

Approved by  
Revisor of Statutes

Shirley Speer

1.1 Mahoney from the Jobs and Economic Development Finance Division to which was  
1.2 referred:

1.3 H. F. No. 374, A bill for an act relating to unemployment insurance; adopting changes  
1.4 recommended by the Unemployment Insurance Advisory committee in the 2018 legislative  
1.5 session; amending Minnesota Statutes 2018, sections 268.035, subdivisions 4, 12, 15, 20;  
1.6 268.044, subdivisions 2, 3; 268.046, subdivision 1; 268.047, subdivision 3; 268.051,  
1.7 subdivisions 2a, 3; 268.053, subdivision 1; 268.057, subdivision 5; 268.059; 268.066;  
1.8 268.067; 268.069, subdivision 1; 268.07, subdivision 1; 268.085, subdivisions 3, 3a, 13a;  
1.9 268.095, subdivisions 6, 6a; 268.105, subdivision 6; 268.145, subdivision 1; 268.18,  
1.10 subdivisions 2b, 5; repealing Minnesota Statutes 2018, section 268.053, subdivisions 4, 5.

1.11 Reported the same back with the following amendments:

1.12 Page 2, line 18, strike "and" and insert "or"

1.13 Page 7, delete line 22

1.14 Page 7, line 24, delete "September 16, 2019" and insert "October 1, 2020"

1.15 Page 11, line 14, delete "September 16, 2019" and insert "January 1, 2020"

1.16 Page 13, delete line 3

1.17 Page 13, delete section 4

1.18 Page 15, delete section 5 and insert:

1.19 "Sec. 4. Minnesota Statutes 2018, section 268.085, subdivision 3, is amended to read:

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

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

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

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

2.4 ~~Payments under this paragraph are applied to the period immediately following the~~  
2.5 ~~temporary, indefinite, or seasonal separation.~~

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

2.9 ~~This paragraph only applies if the payment is:~~

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

2.11 ~~(2) subject to the Federal Insurance Contributions Act (FICA) tax imposed to fund Social~~  
2.12 ~~Security and Medicare.~~

2.13 ~~(b) Payments under this paragraph subdivision are applied to the period immediately~~  
2.14 ~~following the later of the date of separation from employment or the date the applicant first~~  
2.15 ~~becomes aware that the employer will be making a payment. The date the payment is actually~~  
2.16 ~~made or received, or that an applicant must agree to a release of claims, does not affect the~~  
2.17 ~~application of this paragraph subdivision.~~

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

2.20 ~~(c) An applicant is not eligible to receive unemployment benefits for any week the~~  
2.21 ~~applicant is receiving, has received, will receive, or has applied for pension, retirement, or~~  
2.22 ~~annuity payments from any plan contributed to by a base period employer including the~~  
2.23 ~~United States government. The base period employer is considered to have contributed to~~  
2.24 ~~the plan if the contribution is excluded from the definition of wages under section 268.035,~~  
2.25 ~~subdivision 29. If the pension, retirement, or annuity payment is paid in a lump sum, an~~  
2.26 ~~applicant is not considered to have received a payment if:~~

2.27 ~~(1) the applicant immediately deposits that payment in a qualified pension plan or~~  
2.28 ~~account; or~~

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

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

3.1 ~~(d)~~ (c) This subdivision applies to all the weeks of payment. The number of weeks of  
3.2 payment is determined as follows:

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

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

3.7 ~~For purposes of this paragraph, The~~ "last level of regular weekly pay" includes  
3.8 commissions, bonuses, and overtime pay if that is part of the applicant's ongoing regular  
3.9 compensation.

3.10 ~~(e)~~ (d) Under this subdivision, if the payment with respect to a week is equal to or more  
3.11 than the applicant's weekly unemployment benefit amount, the applicant is ineligible for  
3.12 benefits for that week. If the payment with respect to a week is less than the applicant's  
3.13 weekly unemployment benefit amount, unemployment benefits are reduced by the amount  
3.14 of the payment."

3.15 Page 18, after line 5, insert:

3.16 "Sec. 6. Minnesota Statutes 2018, section 268.085, is amended by adding a subdivision  
3.17 to read:

3.18 Subd. 3b. Separation, severance, or bonus payments that delay unemployment  
3.19 benefits. (a) An applicant is not eligible to receive unemployment benefits for any week  
3.20 the applicant is receiving, has received, or will receive separation pay, severance pay, bonus  
3.21 pay, or any other payments paid by an employer because of, upon, or after separation from  
3.22 employment. This subdivision applies if the payment is:

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

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

3.26 (b) Payments under this subdivision are applied to the period immediately following the  
3.27 later of the date of separation from employment or the date the applicant first becomes  
3.28 aware that the employer will be making a payment. The date the payment is actually made  
3.29 or received, or that an applicant must agree to a release of claims, does not affect the  
3.30 application of this paragraph.

3.31 (c) This subdivision does not apply to earnings under subdivision 5, back pay under  
3.32 subdivision 6, or vacation pay, sick pay, or personal time off pay under subdivision 3.

4.1 (d) This subdivision applies to all the weeks of payment. The number of weeks of  
4.2 payment is determined in accordance with subdivision 3, paragraph (c).

4.3 (e) Under this subdivision, if the payment with respect to a week is equal to or more  
4.4 than the applicant's weekly unemployment benefit amount, the applicant is ineligible for  
4.5 benefits for that week. If the payment with respect to a week is less than the applicant's  
4.6 weekly unemployment benefit amount, unemployment benefits are reduced by the amount  
4.7 of the payment.

4.8 Sec. 7. Minnesota Statutes 2018, section 268.085, is amended by adding a subdivision to  
4.9 read:

4.10 Subd. 3c. Pension or retirement payment offset. (a) An applicant is not eligible to  
4.11 receive unemployment benefits for any week the applicant is receiving, has received, will  
4.12 receive, or has applied for pension, retirement, or annuity payments from any plan contributed  
4.13 to by a base period employer including the United States government. The base period  
4.14 employer is considered to have contributed to the plan if the contribution is excluded from  
4.15 the definition of wages under section 268.035, subdivision 29.

4.16 (b) If the pension, retirement, or annuity payment is paid in a lump sum, an applicant is  
4.17 not considered to have received a payment if:

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

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

4.22 (c) This subdivision does not apply to Social Security benefits under subdivision 4 or  
4.23 4a.

4.24 (d) This subdivision applies to all the weeks of payment.

4.25 If the payment is made in a lump sum, that sum is divided by the applicant's last level  
4.26 of regular weekly pay from the employer to determine the weeks of payment.

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

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

5.1 weekly unemployment benefit amount, unemployment benefits are reduced by the amount  
5.2 of the payment."

5.3 Page 20, line 20, delete "September 16, 2020" and insert "October 1, 2019"

5.4 Pages 22 to 24, delete sections 3 to 6

5.5 Page 26, line 11, after the semicolon, insert "and"

5.6 Page 26, line 13, delete "; and" and insert a period

5.7 Page 26, delete lines 14 to 30

5.8 Page 26, delete section 12

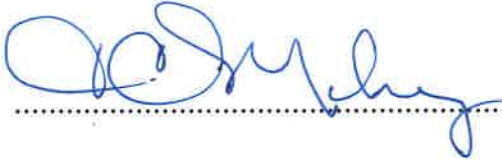
5.9 Page 27, line 2, delete "September 16," and insert "October 1,"

5.10 Renumber the sections in sequence and correct the internal references

5.11 Correct the title numbers accordingly

5.12 With the recommendation that when so amended the bill be returned to the Committee  
5.13 on Ways and Means.

5.14 This Division action taken February 7, 2019

5.15 ....., Chair