

1.1 ..... moves to amend H.F. No. .... as follows:

1.2 Page 3, delete section 4

1.3 Page 3, line 19, after the period insert "Colleges must increase the number of  
1.4 certificate programs available to meet the needs of unemployed Minnesotans."

1.5 Page 3, after line 20, insert:

1.6 "Sec. 4. Minnesota Statutes 2008, section 268.035, is amended by adding a subdivision  
1.7 to read:

1.8 Subd. 21b. **Staffing service.** A "staffing service" is an employer whose business  
1.9 involves employing individuals directly for the purpose of furnishing temporary  
1.10 assignment workers to clients of the staffing service.

1.11 Sec. 5. Minnesota Statutes 2008, section 268.085, subdivision 13c, is amended to read:

1.12 Subd. 13c. **Offers of suitable employment.** (a) An applicant is ineligible for all  
1.13 unemployment benefits for eight calendar weeks if the applicant, without good cause:

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

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

1.17 (3) avoided an offer of suitable employment.

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

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

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

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

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

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

2.7 (d) The period of ineligibility under this subdivision begins the Sunday of the  
2.8 week the applicant failed to apply for, failed to accept, or avoided suitable employment  
2.9 without good cause.

2.10 (e) This subdivision applies to offers of suitable employment that occur before the  
2.11 effective date of the benefit account and that occur during the benefit year.

2.12 (f) This subdivision only applies to offers of suitable employment that are considered  
2.13 covered employment under section 268.035, subdivision 12.

2.14 (g) This subdivision applies to employment with a staffing service only if all of the  
2.15 applicant's wage credits were from a staffing service.

2.16 Sec. 6. Minnesota Statutes 2008, section 268.095, as amended by Laws 2009, chapter  
2.17 15, section 8, is amended to read:

2.18 **268.095 INELIGIBILITY BECAUSE OF QUIT OR DISCHARGE.**

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

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

2.23 (2) the applicant quit the employment to accept other covered employment that  
2.24 provided substantially better terms and conditions of employment, but the applicant did  
2.25 not work long enough at the second employment to have sufficient subsequent earnings to  
2.26 satisfy the period of ineligibility that would otherwise be imposed under subdivision 10  
2.27 for quitting the first employment;

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

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

2.32 (5) the employment was part time and the applicant also had full-time employment  
2.33 in the base period, from which full-time employment the applicant separated because of  
2.34 reasons for which the applicant was held not to be ineligible, and the wage credits from

3.1 the full-time employment are sufficient to meet the minimum requirements to establish a  
3.2 benefit account under section 268.07;

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

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

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

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

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

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

3.26 (9) domestic abuse of the applicant or an immediate family member of the applicant,  
3.27 necessitated the applicant's quitting the employment. Domestic abuse must be shown  
3.28 by one or more of the following:

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

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

3.32 (iii) documentation that the perpetrator of the domestic abuse has been convicted  
3.33 of the offense of domestic abuse;

3.34 (iv) medical documentation of domestic abuse; or

3.35 (v) written statement that the applicant or an immediate family member of the  
3.36 applicant is a victim of domestic abuse, provided by a social worker, member of the

4.1 clergy, shelter worker, attorney at law, or other professional who has assisted the applicant  
4.2 in dealing with the domestic abuse.

4.3 Domestic abuse for purposes of this clause is defined under section 518B.01; ~~or~~

4.4 (10) the applicant quit in order to relocate to accompany a spouse whose job location  
4.5 changed making it impractical for the applicant to commute; or

4.6 (11) the applicant quit employment with a staffing service, unless all of the  
4.7 applicant's wage credits were from a staffing service.

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

4.10 (b) An employee who has been notified that the employee will be discharged in the  
4.11 future, who chooses to end the employment while employment in any capacity is still  
4.12 available, is considered to have quit the employment.

4.13 (c) An employee who seeks to withdraw a previously submitted notice of quitting is  
4.14 considered to have quit the employment if the employer does not agree that the notice  
4.15 may be withdrawn.

4.16 ~~(d) An applicant who, within five calendar days after completion of a suitable~~  
4.17 ~~temporary job assignment from a staffing service employer, (1) fails without good cause~~  
4.18 ~~to affirmatively request an additional job assignment, (2) refuses without good cause an~~  
4.19 ~~additional suitable job assignment offered, or (3) accepts employment with the client of~~  
4.20 ~~the staffing service, is considered to have quit employment with the staffing service.~~

4.21 ~~Accepting employment with the client of the staffing service meets the requirements of the~~  
4.22 ~~exception to ineligibility under subdivision 1, clause (2).~~

4.23 ~~This paragraph applies only if, at the time of beginning of employment with the~~  
4.24 ~~staffing service employer, the applicant signed and was provided a copy of a separate~~  
4.25 ~~document written in clear and concise language that informed the applicant of this~~  
4.26 ~~paragraph and that unemployment benefits may be affected.~~

4.27 ~~For purposes of this paragraph, "good cause" is a reason that is significant and~~  
4.28 ~~would compel an average, reasonable worker, who would otherwise want an additional~~  
4.29 ~~temporary job assignment with the staffing service employer, (1) to fail to contact the~~  
4.30 ~~staffing service employer, or (2) to refuse an offered assignment.~~

4.31 ~~For purposes of this paragraph, a "staffing service employer" is an employer whose~~  
4.32 ~~business involves employing individuals directly for the purpose of furnishing temporary~~  
4.33 ~~job assignment workers to clients of the staffing service.~~

4.34 Subd. 3. **Good reason caused by the employer defined.** (a) A good reason caused  
4.35 by the employer for quitting is a reason:

5.1 (1) that is directly related to the employment and for which the employer is  
5.2 responsible;

5.3 (2) that is adverse to the worker; and

5.4 (3) that would compel an average, reasonable worker to quit and become  
5.5 unemployed rather than remaining in the employment.

5.6 (b) The analysis required in paragraph (a) must be applied to the specific facts  
5.7 of each case.

5.8 (c) If an applicant was subjected to adverse working conditions by the employer, the  
5.9 applicant must complain to the employer and give the employer a reasonable opportunity  
5.10 to correct the adverse working conditions before that may be considered a good reason  
5.11 caused by the employer for quitting.

5.12 (d) A reason for quitting employment is not considered a good reason caused by  
5.13 the employer for quitting if the reason for quitting occurred because of the applicant's  
5.14 employment misconduct.

5.15 (e) Notification of discharge in the future, including a layoff because of lack of work,  
5.16 is not considered a good reason caused by the employer for quitting.

5.17 (f) An applicant has a good reason caused by the employer for quitting if it results  
5.18 from sexual harassment of which the employer was aware, or should have been aware,  
5.19 and the employer failed to take timely and appropriate action. Sexual harassment means  
5.20 unwelcome sexual advances, requests for sexual favors, sexually motivated physical  
5.21 contact or other conduct or communication of a sexual nature when:

5.22 (1) the applicant's submission to the conduct or communication is made a term  
5.23 or condition of the employment;

5.24 (2) the applicant's submission to or rejection of the conduct or communication is the  
5.25 basis for decisions affecting employment; or

5.26 (3) the conduct or communication has the purpose or effect of substantially  
5.27 interfering with an applicant's work performance or creating an intimidating, hostile, or  
5.28 offensive working environment.

5.29 (g) The definition of a good reason caused by the employer for quitting employment  
5.30 provided by this subdivision is exclusive and no other definition applies.

5.31 Subd. 4. **Discharge.** An applicant who was discharged from employment by an  
5.32 employer is ineligible for all unemployment benefits according to subdivision 10 only if:

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

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

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

6.6 (b) An employee who gives notice of intention to quit the employment and is not  
 6.7 allowed by the employer to work the entire notice period is considered discharged from  
 6.8 the employment as of the date the employer will no longer allow the employee to work. If  
 6.9 the discharge occurs within 30 calendar days before the intended date of quitting, then,  
 6.10 as of the intended date of quitting, the separation from employment is considered a quit  
 6.11 from employment subject to subdivision 1.

6.12 (c) The end of a temporary work assignment with the client of a staffing service is  
 6.13 considered a discharge from employment with the staffing service.

6.14 Subd. 6. **Employment misconduct defined.** (a) Employment misconduct means  
 6.15 any ~~intentional, negligent, or indifferent~~ conduct, on the job or off the job that ~~displays~~  
 6.16 ~~clearly:~~

6.17 ~~(1) a serious~~ is an egregious violation of the standards of behavior the employer has  
 6.18 the right to reasonably expect of the employee; ~~or and displays clearly~~

6.19 ~~(2)~~ a substantial lack of concern for the employment.

6.20 (b) Regardless of paragraph (a), the following is not employment misconduct:

6.21 (1) conduct that was a consequence of the applicant's mental illness or impairment;

6.22 (2) conduct that was a consequence of the applicant's inefficiency or inadvertence;

6.23 (3) simple unsatisfactory conduct;

6.24 (4) conduct an average reasonable employee would have engaged in under the  
 6.25 circumstances;

6.26 (5) ~~poor performance because of~~ conduct that was a consequence of the applicant's  
 6.27 inability or incapacity;

6.28 (6) good faith errors in judgment if judgment was required;

6.29 (7) absence because of illness or injury of the applicant, with proper notice to the  
 6.30 employer;

6.31 (8) absence, with proper notice to the employer, in order to provide necessary care  
 6.32 because of the illness, injury, or disability of an immediate family member of the applicant;

6.33 (9) conduct that was a ~~direct result~~ consequence of the applicant's chemical  
 6.34 dependency, unless the applicant was previously diagnosed chemically dependent or had  
 6.35 treatment for chemical dependency, and since that diagnosis or treatment has failed to  
 6.36 make consistent efforts to control the chemical dependency; or

7.1 (10) conduct that was a ~~result~~ consequence of the applicant, or an immediate family  
7.2 member of the applicant, being a victim of domestic abuse as defined under section  
7.3 518B.01. Domestic abuse must be shown as provided for in subdivision 1, clause (9).

7.4 (c) Regardless of paragraph (b), clause (9), conduct in violation of sections 169A.20,  
7.5 169A.31, or 169A.50 to 169A.53 that interferes with or adversely affects the employment  
7.6 is employment misconduct.

7.7 (d) If the conduct for which the applicant was discharged involved only a single  
7.8 incident, that is an important fact that must be considered in deciding whether the conduct  
7.9 rises to the level of employment misconduct under paragraph (a).

7.10 (e) The definition of employment misconduct provided by this subdivision is  
7.11 exclusive and no other definition applies. The term "egregious" sets a high threshold and  
7.12 application of the term must take into consideration section 268.031, subdivision 2.

7.13 Subd. 6a. **Aggravated employment misconduct defined.** (a) For the purpose of  
7.14 this section, "aggravated employment misconduct" means:

7.15 (1) the commission of any act, on the job or off the job, that would amount to a gross  
7.16 misdemeanor or felony if the act substantially interfered with the employment or had a  
7.17 significant adverse effect on the employment; or

7.18 (2) for an employee of a facility as defined in section 626.5572, aggravated  
7.19 employment misconduct includes an act of patient or resident abuse, financial exploitation,  
7.20 or recurring or serious neglect, as defined in section 626.5572 and applicable rules.

7.21 (b) If an applicant is convicted of a gross misdemeanor or felony for the same act for  
7.22 which the applicant was discharged, it is aggravated employment misconduct if the act  
7.23 substantially interfered with the employment or had a significant adverse effect on the  
7.24 employment.

7.25 (c) The definition of aggravated employment misconduct provided by this  
7.26 subdivision is exclusive and no other definition applies.

7.27 Subd. 7. **Act or omissions after separation.** An applicant may not be held  
7.28 ineligible for unemployment benefits under this section for any acts or omissions occurring  
7.29 after the applicant's separation from employment with the employer. A layoff because of  
7.30 lack of work is considered a separation from employment.

7.31 Subd. 10. **Ineligibility duration.** (a) Ineligibility from the payment of all  
7.32 unemployment benefits under subdivisions 1 and 4 is for the duration of the applicant's  
7.33 unemployment and until the end of the calendar week that the applicant had total earnings  
7.34 in subsequent covered employment of eight times the applicant's weekly unemployment  
7.35 benefit amount.

8.1 (b) Ineligibility imposed under subdivisions 1 and 4 begins on the Sunday of the  
8.2 week that the applicant became separated from employment.

8.3 (c) In addition to paragraph (a), if the applicant was discharged from employment  
8.4 because of aggravated employment misconduct, wage credits from that employment are  
8.5 canceled and cannot be used for purposes of a benefit account under section 268.07,  
8.6 subdivision 2.

8.7 Subd. 11. **Application.** (a) This section and section 268.085, subdivision 13c,  
8.8 apply to all covered employment, full time or part time, temporary or of limited duration,  
8.9 permanent or of indefinite duration, that occurred in Minnesota during the base period, the  
8.10 period between the end of the base period and the effective date of the benefit account,  
8.11 or the benefit year.

8.12 (b) Paragraph (a) also applies to employment covered under an unemployment  
8.13 insurance program of any other state or established by an act of Congress.

8.14 **EFFECTIVE DATE.** This section is effective for determinations under section  
8.15 268.101, subdivision 2, and appeal decisions under section 268.105, subdivision 1, issued  
8.16 on and after the Sunday following final enactment."

8.17 Page 10, line 4, before "an" insert "the expiration of the time for " and delete the  
8.18 second "to" and insert "and" and after the period, insert "An applicant's appeal under  
8.19 sections 268.103 and 268.105 is considered timely if the appeal is made within ten  
8.20 calendar days after the mailing of the Benefit Review Specialist's written response to the  
8.21 applicant's request under this subdivision."

8.22 Page 11, line 24, delete "60" and insert "55"

8.23 Page 11, line 25, delete "80" and insert "75"

8.24 Page 11, after line 27, insert:

8.25 "**EFFECTIVE DATE.** This section is effective on July 1, 2010, and shall apply to  
8.26 all new unemployment law judges hired on or after that date."

8.27 Page 11, line 33, delete "and options" and insert ", options and appeals"

8.28 Page 11, after line 33, insert:

8.29 "Sec. 8. Minnesota Statutes 2008, section 268.184, subdivision 1, is amended to read:

8.30 Subdivision 1. **Administrative penalties.** (a) The commissioner shall penalize  
8.31 an employer if that employer or any employee, officer, or agent of that employer, is  
8.32 in collusion with any applicant for the purpose of assisting the applicant to receive  
8.33 unemployment benefits fraudulently. The penalty is \$500 or the amount of unemployment  
8.34 benefits determined to be overpaid, whichever is greater.



9.1 (b) The commissioner shall penalize an employer if that employer or any employee,  
9.2 officer, or agent of that employer (1) made a false statement or representation knowing  
9.3 it to be false, (2) made a false statement or representation without a good faith belief  
9.4 as to correctness of the statement or representation, or (3) knowingly failed to disclose  
9.5 a material fact; or (4) made an offer of employment to an applicant when, in fact, the  
9.6 employer had no employment available, but only if the employer's action:

9.7 (i) was taken to prevent or reduce the payment of unemployment benefits to any  
9.8 applicant;

9.9 (ii) was taken to reduce or avoid any payment required from an employer under  
9.10 this chapter or section 116L.20; or

9.11 (iii) caused an overpayment of unemployment benefits to an applicant.

9.12 The penalty is \$500, or 50 percent of the overpaid or reduced unemployment benefits  
9.13 or payment required, whichever is greater.

9.14 (c) The commissioner shall penalize an employer if that employer failed or refused  
9.15 to honor a subpoena issued under section 268.105, subdivision 4, or section 268.188. The  
9.16 penalty is \$500 and any costs of enforcing the subpoena, including attorney fees.

9.17 (d) Penalties under this subdivision are in addition to any other penalties and subject  
9.18 to the same collection procedures that apply to past due taxes. Penalties must be paid  
9.19 within 30 calendar days of assessment and credited to the contingent account.

9.20 (e) The assessment of the penalty is final unless the employer files an appeal within  
9.21 20 calendar days after the sending of notice of the penalty to the employer by mail or  
9.22 electronic transmission. Proceedings on the appeal are conducted in accordance with  
9.23 section 268.105."

9.24 Renumber the sections in sequence and correct the internal references

9.25 Amend the title accordingly