

**Subject** Unemployment Insurance Advisory Council recommendations

**Authors** Xiong, J. and others

**Analyst** Ben Weeks

**Date** February 5, 2019

## Overview

Contains the recommendations of the Unemployment Insurance Advisory Council, based on meetings held in late 2017. A nearly identical bill passed both the House and Senate individually in 2018, but was not enacted. The author's amendment makes non-substantive technical and stylistic changes as well as updating effective dates.

## Article 1: Unemployment Insurance Advisory Council; Policy

Section	Description
1	<p><b>Covered employment [§ 268.035, subd. 12]</b></p> <p>Makes several changes in the section of law addressing when employers pay Minnesota UI taxes related to employees who work both inside and outside of Minnesota. In particular, the bill replaces the term “primarily” with “50% or more” in the context of employees working both inside and outside Minnesota. The bill also eliminates the concept of employers having a “base of operations” and work being “directed or controlled” from a particular place, and instead focuses on whether an employee lived and worked in Minnesota for certain periods of time. Finally, the section makes minor clarifying changes to the section.</p>
2	<p><b>Noncovered employment [§ 268.035, subd. 20]</b></p> <p>Adds work by employees under J-1 visas to the list of noncovered employment. “Noncovered employment” in the context of UI law, means employment for which employees are ineligible for UI benefits and for which employers do not have to pay UI taxes. Adding J-1 visa holders to the definition of noncovered employment will not affect the eligibility of these employees for benefits as they are already ineligible for UI benefits under federal law for an unrelated reason.</p>
3	<p><b>Unemployment insurance tax limits [§ 268.051, subd. 2a]</b></p> <p>Provides a statutory mechanism to transfer value of a tax reduction, under the UI tax reduction law passed in 2016, when a business is purchased or otherwise reorganized. This section also clarifies the application of the tax reduction for business with the maximum experience rating.</p>

## Article 2: Unemployment Insurance Advisory Council; Interest

Section	Description
1	<b>Interest paid on past due amounts [§ 268.057, subd. 5]</b> Clarifies assessment of interest on applicant and employer applies to unpaid principal only.
2	<b>Interest [§ 268.18, subd. 2b]</b> Same as above.

## Article 3: Unemployment Insurance Advisory Council; Base Periods

The wages an applicant earns in a base period determine whether the applicant had a sufficient employment history to qualify for UI benefits and, if so: (1) the amount of benefits the applicant can be paid per week; and (2) the total amount of benefits the applicant may receive during the benefit year.

Wages for base periods come from “wage detail” reports submitted by all employers one month after the previously completed calendar quarter. Base periods are always four calendar quarters and intended to reflect the most recent work history that is administratively practical. During the first month of each quarter, wages for the most recently completed quarter have not yet been reported by employer and are therefore not available.

For eight months of the year, Minnesota law automatically assigns each applicant the base period that provides the highest weekly benefit amount. During the first month of each quarter, however, it is not possible to complete this calculation because the most recently completed quarter has not yet been reported by employers.

Section	Description
1	<b>Base period [§ 268.035, subd. 4]</b> Along with section 2, clarifies that the base period for the first month of each quarter does not include the most recently completed calendar quarter.
2	<b>Application for unemployment benefits; determination of benefit account [§ 268.07, subd. 1]</b> Along with section 1, clarifies that the base period for the first month of each quarter does not include the most recently completed calendar quarter.

## Article 4: Unemployment Insurance Advisory Council; Housekeeping

Section	Description
1	<b>Employment [§ 268.035, subd. 15]</b> Requested by the federal department of labor, clarifies UI coverage for certain travelling salespeople.
2	<b>Failure to timely file report; late fees [§ 268.044, subds. 2 and 3]</b> Changes cross reference to reflect current UI practices in reaching compromises in collection of employer fees.
3	<b>Exceptions for taxpaying employers [§ 268.047, subd. 3]</b> Benefits paid to a former employee are not used to calculate an employer's experience rating under a number of conditions. There two most common reasons this occurs: (1) the employee quit the employment for a reason other than a good reason caused by the employer; or (2) the employee was discharged for misconduct. Current law is silent on the duration of this effect, implying the effect is indefinite. This change clarifies that the effect ends if the employee goes back to work with the same employer.
4	<b>Vacation and sick payments that delay unemployment benefits [268.085, subd. 3]</b> Makes stylistic changes to clarify when payments that affect unemployment benefits take effect.
5	<b>Workers' compensation and disability insurance offset [§ 268.085, subd. 3a]</b> Makes stylistic changes.
6	<b>Separation, severance, or bonus payments that delay unemployment insurance benefits [§ 268.085, subd. 3b]</b> Makes stylistic changes to clarify when payments that affect unemployment benefits take effect.
7	<b>Pension or retirement payment offset [§ 268.085, subd. 3c]</b> Makes stylistic changes to clarify when payments that affect unemployment benefits take effect.
8	<b>Leave of absence [§ 268.085, subd. 13a]</b> Makes stylistic changes.
9	<b>Employment misconduct defined [§ 268.095, subd. 6]</b> Removes one of the two standards for what constitutes employment misconduct for UI purposes. The intent is to clarify and simplify the section for the often pro se appellants of denied benefits.
10	<b>Aggravated employment misconduct defined [§ 268.095, subd. 6a]</b> Codifies interpretation of the section under a court decision but does not change current law as applied.

## Article 5: Unemployment Insurance Advisory Council; Technical

Section	Description
1	<b>Missing or erroneous information [§ 268.044, subd. 3]</b> Makes stylistic changes.
2	<b>Tax accounts assigned [§ 268.046, subd. 1]</b> Updates cross reference.
3	<b>Requirements [§ 268.069, subd. 1]</b> Updates cross reference.
4	<b>Representation; fees [§ 268.105, subd. 6]</b> Makes clarifying change.
5	<b>Notification [§ 268.145, subd. 1]</b> Clarifies priority of deductions to payments to benefit applicants.
6	<b>Remedies [§ 268.18, subd. 5]</b> Clarifies priority of deductions to payments to benefit applicants.
7	<b>Revisor's instruction</b> Directs a number of stylistic changes.
8	<b>Repealer</b> Deletes two unnecessary subdivisions.
9	<b>Effective date</b>



*Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.*

[www.house.mn/hrd](http://www.house.mn/hrd) | 651-296-6753 | 600 State Office Building | St. Paul, MN 55155