

SESSION LAWS  
of the  
STATE OF MINNESOTA

ENACTED BY THE SEVENTY-SECOND LEGISLATURE

AT THE 1982 FIRST SPECIAL SESSION

MARCH 30, 1982

---

CHAPTER 1 — H.F.No. 1

*An act relating to unemployment compensation; establishing a credit week as a percentage of average weekly wages; defining the employing unit for certain homeworkers and personal care attendants; defining wages; altering provisions as to advance of federal funds; altering "triggers" related to extended benefits; altering eligibility requirements for extended benefits; altering eligibility and disqualifying provisions for individuals whose training is approved under the Federal Trade Act of 1974; providing for the interception of unemployment benefits to satisfy child support obligations; providing for rate notices; regulating eligibility for compensation; providing for determination of claims; providing for collection of contributions, reimbursements, and overpayments; modifying employer contribution provisions; altering tax rates; regulating the data practices of the department of economic security; modifying the deduction of military retirement payments and secondary social security benefits; providing increased penalties for individuals who quit employment or who are discharged for misconduct; providing for the charging of extended benefits, in part, to base period employers; providing penalties; appropriating money; amending Minnesota Statutes 1980, Sections 268.04, Subdivisions 9, 25, and 29; 268.05, Subdivision 6; 268.06, Subdivisions 2, 3a, 6, 8, 19, 22, 25, and 28; 268.07, Subdivisions 2, 3, and by adding a subdivision; 268.071, Subdivisions 1, 3, 5, 6, and by adding subdivisions; 268.08, Subdivisions 1, 3, and 6; 268.09, Subdivisions 1, 2, and by adding a subdivision; 268.10, Subdivisions 1 and 2; 268.12, Subdivisions 12 and 13; 268.15, Subdivision 3; 268.16, Subdivisions 1 and 2; 268.18, Subdivisions 1, 2, 4, and by adding subdivisions; proposing new law coded in Minnesota Statutes, Chapter 268; repealing Minnesota Statutes 1980, Sections 268.07, Subdivision 4; 268.16, Subdivision 3, as amended.*

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

Section 1. Minnesota Statutes 1980, Section 268.04, Subdivision 9, is amended to read:

Subd. 9. "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of sections 268.03 to 268.24. Each individual employed to perform or assist in performing the work of any agent or individual employed by an employing unit shall be deemed to be employed by such employing unit for all the purposes of sections 268.03 to 268.24 whether such individual was hired or paid directly by such employing unit or by such agent or individual, provided the employing unit had actual or constructive knowledge of such work. For the purposes of sections 268.03 to 268.24 any agency providing or authorizing the hiring of homeworkers, personal care attendants, or other individuals performing similar services in the private home of an individual is the employing unit of the homemaker, attendant or similar worker whether the agency pays the employee directly or provides funds to the recipient of the services to pay for the services.

Sec. 2. Minnesota Statutes 1980, Section 268.04, Subdivision 25, is amended to read:

Subd. 25. **WAGES.** "Wages" means all remuneration for services, including commissions and bonuses, and tips and gratuities paid to an employee by a customer of an employer and accounted for by the employee to the employer, and the cash value of all remuneration in any medium other than cash, except that such term shall not include:

(4) (a) For the purpose of determining contributions payable under section 268.06, subdivision 2, that part of the remuneration which exceeds \$7,000 ~~during the calendar year of 1977, \$7,500 during the calendar year of 1978 and \$8,000 during the calendar year of years 1979, 1980 and 1981~~ and for all subsequent calendar years that part of the remuneration which exceeds 60 percent of the average annual wage rounded to the nearest \$100 computed in accordance with the provisions of clause (f) of this subdivision, paid to an individual by an employer with respect to covered employment in this state, or with respect to employment under the unemployment compensation law of any other state during any calendar year paid to such individual by such covered employer or his predecessor during such calendar year; provided, that if the term "wages" as contained in the federal unemployment tax act is amended to include remunera-

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

tion in excess of the amount required to be paid hereunder to an individual by an employer under the federal act for any calendar year, wages for the purposes of sections 268.03 to 268.24 shall include remuneration paid in a calendar year up to an amount equal to the dollar limitation specified in the federal unemployment tax act. For the purposes of this clause, the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government;

(2) (b) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of ~~(a)~~ (1) retirement or ~~(b)~~ (2) sickness or accident disability or ~~(c)~~ (3) medical and hospitalization expenses in connection with sickness or accident disability, or ~~(d)~~ (4) death, provided the employee ~~(i)~~ has not the option to receive, instead of provision for such death benefit, any part of such payment, or if such death benefit is insured, any part of the premium (or contributions to premiums) paid by his employer and ~~(ii)~~ has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(3) (c) The payment by an employer (without deduction from the remuneration of the employee) ~~(a)~~ (1) of the tax imposed upon an employee under section 3101 of the federal internal revenue code, or ~~(b)~~ (2) of any payment required from an employee under a state unemployment compensation law, with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

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

(5) (e) Any payment made to, or on behalf of, an employee or his beneficiary ~~(a)~~ (1) from or to a trust described in section 401(a) of the federal internal revenue code which is exempt from tax under section 501(a) of such code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or ~~(b)~~ (2) under or to an annuity plan which, at the time of such payment is a plan described in section 403(a) of the federal internal revenue code, or (c) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a) of the federal internal revenue code;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(f) On or before July 1 of each year the commissioner shall determine the average annual wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(1) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment;

(2) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

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

Sec. 3. Minnesota Statutes 1980, Section 268.04, Subdivision 29, is amended to read:

Subd. 29. "Credit week" with respect to any claim for benefits which establishes a benefit year subsequent to July 2, 1977, is any week for which the wages which have been paid and wages which are due and payable but not paid of \$50 or more by or from one or more employers to an employee for insured work, equal or exceed 30 percent of the average weekly wage computed to the nearest whole dollar. On or before June 30 of each year the commissioner shall determine the average weekly wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(a) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment;

(b) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage; and

(c) The average annual wage shall be divided by 52 to determine the average weekly wage.

The average weekly wage as so determined computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to December 31 of the year of the computation.

Sec. 4. Minnesota Statutes 1980, Section 268.05, Subdivision 6, is amended to read:

Subd. 6. **ADVANCE ON FEDERAL FUNDS.** (1) The governor is hereby authorized to make application as may be necessary to secure any advance of funds by the secretary of the treasury of the United States in accordance with the authority extended under section 1201 of the social security act, as amended.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(2) Any amount transferred to the Minnesota unemployment compensation fund by the secretary of the treasury of the United States under the terms of any application made pursuant to this subdivision shall be repayable, ~~without interest,~~ in the manner provided in sections 901(d) 1, 903(b) 2 and 1202 of the social security act, as amended.

Sec. 5. Minnesota Statutes 1980, Section 268.06, Subdivision 2, is amended to read:

Subd. 2. **RATES.** Each employer ~~who is not eligible for an experience ratio or who has an experience ratio of one-tenth of one percent or more as computed in subdivision 6~~ shall pay contributions equal to two and seven-tenths percent of wages paid and wages overdue and delayed beyond the usual time of payment from him with respect to employment occurring during each calendar year, except as may be otherwise prescribed in subdivisions ~~3~~ 3a and 4. Each employer who has an experience ratio of less than one-tenth of one percent shall pay contributions on only the first \$8,000 in wages paid and wages overdue and delayed beyond the usual time of payment to each employee with respect to employment occurring during each calendar year.

Sec. 6. Minnesota Statutes 1980, Section 268.06, Subdivision 3a, is amended to read:

Subd. 3a. **RATE FOR NEW EMPLOYERS.** Notwithstanding the provisions of subdivision 2, each employer, ~~subsequent to December 31, 1971,~~ who becomes subject to this law, shall pay contributions at a rate:

(a) Not exceeding two and seven-tenths percent, that is the higher of (a) ~~(1) one percent and (b) (2) the state's three-year benefit cost rate for the 36 consecutive month period immediately preceding July 1 of each year for each employer who becomes subject to this law prior to January 1, 1984.~~ For purposes of this ~~subdivision clause,~~ the state's three-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 36 consecutive calendar months immediately preceding July 1 of each year by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

(b) Not exceeding 2-7/10 percent, that is the higher of (1) one percent and (2) the state's four-year benefit cost rate for the 48 consecutive month period immediately preceding July 1 of each year for each employer, except employers in the construction industry, as determined by the commissioner, principally employing laborers and construction tradesmen, who becomes subject to this law subsequent to December 31, 1983 and prior to January 1, 1985. For purposes of this clause, the state's four-year benefit cost rate shall be computed and derived by dividing the total dollar amount of benefits paid to claimants under this law

during the 48 consecutive calendar months immediately preceding July 1, 1983 by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year 1984.

Each construction employer described above who becomes subject to chapter 268 shall pay contributions at a rate, not exceeding 7.5 percent, that is the higher of (1) one percent, or (2) the state's four-year benefit cost rate for construction employers for the 48 consecutive month period immediately preceding July 1, 1983. For purposes of this clause, the state's four-year benefit cost rate shall be computed and derived by dividing the total dollar amount of benefits paid to claimants of construction employers, as determined by the commissioner, during the 48 consecutive calendar months immediately preceding July 1, 1983 by the total dollar amount of wages of construction employers subject to contributions during the same period. The rate so determined shall be applicable for the calendar year 1984.

(c) Not exceeding 2-7/10 percent, that is the higher of (1) one percent and (2) the state's five-year benefit cost rate for the 60 consecutive month period immediately preceding July 1, 1984 and each year thereafter for each employer, except employers in the construction industry, as determined by the commissioner, principally employing laborers and construction tradesmen, who becomes subject to this law on January 1, 1985 and thereafter. For purposes of this clause, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 60 consecutive calendar months immediately preceding July 1, 1984 and each year thereafter by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

Each construction employer described above who becomes subject to chapter 268 shall pay contributions at a rate, not exceeding 7.5 percent, that is the higher of (1) one percent, or (2) the state's five-year benefit cost rate for construction employers for the 60 consecutive month period immediately preceding July 1, 1984 and each year thereafter. For purposes of this clause, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants of construction employers, as determined by the commissioner, during the 60 consecutive calendar months immediately preceding July 1, 1984 and each year thereafter by the total dollar amount of wages of construction employers subject to contributions during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

Sec. 7. Minnesota Statutes 1980, Section 268.06, Subdivision 6, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 6. **COMPUTATION OF EACH EMPLOYER'S EXPERIENCE RATIO.** The commissioner shall, for the calendar year 1966, and for each calendar year thereafter, compute an experience ratio for each employer whose account has been chargeable with benefits;

(a) During the 36 consecutive calendar months immediately preceding July 1 of the preceding calendar year for calendar years up to December 31, 1983; except that, for any employer who has not been subject to the Minnesota employment services law for a period of time sufficient to meet the 36 consecutive months requirement, the commissioner shall compute an experience ratio if his account has been chargeable with benefits during at least the 12 consecutive calendar months immediately preceding July 1 of the preceding calendar year. Such experience ratio shall be the quotient obtained by dividing  $1\frac{1}{4}$  times the total benefits charged to the employer's account during the period his account has been chargeable but not less than the 12 or more than the 36 consecutive calendar months ending on June 30 of the preceding calendar year, by his total taxable payroll for the same period on which all contributions due have been paid to the department of economic security on or before July 31 of the preceding calendar year. Such experience ratio shall be computed to the nearest one-tenth of a percent.

(b) During the 48 consecutive calendar months immediately preceding July 1, 1983 for the calendar year for 1984; except that, for any employer who has not been subject to the Minnesota employment services law for a period of time sufficient to meet the 48 consecutive months requirement, the commissioner shall compute an experience ratio if his account has been chargeable with benefits during at least the 12 consecutive calendar months immediately preceding July 1, 1983. Such experience ratio shall be the quotient obtained by dividing  $1\frac{1}{4}$  times the total benefits charged to the employer's account during the period his account has been chargeable but not less than the 12 or more than the 48 consecutive calendar months ending on June 30, 1983, by his total taxable payroll for the same period on which all contributions due have been paid to the department of economic security on or before July 31, 1983. Such experience ratio shall be computed to the nearest one-tenth of a percent.

(c) During the 60 consecutive calendar months immediately preceding July 1 of the preceding calendar year for 1985 and each year thereafter; except that, for any employer who has not been subject to the Minnesota employment services law for a period of time sufficient to meet the 60 consecutive months requirement, the commissioner shall compute an experience ratio if his account has been chargeable with benefits during at least the 12 consecutive calendar months immediately preceding July 1 of the preceding calendar year. Such experience ratio shall be the quotient obtained by dividing  $1\frac{1}{4}$  times the total benefits charged to the employer's account during the period his account has been chargeable but not less than the 12 or more than the 60 consecutive calendar months ending on June 30 of the preceding calendar year for 1985 and each year

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

thereafter, by his total taxable payroll for the same period on which all contributions due have been paid to the department of economic security on or before July 31 of the preceding calendar year. Such experience ratio shall be computed to the nearest one-tenth of a percent.

Sec. 8. Minnesota Statutes 1980, Section 268.06, Subdivision 8, is amended to read:

Subd. 8. **DETERMINATION OF CONTRIBUTION RATES.** For each calendar year the commissioner shall determine the contribution rate of each employer by adding the minimum rate to the experience ratio, except that if the ratio for the current calendar year ~~exceeds~~ increases or decreases the experience ratio for the preceding calendar year by more than one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter, the increase or decrease for the current year shall be limited to one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1-1/2 percentage points for 1983 and each year thereafter. "Small business employer" for the purpose of this subdivision means an employer with an annual covered payroll of \$250,000 or less, or fewer than 20 employees in three of the four quarters ending June 30, of the previous calendar year.

The minimum rate for all employers shall be one percent if the amount in the unemployment compensation fund is less than \$80,000,000 on June 30 of the preceding calendar year; or nine-tenths of one percent if the fund is more than \$80,000,000 but less than \$90,000,000; or eight-tenths of one percent if the fund is more than \$90,000,000 but less than \$110,000,000; or seven-tenths of one percent if the fund is more than \$110,000,000 but less than \$130,000,000; or six-tenths of one percent if the fund is more than \$130,000,000 but less than \$150,000,000; or five-tenths of one percent if the fund is more than \$150,000,000 but less than \$170,000,000; or three-tenths of one percent if the fund is more than \$170,000,000 but less than \$200,000,000; or one-tenth of one percent if the fund is \$200,000,000 or more; provided that no employer shall have a contribution rate of more than 7.5 percent.

For the purposes of this section the unemployment compensation fund shall not include any moneys advanced from the Federal Unemployment Account in the unemployment trust fund in accordance with Title XII of the Social Security Act, as amended. No employer first assigned an experience ratio in accordance with subdivision 6, shall have his contribution rate increased or decreased by more than one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter over the contribution rate assigned for the preceding calendar year in accordance with subdivision 3a, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1-1/2 percentage points for 1983 and each year thereafter.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 9. Minnesota Statutes 1980, Section 268.06, Subdivision 19, is amended to read:

Subd. 19. **NOTICE OF RATE.** The commissioner shall mail to each employer notice of his rate of contributions as determined for any calendar year pursuant to this section. Such notice shall contain the contribution rate, factors used in determining the individual employer's experience rating, and such other information as the commissioner may prescribe. Unless reviewed in the manner hereinafter provided, the rate as determined or as modified by a redetermination, a decision of a referee, or the commissioner shall be final except for fraud and shall be the rate upon which contributions shall be computed for the calendar year for which such rate was determined, and shall not be subject to collateral attack for any errors, clerical or otherwise, whether by way of claim for adjustment or refund, or otherwise. If the legislature changes any of the factors used to determine the contribution rate of any employer for any year subsequent to the original mailing of such notice for the year, the earlier notice shall be void. The notice based on the new factors shall be deemed to be the only notice of rate of contributions for that year and shall be subject to the same finality, redetermination and review procedures as provided above.

Sec. 10. Minnesota Statutes 1980, Section 268.06, Subdivision 22, is amended to read:

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

(b) When an employing unit succeeds to or acquires a distinct severable portion of the organization, trade, business or assets which is less than substantially all of the employing enterprises of another employing unit, the successor employing unit shall acquire the experience rating record attributable to the portion to which it has succeeded, and the predecessor employing unit shall retain the experience rating record attributable to the portion which it has retained, if (1) the successor continues the organization, trade or business of the portion acquired, (2) the successor within 90 days of acquisition makes a written request to file an application as prescribed by the commissioner for the transfer of the experience rating record for the severable portion acquired from the predecessor (3) and within 90 days from the date the application is mailed to the successor the successor and predecessor employing units sign the application that furnishes the commissioner with sufficient information to substantiate the severable portion and to assign the total and taxable wages and benefit charges to the successor for experience rating purposes.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(c) An employing unit which succeeds to or acquires the organization, trade or business or substantially all of the assets of an employer shall notify the department ~~by certified mail in writing~~ of the acquisition not later than ~~ten~~ 30 days after the acquisition. Failure to give notice shall render the predecessor and successor employing unit jointly and severally liable for contributions due and unpaid by the predecessor.

(d) ~~Credits due to a predecessor as a result of overpayment of contributions under this subdivision may be granted to the successor upon assignment thereof by such predecessor in such form and in accordance with such regulations as may be prescribed by the commissioner.~~ Employment with a predecessor employer shall not be deemed to have been terminated if similar employment is offered by the successor employer and accepted by the employee.

(e) An official, designated by the commissioner, upon his own motion or upon application of an employing unit shall determine if an employing unit is a successor within the meaning of this subdivision and shall notify the employing unit of the determination. The determination shall be final unless the employing unit shall within 30 days after mailing of notice of determination to the employing unit's last known address file a written appeal. Proceedings on the appeal shall be in accordance with section 268.12, subdivision 13.

(f) Notwithstanding subdivision 19, the commissioner may, after any determination of succession, recompute the rate of the employer for any prior year affected by the transfer of part or all of the experience rating record under this subdivision.

Sec. 11. Minnesota Statutes 1980, Section 268.06, Subdivision 25, is amended to read:

Subd. 25. **PAYMENTS TO FUND BY STATE AND POLITICAL SUBDIVISIONS IN LIEU OF CONTRIBUTIONS.** In lieu of contributions required of employers under this law, the state of Minnesota or its political subdivisions governed by this law shall pay into the unemployment compensation fund an amount equivalent to the amount of benefits ~~paid and one-half charged,~~ and as to weeks of unemployment beginning after January 1, 1979, ~~all,~~ of the extended benefits paid ~~to individuals~~ based on wages paid by the state of Minnesota or such political subdivisions. If benefits paid an individual are based on wages paid by both the state of Minnesota or such political subdivisions and one or more other employers, the amount payable by the state of Minnesota or such political subdivisions to the fund shall bear the same ratio to total benefits paid to the individual as the base-period wages paid to the individual by the state of Minnesota or such political subdivisions bear to the total amount of base-period wages paid to the individual by all his base-period employers. The amount of payment required under this subdivision shall be ascertained by the commissioner at least four times per year. Payments shall be made and become due on the last day of the month next following the month in which the notice of benefits

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

charged is mailed to the employer. Past due payments of amounts determined due under this subdivision shall be subject to the same interest charges and collection procedures that apply to past due contributions under ~~section~~ sections 268.16 and 268.161.

Sec. 12. Minnesota Statutes 1980, Section 268.06, Subdivision 28, is amended to read:

Subd. 28. **PAYMENT TO FUND BY NONPROFIT CORPORATION AND ALLOCATION OF BENEFIT COSTS BY BASE PERIOD REIMBURSERS.** (1) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subdivision. For the purpose of this subdivision, a nonprofit organization is an organization (or group of organizations) described in section 501(c) (3) of the United States internal revenue code which is exempt from income tax under section 501(a) of such code. Any nonprofit organization which, pursuant to section 268.04, subdivision 10, clause (9) is, or becomes, subject to this law on or after January 1, 1972, shall pay contributions under the provisions of section 268.06, subdivision 1, unless it elects, in accordance with this paragraph, to pay to the commissioner for the unemployment fund an amount equal to the amount of regular benefits and of ~~one-half of~~ the state share of the extended benefits ~~paid~~ charged, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(a) Any nonprofit organization which is, or becomes, subject to this law on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with January 1, 1972; provided it files with the commissioner a written notice of its election within the 30 day period immediately following such date.

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

(c) Any nonprofit organization which makes an election in accordance with clause (a) or clause (b) will continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

(d) Any nonprofit organization which has been paying contributions under this law for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the commissioner not later than 30 days prior to the

beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

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

(f) The commissioner, in accordance with such regulations as he may prescribe, shall notify each nonprofit organization of any determination which he may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be final unless reviewed in accordance with the provisions of section 268.12, subdivision 13.

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

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

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

~~(5) Any nonprofit organization which elects or has elected to make payments in lieu of contributions into the unemployment compensation fund as provided in this subdivision shall not be liable to make such payments with respect to benefits paid any individual whose base period wage credits include wages for previously uncovered services as defined in section 268.07, subdivision 7 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of United States Public Law 94-566.~~

Sec. 13. Minnesota Statutes 1980, Section 268.07, Subdivision 2, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **WEEKLY BENEFIT AMOUNT AND DURATION.** If the commissioner finds that an individual has earned 15, or more, credit weeks, and \$750 or more in wage credits, within the base period of employment in insured work with one or more employers, benefits shall be payable to such individual during his benefit year as follows:

(1) Weekly benefit amount shall be equal to 60 percent of the first \$85, 40 percent of the next \$85 and 50 percent of the remainder of the average weekly wage of such individual, computed to the nearest whole dollar, ~~subject to a maximum of 62 percent of the average weekly wage paid to individuals by employers subject to the provisions of sections 268.03 to 268.24 as to claims for benefits which establish a benefit year subsequent to June 30, 1977 and prior to July 1, 1978. The maximum weekly benefit amount of claims for benefits which establish a benefit year subsequent to June 30, 1978 and prior to July 1, 1979 shall be 64 percent of said average weekly wage. The maximum weekly benefit amount of claims for benefits which establish a benefit year subsequent to July 1, 1979 shall be 66 2/3 percent of said the average weekly wage, except as provided in clause (d).~~

On or before June 30 of each year the commissioner shall determine the average weekly wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(a) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment.

(b) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

(c) The average annual wage shall be divided by 52 to determine the average weekly wage.

The maximum weekly benefit amount as so determined computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to June 30 of each year.

(d) The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1982, and prior to July 1, 1983, shall be \$184.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1983, and prior to July 1, 1984, shall be \$191.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1984, and prior to July 1, 1985, shall be \$198.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(2) An individual's maximum amount of regular benefits payable in a benefit year shall not exceed the lesser of (a) 26 times his weekly benefit amount or (b) 70 percent of the number of credit weeks earned by such an individual computed to the nearest whole week times his weekly benefit amount.

(3) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of his earnings, including holiday pay, payable to him with respect to such week which is in excess of \$25. Such benefit, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

(4) The provisions of this subdivision shall apply to claims for benefits which establish a benefit year subsequent to June 30, 1975 1982.

Sec. 14. Minnesota Statutes 1980, Section 268.07, is amended by adding a subdivision to read:

Subd. 2a. EXCEPTION. Notwithstanding the provisions of subdivision 2, if the commissioner finds that an individual has earned credit weeks in seasonal employment, benefits shall be payable only if the commissioner finds that the individual has earned 15 credit weeks in employment which is not seasonal, in addition to any credit weeks in seasonal employment. For the purposes of this subdivision, "seasonal employment" means employment with a single employer in the recreation or tourist industry which is available with the employer for 15 consecutive weeks or less each calendar year.

Sec. 15. Minnesota Statutes 1980, Section 268.07, Subdivision 3, is amended to read:

**Subd. 3. WHEN WAGE CREDITS ARE NOT AVAILABLE.** (1) No individual may receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which he received benefits, he performed service in insured work as defined in section 268.04, subdivision 17, and earned remuneration for such service in an amount equal to not less than the minimum wage credits required to qualify for benefits.

(2) No employer who provided 90 percent or more of the wage credits in a claimant's base period shall be charged for benefits based upon earnings of such claimant during a subsequent base period unless he has employed such claimant in any part of such subsequent base period.

(3) Wages paid by an employing unit may not be used for benefit purposes by any individual who (a) individually or jointly with a spouse, parent or child owns or controls directly or indirectly 25 percent or more interest in the employing unit; or (b) is the spouse, parent or minor child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employing unit; and (c) is not permanently separated from employment.

This clause shall be effective when the individual has been paid four times the individual's weekly benefit amount in the current benefit year.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(4) Wages paid by an employing unit may not be used for benefit purposes during a benefit year commencing after October 1, 1982, if the total amount of wage credits in the base period equal or exceed three times the average annual wage, as determined in subdivision 2, in the second year preceding the calendar year in which the individual's valid claim was established.

(5) Wages paid in seasonal employment, as defined in subdivision 2a, are not available for benefit purposes during weeks in which there is no seasonal employment available with the employer.

Sec. 16. Minnesota Statutes 1980, Section 268.071, Subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in this section, unless the context clearly requires otherwise:

(1) **EXTENDED BENEFIT PERIOD.** "Extended benefit period" means a period which

(a) Begins with the third week after ~~whichever~~ of the following weeks occurs first: A week for which there is a national "on" indicator, or a week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later: The third week after the first week for which there is both a national "off" indicator and a state "off" indicator; or the 13th consecutive week of such the period;

Provided, that no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) **NATIONAL "ON" INDICATOR.** There is a "national 'on' indicator" for a week if for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and one-half percent. The rate of insured unemployment, for the purposes of this clause, shall be determined by the secretary of labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period.

(3) **NATIONAL "OFF" INDICATOR.** There is a "national 'off' indicator" for a week if for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than four and one-half percent. The rate of insured unemployment for the purposes of this clause, shall be determined by the secretary of labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(4) (2) STATE "ON" INDICATOR. There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this law

(a) equaled or exceeded 120 percent of the average of such rates for the corresponding 13 week period ending in each of the preceding two calendar years, and

(b) equaled or exceeded ~~four~~ five percent.

With respect to benefits for weeks of unemployment beginning after ~~March 30, 1977~~ The determination of whether there has been a state "on" or "off" indicator beginning any extended benefit period may be made as provided in clauses (a) and (b) above or a "state 'on' indicator" shall exist if the rate described in clause (b) equaled or exceeded ~~five~~ six percent irrespective of whether the percentage requirement provided by clause (a) is met or exceeded.

~~(5)~~ (3) STATE "OFF" INDICATOR. There is a "state 'off' indicator" for this state for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment is less than six percent and the requirements for a "state 'on' indicator" under clause (4) (2) of this subdivision are not satisfied.

~~(6)~~ (4) RATE OF INSURED UNEMPLOYMENT. "Rate of insured unemployment," for purposes of clauses (4) (2) and ~~(5)~~ (3), means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this state for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the commissioner on the basis of his reports to the United States secretary of labor, by the average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of such 13 week period.

~~(7)~~ (5) REGULAR BENEFITS. "Regular benefits" means benefits payable to an individual under this law or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.

~~(8)~~ (6) EXTENDED BENEFITS. "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period.

~~(9)~~ (7) ADDITIONAL BENEFITS. "Additional benefits" means benefits payable to *exhaustees by reason of conditions of high unemployment or by reason of other special factors* under the provisions of any state law.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(10) (8) **ELIGIBILITY PERIOD.** "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(14) (9) **EXHAUSTEE.** "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week;

Provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wage credits or credit weeks that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week or having established a benefit year that includes such week, he is precluded from receiving regular compensation by reason of: (i) a state law provision which meets the requirements of section 3304 (a) (7) of the Internal Revenue Code of 1954, or (ii) a disqualification determination which cancelled wage credits or totally reduced his benefit rights, or (iii) benefits are not payable by reason of a seasonal limitation in a state unemployment insurance law; and

(c) Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, the automotive products act of 1965 and such other federal laws as are specified in regulations issued by the United States secretary of labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada or the Virgin Islands, prior to the day after the day on which the United States secretary of labor approves the Virgin Islands law; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

(12) (10) **STATE LAW.** "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

Sec. 17. Minnesota Statutes 1980, Section 268.071, Subdivision 3, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.** An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the commissioner finds that with respect to such week:

(1) He is an "exhaustee" as defined in subdivision 1, clause ~~(4)~~ (9);

(2) He has satisfied the requirements of this law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

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

Sec. 18. Minnesota Statutes 1980, Section 268.071, Subdivision 5, is amended to read:

Subd. 5. **TOTAL EXTENDED BENEFIT AMOUNT.** The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be 50 percent of the total amount of regular benefits which were payable to him under this law in his applicable benefit year, provided that at the expiration of his benefit year, his remaining balance of extended benefits shall be reduced, but not below zero, by the product arrived at by multiplying his weekly extended benefit amount by the number of weeks in his expired benefit year for which any trade readjustment allowance was paid him pursuant to sections 231 to 234 of the trade act of 1974, as amended.

Sec. 19. Minnesota Statutes 1980, Section 268.071, Subdivision 6, is amended to read:

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

(2) Computations required by the provisions of subdivision 1, clause ~~(6)~~ (4) shall be made by the commissioner, in accordance with regulations prescribed by the United States secretary of labor.

(3) Except as otherwise provided, the state share of the benefits paid to an individual under this section shall not be charged to the employment experience record of an the base period employer of the individual to the extent regular benefits were charged to the base period employer under sections 268.06, subdivision 5, and 268.09, subdivision 1, clause (4).

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(4) With respect to an employer which has elected to be a contributing employer under the provisions of section 268.06, subdivision 31, all benefits paid under this section which are based upon services for such contributing employer shall be charged to such contributing employer's account as to weeks of unemployment beginning after January 1, 1979.

Sec. 20. Minnesota Statutes 1980, Section 268.071, is amended by adding a subdivision to read:

Subd. 8. INTERSTATE CLAIMS. An individual shall not be eligible for extended benefits for any week if:

(a) Extended benefits are payable for that week pursuant to an interstate claim filed in any state under the interstate benefit payment plan; and

(b) No extended benefit period is in effect for the week in that state. This subdivision shall not apply to the first two weeks for which extended benefits are payable pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.

Sec. 21. Minnesota Statutes 1980, Section 268.071, is amended by adding a subdivision to read:

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

Any individual who has been found ineligible for extended benefits for any week by reason of this subdivision shall also be denied benefits for the week following the week in which the failure occurred and until he has been employed in each of four subsequent weeks, whether or not consecutive, and has earned remuneration of not less than four times his extended weekly benefit amount.

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

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

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

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

The employment service shall refer any claimant entitled to extended benefits under section 268.071 to any work which is suitable work for that individual under this subdivision.

**Sec. 22. [268.072] CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS.**

Subdivision 1. DEFINITIONS. As used in this section unless the context clearly requires otherwise:

(a) "Unemployment compensation" means any compensation payable under chapter 268 including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance, or allowance with respect to unemployment;

(b) "Child support obligations" means obligations which are being enforced by the public agency responsible for child support enforcement pursuant to a plan described in section 454 of the social security act which has been approved by the secretary of health and human services under part D of title IV of the social security act;

(c) "Child support agency" means the public agency responsible for child support enforcement pursuant to a plan described in section 454 of the social security act.

Subd. 2. NOTICE OF CLAIM. An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations. If any individual discloses that he or she owes child support obligations, and is determined to be eligible for unemployment compensation, the commissioner shall notify the child support agency that the individual has been determined to be eligible for unemployment compensation.

Subd. 3. WITHHOLDING OF BENEFITS. The commissioner shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations:

(a) The amount specified by the individual to the commissioner to be deducted and withheld under this section, if neither clause (b) or (c) is applicable; or

(b) The amount determined pursuant to an agreement submitted to the commissioner under section 454 (20) (B) (i) of the social security act by the child support agency, unless (c) is applicable; or

(c) Any amount otherwise required to be so deducted and withheld from the unemployment compensation pursuant to "legal process" as defined in section 462(e) of the social security act, properly served upon the commissioner.

Subd. 4. PAYMENT BY THE COMMISSIONER. Any amount deducted and withheld under subdivision 3 shall be paid by the commissioner to the public agency responsible for child support enforcement.

Subd. 5. EFFECT OF PAYMENTS. Any amount deducted and withheld under subdivision 3 shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the public agency responsible for child support enforcement in satisfaction of the individual's child support obligations.

Subd. 6. REIMBURSEMENT OF COSTS. Appropriate arrangements shall be made for reimbursement by the child support agency for the administrative costs incurred by the commissioner under this subdivision and sections 256.872 to 256.878 and 518.551 and 518.611 which are attributable to child support obligations being enforced by the public agency responsible for child support enforcement.

Sec. 23. Minnesota Statutes 1980, Section 268.08, Subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY CONDITIONS.** An individual shall be eligible to receive benefits with respect to any week of unemployment only if the commissioner finds that:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(1) He has registered for work at and thereafter has continued to report to an employment office, or agent of such office, in accordance with such regulations as the commissioner may prescribe; except that the commissioner may by regulation waive or alter either or both of the requirements of this clause as to types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of sections 268.03 to 268.24;

(2) He has made a claim for benefits in accordance with such regulations as the commissioner may prescribe; and

(3) He was able to work and was available for work, and was actively seeking work, provided that individual's weekly benefit amount shall be reduced one-fifth for each day such individual is unable to work or unavailable for work; provided further that benefits after ~~December 31, 1971~~, shall not be denied by application of this clause to an individual who is in training with the approval of the commissioner or in training approved pursuant to section 236 of the Trade Act of 1974, as amended;

An individual shall be deemed unavailable for work with respect to any week which occurs in a period when ~~his principal occupation is that of a~~ he is a full-time student in attendance at, or on vacation from an established school, college or university unless a majority of the credit weeks earned in his base period were for services performed during weeks in which he was attending school as a full-time student.

(4) He has been unemployed for a waiting period of one week during which he is otherwise eligible for benefits under sections 268.03 to 268.24, provided, however, payment for the waiting week shall be made to such individual after he has qualified for and been paid benefits for four weeks of unemployment in a benefit year which period of unemployment is terminated because of such individual's return to employment. No individual shall be required to serve a waiting period of more than one week within the one year period subsequent to filing a valid claim and commencing with the week within which such valid claim was filed.

Sec. 24. Minnesota Statutes 1980, Section 268.08, Subdivision 3, is amended to read:

Subd. 3. **NOT ELIGIBLE.** An individual shall not be eligible to receive benefits for any week with respect to which he is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of his weekly benefit amount in the form of

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shut-down; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer; or

(4) 50 percent of the pension payments from any fund, annuity or insurance provided maintained or contributed to by or through a base period employer who contributed at least 50 percent of the premiums or contributions during the claimant's base period employment with the employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under Title II of the social security act as amended, or similar old age benefits under any act of congress or this state or any other state, except that these benefits shall not be treated as deductible remuneration if the claimant has established a valid claim based on employment subsequent to the first receipt of these benefits; or

(6) that part of a pension in excess of \$700 per month received as a consequence of service in the armed forces of the United States.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.24, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that he is not entitled to such benefits, this provision shall not apply.

Sec. 25. Minnesota Statutes 1980, Section 268.08, Subdivision 6, is amended to read:

Subd. 6. **SERVICES PERFORMED FOR STATE, MUNICIPALITIES OR CHARITABLE CORPORATION.** Effective January 1, 1978 benefits based on service in employment defined in section 268.04, subdivision 12, clauses (7), (8) and (9), shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that

(a) With respect to weeks of unemployment after December 31, 1977, benefits based upon service performed in an instructional, research, or principal

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

administrative capacity for an institution of higher education or a public school, or a nonpublic school or the Minnesota school for the deaf or Minnesota braille and sight saving school, or in a public or nonpublic school, for an educational cooperative service unit established under section 123.58, or any other educational service agency as defined in section 3304 (a) (6) (A) (IV) of the federal unemployment tax act, shall not be paid for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if the individual performs the services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services in any such capacity for any institution of higher education, public school, nonpublic school, state deaf and sight saving schools, an educational cooperative service unit, other educational service agency, or developmental achievement center in the second of the academic years or terms, and

(b) With respect to service performed after December 31, 1977 in any capacity, other than those capacities described in clause (a) of this subdivision, for a public school or nonpublic school, or the Minnesota school for the deaf or Minnesota braille and sight saving school, or in a public or nonpublic school, or for an educational cooperative service unit established under section 123.58, or any other educational service agency as defined in section 3304 (a) (6) (A) (IV) of the federal unemployment tax act, benefits shall not be paid on the basis of these services to any individual for any week which commences during a period between two successive academic years or terms if the individual performs the services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms, and

(c) With respect to any services described in clause (a) or (b), benefits payable on the basis of the services shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

Sec. 26. Minnesota Statutes 1980, Section 268.09, Subdivision 1, is amended to read:

Subdivision 1. **DISQUALIFYING CONDITIONS.** An individual separated from employment under clauses (1), (2) and (3) shall be disqualified for waiting week credit and benefits for the duration of his unemployment and until 4 calendar weeks have elapsed following his separation and he has earned four times his weekly benefit amount in insured work if he is separated from employment under any of the following conditions:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(1) **VOLUNTARY LEAVE.** The individual voluntarily and without good cause attributable to the employer discontinued his employment with such employer. For the purpose of this clause, a separation from employment by reason of its temporary nature or for inability to pass a test or for inability to meet performance standards necessary for continuation of employment shall not be deemed voluntary.

(2) **DISCHARGE FOR MISCONDUCT.** The individual was discharged for misconduct, not amounting to gross misconduct connected with his work or for misconduct which interferes with and adversely affects his employment.

An individual shall not be disqualified under clauses (1) and (2) of this subdivision under any of the following conditions:

(a) The individual voluntarily discontinued his employment to accept work offering substantially better conditions of work or substantially higher wages or both;

(b) The individual is separated from employment due to his own serious illness provided that such individual has made reasonable efforts to retain his employment;

An individual who is separated from his employment due to his illness of chemical dependency which has been professionally diagnosed or for which he has voluntarily submitted to treatment and who fails to make consistent efforts to maintain the treatment he knows or has been professionally advised is necessary to control that illness has not made reasonable efforts to retain his employment.

(c) The individual accepts work from a base period employer which involves a change in his location of work so that said work would not have been deemed to be suitable work under the provisions of subdivision 2 and within a period of 13 weeks from the commencement of said work voluntarily discontinues his employment due to reasons which would have caused the work to be unsuitable under the provision of said subdivision 2;

(d) The individual left employment because he had reached mandatory retirement age and was 65 years of age or older; or

(e) The individual is terminated by his employer because he gave notice of intention to terminate employment within 30 days. This exception shall be effective only through the calendar week which includes the date of intended termination, provided that this exception shall not result in the payment of benefits for any week for which he receives his normal wage or salary which is equal to or greater than his weekly benefit amount;

(f) The individual is separated from employment due to the completion of an apprenticeship program, or segment thereof, approved pursuant to chapter 178.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(3) **DISCHARGE FOR GROSS MISCONDUCT.** The individual was discharged for gross misconduct connected with his work or gross misconduct which interferes with and adversely affects his employment and provided further that the commissioner is empowered to impose a total disqualification for the benefit year and to cancel part or all of the wage credits from the last employer from whom he was discharged for gross misconduct connected with his work.

For the purpose of this clause "gross misconduct" shall be defined as misconduct involving assault and battery or the malicious destruction of property or the theft of money or property of a value of \$100 or more or arson or sabotage or embezzlement. ~~However, no person shall be deemed to have been discharged for gross misconduct for purposes of this chapter unless (1) the person makes an admission to the conduct in writing or under oath, or (2) the person is found to have engaged in such conduct by an appeals tribunal established pursuant to section 268.10, or (3) the person has been convicted by a court of competent jurisdiction of acts constituting gross misconduct or any other act the commission of which amounts to a felony or gross misdemeanor.~~

(4) **LIMITED OR NO CHARGE OF BENEFITS.** Benefits paid subsequent to an individual's separation under any of the foregoing clauses, excepting clauses (2)(c) and (2)(e), shall not be used as a factor in determining the future contribution rate of the employer from whose employment such individual separated.

Benefits paid subsequent to an individual's failure, without good cause, to accept an offer of suitable re-employment shall not be used as a factor in determining the future contribution rate of the employer whose offer of re-employment he failed to accept or whose offer of re-employment was refused solely due to the distance of the available work from his residence, the individual's own serious illness or his other employment at the time of the offer.

(5) An individual who was employed by an employer shall not be disqualified for benefits under this subdivision for any acts or omissions occurring after his separation from employment with the employer.

(6) DISCIPLINARY SUSPENSIONS. An individual shall be disqualified for waiting week credit and benefits for the duration of any disciplinary suspension of 30 days or less resulting from his own misconduct. Disciplinary suspensions of more than 30 days shall constitute a discharge from employment.

Sec. 27. Minnesota Statutes 1980, Section 268.09, Subdivision 2, is amended to read:

Subd. 2. **FAILURE TO APPLY FOR OR ACCEPT SUITABLE WORK OR RE-EMPLOYMENT.** An individual shall be disqualified for waiting week credit and benefits during the week of occurrence and until 4 calendar weeks have elapsed following his refusal or failure and he has earned four times his weekly benefit amount in insured work if the commissioner finds that he has

failed, without good cause, either to apply for available, suitable work of which he was advised by the employment office, or the commissioner or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the commissioner, or to accept suitable re-employment offered by a base period employer.

(a) In determining whether or not any work is suitable for an individual, the commissioner shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience, his length of unemployment and prospects of securing local work in his customary occupation, and the distance of the available work from his residence.

(b) Notwithstanding any other provisions of sections 268.03 to 268.24, no work shall be deemed suitable, and benefits shall not be denied thereunder to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

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

(2) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) if as a condition of being employed the individual would be required to join a union or to resign from or refrain from joining any bona fide labor organization;

(4) if the individual is in training with the approval of the commissioner.

Sec. 28. Minnesota Statutes 1980, Section 268.09, is amended by adding a subdivision to read:

**Subd. 8. TRAINING APPROVED UNDER TRADE ACT OF 1974.** An individual shall not be disqualified for benefits under subdivision 1, clause (1) of this section if he left work which was not suitable employment to enter approved training or disqualified under subdivision 2, if he is in approved training. For the purposes of this subdivision "suitable employment" is defined in and the criteria for approval of training are set forth in section 236 of the Trade Act of 1974, as amended.

Sec. 29. Minnesota Statutes 1980, Section 268.10, Subdivision 1, is amended to read:

Subdivision 1. **FILING.** Claims for benefits shall be made in accordance with such regulations as the commissioner may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such

regulations. Such printed statements shall be supplied by the commissioner to each employer without cost to him.

(1) Any employer upon separation of an employee from his employment for any reason which may result in disqualification for benefits under section 268.09, shall furnish to such employee a separation notice which shall provide the employer's name, address, and employer account number as registered with the department, the employee's name and social security account number, the inclusive dates of his employment, and the reason for the separation. A copy of such separation notice shall be filed with the commissioner within ~~three~~ seven days of such separation. The commissioner shall require each individual filing a claim for benefits to establish a benefit year to furnish ~~such separation notices which he has received from all employers from whom such individual earned wage credits in the base period~~ the reason for separation from all employers in his base period.

(2) Upon the filing, by an individual, of a claim for benefits, the commissioner shall give notice to all such base period employers of the filing of such claim and request each such base period employer, within seven days after the mailing of such notice, to furnish the following information:

- (a) The total wage credits earned in the base period;
- (b) The number of credit weeks which end within the base period;
- (c) The week ending dates for each calendar week within the base period in which the individual earned less than the amount required to make a credit week and the amount of earnings in each such week;
- (d) The reason for the separation or separations of such individual from the employ of the employer in the base period; and
- (e) Such employer's protest, if any, relating to the ineligibility or disqualification of such individual.

(3) If any base period employer, after the notice of filing of a claim and the request for wage and separation information has been duly mailed to his last known address, fails to file information as provided by items (a) through (e) of clause 2 of this subdivision within seven days, the commissioner shall:

(a) Determine the validity of an individual's claim based on the claimant's statements or any other available information. ~~Any~~ An employer shall be liable for a late filing fee of not less than \$5 nor more than \$25, as the commissioner may determine, to be paid to the department of economic security and credited to the contingent fund if he has failed without good cause to submit the wage and separation information as required in clause 2 of this subdivision within seven days after the request has been duly mailed to his last known address. In the absence of fraud, if a redetermination of validity of claim based on an employer's late report subsequently cancels or reduces the amount of benefits to which a

claimant was entitled under the initial determination, the claimant shall not be required to make repayment to the fund of any benefits paid to him prior to such redetermination. ~~The commissioner shall not consider any issue of disqualification raised under clause (1) or (2) unless a protest was filed within the time limits specified in clause (2); and~~

(b) Determine any issue of disqualification raised by clause (1) of this subdivision or by an employer's late report. If an employer fails to file a separation notice within the time limits prescribed in clause (1), any relief from benefit charges provided by section 268.09, subdivision 1, clause (4), shall apply to weeks of unemployment beginning after the filing of the late report.

Sec. 30. Minnesota Statutes 1980, Section 268.10, Subdivision 2, is amended to read:

**Subd. 2. EXAMINATION OF CLAIMS; DETERMINATION; APPEAL.** (1) An official, designated by the commissioner, shall promptly examine each claim for benefits filed to establish a benefit year pursuant to this section, and, on the basis of the facts found, shall determine whether or not such claims are valid, and if valid, the weekly benefit amount payable, the maximum benefit amount payable during the benefit year, and the date the benefit year terminates, and this determination shall be known as the determination of validity. Notice of the determination of validity or any redetermination as provided for in clause (4) shall be promptly given the claimant and all other interested parties. If within the time limits for filing a protest an interested party notifies the department that an individual's weekly benefit amount as determined under section 268.07 exceeds the individual's weekly wages while employed by the interested party, the weekly benefit amount shall be the lesser of the amount derived by dividing the total base period wages earned in all credit weeks by the number of base period credit weeks computed to the nearest whole dollar or the amount as computed under section 268.07. If within the time specified for the filing of wage and separation information as provided in subdivision 1, clause (2), the employer makes an allegation of disqualification or raises an issue of the chargeability to his account of benefits that may be paid on such claim, if the claim is valid, the issue thereby raised shall be promptly determined by said official and a notification of the determination delivered or mailed to the claimant and the employer. If an initial determination or an appeal tribunal decision or the commissioner's decision awards benefits, the benefits shall be paid promptly regardless of the pendency of any appeal period or any appeal or other proceeding which may thereafter be taken. Except as provided in clause (6), if an appeal tribunal decision modifies or reverses an initial determination awarding benefits, or if a commissioner's decision modifies or reverses an appeal decision awarding benefits, any benefits paid under the award of such initial determination or appeal tribunal decision shall be deemed erroneous payments.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(2) ~~If within the benefit year~~ At any time within 15 months from the date of the filing of a claim for benefits by an individual, an official of the department or any interested party or parties raises an issue of claimant's eligibility for benefits for any week or weeks in accordance with the requirements of the provisions of sections 268.03 to 268.24 or any official of the department or any interested party or parties or benefit year employer raises an issue of disqualification in accordance with the regulations of the commissioner, a determination shall be made thereon and a written notice thereof shall be given to the claimant and such other interested party or parties or benefit year employer.

(3) A determination issued pursuant to clauses (1) and (2) shall be final unless an appeal therefrom is filed by a claimant or employer within 15 days after the mailing of the notice of the determination to his last known address or personal delivery of the notice. Every notice of determination shall contain a prominent statement indicating in clear language the method of appealing the determination, the time within which such an appeal must be made, and the consequences of not appealing the determination. A timely appeal from a determination of validity in which the issue is whether an employing unit is an employer within the meaning of this chapter or whether services performed for an employer constitute employment within the meaning of this chapter shall be subject to the provisions of section 268.12, subdivision 13.

(4) At any time within ~~one year~~ 15 months from the date of the filing of a claim for benefits by an individual, the commissioner on his own motion may reconsider a determination of validity made thereon and make a redetermination thereof if he finds that an error in computation or identity or the crediting of wage credits has occurred in connection therewith or if the determination was made as a result of a nondisclosure or misrepresentation of a material fact.

(5) However, the commissioner may in his discretion refer any disputed claims directly to the appeal tribunal for hearing and determination in accordance with the procedure outlined in subdivision 3 and the effect and status of such determination in such a case shall be the same as though the matter had been determined upon an appeal to the tribunal from an initial determination.

(6) If an appeal tribunal decision affirms an initial determination awarding benefits or the commissioner affirms an appeal tribunal decision awarding benefits, the decision, if finally reversed, shall not result in a disqualification and benefits paid shall neither be deemed overpaid nor shall they be considered in determining any individual employer's future contribution rate under section 268.06.

Sec. 31. Minnesota Statutes 1980, Section 268.12, Subdivision 12, is amended to read:

Subd. 12. **INFORMATION.** Except as hereinafter otherwise provided, ~~information obtained~~ data gathered from any employing unit, employer or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

individual pursuant to the administration of sections 268.03 to 268.24, and from any determination as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or other interested party (or his legal representative) shall be supplied with information from the records of the department of economic security, to the extent necessary for the proper presentation of his claim, contention or refutation of any claim in which he is an interested party in any proceeding under these sections with respect thereto. Subject to such restrictions as the commissioner may by regulation prescribe, such information may be made available to any agency of this or any other state, or any federal agency charged with the administration of an employment and security law or the maintenance of a system of public employment offices, any agency of this state which is required by law to provide statistical information to the bureau of labor statistics of the United States department of labor, any local human rights department within the state which has enforcement powers, or the Bureau of Internal Revenue of the United States Department of the Treasury, and information obtained in connection with administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon request therefor, the commissioner shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, or any local human rights department within the state which has enforcement powers, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under these sections. The commissioner may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of these sections, and may in connection with such request, transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the federal internal revenue code.

All letters, reports, communications, or any other matters, either oral or written, from an employer or his workers to each other or to the commissioner or any of his agents, representatives, or employees, which shall have been written or made in connection with the requirements and administration of sections 268.03 to 268.24 or the regulations thereunder, shall be absolutely privileged and shall not be made subject matter or basis for any suit for slander or libel in any court of this state private data on individuals or nonpublic data not on individuals as defined in section 15.162, subdivisions 5a and 5c and shall not be disclosed except pursuant to this subdivision or pursuant to a valid court order. This private data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(a) State and federal agencies specifically authorized access to the data by state or federal law;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) Any agency of this or any other state; or any federal agency charged with the administration of an employment security law or the maintenance of a system of public employment offices;

(c) Local human rights groups within the state which have enforcement powers;

(d) The Minnesota department of revenue on an interchangeable basis with the department of economic security subject to the following restrictions and notwithstanding any law to the contrary:

(1) The department of revenue may have access to department of economic security data on individuals and employing units only to the extent necessary for proper enforcement of tax laws; and

(2) The department of economic security may have access to department of revenue data pertaining only to individuals who have claimed benefits under sections 268.03 to 268.24 and only if the individuals are the subject of investigations based on other information available to the department of economic security. The data provided by the department of revenue shall be limited to the amount of gross income earned by an individual, the total amount of earnings from each employer and the employers' names. Upon receipt of the data, the department of economic security may not disseminate the data to any individual or agency except in connection with a prosecution for violation of the provisions of sections 268.03 to 268.24. This clause shall not be construed to be a restriction on the exchange of information pertaining to corporations or other employing units to the extent necessary for the proper enforcement of chapter 268;

(e) Public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(f) The department of labor and industry for the purpose of determining the eligibility of the data subject;

(g) Local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs; and

(h) Local, state and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of the data subject, provided the data subject is the subject of a criminal investigation.

Data on individuals, employers, and employing units which are collected, maintained, or used by the department in an investigation pursuant to section 268.18, subdivision 3 are confidential as to data on individuals and protected nonpublic data as defined in section 15.162, subdivisions 2a and 5d as to nonindividual employers and employing units, and shall not be disclosed except pursuant to statute or valid court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

Data on individuals, employers, and employing units which are collected, maintained, or used by the department in the adjudication of a separation or eligibility issue pursuant to the administration of section 268.10, subdivision 2 are confidential as to data on individuals and protected nonpublic data as to nonindividual employers and employing units as defined in section 15.162, subdivisions 2a and 5d and shall not be disclosed except pursuant to the administration of section 268.10, subdivisions 3 to 8 or pursuant to a valid court order.

Aggregate data about employers compiled from individual job orders placed with the department of economic security are nonpublic data as defined in section 15.162, subdivision 5c if the commissioner determines that divulging the data would result in disclosure of the identity of the employer. The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are also classified as nonpublic data.

Data on individuals collected, maintained or created because an individual applies for benefits or services provided by the energy assistance and weatherization programs administered by the department of economic security is private data on individuals and shall not be disseminated except pursuant to section 15.163, subdivision 4.

Data gathered by the department pursuant to the administration of sections 268.03 to 268.24 shall not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 32. Minnesota Statutes 1980, Section 268.12, Subdivision 13, is amended to read:

Subd. 13. **DETERMINATIONS.** (1) An official, designated by the commissioner, upon his own motion or upon application of an employing unit shall determine if an employing unit is an employer within the meaning of this chapter or as to whether services performed for it constitute employment within the meaning of this chapter, and shall notify the employing unit of such determination. Such determination shall be final unless the employing unit shall within 30 days after the mailing of notice of the determination to the employing unit's last known address file written appeal therefrom.

(2) The commissioner shall designate one or more representatives, herein referred to as referees, to conduct hearings on appeals. The employing unit and any claimant whose filed claim for benefits may be affected by a determination issued under clause (1) shall be interested parties to an appeal. The referee shall fix a time and place within this state for such hearing and shall give interested parties written notice thereof, by mail, not less than ten days prior to the time of such hearing. In the discharge of the duties imposed by this subdivision, the referee shall have power to administer oaths and affirmations, take depositions,

certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the subject matter of such hearing. The written report of any employee of the department of economic security, made in the regular course of the performance of such employee's duties, shall be competent evidence of the facts therein contained and shall be prima facie correct, unless refuted by other credible evidence.

(3) Upon the conclusion of such hearing, the referee shall serve upon the interested parties by mail findings of fact and decision in respect thereto. The decision of the referee, together with his findings of fact and reasons in support thereof, shall be final unless an interested party shall within 30 days after the mailing of a copy thereof to the interested parties' last known addresses, file an appeal with the commissioner, or unless the commissioner, within 30 days after mailing of such decision, on his own motion orders the matter certified to him for review. Appeal from and review by the commissioner of the decision of the referee shall be had in the manner provided by regulation. The commissioner may without further hearing affirm, modify, or set aside the findings of fact or decision, or both, of the referee on the basis of the evidence previously submitted in the case, or direct the taking of additional evidence. The commissioner may disregard the findings of fact of the referee and examine the testimony taken and make such findings of fact as the evidence taken before the referee may, in the judgment of the commissioner, require, and make such decision as the facts so found by him may require. The commissioner shall notify the employing unit of his findings and decision by mail, mailed to the interested parties' last known addresses, and notice of such decision shall contain a statement setting forth the cost of certification of the record in the matter. The decision of the commissioner shall become final unless judicial review thereof is sought as provided by this subdivision. Any interested party to a proceeding before a referee or the commissioner may obtain a transcript of the testimony taken before the referee upon payment to the commissioner of the cost of such transcript to be computed at the rate of ten cents per 100 words.

(4) The district court of the county wherein the hearing before the referee was held shall, by writ of certiorari to the commissioner, have power to review all questions of law and fact presented by the record. The court shall not accept any new or additional evidence and shall not try the matter de novo. Such action shall be commenced within 30 days of the mailing of notice of the findings and decision of the commissioner to the interested parties affected thereby mailed to their last known addresses. The commissioner shall not be required to certify the record to the district court unless the party commencing such proceedings for review, as provided above, shall pay to the commissioner the cost of certification of the record computed at the rate of ten cents per 100 words less such amount as may have been previously paid by such party for a transcript. It shall be the duty of the commissioner upon receipt of such payment to prepare and certify to the court a true and correct typewritten copy of all matters contained in such

record. The costs so collected by the commissioner shall be deposited by him in the employment services administration fund provided for in section 268.15.

The party commencing proceedings for review shall file his brief with the court and serve it upon the commissioner within 60 days of commencing proceedings. The commissioner shall file his brief with the court and serve it upon the party within 45 days of the service of the party's brief upon the commissioner. The party may file a reply brief with the court and serve it upon the commissioner within 15 days of the service of the commissioner's brief upon him. The proceedings shall be given precedence over all other civil cases before the court.

The court may confirm or set aside the decision and determination of the commissioner. If the decision and determination is set aside and the facts found in the proceedings before the referee are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the commissioner for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper.

Any decision of the district court may be reviewed on certiorari by the supreme court provided the writ is issued and served upon the adverse party or parties within 30 days after the mailing of the notice of the decision.

(5) A final decision of the commissioner or referee, in the absence of appeal therefrom, shall be conclusive for all the purposes of sections 268.03 to 268.24 except as herein otherwise provided, and, together with the records therein made, shall be admissible in any subsequent judicial proceeding involving liability for contributions. A final decision of the commissioner or referee may be introduced in any proceeding involving a claim for benefits.

(6) In the event a final decision of the commissioner or referee determines the amount of contributions due under sections 268.03 to 268.24, then, if such amount, together with interest and penalties, is not paid within 30 days after such decision, the provisions of section ~~268.16, subdivision 3,~~ 36 shall apply; and the commissioner shall proceed thereunder, substituting a certified copy of the final decision in place of the contribution report therein provided.

Sec. 33. Minnesota Statutes 1980, Section 268.15, Subdivision 3, is amended to read:

Subd. 3. **CONTINGENT ACCOUNT.** There is hereby created in the state treasury a special account, to be known as the employment services contingent account, which shall not lapse nor revert to any other fund. Such account shall consist of all moneys appropriated therefor by the legislature, all moneys in the form of interest and penalties collected pursuant to section 268.16 and all moneys received in the form of voluntary contributions to this account and interest thereon. All moneys in such account shall be supplemental to all federal moneys that would be available to the commissioner but for the existence

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

of this account. Moneys in this account are hereby appropriated to the commissioner and shall be expended in accordance with the provisions of section 3.30, in connection with the administration of sections 268.03 to 268.24. Whenever the commissioner expends moneys from said contingent account for the proper and efficient administration of the Minnesota employment services law for which funds have not yet been made available by the federal government, such moneys so withdrawn from the contingent account shall be replaced as hereinafter provided. Upon the deposit in the employment services administration fund of moneys which are received in reimbursement of payments made as above, provided for said contingent account, the commissioner shall certify to the state treasurer the amount of such reimbursement and thereupon the state treasurer shall transfer such amount from the employment services administration fund to said contingent account. All moneys in this account shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for the other special accounts in the state treasury. The state treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the employment services contingent account provided for herein. Notwithstanding anything to the contrary contained herein, on June 30 of each year, except 1982, all amounts in excess of \$300,000 in this account shall be paid over to the unemployment compensation fund established under section 268.05 and administered in accordance with the provisions set forth therein.

Sec. 34. Minnesota Statutes 1980, Section 268.16, Subdivision 1, is amended to read:

Subdivision 1. **INTEREST ON PAST DUE CONTRIBUTIONS.** If contributions or reimbursements to the unemployment fund are not paid on the date on which they are due the unpaid balance thereof shall bear interest at the rate of one and one-half percent per month or any part thereof. Contributions or reimbursements received by mail postmarked on a day following the date on which the law requires contributions to be paid shall be deemed to have been paid on the due date if there is substantial evidence tending to prove that the contribution was actually deposited in the United States mails properly addressed to the department with postage prepaid thereon on or before the due date. Interest collected pursuant to this subdivision shall be paid into the contingent account. Interest on contributions due under this subdivision may be waived in accordance with rules as the commissioner may adopt.

Sec. 35. Minnesota Statutes 1980, Section 268.16, Subdivision 2, is amended to read:

Subd. 2. **REPORTS; DELINQUENCIES; PENALTIES.** (1) Any employer who knowingly fails to make and submit to the department of economic security any report of wages paid by or due from him for insured work in the manner and at the time such report is required by regulations prescribed by the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

commissioner shall pay to the department of economic security for the contingent account a penalty in the amount of one and one-half percent of contributions accrued during the period for which such report is required, for each month from and after such date until such report is properly made and submitted to the department of economic security. In no case shall the amount of the penalty imposed hereby be less than \$5 per month. The maximum penalty imposed hereby shall be \$25 or the amount determined at the rate of one and one-half percent per month, whichever is greater. Any employing unit which fails to make and submit to the commissioner any report, other than one of wages paid or payable for insured work, as and when required by the regulations of the commissioner, shall be subject to a penalty in the sum of \$10 payable to the department of economic security for the contingent account. All such penalties shall be in addition to interest and any other penalties provided for by sections 268.03 to 268.24 and shall be collected by civil action as hereinafter provided.

(2) If any employing unit required by sections 268.03 to 268.24 to make and submit contribution reports shall fail to do so within the time prescribed by these sections or by regulations under the authority thereof, or shall make, wilfully or otherwise, an incorrect, false or fraudulent contribution report, he shall, on the written demand of the commissioner, make such contribution report, or corrected report, within ten days after the mailing of such written demand and at the same time pay the whole contribution, or additional contribution, due on the basis thereof. If such employer shall fail within that time to make such report, or corrected report, the commissioner shall make for him a report, or corrected report, from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a contribution on the basis thereof, which contribution, plus penalties and interest which thereafter accrued (less any payments theretofore made) shall be paid within ten days after the commissioner has mailed to such employer a written notice of the amount thereof and demand for its payment. Any such contribution report or assessment made by the commissioner on account of the failure of the employer to make a report or corrected report shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto. Whenever such delinquent employer shall file a report or corrected report, the commissioner may, if he finds it substantially correct, substitute it for the commissioner's report. If an employer has failed to submit any report of wages paid, or has filed an incorrect report, and the commissioner finds that such noncompliance with the terms of sections 268.03 to 268.24 was not wilful and that such employer was free from fraudulent intent, the commissioner shall limit the charge against such employer to the period of the year in which such condition has been found to exist and for the preceding calendar year.

(3) Any report required to be made by an employer under this subdivision of a rule or regulation promulgated pursuant thereto shall identify the employer name as it appears on all payroll checks issued by the employer in this state.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

**Sec. 36. [268.161] CONTRIBUTION AND REIMBURSEMENT LIEN.**

Subdivision 1. LIEN. Any contributions or reimbursements due under sections 268.03 to 268.24 and interest and penalties imposed with respect thereto, shall become a lien upon all the property, both real and personal, of the person liable therefor, within this state, except his homestead, from and after the filing by the commissioner of a notice of lien in the office of the county recorder of the county in which the property is situated, or in the case of personal property belonging to an individual who is not a resident of this state, or which is a corporation, partnership, or other organization, in the office of the secretary of state.

The lien created under this section shall become effective with respect to personal property from and after the date of filing by the commissioner of a notice of the lien describing the property to which the lien attaches in the office of the county recorder of the county in which the commissioner believes the property is located at the time the lien is filed, and with the secretary of state.

The lien imposed on personal property by this section, even though properly filed, shall not be valid as against a purchaser with respect to tangible personal property purchased at retail or as against the personal property listed as exempt in sections 550.37, 550.38 and 550.39.

Subd. 2. INJUNCTION FORBIDDEN. No suit shall lie to enjoin the assessment or collection of any contribution or reimbursement imposed by this chapter, or the interest and penalties imposed thereby.

Subd. 3. LEGAL ACTION. If after due notice any employer defaults in any payment of contributions, reimbursements, and interest due thereon or penalties for failure to file returns and other reports as required by the provisions of sections 268.03 to 268.24 or by any rule of the commissioner, the commissioner shall, unless he proceeds under one of the other subdivisions of this section, bring against the person liable for payment thereof an action at law, in the name of the state, for the recovery of the contribution, reimbursement, interest and penalties due in respect thereof under this chapter. The action shall be brought in the district court of the county of the residence or principal place of business within this state of the employer, or, in the case of an estate or trust, of the place of its principal administration, and for this purpose the place named in the report, if any, made by the employer shall be conclusive against the employer. If no place is named in the report, the action may be commenced in Ramsey county. The action shall be commenced by filing with the clerk of court a statement showing the name and address of the employer, if known, an itemized summary of the taxable wages on the basis of which the contribution has been computed, the contribution due and unpaid thereon, and the interest and penalties due with respect thereto under this chapter, and shall contain a prayer that the court adjudge the employer to be indebted on account of the contribution, interest, and

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

penalties in the amount thereof specified in the statement. The clerk shall mail a copy of the statement by certified mail to the employer at the address given in the report, if any, and, if no address is given, then at his last known address, within five days after the same is filed, except that, if the employer's address is not known, notice to him shall be made by posting a copy of the statement for ten days in the place in the courthouse where public notices are regularly posted. The employer shall, if he desires to litigate the claim, or any part thereof, file a verified answer with the clerk setting forth his objections to the claim, or any part thereof. The answer shall be filed on or before the lapse of the 20th day after the date of mailing the statement. If notice has been given by posting, the answer shall be filed on or before the 20th day after the expiration of the period during which the notice was required to be posted. If no answer is filed within the specified time, the clerk, upon the filing of an affidavit of default, shall enter judgment for the state in the amount prayed for, plus costs of \$10. If an answer be filed, the issues raised shall stand for trial as soon as possible after the filing of the answer, and the court shall determine the issues and direct judgment accordingly and, if the contribution, interest, or penalties are sustained to any extent over the amount rendered by the employer, shall assess \$10 costs against the employer. The court shall disregard all technicalities and matters of form not affecting the substantial merits. The commissioner may call upon a county attorney or the attorney general to conduct the proceedings on behalf of the state. Execution shall be issued upon the judgment at the request of the commissioner, and the execution shall, in all other respects, be governed by the laws applicable to executions issued on judgments. Only the homestead and household goods of the judgment debtor shall be exempt from seizure and sale upon the execution.

Subd. 4. COLLECTION BY CIVIL ACTION. (1) In addition to all other collection methods authorized, if, after due notice, any employer defaults in any payment of contributions or interest due thereon or penalties for failure to file returns and other reports as required by sections 268.03 to 268.24 or by any rule of the commissioner, the amount due shall be collected by civil action in the name of the state of Minnesota, and any money recovered shall be credited to the funds provided for under those sections. Any employer adjudged in default shall pay the costs of the action. Civil actions brought under this section to collect contributions, interest due thereon, or penalties from an employer shall be heard by the court at the earliest possible date. No action for the collection of contributions or interest thereon shall be commenced more than four years after the contributions have been reported by the employer or determined by the commissioner to be due and payable. In any action, judgment shall be entered against any defendant in default for the relief demanded in the complaint without proof, together with costs and disbursements, upon the filing of an affidavit of default.

(2) Any employing unit which is not a resident of this state and which exercises the privilege of having one or more individuals perform service for it within this state, and any resident employing unit which exercises that privilege

and thereafter removes from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any civil action under this subdivision. In instituting an action against any employing unit, the commissioner shall cause process or notice to be filed with the secretary of state, together with a payment of a fee of \$15 and that service shall be sufficient service upon the employing unit, and shall be of the same force and validity as if served upon it personally within this state. The commissioner shall forthwith send notice of the service of process or notice, together with a copy thereof, by certified mail, return receipt requested, to the employing unit at its last known address. The return receipt, the commissioner's affidavit of compliance with the provisions of this section, and a copy of the notice of service shall be appended to the original of the process filed in the court in which the civil action is pending.

**Subd. 5. RIGHT OF SETOFF.** Upon certification by the commissioner to the commissioner of finance that an employer has an uncontested delinquent contribution or reimbursement liability owed to the department, and that the state has purchased personal services, supplies, contract services, or property from said employer, the commissioner of finance shall apply to the delinquent contribution or reimbursement liability funds sufficient to satisfy the unpaid liability from funds appropriated for payment of said obligation of the state or any of its agencies that are due and owing the employer. The credit shall not be made against any funds exempt under section 550.37 or owed the employer under chapter 256 or 256B.

All funds, whether general or dedicated, shall be subject to setoff in the manner provided in this subdivision. Transfer of funds in payment of the obligations of the state or any of its agencies to an employer and any actions for the funds shall be had against the commissioner on the issue of the contribution or reimbursement liability. Nothing in this section shall be construed to limit the previously existing right of the state or any of its agencies to setoff.

**Subd. 6. CONTRIBUTION OR REIMBURSEMENT PRESUMED VALID.** The contribution and reimbursement, as assessed by the commissioner, including any penalties, shall be presumed to be valid and correctly determined and assessed, and the burden shall be upon the employer to show its incorrectness or invalidity. The statement filed by the commissioner with the clerk of court, as provided in subdivision 3, or any other certificate by the commissioner of the amount of the contribution, reimbursement, interest and penalties as determined or assessed by him, shall be admissible in evidence and shall establish prima facie the facts set forth therein.

**Subd. 7. CONFESSION OF JUDGMENT.** (a) Any contribution report or form that is required to be filed with the commissioner concerning contributions or reimbursements due, shall contain a written declaration that it is made under the penalties of section 268.18, subdivision 3 for wilfully making a false

report and shall contain a confession of judgment for the amount of the contribution or reimbursement shown due thereon to the extent not timely paid together with any interest and penalty due under chapter 268.

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

Subd. 8. LEVY. (a) If any contribution or reimbursement payable to the department is not paid when due, the amount may be collected by the commissioner, his duly authorized representative, or by the sheriff of any county to whom the commissioner has issued his warrant, who may levy upon all property and rights of property of the person liable for the contribution or reimbursement, except that which is exempt from execution pursuant to section 550.37. The terms "contribution or reimbursement" shall include any penalty, interest, and costs. The term "levy" includes the power of distraint and seizure by any means. Before a levy is made or warrant issued, notice and demand for payment of the amount due shall be given to the person liable for the contribution or reimbursement at least ten days prior to the levy or issuing of a warrant.

(b) Upon the commissioner issuing a warrant, the sheriff shall proceed within 60 days to levy upon the rights to property of the employer within his county, except the homestead and household goods of the employer and property of the employer not liable to attachment, garnishment, or sale on any final process issued from any court under the provisions of section 550.37, and shall sell so much thereof as is required to satisfy the contribution, reimbursement, interest, and penalties, together with his costs. The sales shall, as to their manner, be governed by the law applicable to sales of like property on execution issued against property upon a judgment of a court of record. The proceeds of the sales, less the sheriff's costs, shall be turned over to the commissioner, who shall retain a part thereof as is required to satisfy the contribution, reimbursement, interest, penalties, and costs, and pay over any balance to the employer.

(c) If the commissioner has reason to believe that collection of the contribution or reimbursement is in jeopardy, notice and demand for immediate payment of the amount may be made by the commissioner. If the contribution or reimbursement is not paid, the commissioner may proceed to collect by levy or issue his warrant without regard to the ten day period provided herein.

(d) In making the execution of the levy and in collecting the contribution or reimbursement due, the commissioner shall have all of the powers provided in chapter 550 and in any other law for purposes of effecting an execution against property in this state. The sale of property levied upon and the time and manner

of redemption therefrom shall be as provided in chapter 550. The seal of the court, subscribed by the clerk, as provided in section 550.04, shall not be required. The levy for collection of contributions or reimbursements may be made whether or not the commissioner has commenced a legal action for collection of the amount.

(e) Where a jeopardy assessment or any other assessment has been made by the commissioner, the property seized for collection of the contribution or reimbursement shall not be sold until any determination of liability, rate or benefit charges has become final. No sale shall be made unless the contribution or reimbursement remain unpaid for a period of more than 30 days after the determination becomes final. Seized property may be sold at any time if:

(1) the employer consents in writing to the sale; or

(2) the commissioner determines that the property is perishable or may become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense.

(f) Where a levy has been made to collect contributions or reimbursements pursuant to this subdivision and the property seized is properly included in a formal proceeding commenced under sections 524.3-401 to 524.3-505 and maintained under full supervision of the court, the property shall not be sold until the probate proceedings are completed or until the court so orders.

(g) The property seized shall be returned by the commissioner if the owner gives a surety bond equal to the appraised value of his interest in the property, as determined by the commissioner, or deposits with the commissioner security in a form and amount as he deems necessary to insure payment of the liability, but not more than twice the liability.

(h) Notwithstanding any other law to the contrary, if a levy or sale pursuant to this section would irreparably injure rights in property which the court determines to be superior to rights of the state in the property, the district court may grant an injunction to prohibit the enforcement of the levy or to prohibit the sale.

(i) Any person who fails or refuses to surrender without reasonable cause any property or rights to property subject to levy upon demand by the commissioner shall be personally liable to the department in an amount equal to the value of the property or rights not so surrendered, but not exceeding the amount of contribution or reimbursement for the collection of which the levy has been made. Any amount recovered under this subdivision shall be credited against the contribution or reimbursement liability for the collection of which the levy was made. The term "person" includes an officer or employee of a corporation or a member or employee of a partnership who, as an officer, employee, or member is under a duty to surrender the property or rights to property or to discharge the obligation.

(j) Any action taken by the commissioner pursuant to this subdivision shall not constitute an election by the department to pursue a remedy to the exclusion of any other remedy.

(k) After the commissioner has seized the property of any person, that person may, upon giving 48 hours notice to the commissioner and to the court, bring a claim for equitable relief before the district court for the release of the property to the employer upon terms and conditions as the court may deem equitable.

Subd. 9. PERSONAL LIABILITY. Any officer or any employee having 20 percent ownership interest of a corporation which is an employer under sections 268.03 to 268.24 who has control of or supervision over the filing of and responsibility for filing contribution reports or of making payment of contributions under these sections, and who wilfully fails to file the reports or to make payments as required, shall be personally liable for contributions or reimbursement, including interest, penalties, and costs in the event the corporation does not pay to the department those amounts for which the employer is liable.

Any personal representative of the estate of a decedent or fiduciary who voluntarily distributes the assets filed therein without reserving a sufficient amount to pay the contributions, interest, and penalties due pursuant to chapter 268 shall be personally liable for the deficiency.

The personal liability of any person as provided herein shall survive dissolution, reorganization, bankruptcy, receivership, or assignment for the benefit of creditors.

An official designated by the commissioner shall make an initial determination as to the personal liability under this section. The determination shall be final unless the person found to be personally liable shall within 30 days after mailing of notice of determination to his last known address files a written appeal. Proceedings on the appeal shall be conducted in the same manner as an appeal from a determination of employer liability under section 268.12, subdivision 13.

Sec. 37. Minnesota Statutes 1980, Section 268.18, Subdivision 1, is amended to read:

Subdivision 1. ERRONEOUS PAYMENTS. Any claimant for benefits who, by reason of his own mistake or through the error of any individual engaged in the administration of sections 268.03 to 268.24, has received any sum as benefits to which he was not entitled under these sections, shall promptly return such benefits in cash to the nearest office of the Minnesota department of economic security. If such claimant fails to return such benefits, the department of economic security shall, as soon as it discovers such erroneous payment, determine the amount thereof and notify said individual to return the same, within a period of 20 days from the date of such notification. Unless the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

claimant files a written appeal with the department of economic security within 15 days after the mailing of the notice of determination to his last known address or personal delivery of the notice, the determination shall become final. If the claimant files an appeal with the department in writing within the time aforesaid the matter shall be set for hearing before an appeal tribunal of the department and heard as other benefit matters are heard in accordance with section 268.10 with the same rights of review as outlined for benefit cases in that section. ~~In the event that the claimant fails to return to the department within 20 days after the notification to do so, the benefits he received unlawfully,~~ The commissioner of the department of economic security is hereby authorized to deduct from any future benefits payable to ~~such~~ the claimant under these sections in either the current or any subsequent benefit year an amount equivalent to ~~such erroneous payment the overpayment determined or the overpayment may be collected without interest by civil action in the name of the commissioner.~~ If a claimant has been overpaid benefits under the law of another state and that state certifies to the department the facts involved and that the individual is liable under its law to repay the benefits and requests the department to recover the overpayment, the commissioner is authorized to deduct from future benefits payable to the claimant in either the current or any subsequent benefit year an amount equivalent to the amount of overpayment determined by that state.

Sec. 38. Minnesota Statutes 1980, Section 268.18, Subdivision .2, is amended to read:

Subd. 2. **FRAUD.** Any claimant who files a claim for or receives benefits by knowingly and wilfully misrepresenting or misstating any material fact or by knowingly and wilfully failing to disclose any material fact which would make him ineligible for benefits under sections 268.03 to 268.24 is guilty of fraud. After the discovery of facts by the commissioner indicating fraud in claiming or obtaining benefits under sections 268.03 to 268.24, he is hereby authorized to make a determination that the claimant was ineligible for each week with reference to which benefits were claimed or obtained by fraud for the amount as was in excess of what the claimant would have been entitled to had he not made the fraudulent statements or failed to disclose any material facts. The commissioner also may disqualify an individual from benefits for one to 52 weeks in which the claimant is otherwise eligible for benefits following the week in which the fraud was determined. A disqualification imposed for fraud shall not be removed by subsequent insured work or the expiration of a benefit year but shall not apply to any week more than 104 weeks after the week in which the fraud was determined. Said claimant shall within 20 days from the date of mailing the notice of said determination to him repay in cash to the department of economic security any benefits so fraudulently obtained. Unless the claimant files a written appeal with the department of economic security within 15 days after the mailing of the notice of determination to his last known address or personal delivery of the notice. The determination shall become final. If the claimant shall appeal from such determination within the time above specified said matter shall be

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

referred to an appeal tribunal for a hearing as in other benefit cases and thereafter the procedure for review shall be the same as set forth in section 268.10. If the benefits so fraudulently obtained are not repaid to the department in cash within 20 days from the date of mailing the notice to the claimant of the determination, The commissioner is hereby authorized to deduct from future benefits payable to the claimant in either the current or any subsequent benefit year an amount equivalent to the amount of overpayment determined or the overpayment may be collected without interest by civil action in the name of the commissioner. If a claimant has been overpaid benefits under the law of another state and that state certifies to the department the facts involved and that the individual is liable to repay the benefits and requests the department to recover the overpayment, the commissioner is authorized to deduct from future benefits payable to the claimant in either the current or any subsequent benefit year an amount equivalent to the amount of overpayment determined by that state.

Sec. 39. Minnesota Statutes 1980, Section 268.18, Subdivision 4, is amended to read:

Subd. 4. **CANCELLATION OF BENEFITS PAID THROUGH ERROR OR FRAUD.** When benefits paid through error or fraud are not repaid or deducted from subsequent benefit amounts as provided for in subdivisions 1 and 2 within six years after the date of the determination that benefits were paid through error or fraud irrespective of subsequent partial recovery dates, the commissioner may, in a manner he prescribes by regulation, cancel as uncollectible the benefit payments overpayment balance, and no administrative or legal proceedings shall be instituted under the Minnesota employment services law to enforce collection of those amounts.

Sec. 40. Minnesota Statutes 1980, Section 268.18, is amended by adding subdivisions to read:

Subd. 5. **ERRONEOUS PAYMENTS; CHARGING.** The amount of benefits paid and subsequently determined to have been paid: (a) erroneously by the claimant's own mistake; (b) through error by any individual engaged in the administration of sections 268.03 to 268.24; or (c) based upon the claimant's fraudulent statements or his failure to disclose any material facts, shall not be charged to or will be removed from an employer's experience rating account for all subsequent rate computations which have not become final under section 268.06, and shall not be charged to employers electing to reimburse the unemployment fund in accordance with section 268.06, for all benefits paid, based upon wages for services performed with the employer.

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

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

Penalties assessed under this section shall be in addition to any other penalties provided for by sections 268.03 to 268.24 and be subject to the same collection procedures that apply to past due contributions under this chapter. Penalties under this section shall be paid to the department and credited to the contingent fund.

The assessment of the penalty shall be final unless the employer files a written appeal with the department within 15 days after the notice of determination to his last known address. If the employer shall appeal from the determination within the time above specified, the matter shall be referred for a hearing as set forth in section 268.10.

#### Sec. 41. INTEREST PAYMENTS.

If the governor finds it necessary to make application to secure an advance of federal funds which result in interest charges due to be paid on October 1, 1982, the governor is authorized to incur the additional interest which will be charged if the initial interest charges cannot be paid in full when due.

It also is the policy of the state to avoid a special assessment on employers or a special appropriation of general funds in calendar year 1982 for payment of interest on advances of federal funds authorized under section 268.05, subdivision 6.

Moneys available in the employment services contingent account established under section 268.15 may be expended, notwithstanding anything to the contrary in that section, for payment of either:

(a) All or part of the interest which may be due and which is payable on October 1, 1982; or

(b) All or part of additional interest which will be charged if the interest payment referred to in clause (a) cannot be paid in full when due.

For purposes of this section, the commissioner of finance shall approve payment of the amounts certified by the commissioner of economic security to be due for the interest charges, notwithstanding anything to the contrary in section 3.30.

Any moneys in excess of \$300,000 in the employment services contingent account on June 30, 1982, shall not be paid over to the unemployment compensation fund, notwithstanding the provisions of section 268.15, subdivision 3, but shall remain in the contingent account solely for the purposes of this section until June 30, 1983.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 42. [268.121] WAGE REPORTING.

Beginning on April 1, 1984, each employer subject to chapter 268 shall provide the commissioner with a quarterly report of wages, as defined in section 268.04, subdivision 25, paid to each employee of that employer covered by chapter 268. The commissioner shall provide the legislature with his recommendations for statutory changes to fully implement this section no later than January 1, 1983.

Sec. 43. REPEALER.

Minnesota Statutes 1980, Section 268.07, Subdivision 4, is repealed. Minnesota Statutes 1980, Section 268.16, Subdivision 3, as amended by Laws 1981, Third Special Session Chapter 2, Article I, Section 33, is repealed.

Sec. 44. EFFECTIVE DATE.

Sections 1, 4, 10, 11, 13, 22, 25, 30 to 33, and 36 to 43 are effective on the day following final enactment. Sections 2, 5, 8, and 9 are effective retroactive to January 1, 1982. Section 12 is effective retroactive to March 5, 1982. Sections 3, 6 and 7 are effective on January 1, 1983. Sections 13, 14, 15, 24, 26, 27, and 29 are effective July 4, 1982. Sections 34 and 35 are effective October 1, 1982. Section 16, except for those portions that amend and renumber existing clauses (4) and (5) of section 268.071, subdivision 1, which are effective September 25, 1982, is effective retroactive to August 13, 1981. Section 17 is effective September 25, 1982. Section 19 is effective retroactive to March 5, 1982. Section 20 is effective retroactive to June 1, 1981. Section 21 is effective retroactive to March 31, 1981. Sections 18, 23, and 28 are effective retroactive to September 30, 1981.

Approved March 31, 1982

---

**CHAPTER 2 — S.F.No. 3**

*An act relating to corrections; authorizing the commissioner of corrections to contract with the United States attorney general and local county officials for temporary detention of persons in custody pursuant to lawful process issued by federal courts and the state district court; providing for disposition of proceeds; amending Minnesota Statutes 1980, Section 243.51, by adding a subdivision.*

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

Section 1. Minnesota Statutes 1980, Section 243.51, is amended by adding a subdivision to read:

Subd. 3. TEMPORARY DETENTION. The commissioner of corrections is authorized to contract with the United States attorney general and with

Changes or additions are indicated by underline, deletions by ~~strikeout~~.