeds 125 percent of the amount of unemployment benefits
82.13 paid during the experience rating period, that amount in excess ~~shall be~~ is applied against
82.14 any unemployment benefits paid after the experience rating period. The election ~~shall~~ is
82.15 not ~~be~~ terminable by the organization for that and the next calendar year.

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

82.18 (f) A notice of election or notice terminating election ~~shall~~ must be filed by electronic
82.19 transmission in a format prescribed by the commissioner.

82.20 Sec. 33. Minnesota Statutes 2004, section 268.053, subdivision 3, is amended to read:

82.21 Subd. 3. **Payments.** (a) Reimbursements, in the amount of unemployment benefits
82.22 charged to the reimbursable account, during a calendar quarter, must be received by the
82.23 department on or before the last day of the month following the month that the notice of
82.24 unemployment benefits paid is sent ~~pursuant to~~ under section 268.047, subdivision 5.

82.25 (b) Past due reimbursements ~~shall be~~ are subject to the same interest charges and
82.26 collection procedures that apply to past due taxes.

82.27 (c) If any nonprofit organization is delinquent in making reimbursements, the
82.28 commissioner may terminate the organization's election to make reimbursements as of
82.29 the beginning of the next calendar year, and the termination ~~shall be~~ is effective for that
82.30 and the following calendar year. A nonprofit organization that has its election terminated
82.31 under this paragraph ~~shall~~ must be assigned the new employer tax rate under section
82.32 268.051, subdivision 5, until the organization qualifies for an experience rating under
82.33 section 268.051, subdivision 3.

82.34 Sec. 34. Minnesota Statutes 2004, section 268.057, subdivision 1, is amended to read:

83.1 Subdivision 1. **Amount computed presumed correct.** Any amount due from
 83.2 an employer, as computed by the commissioner, ~~shall be~~ is presumed to be correctly
 83.3 determined and assessed, and the burden ~~shall be~~ is upon the employer to show its
 83.4 incorrectness. A statement by the commissioner of the amount due ~~shall be~~ is admissible
 83.5 in evidence in any court or administrative proceeding and ~~shall be~~ is prima facie evidence
 83.6 of the facts in the statement.

83.7 Sec. 35. Minnesota Statutes 2004, section 268.057, subdivision 2, is amended to read:

83.8 Subd. 2. **Priority of payments.** (a) Any payment received from a taxpaying
 83.9 employer ~~shall~~ must be applied in the following order:

83.10 (1) unemployment insurance taxes; then

83.11 (2) special assessment for interest on any federal loan; then

83.12 (3) workforce development fee; then

83.13 (4) interest on past due taxes; then

83.14 (5) penalties, late fees, administrative service fees, and costs.

83.15 (b) Paragraph (a) ~~shall be~~ is the priority used for all payments received from a
 83.16 taxpaying employer, regardless of how the employer may designate the payment to be
 83.17 applied, except when:

83.18 (1) there is an outstanding lien and the employer designates that the payment made
 83.19 should be applied to satisfy the lien;

83.20 (2) the payment is for back pay withheld from an applicant ~~pursuant to~~ under section
 83.21 268.085, subdivision 6, paragraph (b);

83.22 (3) the payment is specifically designated by the employer to be applied to an
 83.23 outstanding overpayment of unemployment benefits of an applicant;

83.24 (4) a court or administrative order directs that the payment be applied to a specific
 83.25 obligation;

83.26 (5) a preexisting payment plan provides for the application of payment; or

83.27 (6) the commissioner, under the compromise authority of section 268.067, agrees to
 83.28 apply the payment to a different priority.

83.29 Sec. 36. Minnesota Statutes 2004, section 268.057, subdivision 3, is amended to read:

83.30 Subd. 3. **Estimating the tax due.** Only if an employer fails to make all necessary
 83.31 records available for an audit ~~pursuant to~~ under section 268.186, paragraph (b), and the
 83.32 commissioner has reason to believe the employer has not reported all the required wages
 83.33 on the quarterly wage detail reports under section 268.044, may the commissioner then
 83.34 estimate the amount of tax due and assess the employer the estimated amount due.

84.1 Sec. 37. Minnesota Statutes 2004, section 268.057, subdivision 4, is amended to read:

84.2 Subd. 4. **Costs.** Any person that fails to pay any amount when due under this
84.3 chapter is liable for any filing fees, recording fees, sheriff fees, costs incurred by referral
84.4 to any public or private collection agency, or litigation costs, including attorney fees,
84.5 incurred in the collection of the amounts due.

84.6 If any tendered payment of any amount due, is not honored when presented to a
84.7 financial institution for payment, a fee of \$25 ~~shall~~ must be assessed.

84.8 Costs and fees collected under this subdivision ~~shall be~~ are credited to the
84.9 administration account to be used by the commissioner to ensure integrity in the
84.10 administration of the unemployment insurance program.

84.11 Sec. 38. Minnesota Statutes 2004, section 268.057, subdivision 5, is amended to read:

84.12 Subd. 5. **Interest on amounts past due.** If any amounts due from an employer
84.13 under this chapter or section 116L.20, except late fees under section 268.044, are not
84.14 received on the date due the unpaid balance ~~shall bear~~ bears interest at the rate of one and
84.15 one-half percent per month or any part thereof. Interest assessed, if not a whole dollar
84.16 amount, ~~shall be~~ is rounded down to the next lower whole dollar. Interest collected ~~shall be~~
84.17 is credited to the contingent account. Interest may be compromised under section 268.067.

84.18 Sec. 39. Minnesota Statutes 2004, section 268.057, subdivision 6, is amended to read:

84.19 Subd. 6. **Interest on judgments.** Regardless of section 549.09, if judgment is
84.20 entered upon any past due amounts from an employer under this chapter or section
84.21 116L.20, the unpaid judgment ~~shall bear~~ bears interest at the rate specified in subdivision
84.22 5 until the date of payment.

84.23 Sec. 40. Minnesota Statutes 2004, section 268.057, subdivision 10, is amended to read:

84.24 Subd. 10. **Priorities under legal dissolutions or distributions.** In the event of any
84.25 distribution of an employer's assets ~~pursuant~~ according to an order of any court, including
84.26 any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar
84.27 proceeding, taxes then or thereafter due ~~shall~~ must be paid in full ~~prior to~~ before all other
84.28 claims except claims for wages of not more than \$1,000 per former employee, earned
84.29 within six months of the commencement of the proceedings. In the event of an employer's
1.30 adjudication in bankruptcy under federal law, taxes then or thereafter due ~~shall be~~ are
84.31 entitled to the priority provided in that law for taxes due any state.

85.1 Sec. 41. Minnesota Statutes 2004, section 268.058, is amended to read:

85.2 **268.058 LIEN, LEVY, SETOFF, AND CIVIL ACTION.**

85.3 Subdivision 1. **Lien.** (a) Any amount due under this chapter or section 116L.20,
85.4 from an applicant or an employer, ~~shall become~~ becomes a lien upon all the property,
85.5 within this state, both real and personal, of the person liable, from the date of assessment.
85.6 The term "date of assessment" means the date the obligation was due.

85.7 (b) The lien is not enforceable against any purchaser, mortgagee, pledgee, holder of
85.8 a Uniform Commercial Code security interest, mechanic's lien, or judgment lien creditor,
85.9 until a notice of lien has been filed with the county recorder of the county where the
85.10 property is situated, or in the case of personal property belonging to a nonresident person
85.11 in the Office of the Secretary of State. When the notice of lien is filed with the county
85.12 recorder, the fee for filing and indexing ~~shall be~~ is as provided in sections 272.483 and
85.13 272.484.

85.14 (c) Notices of liens, lien renewals, and lien releases, in a form prescribed by the
85.15 commissioner, may be filed with the county recorder or the secretary of state by mail,
85.16 personal delivery, or by electronic transmission into the computerized filing system of the
85.17 secretary of state. The secretary of state shall, on any notice filed with that office, transmit
85.18 the notice electronically to the appropriate county recorder. The filing officer, whether the
85.19 county recorder or the secretary of state, shall endorse and index a printout of the notice as
85.20 if the notice had been mailed or delivered.

85.21 (d) County recorders and the secretary of state shall enter information on lien
85.22 notices, renewals, and releases into the central database of the secretary of state. For
85.23 notices filed electronically with the county recorders, the date and time of receipt of the
85.24 notice and county recorder's file number, and for notices filed electronically with the
85.25 secretary of state, the secretary of state's recording information, must be entered into the
85.26 central database before the close of the working day following the day of the original
85.27 data entry by the commissioner.

85.28 (e) The lien imposed on personal property, even though properly filed, is not
85.29 enforceable against a purchaser of tangible personal property purchased at retail or
85.30 personal property listed as exempt in sections 550.37, 550.38, and 550.39.

85.31 (f) A notice of lien filed has priority over any security interest arising under chapter
85.32 336, article 9, that is perfected prior in time to the lien imposed by this subdivision, but
85.33 only if:

85.34 (1) the perfected security interest secures property not in existence at the time the
85.35 notice of lien is filed; and

86.1 (2) the property comes into existence after the 45th calendar day following the day
86.2 the notice of lien is filed, or after the secured party has actual notice or knowledge of the
86.3 lien filing, whichever is earlier.

86.4 (g) The lien ~~shall be~~ is enforceable from the time the lien arises and for ten years
86.5 from the date of filing the notice of lien. A notice of lien may be renewed before expiration
86.6 for an additional ten years.

86.7 (h) The lien ~~shall be~~ is enforceable by levy under subdivision 2 or by judgment lien
86.8 foreclosure under chapter 550.

86.9 (i) The lien may be imposed upon property defined as homestead property in chapter
86.10 510 but may be enforced only upon the sale, transfer, or conveyance of the homestead
86.11 property.

86.12 (j) The commissioner may sell and assign to a third party the commissioner's right
86.13 of redemption in specific real property for liens filed under this subdivision. The assignee
86.14 ~~shall be~~ is limited to the same rights of redemption as the commissioner, except that in a
86.15 bankruptcy proceeding, the assignee does not obtain the commissioner's priority. Any
86.16 proceeds from the sale of the right of redemption ~~shall be~~ are credited to the contingent
86.17 account.

86.18 Subd. 2. Levy. (a) If any amount due under this chapter or section 116L.20, from
86.19 an applicant or an employer, is not paid when due, the amount may be collected by the
86.20 commissioner by direct levy upon all property and rights of property of the person liable
86.21 for the amount due except that exempt from execution under section 550.37. The term
86.22 "levy" includes the power of distraint and seizure by any means.

86.23 (b) In addition to a direct levy, the commissioner may issue a warrant to the sheriff
86.24 of any county who shall proceed within 60 calendar days to levy upon the property or
86.25 rights to property of the delinquent person within the county, except that exempt under
86.26 section 550.37. The sheriff shall sell that property necessary to satisfy the total amount
86.27 due, together with the commissioner's and sheriff's costs. The sales ~~shall be~~ are governed
86.28 by the law applicable to sales of like property on execution of a judgment.

86.29 (c) Notice and demand for payment of the total amount due ~~shall~~ must be mailed
86.30 to the delinquent person at least ten calendar days ~~prior to~~ before action being taken
86.31 under paragraphs (a) and (b).

86.32 (d) If the commissioner has reason to believe that collection of the amount due is in
86.33 jeopardy, notice and demand for immediate payment may be made. If the total amount
86.34 due is not paid, the commissioner may proceed to collect by direct levy or issue a warrant
86.35 without regard to the ten calendar day period.

87.1 (e) In executing the levy, the commissioner shall have all of the powers provided
87.2 in chapter 550 or any other law that provides for execution against property in this state.
87.3 The sale of property levied upon and the time and manner of redemption ~~shall be~~ is as
87.4 provided in chapter 550. The seal of the court ~~shall~~ is not be required. The levy may be
87.5 made whether or not the commissioner has commenced a legal action for collection.

87.6 (f) Where any assessment has been made by the commissioner, the property seized
87.7 for collection of the total amount due ~~shall~~ must not be sold until any determination of
87.8 liability has become final. No sale ~~shall~~ may be made unless a portion of the amount due
87.9 remains unpaid for a period of more than 30 calendar days after the determination of
87.10 liability becomes final. Seized property may be sold at any time if:

87.11 (1) the delinquent person consents in writing to the sale; or

87.12 (2) the commissioner determines that the property is perishable or may become
87.13 greatly reduced in price or value by keeping, or that the property cannot be kept without
87.14 great expense.

87.15 (g) Where a levy has been made to collect the amount due and the property seized
87.16 is properly included in a formal proceeding commenced under sections 524.3-401 to
87.17 524.3-505 and maintained under full supervision of the court, the property ~~shall~~ may not
87.18 be sold until the probate proceedings are completed or until the court orders.

87.19 (h) The property seized ~~shall~~ must be returned if the owner:

87.20 (1) gives a surety bond equal to the appraised value of the owner's interest in the
87.21 property, as determined by the commissioner, or

87.22 (2) deposits with the commissioner security in a form and amount the commissioner
87.23 considers necessary to insure payment of the liability.

87.24 (i) If a levy or sale would irreparably injure rights in property that the court
87.25 determines superior to rights of the state, the court may grant an injunction to prohibit the
87.26 enforcement of the levy or to prohibit the sale.

87.27 (j) Any person who fails or refuses to surrender without reasonable cause any
87.28 property or rights to property subject to levy ~~shall be~~ is personally liable in an amount equal
87.29 to the value of the property or rights not so surrendered, but not exceeding the amount due.

87.30 (k) If the commissioner has seized the property of any individual, that individual
87.31 may, upon giving 48 hours notice to the commissioner and to the court, bring a claim for
87.32 equitable relief before the district court for the release of the property upon terms and
87.33 conditions the court considers equitable.

87.34 (l) Any person in control or possession of property or rights to property upon which
87.35 a levy has been made who surrenders the property or rights to property, or who pays the

88.1 amount due ~~shall be~~ is discharged from any obligation or liability to the person liable for
88.2 the amount due with respect to the property or rights to property.

88.3 (m) The notice of any levy may be served personally or by mail.

88.4 (n) The commissioner may release the levy upon all or part of the property or rights
88.5 to property levied upon if the commissioner determines that the release will facilitate the
88.6 collection of the liability, but the release ~~shall~~ does not prevent any subsequent levy.
88.7 If the commissioner determines that property has been wrongfully levied upon, the
88.8 commissioner shall return:

88.9 (1) the specific property levied upon, at any time; or

88.10 (2) an amount of money equal to the amount of money levied upon, at any time
88.11 before the expiration of nine months from the date of levy.

88.12 (o) Regardless of section 52.12, a levy upon a person's funds on deposit in a financial
88.13 institution located in this state, ~~shall have~~ has priority over any unexercised right of setoff
88.14 of the financial institution to apply the levied funds toward the balance of an outstanding
88.15 loan or loans owed by the person to the financial institution. A claim by the financial
88.16 institution that it exercised its right to setoff ~~prior to~~ before the levy must be substantiated
88.17 by evidence of the date of the setoff, and verified by an affidavit from a corporate officer
88.18 of the financial institution. For purposes of determining the priority of any levy under this
88.19 subdivision, the levy ~~shall be~~ is treated as if it were an execution under chapter 550.

88.20 Subd. 3. **Right of setoff.** (a) Upon certification by the commissioner to the
88.21 commissioner of finance, or to any state agency that disburses its own funds, that a person,
88.22 applicant, or employer has a liability under this chapter or section 116L.20, and that
88.23 the state has purchased personal services, supplies, contract services, or property from
88.24 that person, the commissioner of finance or the state agency shall set off and pay to the
88.25 commissioner an amount sufficient to satisfy the unpaid liability from funds appropriated
88.26 for payment of the obligation of the state otherwise due the person. No amount ~~shall~~ may
88.27 be set off from any funds exempt under section 550.37 or funds due an individual who
88.28 receives assistance under chapter 256.

88.29 (b) All funds, whether general or dedicated, ~~shall be~~ are subject to setoff.

88.30 Regardless of any law to the contrary, the commissioner ~~shall have~~ has first priority
88.31 to setoff from any funds otherwise due from the department to a delinquent person.

88.32 Subd. 4. **Collection by civil action.** (a) Any amount due under this chapter or
88.33 section 116L.20, from an applicant or employer, may be collected by civil action in the
88.34 name of the state of Minnesota. Civil actions brought under this subdivision ~~shall~~ must be
88.35 heard as provided under section 16D.14. In any action, judgment ~~shall~~ must be entered in

89.1 default for the relief demanded in the complaint without proof, together with costs and
 89.2 disbursements, upon the filing of an affidavit of default.

89.3 (b) Any person that is not a resident of this state and any resident person removed
 89.4 from this state, ~~shall be~~ is considered to appoint the secretary of state as its agent for the
 89.5 acceptance of process in any civil action. The commissioner shall file process with the
 89.6 secretary of state, together with a payment of a fee of \$15 and that service ~~shall be~~ is
 89.7 considered sufficient service and ~~shall have~~ has the same force and validity as if served
 89.8 personally within this state. Notice of the service of process, together with a copy of
 89.9 the process, ~~shall~~ must be sent by certified mail to the person's last known address. An
 89.10 affidavit of compliance with this subdivision, and a copy of the notice of service ~~shall~~ must
 89.11 be appended to the original of the process and filed in the court.

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

89.14 Subd. 5. **Injunction forbidden.** No injunction or other legal action to prevent the
 89.15 determination, assessment, or collection of any amounts due under this chapter or section
 89.16 116L.20, from an applicant or employer, ~~shall be~~ are allowed.

89.17 Sec. 42. Minnesota Statutes 2004, section 268.059, is amended to read:

89.18 **268.059 GARNISHMENT FOR DELINQUENT TAXES AND**
 89.19 **UNEMPLOYMENT BENEFIT OVERPAYMENTS.**

89.20 Subdivision 1. **Notice.** The commissioner may give notice to any employer that
 89.21 an employee owes any amounts due under this chapter or section 116L.20, and that the
 89.22 obligation should be withheld from the employee's wages. The commissioner may
 89.23 proceed only if the amount due is uncontested or if the time for any appeal has expired.
 89.24 The commissioner ~~shall~~ may not proceed until 30 calendar days after sending to the debtor
 89.25 employee, by mail or electronic transmission, a notice of intent to garnish wages and
 89.26 exemption notice. That notice ~~shall~~ must list:

- 89.27 (1) the amount due from the debtor;
 89.28 (2) demand for immediate payment; and
 89.29 (3) the intention to serve a garnishment notice on the debtor's employer.

89.30 The notice ~~shall expire~~ expires 180 calendar days after it has been sent to the debtor
 89.31 provided that the notice may be renewed by sending a new notice that is in accordance
 89.32 with this section. The renewed notice ~~shall have~~ has the effect of reinstating the priority
 89.33 of the original notice. The exemption notice ~~shall~~ must be in substantially the same
 89.34 form as in section 571.72. The notice ~~shall~~ must inform the debtor of the right to claim
 89.35 exemptions contained in section 550.37, subdivision 14. If no claim of exemption is

90.1 received by the commissioner within 30 calendar days after sending of the notice, the
90.2 commissioner may proceed with the garnishment. The notice to the debtor's employer
90.3 may be served by mail or electronic transmission and ~~shall~~ must be in substantially the
90.4 same form as in section 571.75.

90.5 Subd. 2. **Employer action.** (a) Upon receipt of the garnishment notice, the
90.6 employer ~~shall~~ must withhold from the earnings due or to become due to the employee,
90.7 the amount shown on the notice plus accrued interest, subject to section 571.922. The
90.8 employer ~~shall~~ must continue to withhold each pay period the amount shown on the notice
90.9 plus accrued interest until the garnishment notice is released by the commissioner. Upon
90.10 receipt of notice by the employer, the claim of the commissioner ~~shall have~~ has priority
90.11 over any subsequent garnishments or wage assignments. The commissioner may arrange
90.12 between the employer and employee for withholding a portion of the total amount due
90.13 the employee each pay period, until the total amount shown on the notice plus accrued
90.14 interest has been withheld.

90.15 The "earnings due" any employee is as defined in section 571.921.

90.16 (b) The maximum garnishment allowed for any one pay period shall be decreased by
90.17 any amounts payable ~~pursuant to~~ under any other garnishment action served ~~prior to~~ before
90.18 the garnishment notice, and any amounts covered by any irrevocable and previously
90.19 effective assignment of wages; the employer ~~shall~~ must give notice to the commissioner
90.20 of the amounts and the facts relating to the assignment within ten calendar days after the
90.21 service of the garnishment notice on the form provided by the commissioner.

90.22 (c) Within ten calendar days after the expiration of the pay period, the employer
90.23 ~~shall~~ must remit to the commissioner, on a form and in the manner prescribed by the
90.24 commissioner, the amount withheld during each pay period.

90.25 Subd. 3. **Discharge or discipline prohibited.** (a) If the employee ceases to be
90.26 employed by the employer before the full amount set forth on the garnishment notice
90.27 plus accrued interest has been withheld, the employer ~~shall~~ must immediately notify the
90.28 commissioner in writing or by electronic transmission, as prescribed by the commissioner,
90.29 of the termination date of the employee and the total amount withheld. No employer may
90.30 discharge or discipline any employee because the commissioner has proceeded under this
90.31 section. If an employer discharges an employee in violation of this section, the employee
90.32 ~~shall have~~ has the same remedy as provided in section 571.927, subdivision 2.

90.33 (b) This section ~~shall apply~~ applies if the employer is the state of Minnesota or
90.34 any political subdivision.

90.35 (c) The commissioner shall refund to the employee any excess amounts withheld
90.36 from the employee.

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

91.5 Sec. 43. Minnesota Statutes 2004, section 268.0625, subdivision 5, is amended to read:

91.6 Subd. 5. **Licensing authority; duties.** Upon request, the licensing authority ~~shall~~
 91.7 must provide the commissioner with a list of all licensees, including the name, address,
 91.8 business name and address, Social Security number, and business identification number.
 91.9 The commissioner may request a list of the licensees no more than once each calendar
 91.10 year. Regardless of section 268.19, the commissioner may release information necessary
 91.11 to accomplish this section.

91.12 Sec. 44. Minnesota Statutes 2004, section 268.064, is amended to read:

91.13 **268.064 LIABILITY FOR DEBTS UPON ACQUISITION.**

91.14 Subdivision 1. **Acquisition of organization, trade, business, or assets.** Any person
 91.15 who acquires all or part of the organization, trade, business or assets from an employer, is
 91.16 jointly and severally liable, in an amount not to exceed the reasonable value of that part of
 91.17 the organization, trade, business or assets acquired, for any amounts due and unpaid by the
 91.18 employer. The amount of liability ~~shall be~~ is, in addition, ~~be~~ a lien against the property or
 91.19 assets acquired and ~~shall be prior to~~ is before all other unrecorded liens. This section does
 91.20 not apply to sales in the normal course of the employer's business.

91.21 Subd. 2. **Reasonable value.** The commissioner, upon the commissioner's own
 91.22 motion or upon application of the acquiring person, shall determine the reasonable value
 91.23 of the organization, trade, business or assets acquired based on available information.
 91.24 The determination ~~shall be~~ is final unless the acquiring person, within 30 calendar days
 91.25 after being sent the determination by mail or electronic transmission, files an appeal.
 91.26 Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

91.27 Subd. 3. **Statement of amount due.** ~~Prior to~~ Before the date of acquisition, the
 91.28 commissioner ~~shall~~ must furnish the acquiring person with a statement of the amounts
 91.29 due and unpaid under this chapter or section 116L.20 upon the request of the potential
 91.30 acquiring person and the release of the obligor. No release is required after the date of
 91.31 acquisition.

91.32 Sec. 45. Minnesota Statutes 2004, section 268.065, subdivision 1, is amended to read:

92.1 Subdivision 1. **Subcontractors.** A contractor who contracts with any subcontractor
 92.2 ~~shall~~ must guarantee the payment of all amounts that are due or become due from the
 92.3 subcontractor with respect to taxable wages paid on the contract by:

92.4 (1) withholding sufficient money on the contract; or

92.5 (2) requiring the subcontractor to provide a sufficient bond guaranteeing the payment
 92.6 of all amounts that may become due.

92.7 The contractor may make a request for verification that the subcontractor has
 92.8 paid the taxes due 60 calendar days after the due date for filing the wage detail report
 92.9 that includes the final wages paid for employment performed under the contract. If
 92.10 the subcontractor has paid the amounts due for the period covered by the contract, the
 92.11 commissioner may release the contractor from its liability.

92.12 The words "contractor" and "subcontractor" include individuals, partnerships, firms,
 92.13 or corporations, or other association of persons engaged in the construction industry.

92.14 Sec. 46. Minnesota Statutes 2004, section 268.067, is amended to read:

92.15 **268.067 COMPROMISE.**

92.16 (a) The commissioner may compromise in whole or in part any action, determination,
 92.17 or decision that affects only an employer and not an applicant, and that has occurred
 92.18 during the prior 24 months. This paragraph may apply if it is determined by a court of law,
 92.19 or a confession of judgment, that an applicant, while employed, wrongfully took from the
 92.20 employer \$500 or more in money or property.

92.21 (b) The commissioner may at any time compromise any amount due from an
 92.22 employer under this chapter or section 116L.20.

92.23 (c) Any compromise involving an amount over \$2,500 ~~shall~~ must be authorized by
 92.24 an attorney who is an employee of the department designated by the commissioner for
 92.25 that purpose.

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

92.27 Sec. 47. Minnesota Statutes 2004, section 268.0675, is amended to read:

92.28 **268.0675 NO ELECTION OF REMEDY.**

92.29 Use of any remedy under this chapter for the collection of any amount due from an
 92.30 employer or an applicant ~~shall~~ does not constitute an election of remedy to the exclusion
 92.31 of any other available remedy.

93.1 Sec. 48. Minnesota Statutes 2004, section 268.068, is amended to read:

93.2 **268.068 NOTICE TO WORKERS.**

93.3 Each employer ~~shall~~ must post and maintain printed statements of an individual's
93.4 right to apply for unemployment benefits in places readily accessible to workers in the
93.5 employer's service. The printed statements ~~shall~~ must be supplied by the commissioner at
93.6 no cost to an employer.

93.7 Sec. 49. Minnesota Statutes 2004, section 268.069, subdivision 2, is amended to read:

93.8 Subd. 2. **Unemployment benefits paid from state funds.** Unemployment benefits
93.9 are paid from state funds and ~~shall~~ are not be considered paid from any special insurance
93.10 plan, nor as paid by an employer. An application for unemployment benefits ~~shall~~ is
93.11 not be considered a claim against an employer but ~~shall~~ be is considered a request for
93.12 unemployment benefits from the trust fund. The commissioner has the responsibility
93.13 for the proper payment of unemployment benefits regardless of the level of interest
93.14 or participation by an applicant or an employer in any determination or appeal. An
93.15 applicant's entitlement to unemployment benefits ~~shall~~ must be determined based upon
93.16 that information available without regard to any common law burden of proof, and
93.17 any agreement between an applicant and an employer ~~shall~~ is not be binding on the
93.18 commissioner in determining an applicant's entitlement. There ~~shall~~ be is no presumption
93.19 of entitlement or nonentitlement to unemployment benefits.

93.20 Sec. 50. Minnesota Statutes 2004, section 268.069, subdivision 3, is amended to read:

93.21 Subd. 3. **Common law.** There ~~shall~~ be is no equitable or common law denial or
93.22 allowance of unemployment benefits.

93.23 Sec. 51. Minnesota Statutes 2004, section 268.084, is amended to read:

93.24 **268.084 PERSONAL IDENTIFICATION NUMBER; PRESUMPTION.**

93.25 (a) Each applicant ~~shall~~ must be issued a personal identification number (PIN) for
93.26 the purpose of filing continued biweekly requests for unemployment benefits, accessing
93.27 information, and engaging in other transactions with the department.

93.28 (b) If a PIN assigned to an applicant is used in the filing of a continued biweekly
93.29 request for unemployment benefits under section 268.086 or any other type of transaction,
93.30 the applicant ~~shall~~ be is presumed to have been the individual using that PIN and presumed
93.31 to have received any unemployment benefit payment issued. This presumption may be
93.32 rebutted by a preponderance of the evidence showing that the applicant assigned the PIN
93.33 was not the individual who used that PIN in the transaction.

94.1 (c) The commissioner shall notify each applicant of this section.

94.2 Sec. 52. Minnesota Statutes 2004, section 268.085, subdivision 3a, is amended to read:

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

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

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

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

94.10 (b) This subdivision ~~shall~~ does not apply to an applicant who has a claim pending for
 94.11 loss of wages under paragraph (a); however, before unemployment benefits may be paid
 12 when a claim is pending, the issue of the applicant being able to work, as required under
 94.13 subdivision 1, clause (2), ~~shall be~~ is determined under section 268.101, subdivision 3. If
 94.14 the applicant later receives compensation as a result of the pending claim, the applicant is
 94.15 subject to the provisions of paragraph (a) and the unemployment benefits paid ~~shall be~~ are
 94.16 subject to recoupment by the commissioner to the extent that the compensation constitutes
 94.17 overpaid unemployment benefits.

94.18 (c) If the amount of compensation described under paragraph (a) for any week is
 94.19 less than the applicant's weekly unemployment benefit amount, unemployment benefits
 94.20 requested for that week ~~shall be~~ are reduced by the amount of that compensation payment.

21 Sec. 53. Minnesota Statutes 2004, section 268.085, subdivision 4, is amended to read:

94.22 Subd. 4. **Social Security benefits.** (a) Any applicant aged 62 or over ~~shall be~~ is
 94.23 required to state when filing an application for unemployment benefits and when filing
 94.24 continued biweekly requests for unemployment benefits ~~whether~~ if the applicant is
 94.25 receiving, has filed for, or intends to file for, primary Social Security old age benefits for
 94.26 any week during the benefit year.

94.27 There ~~shall~~ must be deducted from an applicant's weekly unemployment benefit
 94.28 amount 50 percent of the weekly equivalent of the primary Social Security old age benefit
 94.29 the applicant has received, has filed for, or intends to file for, with respect to that week.

94.30 (b) An applicant who is receiving, has received, or has filed for primary Social
 31 Security disability benefits

94.32 for any week during the benefit year ~~shall~~ must be determined unable to work and
 94.33 unavailable for suitable employment for that week, unless:

95.1 (1) the Social Security Administration approved the collecting of primary Social
 95.2 Security disability benefits each month the applicant was employed during the base
 95.3 period; or

95.4 (2) the applicant provides a statement from an appropriate health care professional
 95.5 who is aware of the applicant's Social Security disability claim and the basis for that
 95.6 claim, certifying that the applicant is able to work and available for suitable employment.

95.7 If an applicant meets the requirements of clause (1) or (2), then there ~~shall~~ must
 95.8 be deducted from the applicant's weekly unemployment benefit amount 50 percent of
 95.9 the weekly equivalent of the primary Social Security disability benefits the applicant is
 95.10 receiving, has received, or has filed for, with respect to that week; provided, however,
 95.11 that if the Social Security Administration determines that an individual is not entitled to
 95.12 receive primary Social Security disability benefits for any week the applicant has applied
 95.13 for those benefits, the 50 percent deduction ~~shall~~ does not apply to that week.

95.14 (c) Information from the Social Security Administration ~~shall be~~ is considered
 95.15 conclusive, absent specific evidence showing that the information was erroneous.

95.16 (d) If the computation of the reduced unemployment benefits is not a whole dollar, it
 95.17 ~~shall be~~ is rounded down to the next lower whole dollar.

95.18 (e) This subdivision does not apply to Social Security survivor benefits.

95.19 Sec. 54. Minnesota Statutes 2004, section 268.085, subdivision 6, is amended to read:

95.20 Subd. 6. **Receipt of back pay.** (a) Back pay received by an applicant with respect to
 95.21 any week occurring in the 104 weeks ~~prior to~~ before the payment of the back pay ~~shall~~
 95.22 must be deducted from unemployment benefits paid for that week.

95.23 If the back pay is not paid with respect to a specific period, the back pay ~~shall~~ must
 95.24 be applied to the period immediately following the last day of employment.

95.25 (b) If the back pay is reduced by the amount of unemployment benefits that have
 95.26 been paid, the amount of back pay withheld ~~shall~~ must be:

95.27 (1) paid by the employer to the trust fund within 30 calendar days and subject to the
 95.28 same collection procedures that apply to past due taxes;

95.29 (2) applied to unemployment benefit overpayments resulting from the payment of
 95.30 the back pay; and

95.31 (3) credited to the maximum amount of unemployment benefits available to the
 95.32 applicant in a benefit year that includes the weeks for which back pay was deducted.

95.33 (c) Unemployment benefits paid the applicant ~~shall~~ must be removed from the
 95.34 computation of the tax rate for taxpaying employers and removed from the reimbursable

96.1 account for nonprofit and government employers that have elected to be liable for
96.2 reimbursements in the calendar quarter the trust fund receives payment.

96.3 (d) Payments to the trust fund under this subdivision ~~shall be~~ are considered as
96.4 made by the applicant.

96.5 Sec. 55. Minnesota Statutes 2004, section 268.085, subdivision 7, is amended to read:

96.6 Subd. 7. **School employees.** (a) No wage credits in any amount from any
96.7 employment with any educational institution or institutions earned in any capacity may
96.8 be used for unemployment benefit purposes for any week during the period between
96.9 two successive academic years or terms if:

96.10 (1) the applicant had employment for any educational institution or institutions in
96.11 the prior academic year or term; and

96.12 (2) there is a reasonable assurance that the applicant will have employment for
96.13 any educational institution or institutions in the following academic year or term, unless
96.14 that subsequent employment is substantially less favorable than the employment of the
96.15 prior academic year or term.

96.16 (b) Paragraph (a) ~~shall~~ does not apply to an applicant who, at the end of the prior
96.17 academic year or term, had an agreement for a definite period of employment between
96.18 academic years or terms in other than an instructional, research, or principal administrative
96.19 capacity and the educational institution or institutions failed to provide that employment.

96.20 (c) If unemployment benefits are denied to any applicant under paragraph (a)
96.21 who was employed in the prior academic year or term in other than an instructional,
96.22 research, or principal administrative capacity and who was not offered an opportunity to
96.23 perform the employment in the following academic year or term, the applicant ~~shall be~~ is
96.24 entitled to retroactive unemployment benefits for each week during the period between
96.25 academic years or terms that the applicant filed a timely continued biweekly request
96.26 for unemployment benefits, but unemployment benefits were denied solely because of
96.27 paragraph (a).

96.28 (d) An educational assistant ~~shall is~~ is not ~~be~~ considered to be in an instructional,
96.29 research, or principal administrative capacity.

96.30 (e) Paragraph (a) ~~shall apply~~ applies to any vacation period or holiday recess if the
96.31 applicant was employed immediately before the vacation period or holiday recess, and
96.32 there is a reasonable assurance that the applicant will be employed immediately following
96.33 the vacation period or holiday recess.

96.34 (f) This subdivision ~~shall apply~~ applies to employment with an educational service
96.35 agency if the applicant performed the services at an educational institution or institutions.

97.1 "Educational service agency" means a governmental agency or entity established and
 97.2 operated exclusively for the purpose of providing services to one or more educational
 97.3 institutions. This subdivision ~~shall also apply~~ applies to employment with Minnesota or
 97.4 a political subdivision, or a nonprofit organization, if the services are provided to or on
 97.5 behalf of an educational institution or institutions.

97.6 (g) Paragraphs (a) and (e) ~~shall apply~~ beginning the Sunday of the week that there
 97.7 is a reasonable assurance of employment.

97.8 (h) Employment with multiple education institutions ~~shall~~ must be aggregated for
 97.9 purposes of application of this subdivision.

97.10 (i) If all of the applicant's employment with any educational institution or institutions
 97.11 during the prior academic year or term consisted of on-call employment, and the applicant
 97.12 has a reasonable assurance of any on-call employment with any educational institution
 97.13 or institutions for the following academic year or term, it ~~shall~~ is not be considered
 97.14 substantially less favorable employment.

97.15 (j) Paragraph (a) ~~shall also apply~~ applies to the period between two regular but
 97.16 not successive terms.

97.17 (k) A "reasonable assurance" may be written, oral, implied, or established by
 97.18 custom or practice.

97.19 (l) An "educational institution" is an educational entity operated by Minnesota
 97.20 or a political subdivision or an instrumentality thereof, or an educational organization
 97.21 described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue
 97.22 Code, and exempt from income tax under section 501(a).

97.23 Sec. 56. Minnesota Statutes 2005 Supplement, section 268.085, subdivision 8, is
 97.24 amended to read:

97.25 **Subd. 8. Services for school contractors.** (a) Wage credits from an employer
 97.26 are subject to subdivision 7, if:

97.27 (1) the employment was provided ~~pursuant to~~ under a contract between the employer
 97.28 and an elementary or secondary school; and

97.29 (2) the contract was for services that the elementary or secondary school could have
 97.30 had performed by its employees.

97.31 (b) Wage credits from an employer are not subject to subdivision 7 if:

97.32 (1) those wage credits were earned by an employee of a private employer performing
 97.33 work ~~pursuant to~~ under a contract between the employer and an elementary or secondary
 97.34 school; and

98.1 (2) the employment was related to food services provided to the school by the
 98.2 employer.

98.3 Sec. 57. Minnesota Statutes 2004, section 268.085, subdivision 11, is amended to read:

98.4 Subd. 11. **Athletes and coaches.** Unemployment benefits ~~shall~~ must not be paid to
 98.5 an applicant on the basis of any wage credits from employment that consists of coaching
 98.6 or participating in sports or athletic events or training or preparing to participate for any
 98.7 week during the period between two successive sport seasons, or similar periods, if:

98.8 (1) the applicant was so employed in the prior season or similar period, and

98.9 (2) there is a reasonable assurance that the applicant will be so employed in the
 98.10 following season or similar period.

98.11 Sec. 58. Minnesota Statutes 2005 Supplement, section 268.085, subdivision 12,
 98.12 is amended to read:

98.13 Subd. 12. **Aliens.** (a) An alien ~~shall be~~ is ineligible for unemployment benefits
 98.14 for any week the alien is not authorized to work in the United States under federal
 98.15 law. Information from the Bureau of Citizenship and Immigration Services ~~shall be~~
 98.16 is considered conclusive, absent specific evidence that the information was erroneous.
 98.17 ~~Pursuant to~~ Under the existing agreement between the United States and Canada, this
 98.18 paragraph ~~shall~~ does not apply to an applicant who is a Canadian citizen and has returned
 98.19 to and is living in Canada each week unemployment benefits are requested.

98.20 (b) Unemployment benefits ~~shall~~ must not be paid on the basis of wage credits
 98.21 earned by an alien unless the alien (1) was lawfully admitted for permanent residence at
 98.22 the time of the employment, (2) was lawfully present for the purposes of the employment,
 98.23 or (3) was permanently residing in the United States under color of law at the time of the
 98.24 employment.

98.25 (c) Any information required of applicants applying for unemployment benefits to
 98.26 determine eligibility because of their alien status ~~shall~~ must be required from all applicants.

98.27 Sec. 59. Minnesota Statutes 2004, section 268.085, subdivision 13, is amended to read:

98.28 Subd. 13. **Suspension from employment.** (a) An applicant who has been
 98.29 suspended from employment without pay for 30 calendar days or less, as a result of
 98.30 employment misconduct as defined under section 268.095, subdivision 6, ~~shall be~~ is
 98.31 ineligible for unemployment benefits beginning the Sunday of the week that the applicant
 98.32 was suspended and continuing for the duration of the suspension.

99.1 (b) A suspension from employment without pay for more than 30 calendar days
99.2 ~~shall be~~ is considered a discharge from employment under section 268.095, subdivision 5.

99.3 (c) A suspension from employment with pay, regardless of duration, ~~shall~~ is not be
99.4 considered a separation from employment and the applicant ~~shall be~~ is ineligible for
99.5 unemployment benefits for the duration of the suspension with pay.

99.6 Sec. 60. Minnesota Statutes 2004, section 268.085, subdivision 13a, is amended to
99.7 read:

99.8 Subd. 13a. **Leave of absence.** (a) An applicant on a voluntary leave of absence
99.9 ~~shall be~~ is ineligible for unemployment benefits for the duration of the leave of absence.
99.10 An applicant on an involuntary leave of absence ~~shall~~ is not be ineligible under this
99.11 subdivision.

99.12 A leave of absence is voluntary when work that the applicant can then perform is
99.13 available with the applicant's employer but the applicant chooses not to work. A medical
99.14 leave of absence ~~shall~~ is not be presumed to be voluntary.

99.15 (b) A period of vacation requested by the applicant, paid or unpaid, ~~shall be~~ is
99.16 considered a voluntary leave of absence. A vacation period assigned by an employer
99.17 under: (1) a uniform vacation shutdown; (2) a collective bargaining agreement; or (3) an
99.18 established employer policy, ~~shall be~~ is considered an involuntary leave of absence.

99.19 (c) A voluntary leave of absence ~~shall~~ is not be considered a quit and an involuntary
99.20 leave of absence ~~shall~~ is not be considered a discharge from employment for purposes
99.21 of section 268.095.

99.22 (d) An applicant who is on a paid leave of absence, whether the leave of absence
99.23 is voluntary or involuntary, ~~shall be~~ is ineligible for unemployment benefits for the
99.24 duration of the leave.

99.25 (e) This subdivision ~~shall apply~~ applies to a leave of absence from a base period
99.26 employer, an employer during the period between the end of the base period and the
99.27 effective date of the benefit account, or an employer during the benefit year.

99.28 Sec. 61. Minnesota Statutes 2004, section 268.085, subdivision 13b, is amended to
99.29 read:

99.30 Subd. 13b. **Labor dispute.** (a) An applicant who has stopped working because of a
99.31 labor dispute at the establishment where the applicant is employed ~~shall be~~ is ineligible for
99.32 unemployment benefits:

99.33 (1) until the end of the calendar week that the labor dispute was in active progress if
99.34 the applicant is participating in or directly interested in the labor dispute; or

100.1 (2) until the end of the calendar week that the labor dispute began if the applicant is
 100.2 not participating in or directly interested in the labor dispute.

100.3 Participation includes any failure or refusal by an applicant, voluntarily or
 100.4 involuntarily, to accept and perform available and customary work at the establishment.

100.5 (b) An applicant who has stopped working because of a jurisdictional controversy
 100.6 between two or more labor organizations at the establishment where the applicant is
 100.7 employed ~~shall be~~ is ineligible for unemployment benefits until the end of the calendar
 100.8 week that the jurisdictional controversy was in progress.

100.9 (c) An applicant ~~shall~~ is not be ineligible for unemployment benefits under this
 100.10 subdivision if:

100.11 (1) the applicant stops working because of an employer's intentional failure to
 100.12 observe the terms of the safety and health section of a union contract or failure to comply
 100.13 with an official citation for a violation of federal or state laws involving occupational
 100.14 safety and health;

100.15 (2) the applicant stops working because of a lockout; or

100.16 (3) the applicant is discharged ~~prior to~~ before the beginning of a labor dispute.

100.17 (d) A quit from employment by the applicant during the time that the labor dispute is
 100.18 in active progress at the establishment ~~shall~~ does not terminate the applicant's participation
 100.19 in or direct interest in the labor dispute for purposes of this subdivision.

100.20 (e) For the purpose of this subdivision, the term "labor dispute" ~~shall have~~ has the
 100.21 same definition as provided in section 179.01, subdivision 7.

100.22 Sec. 62. Minnesota Statutes 2004, section 268.085, subdivision 16, is amended to read:

100.23 Subd. 16. **Actively seeking suitable employment defined.** (a) "Actively seeking
 100.24 suitable employment" means those reasonable, diligent efforts an individual in similar
 100.25 circumstances would make if genuinely interested in obtaining suitable employment under
 100.26 the existing conditions in the labor market area. Limiting the search to positions that are
 100.27 not available or are above the applicant's training, experience, and qualifications is not
 100.28 "actively seeking suitable employment."

100.29 (b) To be considered "actively seeking suitable employment" an applicant ~~shall~~
 100.30 must, when reasonable, contact those employers from whom the applicant was laid off
 100.31 ~~due to~~ because of lack of work and request suitable employment.

100.32 (c) If reasonable prospects of suitable employment in the applicant's usual or
 100.33 customary occupation do not exist, the applicant must actively seek other suitable
 100.34 employment to be considered "actively seeking suitable employment." This applies to an
 100.35 applicant who is seasonally unemployed.

101.1 (d) An applicant who is seeking employment only through a union is not actively
101.2 seeking suitable employment unless the applicant is in an occupation where it is required
101.3 by union rule that all the hiring in that locality is done through the union. The applicant
101.4 must be a union member in good standing, registered with the union for employment,
101.5 and in compliance with other union rules to be considered "actively seeking suitable
101.6 employment."

101.7 Sec. 63. Minnesota Statutes 2004, section 268.086, subdivision 1, is amended to read:

101.8 Subdivision 1. **Active benefit account.** (a) A benefit account ~~shall be~~ is considered
101.9 active only when an applicant files continued biweekly requests for unemployment
101.10 benefits in the manner and within the time periods prescribed. A benefit account ~~shall be~~
101.11 is considered inactive if an applicant stops filing a continued biweekly request or fails to
101.12 file a continued biweekly request within the time period required. The benefit account
101.13 ~~shall be~~ is considered inactive as of the Sunday following the last week or biweekly period
101.14 for which a continued biweekly request has been timely filed.

101.15 (b) A benefit account that is inactive ~~shall be~~ is reactivated the Sunday of the week
101.16 that the applicant makes a contact with the department to do so, in the manner prescribed
101.17 by the commissioner for reactivating that applicant's benefit account. Upon specific
101.18 request of an applicant, a benefit account may be reactivated effective up to two weeks
101.19 ~~prior to~~ before the week the applicant made contact with the department to reactivate.

101.20 Sec. 64. Minnesota Statutes 2005 Supplement, section 268.086, subdivision 3, is
101.21 amended to read:

101.22 Subd. 3. **Methods for filing continued biweekly requests for unemployment**
101.23 **benefits.** (a) The commissioner shall designate to each applicant one of the following
101.24 methods for filing a continued biweekly request:

101.25 (1) by electronic transmission under subdivision 5;

101.26 (2) by mail under subdivision 6; or

101.27 (3) by in-person interview under subdivision 7.

101.28 (b) The method designated by the commissioner ~~shall be~~ is the only method allowed
101.29 for filing a continued biweekly request by that applicant. An applicant may ask that
101.30 one of the other allowed methods be designated and the commissioner shall consider
101.31 inconvenience to the applicant as well as administrative capacity in determining whether
1.32 to allow an applicant to change the designated method for filing a continued biweekly
101.33 request for unemployment benefits.

102.1 Sec. 65. Minnesota Statutes 2004, section 268.086, subdivision 5, is amended to read:

102.2 Subd. 5. **Continued biweekly request for unemployment benefits by electronic**
102.3 **transmission.** (a) A continued biweekly request for unemployment benefits by electronic
102.4 transmission ~~shall~~ must be filed to that electronic mail address or Internet address
102.5 prescribed by the commissioner for that applicant. In order to constitute a continued
102.6 biweekly request, all information asked for, including information authenticating that the
102.7 applicant is sending the transmission, must be provided in the format required. If all of
102.8 the information asked for is not provided, the communication ~~shall~~ does not constitute a
102.9 continued biweekly request for unemployment benefits.

102.10 The electronic transmission communication must be filed on the date required for
102.11 the applicant for filing a continued biweekly request by electronic transmission.

102.12 (b) If the electronic transmission continued biweekly request is not filed on the date
102.13 required, a continued biweekly request by electronic transmission ~~shall~~ must be accepted
102.14 if the applicant files the continued biweekly request by electronic transmission within 14
102.15 days following the week in which the date required occurred. If the continued biweekly
102.16 request by electronic transmission is not filed within 14 days following the week in which
102.17 the date required occurred, the electronic continued biweekly request ~~shall~~ must not be
102.18 accepted and the applicant ~~shall be~~ is ineligible for unemployment benefits for the period
102.19 covered by the continued biweekly request and the benefit account ~~shall be~~ is considered
102.20 inactive, unless the applicant shows good cause for failing to file the continued biweekly
102.21 request by electronic transmission within the time period required.

102.22 Sec. 66. Minnesota Statutes 2004, section 268.086, subdivision 6, is amended to read:

102.23 Subd. 6. **Continued biweekly request for unemployment benefits by mail.** (a) A
102.24 continued biweekly request for unemployment benefits by mail ~~shall~~ must be on a form
102.25 prescribed by the commissioner. The form, in order to constitute a continued biweekly
102.26 request, must be totally completed and signed by the applicant.

102.27 The form must be filed on the date required for the applicant for filing a continued
102.28 biweekly request by mail, in an envelope with postage prepaid thereon, and sent to the
102.29 address required by the commissioner for that applicant.

102.30 (b) If the mail continued biweekly request for unemployment benefits is not filed on
102.31 the date required, a continued biweekly request ~~shall~~ must be accepted if the form is filed
102.32 by mail within 14 days following the week in which the date required occurred. If the form
102.33 is not filed within 14 days following the week in which the date required occurred, the
102.34 form ~~shall~~ will not be accepted and the applicant ~~shall be~~ is ineligible for unemployment
102.35 benefits for the period covered by the continued biweekly request for unemployment

103.1 benefits and the benefit account ~~shall be~~ is considered inactive, unless the applicant shows
 103.2 good cause for failing to file the form by mail within the time period required.

03.3 (c) If the applicant has been designated to file a continued biweekly request
 103.4 for unemployment benefits by mail, an applicant may submit the form by facsimile
 103.5 transmission on the day otherwise required for mailing, or within 14 days following the
 103.6 week in which the date required occurred. A form submitted by facsimile transmission
 103.7 ~~shall~~ must be sent only to the telephone number assigned for that purpose.

103.8 (d) An applicant who has been designated to file a continued biweekly request by
 103.9 mail may personally deliver a continued biweekly request form only to the location to
 103.10 which the form was otherwise required to be mailed.

103.11 Sec. 67. Minnesota Statutes 2004, section 268.086, subdivision 8, is amended to read:

103.12 Subd. 8. **Good cause.** A continued biweekly request for unemployment benefits
 103.13 that is not filed within the time periods required by this section ~~shall~~ may be accepted only
 103.14 for those weeks that the applicant has "good cause" for not filing within the time periods
 103.15 required.

103.16 Sec. 68. Minnesota Statutes 2004, section 268.086, subdivision 9, is amended to read:

103.17 Subd. 9. **Good cause defined.** "Good cause" for purposes of this section is a
 103.18 compelling substantial reason that would have prevented a reasonable person acting with
 103.19 due diligence from filing a continued biweekly request for unemployment benefits within
 103.20 the time periods required.

103.21 "Good cause" ~~shall~~ does not include forgetfulness, loss of the continued biweekly
 103.22 request form, having returned to work, or inability to file a continued biweekly request
 103.23 for unemployment benefits by the method designated if the applicant was aware of
 103.24 the inability and did not make diligent effort to have the method of filing a continued
 103.25 biweekly request changed by the commissioner. "Good cause" ~~shall~~ does not include
 103.26 having previously made an attempt to file a continued biweekly request for unemployment
 103.27 benefits but where the communication was not considered a continued biweekly request
 103.28 because the applicant failed to submit all required information.

103.29 Sec. 69. Minnesota Statutes 2004, section 268.087, is amended to read:

103.30 **268.087 UNEMPLOYMENT BENEFITS DUE DECEASED PERSONS.**

03.31 If unemployment benefits are due and payable at the time of an applicant's death,
 103.32 those benefits ~~may~~ must, upon application, be paid to the personal representative of the
 103.33 estate of the deceased. In the event that no personal representative is appointed, the

104.1 unemployment benefits ~~may~~ must, upon application be paid in the following order: (1) the
104.2 surviving spouse, (2) the surviving child or children, or (3) the surviving parent or parents.

104.3 An individual seeking payment ~~shall~~ must complete an application prescribed by the
104.4 commissioner and the payment of unemployment benefits ~~shall discharge~~ discharges the
104.5 obligations to the applicant and no other individual ~~shall~~ may claim or assert any right
104.6 to those unemployment benefits.

104.7 Sec. 70. Minnesota Statutes 2004, section 268.095, subdivision 2, is amended to read:

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

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

104.13 (c) An employee who seeks to withdraw a previously submitted notice of quitting
104.14 ~~shall be~~ is considered to have quit the employment if the employer does not agree that the
104.15 notice may be withdrawn.

104.16 (d) An applicant who, within five calendar days after completion of a suitable
104.17 temporary job assignment from a staffing service employer, (1) fails without good cause to
104.18 affirmatively request an additional job assignment, or (2) refuses without good cause an
104.19 additional suitable job assignment offered, ~~shall be~~ is considered to have quit employment.

104.20 This paragraph ~~shall apply~~ applies only if, at the time of beginning of employment
104.21 with the staffing service employer, the applicant signed and was provided a copy of a
104.22 separate document written in clear and concise language that informed the applicant of
104.23 this paragraph and that unemployment benefits may be affected.

104.24 For purposes of this paragraph, "good cause" ~~shall be~~ is a reason that is significant
104.25 and would compel an average, reasonable worker, who would otherwise want an
104.26 additional temporary job assignment with the staffing service employer, (1) to fail to
104.27 contact the staffing service employer, or (2) to refuse an offered assignment.

104.28 For purposes of this paragraph, a "staffing service employer" is an employer whose
104.29 business involves employing individuals directly for the purpose of furnishing temporary
104.30 job assignment workers to clients of the staffing service.

104.31 Sec. 71. Minnesota Statutes 2004, section 268.095, subdivision 3, is amended to read:

104.32 Subd. 3. **Good reason caused by the employer defined.** (a) A good reason caused
104.33 by the employer for quitting is a reason:

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

105.3 (2) that is adverse to the worker; and

105.4 (3) that would compel an average, reasonable worker to quit and become
105.5 unemployed rather than remaining in the employment.

105.6 (b) The analysis required in paragraph (a) must be applied to the specific facts
105.7 of each case.

105.8 (c) If an applicant was subjected to adverse working conditions by the employer, the
105.9 applicant must complain to the employer and give the employer a reasonable opportunity
105.10 to correct the adverse working conditions before that may be considered a good reason
105.11 caused by the employer for quitting.

105.12 (d) A reason for quitting employment ~~shall~~ is not ~~be~~ considered a good reason
105.13 caused by the employer for quitting if the reason for quitting occurred because of the
105.14 applicant's employment misconduct.

105.15 (e) Notification of discharge in the future, including a layoff ~~due to~~ because of lack
105.16 of work, ~~shall~~ is not ~~be~~ considered a good reason caused by the employer for quitting.

105.17 (f) An applicant has a good reason caused by the employer for quitting if it results
105.18 from sexual harassment of which the employer was aware, or should have been aware,
105.19 and the employer failed to take timely and appropriate action. Sexual harassment means
105.20 unwelcome sexual advances, requests for sexual favors, sexually motivated physical
105.21 contact or other conduct or communication of a sexual nature when:

105.22 (1) the applicant's submission to the conduct or communication is made a term
105.23 or condition of the employment;

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

105.26 (3) the conduct or communication has the purpose or effect of substantially
105.27 interfering with an applicant's work performance or creating an intimidating, hostile, or
105.28 offensive working environment.

105.29 (g) The definition of a good reason caused by the employer for quitting employment
105.30 provided by this subdivision ~~shall be~~ is exclusive and no other definition ~~shall apply~~
105.31 applies.

105.32 Sec. 72. Minnesota Statutes 2004, section 268.095, subdivision 5, is amended to read:

105.33 Subd. 5. **Discharge defined.** (a) A discharge from employment occurs when any
105.34 words or actions by an employer would lead a reasonable employee to believe that the
105.35 employer will no longer allow the employee to work for the employer in any capacity. A

106.1 layoff ~~due to~~ because of lack of work ~~shall be~~ is considered a discharge. A suspension from
106.2 employment without pay of more than 30 calendar days ~~shall be~~ is considered a discharge.

106.3 (b) An employee who gives notice of intention to quit the employment and is not
106.4 allowed by the employer to work the entire notice period ~~shall be~~ is considered discharged
106.5 from the employment as of the date the employer will no longer allow the employee to
106.6 work. If the discharge occurs within 30 calendar days ~~prior to~~ before the intended date of
106.7 quitting, then, as of the intended date of quitting, the separation from employment ~~shall be~~
106.8 is considered a quit from employment subject to subdivision 1.

106.9 Sec. 73. Minnesota Statutes 2004, section 268.095, subdivision 6a, is amended to read:

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

106.12 (1) the commission of any act, on the job or off the job, that would amount to a gross
106.13 misdemeanor or felony if the act substantially interfered with the employment or had a
106.14 significant adverse effect on the employment; or

106.15 (2) for an employee of a facility as defined in section 626.5572, aggravated
106.16 employment misconduct includes an act of patient or resident abuse, financial exploitation,
106.17 or recurring or serious neglect, as defined in section 626.5572 and applicable rules.

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

106.22 (c) The definition of aggravated employment misconduct provided by this
106.23 subdivision ~~shall be~~ is exclusive and no other definition ~~shall apply~~ applies.

106.24 Sec. 74. Minnesota Statutes 2005 Supplement, section 268.095, subdivision 11,
106.25 is amended to read:

106.26 Subd. 11. **Application.** (a) Section 268.085, subdivision 13c, and this section ~~shall~~
106.27 apply applies to all covered employment, full time or part time, temporary or of limited
106.28 duration, permanent or of indefinite duration, that occurred in Minnesota during the base
106.29 period, the period between the end of the base period and the effective date of the benefit
106.30 account, or the benefit year, except as provided for in subdivision 1, clause (5).

106.31 (b) Paragraph (a) ~~shall~~ also apply applies to employment covered under an
106.32 unemployment insurance program of any other state or established by an act of Congress.

106.33 Sec. 75. Minnesota Statutes 2004, section 268.103, subdivision 1, is amended to read:

107.1 Subdivision 1. **In commissioner's discretion.** The commissioner shall have the
107.2 discretion to allow an appeal to be filed by electronic transmission. If the commissioner
107.3 allows an appeal to be filed by electronic transmission, that ~~shall~~ must be clearly set out on
107.4 the determination or decision subject to appeal.

107.5 The commissioner may restrict the manner, format, and conditions under which
107.6 an appeal by electronic transmission may be filed. Any restrictions as to days, hours,
107.7 telephone number, electronic address, or other conditions, ~~shall~~ must be clearly set out on
107.8 the determination or decision subject to appeal.

107.9 All information requested by the commissioner when an appeal is filed by electronic
107.10 transmission must be supplied or the communication ~~shall~~ does not constitute an appeal.

107.11 Sec. 76. Minnesota Statutes 2005 Supplement, section 268.103, subdivision 2, is
107.12 amended to read:

107.13 Subd. 2. **Applicant's appeal by mail.** (a) The commissioner must allow an
107.14 applicant to file an appeal by mail even if an appeal by electronic transmission is allowed.

107.15 (b) A written statement delivered or mailed to the department that could reasonably
107.16 be interpreted to mean that an involved applicant is in disagreement with a specific
107.17 determination or decision ~~shall be~~ is considered an appeal. No specific words need be used
107.18 for the written statement to be considered an appeal.

107.19 Sec. 77. Minnesota Statutes 2005 Supplement, section 268.105, subdivision 3, is
107.20 amended to read:

107.21 Subd. 3. **Withdrawal of appeal.** (a) Any appeal that is pending before an
107.22 unemployment law judge may be withdrawn by the appealing person, or an authorized
107.23 representative of that person, upon filing of a notice of withdrawal.

107.24 (b) The appeal ~~shall~~ must, by order, be dismissed if a notice of withdrawal is filed,
107.25 unless an unemployment law judge directs that further adjudication is required for a
107.26 proper result.

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

107.28 Sec. 78. Minnesota Statutes 2005 Supplement, section 268.105, subdivision 5, is
107.29 amended to read:

107.30 Subd. 5. **Use of evidence; data privacy.** (a) All testimony at any evidentiary
107.31 hearing conducted ~~pursuant to~~ under subdivision 1 ~~shall~~ must be recorded. A copy of any
107.32 recorded testimony and exhibits offered or received into evidence at the hearing ~~shall~~

108.1 must, upon request, be furnished to a party at no cost during the time period for filing a
108.2 request for reconsideration or while a request for reconsideration is pending.

108.3 (b) Regardless of any provision of law to the contrary, if recorded testimony and
108.4 exhibits received into evidence at the evidentiary hearing are not requested during the time
108.5 period for filing a request for reconsideration, or while a request for reconsideration is
108.6 pending, that testimony and other evidence ~~shall~~ may later be made available only pursuant
108.7 to under a district court order. A subpoena ~~shall~~ is not be considered a district court order.

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

108.12 Sec. 79. Minnesota Statutes 2005 Supplement, section 268.105, subdivision 6, is
108.13 amended to read:

108.14 Subd. 6. **Representation; fees.** (a) In any proceeding under subdivision 1 or 2, an
108.15 applicant or involved employer may be represented by any agent.

108.16 (b) Except for services provided by an attorney-at-law, an applicant ~~shall~~ may not be
108.17 charged fees, costs, or disbursements of any kind in a proceeding before an unemployment
108.18 law judge, the Minnesota Court of Appeals, or the Supreme Court of Minnesota.

108.19 Sec. 80. Minnesota Statutes 2005 Supplement, section 268.105, subdivision 7, is
108.20 amended to read:

108.21 Subd. 7. **Judicial review.** (a) The Minnesota Court of Appeals shall, by writ of
108.22 certiorari to the department, review the unemployment law judge's decision, provided a
108.23 petition for the writ is filed with the court and a copy is served upon the unemployment
108.24 law judge or the commissioner and any other involved party within 30 calendar days of
108.25 the sending of the unemployment law judge's order under subdivision 2.

108.26 (b) Any employer petitioning for a writ of certiorari ~~shall~~ must pay to the court the
108.27 required filing fee and upon the service of the writ ~~shall~~ must furnish a cost bond to the
108.28 department in accordance with the Rules of Civil Appellate Procedure. If the employer
108.29 requests a written transcript of the testimony received at the evidentiary hearing conducted
108.30 pursuant to under subdivision 1, the employer ~~shall~~ must pay to the department the cost of
108.31 preparing the transcript. That money ~~shall be~~ is credited to the administration account.

108.32 (c) Upon issuance by the Minnesota Court of Appeals of a writ of certiorari as a
108.33 result of an applicant's petition, the department ~~shall~~ must furnish to the applicant at no
108.34 cost a written transcript of any testimony received at the evidentiary hearing conducted

109.1 ~~pursuant to~~ under subdivision 1, and, if requested, a copy of all exhibits entered into
 109.2 evidence. No filing fee or cost bond ~~shall be~~ is required of an applicant petitioning the
 109.3 Minnesota Court of Appeals for a writ of certiorari.

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

109.8 (1) in violation of constitutional provisions;

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

109.10 (3) made upon unlawful procedure;

109.11 (4) affected by other error of law;

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

109.13 (6) arbitrary or capricious.

109.14 (e) The department ~~shall be~~ is considered the primary responding party to any
 109.15 judicial action involving an unemployment law judge's decision. The department may be
 109.16 represented by an attorney who is an employee of the department.

109.17 Sec. 81. Minnesota Statutes 2004, section 268.115, is amended to read:

109.18 **268.115 EXTENDED UNEMPLOYMENT BENEFITS.**

109.19 Subdivision 1. **Definitions.** The terms used in this section ~~shall~~ have the following
 109.20 meaning:

109.21 (1) "Extended unemployment benefit period" means a period that lasts for a
 109.22 minimum of 13 weeks and that:

109.23 (i) Begins with the third week after there is a state "on" indicator; and

109.24 (ii) Ends with the third week after there is a state "off" indicator.

109.25 No extended unemployment benefit period may begin before the 14th week
 109.26 following the end of a prior extended unemployment benefit period.

109.27 (2) There is a "state 'on' indicator" for a week if:

109.28 (i) for that week and the prior 12 weeks, the rate of insured unemployment:

109.29 (a) equaled or exceeded 120 percent of the average of the rates for the corresponding
 109.30 13-week period ending in each of the prior two calendar years, and was five percent or
 109.31 more; or

109.32 (b) equaled or exceeded six percent; or

109.33 (ii) The United States Secretary of Labor determines that the average rate of

109.34 seasonally adjusted total unemployment in Minnesota for the most recent three months

109.35 for which data is published equals or exceeds 6.5 percent and this rate equals or exceeds

110.1 110 percent of the rate of the corresponding three-month period in either of the prior
110.2 two calendar years.

110.3 (3) There is a "state 'off' indicator" for a week if:

110.4 (i) under clause (2)(i), for that week and the prior 12 weeks, the requirements for a
110.5 "state 'on' indicator" are not satisfied; or

110.6 (ii) under clause (2)(ii) the requirements for a "state 'on' indicator" are not satisfied.

110.7 (4) "Rate of insured unemployment," means the percentage derived by dividing
110.8 the average weekly number of applicants filing continued biweekly requests for regular
110.9 unemployment benefits in the most recent 13-week period by the average monthly covered
110.10 employment for the first four of the last six completed calendar quarters before the end
110.11 of that 13-week period.

110.12 (5) "Regular unemployment benefits" means unemployment benefits available to
110.13 an applicant other than extended unemployment benefits and additional unemployment
110.14 benefits.

110.15 (6) "Eligibility period" for an applicant means the period consisting of the weeks
110.16 remaining in the applicant's benefit year within the extended unemployment benefit period
110.17 and, if the benefit year ends within the extended unemployment benefit period, any weeks
110.18 in the extended unemployment benefit period.

110.19 (7) "Exhaustee" means an applicant who, in the eligibility period:

110.20 ~~(a)~~ (i) the benefit year having not expired has received the maximum amount of
110.21 regular unemployment benefits that were available under section 268.07; or

110.22 ~~(b)~~ (ii) the benefit year having expired, has insufficient wage credits to establish a
110.23 new benefit account; and

110.24 ~~(c)~~ has no right to any type of unemployment benefits under ~~the law of~~ any other state
110.25 or ~~under~~ federal laws and is not receiving unemployment benefits under the law of Canada.

110.26 **Subd. 3. Requirements for extended unemployment benefits.** If an extended
110.27 unemployment benefit period is in effect, an applicant ~~shall be~~ is paid extended
110.28 unemployment benefits from the trust fund for any week in the applicant's eligibility
110.29 period if the applicant:

110.30 (1) is an "exhaustee";

110.31 (2) has satisfied the same requirements as those for regular unemployment benefits
110.32 under section 268.069;

110.33 (3) has wage credits of not less than 40 times the weekly unemployment benefit
110.34 amount; and

110.35 (4) is not subject to a denial of extended unemployment benefits under subdivision 9.

111.1 Subd. 4. **Weekly extended unemployment benefit amount.** The weekly extended
111.2 unemployment benefit amount ~~shall be~~ is the same as the weekly unemployment benefit
111.3 amount of regular unemployment benefits.

111.4 Subd. 5. **Maximum amount of extended unemployment benefits.** The maximum
111.5 amount of extended unemployment benefits available to an applicant ~~shall be~~ is 50
111.6 percent of the maximum amount of regular unemployment benefits available in the benefit
111.7 year, rounded down to the next lower whole dollar. If the total rate of unemployment
111.8 computed under subdivision 1, clause (2)(ii), equaled or exceeded eight percent, the
111.9 maximum amount of extended unemployment benefits available ~~shall be~~ is 80 percent of
111.10 the maximum amount of regular unemployment benefits available in the benefit year.

111.11 Subd. 6. **Public announcement.** Whenever an extended unemployment benefit
111.12 period is to begin as a result of a state "on" indicator, or an extended unemployment
111.13 benefit period is to end as a result of a state "off" indicator the commissioner shall make an
111.14 appropriate public announcement.

111.15 Subd. 7. **Federal law.** This section is enacted to conform to the requirements of
111.16 United States Code, title 26, section 3304, the Federal-State Extended Unemployment
111.17 Compensation Act of 1970 as amended and the applicable federal regulations.

111.18 Subd. 8. **Interstate applicants.** An applicant residing in a state other than
111.19 Minnesota shall be eligible for only the first two weeks of extended unemployment
111.20 benefits if the applicant's benefit account was established ~~pursuant to~~ under the interstate
111.21 benefit payment plan and no extended unemployment benefit period is in effect for the
111.22 week in that state.

111.23 Subd. 9. **Denial provisions.** (a) An applicant ~~shall be~~ is denied extended
111.24 unemployment benefits for any week in the applicant's eligibility period if during that
111.25 week the applicant failed to accept any offer of suitable employment, failed to apply
111.26 for any suitable employment that the applicant was referred to by the commissioner, or
111.27 failed to actively seek suitable employment.

111.28 The denial ~~shall continue~~ continues until the applicant has been employed in covered
111.29 employment in each of four subsequent weeks, whether or not consecutive, and had
111.30 earnings from that covered employment of not less than four times the applicant's weekly
111.31 unemployment benefit amount.

111.32 (b) For the purpose of this subdivision "suitable employment" means any
111.33 employment that is within the applicant's capabilities and that has a gross average weekly
11.34 wage that exceeds the applicant's weekly unemployment benefit amount. The employment
111.35 must pay wages not less than the higher of the federal minimum wage without regard to
111.36 any exemption, or the applicable state minimum wage.

112.1 (c) No applicant ~~shall~~ may be denied extended unemployment benefits for failure to
112.2 accept an offer of or apply for any suitable employment if:

112.3 (1) the position was not offered to the applicant in writing;

112.4 (2) the position was not listed with the job service; or

112.5 (3) the applicant furnishes satisfactory evidence that prospects for obtaining
112.6 employment in the applicant's customary occupation within a reasonably short period
112.7 are good. If the evidence is satisfactory, the determination of whether any employment
112.8 is suitable ~~shall be~~ is made in accordance with the definition of suitable employment in
112.9 section 268.035, subdivision 23a.

112.10 (d) For the purpose of this subdivision an applicant is "actively seeking suitable
112.11 employment" only if the applicant has engaged in a systematic and sustained effort to
112.12 obtain employment, and the applicant furnishes tangible evidence of that effort.

112.13 **Subd. 10. Job service referral.** The job service ~~shall~~ must refer any applicant
112.14 who is filing continued biweekly requests for extended unemployment benefits to any
112.15 employment that is suitable under subdivision 9.

112.16 Sec. 82. Minnesota Statutes 2004, section 268.125, subdivision 4, is amended to read:

112.17 **Subd. 4. Weekly unemployment benefit amount.** An applicant's weekly
112.18 additional unemployment benefit amount ~~shall be~~ is the same as the applicant's weekly
112.19 unemployment benefit amount during the current benefit year under section 268.07.

112.20 Sec. 83. Minnesota Statutes 2004, section 268.125, subdivision 5, is amended to read:

112.21 **Subd. 5. Maximum amount of unemployment benefits.** The maximum amount
112.22 of additional unemployment benefits available in the applicant's benefit year ~~shall be~~ is
112.23 one-half of the applicant's maximum amount of regular unemployment benefits available
112.24 under section 268.07, subdivision 2, rounded down to the next lower whole dollar.
112.25 Extended unemployment benefits paid and unemployment benefits paid under any federal
112.26 law other than regular unemployment benefits ~~shall~~ must be deducted from the maximum
112.27 amount of additional unemployment benefits available.

112.28 Sec. 84. Minnesota Statutes 2004, section 268.135, is amended to read:

112.29 **268.135 SHARED WORK PLAN.**

112.30 **Subdivision 1. Definitions.** For purposes of this section:

112.31 (1) "Affected employee" means an employee who was continuously employed as
112.32 a member of the affected group, for at least six months, on a full-time basis, ~~prior to~~
112.33 before submission of the shared work plan.

113.1 (2) "Affected group" means five or more employees designated by the employer to
113.2 participate in a shared work plan.

113.3 (3) "Shared work plan" or "plan" means an employer's plan, submitted in a manner
113.4 and format prescribed by the commissioner, under which a group of employees whose
113.5 normal weekly hours of work are reduced, in order to prevent employees from being
113.6 laid off ~~due to~~ because of lack of work.

113.7 (4) "Normal weekly hours of work" means the number of hours in a week that the
113.8 employee normally would work for the shared work employer or 40 hours, whichever is
113.9 less.

113.10 Subd. 2. **Participation.** (a) An employer wishing to participate in the shared work
113.11 benefit program ~~shall~~ must submit a shared work plan to the commissioner in a manner
113.12 and format prescribed for approval. The commissioner may approve a shared work plan
113.13 only if it:

113.14 (1) specifies the employees in the affected group;

113.15 (2) applies to only one affected group;

113.16 (3) includes a certified statement by the employer that each employee specified in
113.17 the affected group is an affected employee;

113.18 (4) includes a certified statement by the employer that for the duration of the plan
113.19 the reduction in normal weekly hours of work of the employees in the affected group is
113.20 instead of layoffs that otherwise would result in at least as large a reduction in the total
113.21 normal weekly hours of work;

113.22 (5) specifies an expiration date that is no more than one year from the date the
113.23 employer submits the plan for approval;

113.24 (6) specifies that fringe benefits, such as health and retirement, available to the
113.25 employees in the affected group are not reduced beyond the percentage of reduction in
113.26 hours of work; and

113.27 (7) is approved in writing by the collective bargaining agent for each collective
113.28 bargaining agreement that covers any employee in the affected group.

113.29 (b) The commissioner shall set the beginning and ending dates of an approved
113.30 shared work plan.

113.31 (c) The commissioner shall send to the employer a determination, by mail or
113.32 electronic transmission, approving or disapproving the plan within 15 calendar days of its
113.33 receipt. Determinations are final.

113.34 (d) Disapproval of a plan may be reconsidered at the discretion of the commissioner.
113.35 Approval of a shared work plan may be revoked if the approval was based, in whole or in
113.36 part, upon information that was false or misleading.

114.1 Subd. 3. **Eligibility.** (a) Regardless of any other provision, an applicant is eligible to
114.2 receive shared work benefits with respect to any week if:

114.3 (1) during the week the applicant is employed as a member of an affected group in a
114.4 plan that was approved ~~prior to~~ before the week and is in effect for the week; and

114.5 (2) during the week the normal weekly hours of work were reduced, in accordance
114.6 with the plan, at least 20 percent but not more than 40 percent, with a corresponding
114.7 reduction in wages.

114.8 (b) Shared work benefits ~~shall~~ may not be paid to an applicant beyond one benefit
114.9 year.

114.10 (c) The total amount of regular unemployment benefits and shared work benefits
114.11 paid to an applicant in a benefit year ~~shall~~ may not exceed the maximum amount of regular
114.12 unemployment benefits available.

114.13 (d) An otherwise eligible applicant ~~shall~~ may not be denied shared work benefits
114.14 because of the application of any provision relating to availability for employment, active
114.15 search for employment, or refusal to apply for or accept suitable employment from other
114.16 than the applicant's shared work employer.

114.17 Subd. 4. **Weekly benefit amount.** (a) An applicant who is eligible for shared work
114.18 benefits ~~shall be~~ is paid an amount equal to the regular weekly unemployment benefit
114.19 amount multiplied by the nearest full percentage of reduction of the applicant's regular
114.20 weekly hours of work as set in the plan. The benefit payment, if not a whole dollar ~~shall~~
114.21 must be rounded down to the next lower whole dollar.

114.22 (b) The deductible earnings provisions of section 268.085, subdivision 5, ~~shall~~
114.23 must not apply to earnings from the shared work employer of an applicant eligible for
114.24 shared work benefits unless the resulting amount would be less than the regular weekly
114.25 unemployment benefit amount the applicant would otherwise be eligible for without
114.26 regard to shared work benefits.

114.27 (c) An applicant ~~shall is not be~~ eligible for shared work benefits for any week that
114.28 employment is performed for the shared work employer in excess of the reduced hours
114.29 set forth in the plan.

114.30 Sec. 85. Minnesota Statutes 2005 Supplement, section 268.145, subdivision 1, is
114.31 amended to read:

114.32 Subdivision 1. **Notification.** (a) Upon filing an application for unemployment
114.33 benefits, the applicant ~~shall~~ must be informed that:

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

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

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

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

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

115.6 (b) If an applicant elects to have federal income tax withheld, the commissioner shall
115.7 deduct ten percent for federal income tax, rounded down to the next lower whole dollar. If
115.8 an applicant also elects to have Minnesota state income tax withheld, the commissioner
115.9 shall make an additional five percent deduction for state income tax, rounded down to
115.10 the next lower whole dollar. Any amounts deducted or offset ~~pursuant to~~ under sections
115.11 268.155, 268.18, and 268.184 have priority over any amounts deducted under this section.
115.12 Federal income tax withholding has priority over state income tax withholding.

115.13 (c) An election to have income tax withheld ~~shall~~ may not be retroactive and ~~shall~~
115.14 only apply applies to unemployment benefits paid after the election.

115.15 Sec. 86. Minnesota Statutes 2004, section 268.145, subdivision 2, is amended to read:

115.16 Subd. 2. **Transfer of funds.** The amount of any unemployment benefits deducted
115.17 under this section ~~shall remain~~ remains in the trust fund until transferred to the federal
115.18 Internal Revenue Service, or the Department of Revenue, as an income tax payment on
115.19 behalf of the applicant.

115.20 Sec. 87. Minnesota Statutes 2004, section 268.145, subdivision 3, is amended to read:

115.21 Subd. 3. **Correction of errors.** Any error that resulted in underwithholding or
115.22 overwithholding under this section ~~shall~~ will not be corrected retroactively.

115.23 Sec. 88. Minnesota Statutes 2004, section 268.155, is amended to read:

115.24 **268.155 CHILD SUPPORT DEDUCTED FROM UNEMPLOYMENT**
115.25 **BENEFITS.**

115.26 Subdivision 1. **Definitions.** As used in this section:

115.27 (1) "Child support obligations" means obligations that are being enforced by a child
115.28 support agency ~~pursuant to~~ in accordance with a plan described in United States Code,
115.29 title 42, section 454, of the Social Security Act that has been approved by the secretary of
115.30 health and human services under part D of title IV of the Social Security Act. This ~~shall~~
115.31 does not include any type of spousal maintenance or foster care payments; and

115.32 (2) "Child support agency" means the public agency responsible for child support
115.33 enforcement.

116.1 Subd. 2. **Notice upon application.** In an application for unemployment benefits, the
116.2 applicant ~~shall~~ must disclose if child support obligations are owed and, if so, in what state
116.3 and county. If child support obligations are owed, the commissioner shall, if the applicant
116.4 establishes a benefit account, notify the child support agency.

116.5 Subd. 3. **Withholding of unemployment benefits.** The commissioner shall deduct
116.6 and withhold from any unemployment benefits payable to an applicant who owes child
116.7 support obligations:

116.8 (1) the amount required ~~pursuant to~~ under a proper order of a court or administrative
116.9 agency; or

116.10 (2) if clause (1) is not applicable, the amount determined ~~pursuant to~~ under an
116.11 agreement under United States Code, title 42, section 454 (20) (B) (i), of the Social
116.12 Security Act; or

116.13 (3) if clause (1) or (2) is not applicable, the amount specified by the applicant.

116.14 Subd. 4. **Payment.** Any amount deducted and withheld ~~shall~~ must be paid to the
116.15 child support agency, but ~~shall~~ will for all purposes be treated as if it were paid to the
116.16 applicant as unemployment benefits and paid by the applicant to the child support agency
116.17 in satisfaction of the applicant's child support obligations.

116.18 Subd. 5. **Payment of costs.** The child support agency ~~shall~~ must pay the costs
116.19 incurred by the commissioner in the implementation and administration of this section and
116.20 sections 518.551 and 518.6111.

116.21 Sec. 89. Minnesota Statutes 2004, section 268.18, subdivision 5, is amended to read:

116.22 Subd. 5. **Remedies.** (a) Any method undertaken to recover an overpayment of
116.23 unemployment benefits, including any penalties and interest, ~~shall~~ is not ~~be~~ considered an
116.24 election of a method of recovery.

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

116.29 Sec. 90. Minnesota Statutes 2004, section 268.18, subdivision 6, is amended to read:

116.30 Subd. 6. **Collection of overpayments.** (a) The commissioner may not compromise
116.31 the amount that has been determined overpaid under this section including penalties
116.32 and interest.

116.33 (b) The commissioner ~~shall have~~ has discretion regarding the recovery of any
116.34 overpayment under subdivision 1. Regardless of any law to the contrary, the commissioner

117.1 ~~shall~~ is not be required to refer any amount determined overpaid under subdivision 1 to a
117.2 public or private collection agency, including agencies of this state.

117.3 (c) Amounts determined overpaid under subdivision 1 ~~shall~~ are not be considered
117.4 a "debt" to the state of Minnesota for purposes of any reporting requirements to the
117.5 commissioner of finance.

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

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

117.10 Sec. 91. Minnesota Statutes 2004, section 268.182, subdivision 1, is amended to read:

117.11 Subdivision 1. **Criminal penalties.** Whoever obtains, or attempts to obtain, or
117.12 aids or abets any individual to obtain by means of an intentional false statement or
117.13 representation, by intentional concealment of a material fact, or by impersonation or
117.14 other fraudulent means, unemployment benefits that the individual is not entitled or
117.15 unemployment benefits greater than the individual is entitled under this chapter, or under
117.16 the law of any state or of the federal government, either personally or for any other
117.17 individual, is guilty of theft and ~~shall~~ must be sentenced ~~pursuant to~~ under section 609.52.

117.18 Sec. 92. Minnesota Statutes 2004, section 268.186, is amended to read:

117.19 **268.186 RECORDS; AUDITS.**

117.20 (a) Each employer ~~shall~~ must keep true and accurate records for the periods of time
117.21 and containing the information the commissioner may require by rule. For the purpose of
117.22 administering this chapter, the commissioner has the power to audit, examine, or cause to
117.23 be supplied or copied, any books, correspondence, papers, records, or memoranda that
117.24 are relevant, whether the books, correspondence, papers, records, or memoranda are the
117.25 property of or in the possession of the employer or any other person at any reasonable
117.26 time and as often as may be necessary.

117.27 (b) Any employer that refuses to allow an audit of its records by the department,
117.28 or that fails to make all necessary records available for audit in Minnesota upon request
117.29 of the commissioner, may be assessed an administrative penalty of \$500. The penalty
117.30 collected ~~shall be~~ is credited to the administration account to be used by the commissioner
117.31 to ensure integrity in the administration of the unemployment insurance program.

117.32 (c) The commissioner may make summaries, compilations, photographs,
117.33 duplications, or reproductions of any records, or reports that the commissioner considers
117.34 advisable for the preservation of the information contained therein. Any summaries,

118.1 compilations, photographs, duplications, or reproductions ~~shall be~~ is admissible in
118.2 any proceeding under this chapter. The commissioner may duplicate records, reports,
118.3 summaries, compilations, instructions, determinations, or any other written or recorded
118.4 matter pertaining to the administration of this chapter.

118.5 (d) Regardless of any law to the contrary, the commissioner may provide for the
118.6 destruction of any records, reports, or reproductions ~~thereof~~, or other papers that are no
118.7 longer necessary for the administration of this chapter, including any required audit. In
118.8 addition, the commissioner may provide for the destruction or disposition of any record,
118.9 report, or other paper from which the information has been electronically captured and
118.10 stored, or that has been photographed, duplicated, or reproduced.

118.11 Sec. 93. Minnesota Statutes 2004, section 268.19, subdivision 1a, is amended to read:

118.12 Subd. 1a. **Wage detail data.** (a) Wage and employment data gathered pursuant
118.13 ~~to~~ under section 268.044 may be disseminated to and used, without the consent of the
118.14 subject of the data, by an agency of another state that is designated as the performance
118.15 accountability and consumer information agency for that state ~~pursuant to~~ under Code of
118.16 Federal Regulations, volume 20, part 663.510(c), in order to carry out the requirements
118.17 of the Workforce Investment Act of 1998, United States Code, title 29, sections 2842
118.18 and 2871.

118.19 (b) The commissioner may enter into a data exchange agreement with an employment
118.20 and training service provider under section 116L.17, or the Workforce Investment Act
118.21 of 1998, United States Code, title 29, section 2864, under which the commissioner, with
118.22 the consent of the subject of the data, may furnish data on the quarterly wages paid and
118.23 number of hours worked on those individuals who have received employment and training
118.24 services from the provider. With the initial consent of the subject of the data, this data may
118.25 be shared for up to three years after termination of the employment and training services
118.26 provided to the individual without execution of an additional consent. This data ~~shall be~~
118.27 is furnished solely for the purpose of evaluating the employment and training services
118.28 provided. The data subject's ability to receive service is not affected by a refusal to give
118.29 consent under this paragraph. The consent form must state this fact.

118.30 Sec. 94. Minnesota Statutes 2004, section 268.19, subdivision 2, is amended to read:

118.31 Subd. 2. **Employer information; absolute privilege.** (a) Regardless of any
118.32 provision of law to the contrary, an employer may provide the commissioner with
118.33 information on an applicant so that the commissioner can determine an applicant's
118.34 entitlement to unemployment benefits under the Minnesota Unemployment Insurance Law.

119.1 (b) The commissioner may disseminate an employer's name and address and the
 119.2 name and address of any employer's unemployment insurance processing agent in order
 119.3 to administer the Minnesota unemployment insurance program.

119.4 (c) Information obtained pursuant to under the Minnesota Unemployment Insurance
 119.5 Law, in order to determine an applicant's entitlement to unemployment benefits, ~~shall be~~
 119.6 are absolutely privileged and ~~shall~~ may not be made the subject matter or the basis for any
 119.7 civil proceeding, administrative, or judicial.

119.8 Sec. 95. Minnesota Statutes 2004, section 268.192, is amended to read:

119.9 **268.192 PROTECTION OF RIGHTS.**

119.10 Subdivision 1. **Waiver of rights void.** Any agreement by an individual to waive,
 119.11 release, or commute rights to unemployment benefits or any other rights under the
 119.12 Minnesota Unemployment Insurance Law ~~shall be~~ is void. Any agreement by an employee
 119.13 to pay all or any portion of an employer's taxes, ~~shall be~~ is void. No employer ~~shall~~ may
 119.14 directly or indirectly make or require or accept any deduction from wages to pay the
 119.15 employer's taxes, require or accept any waiver of any right or in any manner obstruct or
 119.16 impede an application or continued biweekly request for unemployment benefits. Any
 119.17 employer or officer or agent of any employer who violates any portion of this subdivision
 119.18 ~~shall~~ is, for each offense, ~~be~~ guilty of a misdemeanor.

119.19 Subd. 2. **No assignment of unemployment benefits; exemptions.** Any assignment,
 119.20 pledge, or encumbrance of unemployment benefits ~~shall be~~ is void. Unemployment
 119.21 benefits ~~shall be~~ are exempt from levy, execution, attachment, or any other remedy
 119.22 provided for the collection of debt. Any waiver of this subdivision ~~shall be~~ is void.

119.23 Sec. 96. Minnesota Statutes 2004, section 268.194, subdivision 4, is amended to read:

119.24 Subd. 4. **Reimbursements.** The commissioner is authorized to make to other state
 119.25 or federal agencies and to receive from other state or federal agencies, reimbursements
 119.26 from or to the trust fund, in accordance with reciprocal arrangements entered into pursuant
 119.27 to under section 268.131.

119.28 Money received pursuant to under a reciprocal agreement ~~shall~~ must be placed
 119.29 directly in the unemployment benefit payment account of the trust fund.

119.30 Sec. 97. Minnesota Statutes 2004, section 268.194, subdivision 5, is amended to read:

119.31 Subd. 5. **Reed Act money.** (a) Money credited to the account of Minnesota in the
 119.32 federal unemployment trust fund pursuant to under United States Code, title 42, section
 119.33 1103, of the Social Security Act, also known as the Reed Act, may be requisitioned and

120.1 used for (1) the payment of unemployment benefits, or (2) expenses incurred for the
 120.2 administration of the Minnesota unemployment insurance program ~~pursuant~~ according
 120.3 to a specific appropriation by the legislature. Any money used for the payment of
 120.4 unemployment benefits may be restored for appropriation and use for administrative
 120.5 expenses upon request of the governor to the United States Secretary of Labor.

120.6 (b) Reed Act money may be used for expenses in the administration of the Minnesota
 120.7 unemployment insurance program provided that the expenses are incurred and the money
 120.8 is requisitioned after the enactment of an appropriation law that:

120.9 (1) specifies the amounts and the purposes for which the money is appropriated;

120.10 (2) limits the period within which the money may be obligated to a period ending
 120.11 not more than two years after the date of the enactment of the appropriation law; and

120.12 (3) limits the amount that may be obligated to an amount that does not exceed the
 120.13 amount by which the aggregate of the amounts transferred to the account of Minnesota
 120.14 ~~pursuant to~~ under the Reed Act exceeds the aggregate of the amounts used ~~pursuant to~~
 120.15 under this subdivision and charged against the amounts transferred to the account of
 120.16 Minnesota. For the purposes of this subdivision, amounts used for administration ~~shall be~~
 120.17 are chargeable against the transferred amounts at the time of the obligation.

120.18 (c) Reed Act money requisitioned for the payment of expenses of administration
 120.19 ~~shall~~ remain a part of the ~~unemployment insurance~~ trust fund. The commissioner shall
 120.20 account for the use of this money in accordance with the standards established by the
 120.21 United States Secretary of Labor. If any money is not spent for the purpose for which it
 120.22 was appropriated, or, if it remains unspent at the end of the period specified by the law
 120.23 appropriating the money, it ~~shall~~ must be returned for credit to Minnesota's account in the
 120.24 federal unemployment trust fund.

120.25 Sec. 98. Minnesota Statutes 2004, section 268.194, subdivision 6, is amended to read:

120.26 Subd. 6. **Borrowing federal funds.** (a) The governor is ~~hereby~~ authorized, if
 120.27 necessary, to borrow funds from the federal unemployment trust fund in accordance
 120.28 with United States Code, title 42, section 1321 of the Social Security Act in order to pay
 120.29 unemployment benefits.

120.30 (b) Any amount transferred to the trust fund under the terms of any loan ~~shall~~ must
 120.31 be repayable as provided in United States Code, title 42, sections 1101(d)(1), 1103(b)(2),
 120.32 and 1322 of the Social Security Act.

120.33 (c) Interest payable on any loan ~~shall be~~ is paid in accordance with section 268.051,
 120.34 subdivision 8, paragraph (b).

121.1 Sec. 99. Minnesota Statutes 2004, section 268.20, is amended to read:

121.2 **268.20 REPRESENTATION IN COURT.**

121.3 In any civil action to enforce the provisions of the Minnesota Unemployment
121.4 Insurance Law, the commissioner ~~shall~~ may be represented by the attorney general.

121.5 Sec. 100. Minnesota Statutes 2004, section 268.21, is amended to read:

121.6 **268.21 NONLIABILITY OF STATE.**

121.7 (a) Unemployment benefits ~~shall be~~ are payable only to the extent provided in this
121.8 chapter and to the extent that money is available in the trust fund and neither the state nor
121.9 the commissioner ~~shall be~~ is liable for any amount in excess of the money available in
121.10 the trust fund.

121.11 (b) No person ~~shall~~ may make any demand, bring any suit, or other proceeding to
121.12 recover from the state or the commissioner any sum alleged to be due on a benefit account
121.13 after the expiration of two years from the effective date of the benefit account.

121.14 Sec. 101. Minnesota Statutes 2004, section 268.22, is amended to read:

121.15 **268.22 SAVING CLAUSE.**

121.16 The legislature reserves the right to amend or repeal all or any part of the Minnesota
121.17 Unemployment Insurance Law at any time; and there ~~shall be~~ is no vested private right
121.18 of any kind against ~~such~~ amendment or repeal. All the rights, privileges, ~~or~~ immunities
121.19 conferred ~~thereby, or by acts done pursuant thereto,~~ ~~shall~~ exist subject to the power of the
121.20 legislature to amend or repeal these sections at any time.

121.21 Sec. 102. Minnesota Statutes 2004, section 268.23, is amended to read:

121.22 **268.23 SEVERABLE.**

121.23 In the event that the United States Department of Labor determines that any
121.24 provision of the Minnesota Unemployment Insurance Law, or any other provision of
121.25 Minnesota Statutes relating to the unemployment insurance program, is not in conformity
121.26 with the requirements of federal law, the provision ~~shall have~~ has no force or effect; but if
121.27 only a portion of the provision, or the application to any person or circumstances, is held
121.28 not in conformity, the remainder of the provision and the application of the provision to
121.29 other persons or circumstances ~~shall~~ are not be affected.

APPENDIX

Repealed Minnesota Statutes: 06-5470

268.0511 ANNUAL PAYMENT OF SMALL LIABILITIES.

(a) An employer may pay all taxes, surcharges, and assessments due under this chapter and section 116L.20, except late fees under section 268.044, for any calendar year on an annual basis if the employer:

- (1) has an experience rating of zero for that calendar year;
- (2) had total taxable wages paid in the 12-month period ending the prior June 30 of less than five times the state's taxable wage base; and
- (3) has no delinquent amounts due under this chapter or section 116L.20.

(b) All amounts due under this section for any calendar year shall be paid on or before the following January 31.

268.085 ELIGIBILITY REQUIREMENTS.

Subd. 10. **Recreational or tourist industry employment.** (a) If an applicant has wage credits from recreational or tourist industry employment, unemployment benefits shall be available only if the applicant can establish a benefit account under section 268.07, subdivision 2, excluding the wage credits from recreational or tourist industry employment. This subdivision applies only to employment that is available with the employer for 15 consecutive weeks or less each calendar year.

(b) Wage credits from recreational or tourist industry employment may not be used for unemployment benefit purposes during weeks outside the normal employment season.

268.103 APPEALS BY ELECTRONIC TRANSMISSION.

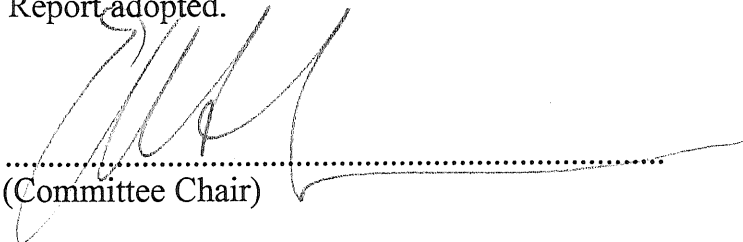
Subd. 4. **Protests by electronic transmission.** This section shall apply to the filing of protests to those determinations and notices that require a protest and affirmation procedure prior to an appeal.

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 3409:** A bill for an act relating to economic development; establishing
1.4 the Office of Entrepreneurship; appropriating money; proposing coding for new law in
1.5 Minnesota Statutes, chapter 116J.

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

1.8
1.9 (Committee Chair)



1.10 April 3, 2006
1.11 (Date of Committee recommendation)

Senators Sparks, Senjem, Rosen and Kiscaden introduced—

S.F. No. 3409: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act
relating to economic development; establishing the Office of Entrepreneurship;
appropriating money; proposing coding for new law in Minnesota Statutes,
chapter 116J.

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

Section 1. [116J.8743] OFFICE OF ENTREPRENEURSHIP.

The Office of Entrepreneurship is established in the Department of Employment and Economic Development. The objective of the Office of Entrepreneurship is to develop and implement strategies to foster entrepreneurial activity. In furtherance of this objective, the Office of Entrepreneurship shall do the following:

(1) measure and report to the governor and the legislature, by no later than March 1 of odd-numbered years, on the status of entrepreneurial activity in Minnesota, including small business formation, survival, and growth;

(2) form an entrepreneurial advisory board with public and private representatives to make recommendations on strategies and programs and to develop specific goals for statewide entrepreneurial outcomes;

(3) identify barriers to entrepreneurial development and conduct an inventory assessment of existing entrepreneurial resources in order to develop a one-stop information and referral service that is responsive to the needs of the entrepreneurial community;

(4) advance alternatives for the promotion of private capital to provide better access to early stage funding for small businesses;

(5) work with secondary and higher education institutions, businesses, nonprofit organizations, and state and federal agencies to provide education, training, and technical assistance which increase entrepreneurial literacy, skills, and experiences; and

2.1 (6) coordinate the state's direct services of small business assistance and the small
2.2 business development center network.

2.3 Members of the advisory board may include representatives from: higher education
2.4 institutions, small business development centers, small business incubators, nonprofit
2.5 organizations, economic development authorities, commercial banks and other lending
2.6 institutions, and state and federal agencies.

2.7 **Sec. 2. APPROPRIATION; OFFICE OF ENTREPRENEURSHIP.**

2.8 \$..... is appropriated from the general fund to the Department of Employment and
2.9 Economic Development for purposes of the Office of Entrepreneurship created under
2.10 section 1.

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

1.3 S.F. No. 2706: A bill for an act relating to vocational rehabilitation; providing for
1.4 affirmative-business enterprise employment; proposing coding for new law in Minnesota
1.5 Statutes, chapter 268A.

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

1.7 Delete everything after the enacting clause and insert:

1.8 "Section 1. Laws 2004, chapter 188, section 1, as amended by Laws 2005, chapter
1.9 134, section 3, is amended to read:

1.10 Section 1. [PILOT PROJECT.]

1.11 The commissioner of employment and economic development shall conduct an
1.12 extended employment pilot project to study an industrial model for employment for
1.13 individuals with severe disabilities in Thief River Falls, Minnesota.

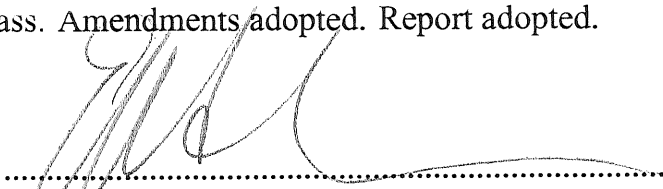
1.14 Employment is to be provided by Custom Products, a division of Occupational
1.15 Development Center. During the pilot, employment outcomes for individuals with severe
1.16 disabilities will be assumed to be community employment as defined under Minnesota
1.17 Rules, part 3300.2005. The pilot project will begin July 1, 2004, and end June 30, ~~2006~~
1.18 2007. Evaluation of the pilot project must be completed by October 1, 2006, by the
1.19 commissioner.

1.20 The pilot project must maintain a minimum ratio of 60 percent of nondisabled
1.21 persons, must pay minimum wages or better to all employees with severe disabilities, and
1.22 must provide them a level of benefits equal to those provided to nondisabled employees.
1.23 All work teams must be integrated.

1.24 The pilot project must provide the extended employment program with useful
1.25 information to clarify the distinction between center-based and community employment
1.26 subprograms. The commissioner shall consider the findings of the pilot project in adopting
1.27 rules."

1.28 Amend the title accordingly

1.29 And when so amended the bill do pass. Amendments adopted. Report adopted.

1.30 
1.31 (Committee Chair)

1.32 April 3, 2006
3 (Date of Committee recommendation)

Senator Stumpf introduced-

S.F. No. 2706: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act relating to vocational rehabilitation; providing for affirmative-business enterprise employment; proposing coding for new law in Minnesota Statutes, chapter 268A.

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

Section 1. [268A.16] AFFIRMATIVE-BUSINESS ENTERPRISE EMPLOYMENT.

Subdivision 1. Defined. "Affirmative-business enterprise employment" means employment that provides paid work on the premises of an affirmative-business enterprise certified by the commissioner of employment and economic development.

An affirmative-business enterprise must:

- (1) employ no more than 40 percent of workers with severe disabilities;
- (2) report individual work in an integrated setting, as defined in Code of Federal Regulations, title 34, section 361.5, paragraph (b)(33)(ii);
- (3) pay individuals at or above minimum wage; and
- (4) provide a benefit package that is available to all employees.

Subd. 2. Funding as community employment. Affirmative-business enterprise employment is community employment for purposes of funding under Minnesota Rules, parts 3300.2005 to 3300.2055.

1.1 Senator moves to amend S.F. No. 2706 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Laws 2004, chapter 188, section 1, as amended by Laws 2005, chapter
1.4 134, section 3, is amended to read:

1.5 Section 1. [PILOT PROJECT.]

1.6 The commissioner of employment and economic development shall conduct an
1.7 extended employment pilot project to study an industrial model for employment for
1.8 individuals with severe disabilities in Thief River Falls, Minnesota.

1.9 Employment is to be provided by Custom Products, a division of Occupational
1.10 Development Center. During the pilot, employment outcomes for individuals with severe
1.11 disabilities will be assumed to be community employment as defined under Minnesota
1.12 Rules, part 3300.2005. The pilot project will begin July 1, 2004, and end June 30, ~~2006~~
1.13 2007. Evaluation of the pilot project must be completed by October 1, 2006, by the
1.14 commissioner.

1.15 The pilot project must maintain a minimum ratio of 60 percent of nondisabled
1.16 persons, must pay minimum wages or better to all employees with severe disabilities, and
1.17 must provide them a level of benefits equal to those provided to nondisabled employees.
1.18 All work teams must be integrated.

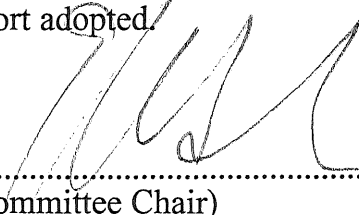
1.19 The pilot project must provide the extended employment program with useful
1.20 information to clarify the distinction between center-based and community employment
1.21 subprograms. The commissioner shall consider the findings of the pilot project in adopting
1.22 rules. "

1.23 Amend the title accordingly

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 2696:** A bill for an act relating to economic development; providing
1.4 eligibility for inclusion in a JOBZ zone for certain businesses; proposing coding for new
1.5 law in Minnesota Statutes, chapter 469.

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

1.8 
1.9 (Committee Chair)

1.10 April 3, 2006
1.11 (Date of Committee recommendation)

Senator Stumpf introduced-

S.F. No. 2696: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

1.2 relating to economic development; providing eligibility for inclusion in a JOBZ
1.3 zone for certain businesses; proposing coding for new law in Minnesota Statutes,
1.4 chapter 469.

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

1.6 Section 1. [469.3105] QUALIFIED BUSINESS; SMALL DECLINING
1.7 POPULATION COUNTY.

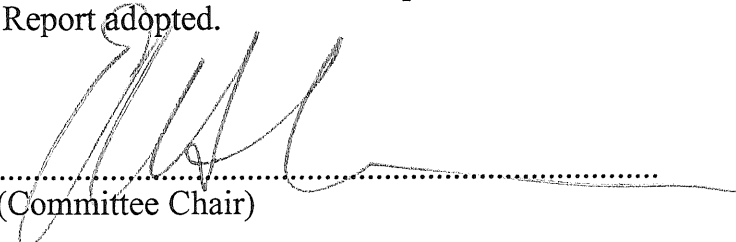
1.8 Notwithstanding section 469.310, subdivision 11, paragraph (f), a qualified business
1.9 for purposes of section 469.310, subdivision 11, includes a food service business if the
1.10 business is located solely in a qualified county, and if the business began operations in
1.11 January 2004, with employment of between 15 and 20 part-time and full-time employees.
1.12 For the purpose of this section, a "qualified county" is a county having an estimated
1.13 population of less than 5,000 in 2004 and that experienced a reduction in population of at
1.14 least 7.5 percent between 2000 and 2004, according to the state demographer.

1.15 EFFECTIVE DATE. This section is effective the day following final enactment.

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.4 **S.F. No. 2847:** A bill for an act relating to vocational rehabilitation; modifying
1.5 the definition of "supported employment"; amending Minnesota Statutes 2004, section 268A.01, subdivision 13.

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

1.8 
1.9 (Committee Chair)

1.10 April 3, 2006
1.11 (Date of Committee recommendation)

Senators Dibble and Bonoff introduced-

S.F. No. 2847: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act
relating to vocational rehabilitation; modifying the definition of "supported
employment"; amending Minnesota Statutes 2004, section 268A.01, subdivision
13.

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

Section 1. Minnesota Statutes 2004, section 268A.01, subdivision 13, is amended to
read:

Subd. 13. Supported employment. "Supported employment" means employment
of a person with a disability so severe that the person needs ongoing training and support
to get and keep a job in which:

(1) the person engages in paid work in a position removed from the service vendor's
site where individuals without disabilities who do not require public subsidies also may
be employed;

(2) public funds are necessary to provide ongoing training and support services
throughout the period of the person's employment; and

(3) the person has the opportunity for social interaction with individuals who do not
have disabilities and who are not paid caregivers.

Supported employment includes work for individuals with disabilities who
are working in an integrated setting and receiving competitive wages at a provider
organization that receives extended employment funding, but not center-based funding.

John & Janet Carey

39253 – 625th Avenue
New Ulm, MN 56073
507-354-9524
507-354-9526 Fax

March 28, 2006

Sue Abderholden
Director, NAMI/MN
800 Transfer Rd, Suite 7A
St. Paul, MN 55114

IN RE: Extended Employment Legislation

Dear Sue:

We are writing to share our family's experiences in regard to employment for our son who suffers from a persistent mental illness.

Our son has been involved with state employment services in Ramsey County, Brown County and Stearns County over the past fourteen years. Employment is the last step on his road to recovery and is extremely important, perhaps the most important, in becoming a productive member of society. The bumpy road of mental illness requires the availability of supportive employment services for as long as necessary in a variety of different forms.

We have often had to wait up to six months before services are available only to find out the resources are very limited in what they can provide. "We can provide a job coach if you need one" only to find out there is no one on staff who is trained in this area. "We can help you with your resume" but we have a long waiting list ahead of you. Our son has had over twenty-five jobs during the past fourteen years and we fear this cycle will continue without the services provided by the extended employment legislation.

The employment piece of recovery for someone who suffers from a mental illness is vital and complicated by the very nature of the illness. To fund treatment programs without providing extended employment support is a partial solution at best. We would urge the Committee hearing this legislation to consider the possibility of full services to the mentally ill which must include extended employment services.

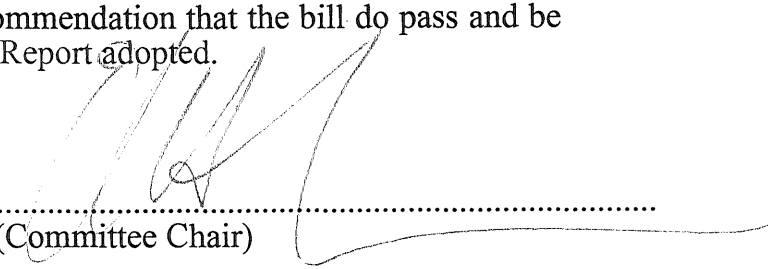
Very truly yours.


John & Janet Carey

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 3166:** A bill for an act relating to employment; redefining the base
1.4 appropriation for extended employment services for persons with severe disabilities;
1.5 appropriating money; amending Laws 2005, First Special Session chapter 1, article 3,
1.6 section 2, subdivision 4.

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

1.9
1.10 (Committee Chair) 

1.11 April 3, 2006
1.12 (Date of Committee recommendation)

Senator Dibble introduced-

S.F. No. 3166: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
 1.3 relating to employment; redefining the base appropriation for extended
 1.4 employment services for persons with severe disabilities; appropriating money;
 1.5 amending Laws 2005, First Special Session chapter 1, article 3, section 2,
 subdivision 4.

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

1.7 Section 1. Laws 2005, First Special Session chapter 1, article 3, section 2, subdivision
 1.8 4, is amended to read:

1.9	Subd. 4. Workforce services	27,960,000	28,160,000
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1.10

Summary by Fund

1.12	General	20,165,000	20,165,000
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1.13	Workforce Development	7,795,000	7,995,000
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1.14

1.15 \$4,864,000 the first year and \$4,864,000 the
 1.16 second year are from the general fund and
 1.17 \$7,420,000 the first year and \$7,420,000
 1.18 the second year are from the workforce
 1.19 development fund for extended employment
 1.20 services for persons with severe disabilities
 or related conditions under Minnesota

1.22 Statutes, section 268A.15. ~~Of the amount~~

2.1 ~~from the workforce development fund;~~
 2.2 ~~\$500,000 each year is onetime.~~
 2.3
 2.4 \$1,690,000 the first year and \$1,690,000
 2.5 the second year are from the general
 2.6 fund for grants under Minnesota Statutes,
 2.7 section 268A.11, for the eight centers for
 2.8 independent living. Money not expended the
 2.9 first year is available the second year.
 2.10
 2.11 \$150,000 the first year and \$150,000 the
 2.12 second year are from the general fund
 2.13 and \$175,000 the first year and \$175,000
 2.14 the second year are from the workforce
 2.15 development fund for grants under Minnesota
 2.16 Statutes, section 268A.03, to Rise, Inc.
 2.17 for the Minnesota Employment Center for
 2.18 People Who are Deaf or Hard-of-Hearing.
 2.19 Money not expended the first year is available
 2.20 the second year. Of the amount from the
 2.21 workforce development fund, \$150,000 each
 2.22 year is onetime.
 2.23
 2.24 \$1,000,000 the first year and \$1,000,000
 2.25 the second year are from the general fund
 2.26 and \$200,000 the first year and \$400,000
 2.27 the second year are from the workforce
 2.28 development fund for grants for programs
 2.29 that provide employment support services to
 2.30 persons with mental illness under Minnesota
 2.31 Statutes, sections 268A.13 and 268A.14.
 2.32 Up to \$77,000 each year may be used
 2.33 for administrative and salary expenses.
 2.34 ~~The appropriation from the workforce~~
 2.35 ~~development fund is onetime.~~

3.1

3.2 \$4,940,000 the first year and \$4,940,000 the
3.3 second year are from the general fund for
3.4 state services for the blind activities.

3.5

3.6 \$7,521,000 the first year and \$7,521,000 the
3.7 second year are from the general fund for the
3.8 state's vocational rehabilitation program for
3.9 people with significant disabilities to assist
3.10 with employment, under Minnesota Statutes,
3.11 chapter 268A.

3.12

3.13 On or after July 1, 2005, the commissioner
3.14 of finance shall cancel the unencumbered
3.15 balance in the contaminated site cleanup and
3.16 development account to the unrestricted fund
3.17 balance in the general fund.

3.18

3.19 Sec. 2. APPROPRIATION.

3.20 \$..... is appropriated in fiscal year 2007 from the general fund to the commissioner
3.21 of the Department of Employment and Economic Development to fund special projects
3.22 focused on providing employment support to:

- 3.23 (1) young people with mental illness who are transitioning from school to work; and
- 3.24 (2) people with a serious mental illness who are receiving services through a mental
- 3.25 health court. Projects must demonstrate interagency collaboration.