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State of Minnesota

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HOUSE OF REPRESENTATIVES

Unofficial Engrossment

House Engrossment of a Senate File

NINETY-THIRD SESSION

S. F. No. 2744

04/17/2023 Companion to House File No. 2680. (Authors:Stephenson)
Read First Time and Referred to the Committee on Ways and Means
04/25/2023 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act

1.2 relating to commerce; establishing a biennial budget for Department of Commerce

1.3 and related activities; adding and modifying various provisions governing health,

1.4 property, life, homeowner's, and automobile insurance; regulating financial

1.5 institutions; modifying provisions governing financial institutions; providing for

1.6 certain consumer protections and privacy; modifying provisions governing

1.7 commerce; making technical changes; establishing civil and criminal penalties;

1.8 authorizing administrative rulemaking; requiring reports; appropriating money;

1.9 amending Minnesota Statutes 2022, sections 46.131, subdivision 11; 47.0153,

1.10 subdivision 1; 47.59, subdivision 2; 47.60, subdivisions 1, 2, by adding a

1.11 subdivision; 47.601, subdivisions 1, 2, 6, by adding a subdivision; 53.04,

1.12 subdivision 3a; 53C.01, subdivision 12c, by adding a subdivision; 53C.08,

1.13 subdivision 1a; 56.131, subdivision 1; 60A.08, subdivision 15; 60A.14, subdivision

1.14 1; 61A.031; 61A.60, subdivision 3; 62A.152, subdivision 3; 62A.3099, by adding

1.15 a subdivision; 62A.31, subdivisions 1, 1f, 1h, 1p, 1u, 4, by adding a subdivision;

1.16 62A.44, subdivision 2; 62D.02, by adding a subdivision; 62D.095, subdivisions

1.17 2, 3, 5; 62J.26, subdivisions 1, 2, by adding a subdivision; 62K.10, subdivision 4;

1.18 62Q.096; 62Q.19, subdivision 1; 62Q.46, subdivisions 1, 3; 62Q.47; 62Q.735,

1.19 subdivisions 1, 5; 62Q.76, by adding a subdivision; 62Q.78, by adding subdivisions;

1.20 62Q.81, subdivision 4, by adding a subdivision; 65B.49, by adding a subdivision;

1.21 80A.50; 80E.041, subdivision 4; 103G.291, subdivision 4; 151.071, subdivisions

1.22 1, 2; 237.066; 239.791, subdivision 8; 256B.0631, subdivision 1; 256B.69,

1.23 subdivision 5a; 256L.03, subdivision 5; 325D.01, subdivision 5; 325D.44,

1.24 subdivisions 1, 2; 325D.71; 325E.31; 325E.66, subdivision 2, by adding a

1.25 subdivision; 325F.662, subdivisions 2, 3; 325F.6641, subdivision 2; 325F.69,

1.26 subdivision 1, by adding a subdivision; 325F.70, by adding a subdivision;

1.27 325G.051, subdivision 1; 327C.015, subdivision 17, by adding subdivisions;

1.28 327C.04, subdivisions 1, 2, by adding subdivisions; 515B.3-102; 515B.3-115;

1.29 515B.3-1151; 515B.3-116; Laws 2022, chapter 93, article 1, section 2, subdivision

1.30 5; Laws 2023, chapter 24, section 3; proposing coding for new law in Minnesota

1.31 Statutes, chapters 13; 48; 52; 53B; 58; 58B; 60A; 62J; 62Q; 62W; 65A; 325E;

1.32 325F; 332; proposing coding for new law as Minnesota Statutes, chapter 325O;

1.33 repealing Minnesota Statutes 2022, sections 48.10; 53B.01; 53B.02; 53B.03;

1.34 53B.04; 53B.05; 53B.06; 53B.07; 53B.08; 53B.09; 53B.10; 53B.11; 53B.12;

1.35 53B.13; 53B.14; 53B.15; 53B.16; 53B.17; 53B.18; 53B.19; 53B.20; 53B.21;

1.36 53B.22; 53B.23; 53B.24; 53B.25; 53B.26; 53B.27, subdivisions 1, 2, 5, 6, 7;

1.37 62A.31, subdivisions 1b, 1i; 327C.04, subdivision 4; Minnesota Rules, parts

2.1 2675.2610, subparts 1, 3, 4; 2675.2620, subparts 1, 2, 3, 4, 5; 2675.2630, subpart
2.2 3.

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

2.4 **ARTICLE 1**

2.5 **COMMERCE FINANCE**

2.6 Section 1. **APPROPRIATIONS.**

2.7 The sums shown in the columns marked "Appropriations" are appropriated to the agencies
2.8 and for the purposes specified in this article. The appropriations are from the general fund,
2.9 or another named fund, and are available for the fiscal years indicated for each purpose.
2.10 The figures "2024" and "2025" used in this article mean that the appropriations listed under
2.11 them are available for the fiscal year ending June 30, 2024, or June 30, 2025, respectively.
2.12 "The first year" is fiscal year 2024. "The second year" is fiscal year 2025. "The biennium"
2.13 is fiscal years 2024 and 2025. If an appropriation in this act is enacted more than once in
2.14 the 2023 legislative session, the appropriation must be given effect only once.

2.15 **APPROPRIATIONS**
2.16 **Available for the Year**
2.17 **Ending June 30**
2.18 **2024 2025**

2.19 Sec. 2. **DEPARTMENT OF COMMERCE**

2.20 **Subdivision 1. Total Appropriation** **\$ 33,857,000 \$ 264,125,000**

2.21 **Appropriations by Fund**

	<u>2024</u>	<u>2025</u>
2.22 <u>General</u>	<u>30,876,000</u>	<u>261,217,000</u>
2.23 <u>Workers'</u>		
2.24 <u>Compensation Fund</u>	<u>788,000</u>	<u>815,000</u>
2.25 <u>Telecommunications</u>		
2.26 <u>Access Fund</u>	<u>2,093,000</u>	<u>2,093,000</u>
2.27 <u>Consumer Education</u>		
2.28 <u>Account</u>	<u>100,000</u>	<u>-0-</u>

2.29 The amounts that may be spent for each
2.30 purpose are specified in the following
2.31 subdivisions.

2.32 **Subd. 2. Financial Institutions** **2,372,000 2,492,000**

2.33 (a) \$400,000 each year is for a grant to Prepare
2.34 and Prosper to develop, market, evaluate, and
2.35 distribute a financial services inclusion
2.36

3.1 program that (1) assists low-income and
3.2 financially underserved populations to build
3.3 savings and strengthen credit, and (2) provides
3.4 services to assist low-income and financially
3.5 underserved populations to become more
3.6 financially stable and secure. Money
3.7 remaining after the first year is available for
3.8 the second year.

3.9 (b) \$254,000 each year is to administer the
3.10 requirements of Minnesota Statutes, chapter
3.11 58B.

3.12 **Subd. 3. Administrative Services**

10,078,000

10,104,000

3.13 (a) \$353,000 each year is for information
3.14 technology and cybersecurity upgrades for the
3.15 unclaimed property program.

3.16 (b) \$564,000 each year is for additional
3.17 operations of the unclaimed property program.

3.18 (c) \$249,000 each year is for the senior safe
3.19 fraud prevention program.

3.20 (d) \$568,000 in the first year and \$537,000 in
3.21 the second year are to create and maintain the
3.22 Prescription Drug Affordability Board
3.23 established under Minnesota Statutes, section
3.24 62J.87. The base in fiscal year 2026 is
3.25 \$500,000.

3.26 (e) \$150,000 each year is for a grant to Exodus
3.27 Lending to expand program and operational
3.28 capacity to assist individuals with financial
3.29 stability through small dollar consumer loans,
3.30 including but not limited to resolving
3.31 consumer short-term loans carrying interest
3.32 rates greater than 36 percent. Loans issued
3.33 under the program must be: (1) interest- and
3.34 fee-free; and (2) made to Minnesotans facing

4.1 significant barriers to mainstream financial
4.2 products. Program participants must be
4.3 recruited through a statewide network of
4.4 trusted community-based partners. Loan
4.5 payments by borrowers must be reported to
4.6 the credit bureaus. The appropriations in this
4.7 paragraph are onetime and are available until
4.8 June 30, 2027.

4.9 (f) For the purposes of paragraphs (e) and (g),
4.10 the following terms have the meanings given:

4.11 (1) "barriers to financial inclusion" means a
4.12 person's financial history, credit history and
4.13 credit score requirements, scarcity of
4.14 depository institutions in lower income and
4.15 communities of color, and low or irregular
4.16 income flows;

4.17 (2) "character-based lending" means the
4.18 practice of issuing loans based on a borrower's
4.19 involvement in and ties to community-based
4.20 organizations that provide client services,
4.21 including but not limited to financial coaching;
4.22 and

4.23 (3) "mainstream financial products" means
4.24 financial products that are provided most
4.25 commonly by regulated financial institutions,
4.26 including but not limited to credit cards and
4.27 installment loans.

4.28 (g) \$200,000 in the first year is for a grant to
4.29 Exodus Lending to assist in the development
4.30 of a character-based small dollar loan program.
4.31 This is a onetime appropriation and is
4.32 available until June 30, 2027.

4.33 (h) No later than July 15, 2024, and annually
4.34 thereafter until the appropriations under

5.1 paragraphs (e) and (g) have been exhausted
5.2 or canceled, Exodus Lending must submit a
5.3 report to the commissioner of commerce on
5.4 the activities required of Exodus Lending
5.5 under paragraphs (e) and (g). Until July 15,
5.6 2027, the report must detail, at a minimum,
5.7 each of the following for the prior calendar
5.8 year and, after July 15, 2027, the report must
5.9 detail, at a minimum, each of the following
5.10 that relate to the activities of Exodus Lending
5.11 under paragraph (g) for the prior calendar year:

5.12 (1) the total number of loans granted;
5.13 (2) the total number of participants granted
5.14 loans;

5.15 (3) an analysis of the participants' race,
5.16 ethnicity, gender, and geographic locations;

5.17 (4) the average loan amount;

5.18 (5) the total loan amounts paid back by
5.19 participants;

5.20 (6) a list of the trusted community-based
5.21 partners;

5.22 (7) the final criteria developed for
5.23 character-based small dollar loan program
5.24 determinations under paragraph (g); and

5.25 (8) summary data on the significant barriers
5.26 to mainstream financial products faced by
5.27 participants.

5.28 (i) No later than August 15, 2024, and
5.29 annually thereafter until the appropriations
5.30 under paragraphs (e) and (g) have been
5.31 exhausted or canceled, the commissioner of
5.32 commerce must submit a report to the chairs
5.33 and ranking minority members of the

6.1 legislative committees with primary
6.2 jurisdiction over commerce and consumer
6.3 protection. The report must detail the
6.4 information collected by the commissioner of
6.5 commerce under paragraph (h).

6.6 (j) \$12,000 each year is for the intermediate
6.7 blends of gasoline and biofuels report under
6.8 Minnesota Statutes, section 239.791,
6.9 subdivision 8.

6.10 **Subd. 4. Enforcement** 7,482,000 7,670,000

	<u>Appropriations by Fund</u>		
6.11			
6.12	<u>General</u>	<u>7,174,000</u>	<u>7,455,000</u>
6.13	<u>Workers'</u>		
6.14	<u>Compensation</u>	<u>208,000</u>	<u>215,000</u>
6.15	<u>Consumer Education</u>		
6.16	<u>Account</u>	<u>100,000</u>	<u>-0-</u>

6.17 (a) \$811,000 each year is for five additional
6.18 peace officers in the Commerce Fraud Bureau.
6.19 Money under this paragraph is transferred
6.20 from the general fund to the insurance fraud
6.21 prevention account under Minnesota Statutes,
6.22 section 45.0135, subdivision 6.

6.23 (b) \$345,000 each year is for additional staff
6.24 to focus on market conduct examinations.

6.25 (c) \$41,000 in the first year and \$21,000 in
6.26 the second year are for body cameras worn by
6.27 Commerce Fraud Bureau agents.

6.28 (d) \$208,000 in the first year and \$215,000 in
6.29 the second year are from the workers'
6.30 compensation fund.

6.31 (e) \$100,000 in the second year is for the
6.32 creation and maintenance of the Mental Health
6.33 Parity and Substance Abuse Accountability
6.34 Office under Minnesota Statutes, section

7.1 62Q.465. The base for fiscal year 2026 is
 7.2 \$198,000.

7.3 (f) \$100,000 in the first year is transferred
 7.4 from the consumer education account in the
 7.5 special revenue fund to the general fund.

7.6 (g) \$197,000 each year is to create and
 7.7 maintain a student loan advocate position
 7.8 under Minnesota Statutes, section 58B.011.

7.9 (h) \$283,000 each year is for law enforcement
 7.10 salary increases, as authorized under Laws
 7.11 2021, chapter 4, article 9, section 1.

7.12 **Subd. 5. Telecommunications** 3,221,000 3,261,000

	<u>Appropriations by Fund</u>		
7.13			
7.14	<u>General</u>	<u>1,128,000</u>	<u>1,168,000</u>
7.15	<u>Telecommunications</u>		
7.16	<u>Access Fund</u>	<u>2,093,000</u>	<u>2,093,000</u>

7.17 \$2,093,000 each year is from the
 7.18 telecommunications access Minnesota fund
 7.19 account in the special revenue fund for the
 7.20 following transfers:

7.21 (1) \$1,620,000 each year is to the
 7.22 commissioner of human services to
 7.23 supplement the ongoing operational expenses
 7.24 of the Commission of Deaf, DeafBlind, and
 7.25 Hard-of-Hearing Minnesotans. This transfer
 7.26 is subject to Minnesota Statutes, section
 7.27 16A.281;

7.28 (2) \$290,000 each year is to the chief
 7.29 information officer to coordinate technology
 7.30 accessibility and usability;

7.31 (3) \$133,000 each year is to the Legislative
 7.32 Coordinating Commission for captioning
 7.33 legislative coverage. This transfer is subject
 7.34 to Minnesota Statutes, section 16A.281; and

8.1 (4) \$50,000 each year is to the Office of
 8.2 MN.IT Services for a consolidated access fund
 8.3 to provide grants or services to other state
 8.4 agencies related to accessibility of web-based
 8.5 services.

8.6 **Subd. 6. Insurance** 9,173,000 9,577,000

	<u>Appropriations by Fund</u>	
8.8 <u>General</u>	<u>8,593,000</u>	<u>8,977,000</u>
8.9 <u>Workers'</u>		
8.10 <u>Compensation</u>	<u>580,000</u>	<u>600,000</u>

8.11 (a) \$136,000 each year is to advance
 8.12 standardized health plan options.

8.13 (b) \$318,000 each year is to conduct a
 8.14 feasibility study on a proposal to offer free
 8.15 primary care to Minnesotans. The
 8.16 appropriations in this paragraph are onetime.

8.17 (c) \$105,000 each year is to evaluate
 8.18 legislation for new mandated health benefits
 8.19 under Minnesota Statutes, section 62J.26.

8.20 (d) \$180,000 each year is for additional staff
 8.21 to focus on property- and casualty-related
 8.22 insurance products.

8.23 (e) \$580,000 in the first year and \$600,000 in
 8.24 the second year are from the workers'
 8.25 compensation fund.

8.26 (f) \$42,000 each year is for ensuring health
 8.27 plan company compliance with Minnesota
 8.28 Statutes, section 62Q.47, paragraph (h).

8.29 (g) \$25,000 each year is to evaluate existing
 8.30 statutory health benefit mandates.

8.31 (h) \$20,000 each year is to pay membership
 8.32 dues for Minnesota to the National Conference

9.1 of Insurance Legislators. The appropriations
9.2 in this paragraph are onetime.

9.3 **Subd. 7. Weights and Measures Division** 1,531,000 1,556,000

9.4 **Sec. 3. DEPARTMENT OF EDUCATION**

9.5 **Subdivision 1. Total Appropriation** **\$ 100,000 \$ -0-**

9.6 Appropriations by Fund

9.7 2024 2025

9.8 **General** 100,000 -0-

9.9 \$100,000 in the first year is to issue grants of

9.10 \$50,000 each year to the Minnesota Council

9.11 on Economic Education. This balance does

9.12 not cancel but is available in the second year.

9.13 This appropriation is onetime.

9.14 **Sec. 4. ATTORNEY GENERAL**

9.15 **Subdivision 1. Total Appropriation** **\$ 691,000 \$ 691,000**

9.16 Appropriations by Fund

9.17 2024 2025

9.18 **General** 691,000 691,000

9.19 The amounts that may be spent for each

9.20 purpose are specified in the following

9.21 subdivisions.

9.22 **Subd. 2. Excessive Price Increases to Generic**
9.23 **Drugs**

549,000 549,000

9.24 \$549,000 each year is for the duties under

9.25 Minnesota Statutes, sections 62J.841 to

9.26 64J.845.

9.27 **Subd. 3. Age-Appropriate Design** 142,000 142,000

9.28 \$142,000 each year is to enforce the

9.29 Minnesota Age-Appropriate Design Code Act.

9.30 **Sec. 5. DEPARTMENT OF HEALTH**

9.31 **Subdivision 1. Total Appropriation** **\$ 74,000 \$ 56,000**

10.1	<u>Appropriations by Fund</u>		
10.2		<u>2024</u>	<u>2025</u>
10.3	<u>General</u>	<u>74,000</u>	<u>56,000</u>

10.4 (a) \$69,000 in the first year and \$51,000 in
 10.5 the second year are for the duties under
 10.6 Minnesota Statutes, sections 62J.841 to
 10.7 64J.845.

10.8 (b) \$5,000 each year is to evaluate existing
 10.9 statutory health benefit mandates.

10.10 **Sec. 6. PREMIUM SECURITY ACCOUNT TRANSFER; OUT.**

10.11 \$275,775,000 in fiscal year 2026 is transferred from the premium security plan account
 10.12 under Minnesota Statutes, section 62E.25, subdivision 1, to the general fund. This is a
 10.13 onetime transfer.

10.14 **ARTICLE 2**
 10.15 **INSURANCE**

10.16 Section 1. Minnesota Statutes 2022, section 60A.08, subdivision 15, is amended to read:

10.17 Subd. 15. **Classification of insurance filings data.** (a) All forms, rates, and related
 10.18 information filed with the commissioner under section 61A.02 shall be nonpublic data until
 10.19 the filing becomes effective.

10.20 (b) All forms, rates, and related information filed with the commissioner under section
 10.21 62A.02 shall be nonpublic data until the filing becomes effective.

10.22 (c) All forms, rates, and related information filed with the commissioner under section
 10.23 62C.14, subdivision 10, shall be nonpublic data until the filing becomes effective.

10.24 (d) All forms, rates, and related information filed with the commissioner under section
 10.25 70A.06 shall be nonpublic data until the filing becomes effective.

10.26 (e) All forms, rates, and related information filed with the commissioner under section
 10.27 79.56 shall be nonpublic data until the filing becomes effective.

10.28 (f) All forms, rates, and related information filed with the commissioner under section
 10.29 65A.298 are nonpublic data until the filing becomes effective.

10.30 ~~(f)~~ (g) Notwithstanding paragraphs (b) and (c), for all rate increases subject to review
 10.31 under section 2794 of the Public Health Services Act and any amendments to, or regulations,

11.1 or guidance issued under the act that are filed with the commissioner on or after September
11.2 1, 2011, the commissioner:

11.3 (1) may acknowledge receipt of the information;

11.4 (2) may acknowledge that the corresponding rate filing is pending review;

11.5 (3) must provide public access from the Department of Commerce's website to parts I
11.6 and II of the Preliminary Justifications of the rate increases subject to review; and

11.7 (4) must provide notice to the public on the Department of Commerce's website of the
11.8 review of the proposed rate, which must include a statement that the public has 30 calendar
11.9 days to submit written comments to the commissioner on the rate filing subject to review.

11.10 ~~(g)~~ (h) Notwithstanding paragraphs (b) and (c), for all proposed premium rates filed
11.11 with the commissioner for individual health plans, as defined in section 62A.011, subdivision
11.12 4, and small group health plans, as defined in section 62K.03, subdivision 12, the
11.13 commissioner must provide public access on the Department of Commerce's website to
11.14 compiled data of the proposed changes to rates, separated by health plan and geographic
11.15 rating area, within ten business days after the deadline by which health carriers, as defined
11.16 in section 62A.011, subdivision 2, must submit proposed rates to the commissioner for
11.17 approval.

11.18 **Sec. 2. [60A.0812] PROPERTY AND CASUALTY POLICY EXCLUSIONS.**

11.19 Subdivision 1. **Short title.** This section may be cited as the "Family Protection Act."

11.20 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
11.21 meanings given.

11.22 (b) "Boat" means a motorized or nonmotorized vessel that floats and is used for personal,
11.23 noncommercial use on waters in Minnesota.

11.24 (c) "Boat insurance policy" means an insurance policy that provides liability coverage
11.25 for bodily injury resulting from the ownership, maintenance, or use of a boat, although the
11.26 policy may also provide for property insurance coverage for the boat for noncommercial
11.27 use.

11.28 (d) "Insured" means an insured under a policy specified in subdivision 3, clauses (1) to
11.29 (4), including the named insured and the following persons not identified by name as an
11.30 insured while residing in the same household with the named insured:

11.31 (1) a spouse of a named insured;

12.1 (2) a relative of a named insured; or

12.2 (3) a minor in the custody of a named insured, spouse of a named insured, or of a relative
12.3 residing in the same household with a named insured.

12.4 For purposes of this section, a person resides in or is a member of the same household with
12.5 the named insured if the person's home is usually in the same family unit, even if the person
12.6 is temporarily living elsewhere.

12.7 (e) "Permitted exclusion" means an exclusion of or limitation on liability for damages
12.8 for bodily injury resulting from fraud, intentional conduct, criminal conduct that intentionally
12.9 causes an injury, and other exclusions permitted by law, including a permitted exclusion
12.10 contained in a boat insurance policy issued in this state pursuant to subdivision 6.

12.11 (f) "Prohibited exclusion" means an exclusion of or limitation on liability for damages
12.12 for bodily injury because the injured person is:

12.13 (1) an insured other than a named insured;

12.14 (2) a resident or member of the insured's household; or

12.15 (3) related to the insured by blood or marriage.

12.16 Subd. 3. **Prohibited exclusions.** A prohibited exclusion contained in a plan or policy
12.17 identified in clauses (1) to (4) is against public policy and is void. The following insurance
12.18 coverage issued in this state must not contain a prohibited exclusion, unless expressly
12.19 provided otherwise under this section:

12.20 (1) a plan of reparation security, as defined under section 65B.43;

12.21 (2) a boat insurance policy;

12.22 (3) a personal excess liability policy; and

12.23 (4) a personal umbrella policy.

12.24 Subd. 4. **Permitted exclusions.** An insurance policy listed in this section may contain
12.25 a permitted exclusion for bodily injury to an insured.

12.26 Subd. 5. **Underlying coverage requirement.** An excess or umbrella policy may contain
12.27 a requirement that coverage for family or household members under an excess or umbrella
12.28 policy governed by this section is available only to the extent coverage is first available
12.29 from an underlying policy that provides coverage for damages for bodily injury.

12.30 Subd. 6. **Election of coverage for boat insurance policies.** (a) An insurer issuing bodily
12.31 injury liability coverage for a boat insurance policy under this section must notify a person

13.1 at the time of sale of the person's rights under this section to decline coverage for insureds
13.2 and be provided an updated quote reflecting the appropriate premium for the coverage
13.3 provided.

13.4 (b) Named insureds must affirmatively make an election to decline coverage, in a form
13.5 approved by the commissioner, after being informed that an updated quote will be provided.

13.6 (c) An insurer offering an election of coverage under this subdivision must have the
13.7 disclosure approved by the commissioner. The notice must be in 14-point bold type, in a
13.8 conspicuous location of the notice document, and contain at least the following:

13.9 ELECTION TO DECLINE COVERAGE: YOU HAVE THE RIGHT TO DECLINE
13.10 BODILY INJURY COVERAGE FOR INJURIES TO YOUR FAMILY AND HOUSEHOLD
13.11 MEMBERS FOR WHICH YOU WOULD OTHERWISE BE ENTITLED TO UNDER
13.12 MINNESOTA LAW. IF YOU ELECT TO DECLINE THIS COVERAGE, YOU WILL
13.13 RECEIVE AN UPDATED PREMIUM QUOTE BASED ON THE COVERAGE YOU
13.14 ARE ELECTING TO PURCHASE. READ YOUR POLICY CAREFULLY TO
13.15 DETERMINE WHICH FAMILY AND HOUSEHOLD MEMBERS WOULD NOT BE
13.16 COVERED FOR BODILY INJURY IF YOU ELECT TO DECLINE COVERAGE.

13.17 Subd. 7. **Excessive rate hearings for boat insurance policies.** Whenever an insurer
13.18 files a change in a rate for a boat insurance policy that will result in a 15 percent or more
13.19 increase in a 12-month period over existing rates, the commissioner may hold a hearing to
13.20 determine if the change is excessive. The hearing must be conducted under chapter 14. The
13.21 commissioner must give notice of intent to hold a hearing within 60 days of the filing of
13.22 the change. It shall be the responsibility of the insurer to show the rate is not excessive. The
13.23 rate is effective unless it is determined as a result of the hearing that the rate is excessive.
13.24 This subdivision expires January 1, 2029.

13.25 Subd. 8. **No endorsement required.** An endorsement, rider, or contract amendment is
13.26 not required for this section to be effective.

13.27 **EFFECTIVE DATE.** This section is effective January 1, 2024, for plans of reparation
13.28 security, as defined under Minnesota Statutes, section 65B.43, a personal excess liability
13.29 policy, or a personal umbrella policy offered, issued, or renewed on or after that date. This
13.30 section is effective on May 1, 2024, for a boat insurance policy covering a personal injury
13.31 sustained while using a boat.

14.1 Sec. 3. Minnesota Statutes 2022, section 60A.14, subdivision 1, is amended to read:

14.2 Subdivision 1. **Fees other than examination fees.** In addition to the fees and charges
14.3 provided for examinations, the following fees must be paid to the commissioner for deposit
14.4 in the general fund:

14.5 (a) by township mutual fire insurance companies:

14.6 (1) for filing certificate of incorporation \$25 and amendments thereto, \$10;

14.7 (2) for filing annual statements, \$15;

14.8 (3) for each annual certificate of authority, \$15;

14.9 (4) for filing bylaws \$25 and amendments thereto, \$10;

14.10 (b) by other domestic and foreign companies including fraternal and reciprocal
14.11 exchanges:

14.12 (1) for filing an application for an initial certification of authority to be admitted to
14.13 transact business in this state, \$1,500;

14.14 (2) for filing certified copy of certificate of articles of incorporation, \$100;

14.15 (3) for filing annual statement, ~~\$225~~ \$300;

14.16 (4) for filing certified copy of amendment to certificate or articles of incorporation, \$100;

14.17 (5) for filing bylaws, \$75 or amendments thereto, \$75;

14.18 (6) for each company's certificate of authority, ~~\$575~~ \$750, annually;

14.19 (c) the following general fees apply:

14.20 (1) for each certificate, including certified copy of certificate of authority, renewal,
14.21 valuation of life policies, corporate condition or qualification, \$25;

14.22 (2) for each copy of paper on file in the commissioner's office 50 cents per page, and
14.23 \$2.50 for certifying the same;

14.24 (3) for license to procure insurance in unadmitted foreign companies, \$575;

14.25 (4) for valuing the policies of life insurance companies, ~~one cent~~ two cents per \$1,000
14.26 of insurance so valued, provided that the fee shall not exceed ~~\$13,000~~ \$26,000 per year for
14.27 any company. The commissioner may, in lieu of a valuation of the policies of any foreign
14.28 life insurance company admitted, or applying for admission, to do business in this state,
14.29 accept a certificate of valuation from the company's own actuary or from the commissioner
14.30 of insurance of the state or territory in which the company is domiciled;

15.1 (5) for receiving and filing certificates of policies by the company's actuary, or by the
15.2 commissioner of insurance of any other state or territory, \$50;

15.3 (6) for each appointment of an agent filed with the commissioner, \$30;

15.4 (7) for filing forms, rates, and compliance certifications under section 60A.315, \$140
15.5 per filing, or \$125 per filing when submitted via electronic filing system. Filing fees may
15.6 be paid on a quarterly basis in response to an invoice. Billing and payment may be made
15.7 electronically;

15.8 (8) for annual renewal of surplus lines insurer license, ~~\$300~~ \$400.

15.9 The commissioner shall adopt rules to define filings that are subject to a fee.

15.10 Sec. 4. Minnesota Statutes 2022, section 61A.031, is amended to read:

15.11 **61A.031 SUICIDE PROVISIONS.**

15.12 (a) The sanity or insanity of a person shall not be a factor in determining whether a
15.13 person committed suicide within the terms of an individual or group life insurance policy
15.14 regulating the payment of benefits in the event of the insured's suicide. This section shall
15.15 not be construed to alter present law but is intended to clarify present law.

15.16 (b) A life insurance policy or certificate issued or delivered in this state may exclude or
15.17 restrict liability for any death benefit in the event the insured dies as a result of suicide
15.18 within one year from the date the policy or certificate is issued. Any exclusion or restriction
15.19 shall be clearly stated in the policy or certificate. Any life insurance policy or certificate
15.20 which contains any exclusion or restriction under this paragraph shall also provide that in
15.21 the event any death benefit is denied because the insured dies as a result of suicide within
15.22 one year from the date the policy or certificate is issued, the insurer shall refund all premiums
15.23 paid for coverage providing the denied death benefit on the insured.

15.24 **EFFECTIVE DATE.** This section is effective January 1, 2024, and applies to policies
15.25 issued or after that date.

15.26 Sec. 5. Minnesota Statutes 2022, section 61A.60, subdivision 3, is amended to read:

15.27 Subd. 3. **Definitions.** The following definitions must appear on the back of the notice
15.28 forms provided in subdivisions 1 and 2:

15.29 DEFINITIONS

16.1 **PREMIUMS:** Premiums are the payments you make in exchange for an insurance policy
16.2 or annuity contract. They are unlike deposits in a savings or investment program, because
16.3 if you drop the policy or contract, you might get back less than you paid in.

16.4 **CASH SURRENDER VALUE:** This is the amount of money you can get in cash if you
16.5 surrender your life insurance policy or annuity. If there is a policy loan, the cash surrender
16.6 value is the difference between the cash value printed in the policy and the loan value. Not
16.7 all policies have cash surrender values.

16.8 **LAPSE:** A life insurance policy may lapse when you do not pay the premiums within
16.9 the grace period. If you had a cash surrender value, the insurer might change your policy
16.10 to as much extended term insurance or paid-up insurance as the cash surrender value will
16.11 buy. Sometimes the policy lets the insurer borrow from the cash surrender value to pay the
16.12 premiums.

16.13 **SURRENDER:** You surrender a life insurance policy when you either let it lapse or tell
16.14 the company you want to drop it. Whenever a policy has a cash surrender value, you can
16.15 get it in cash if you return the policy to the company with a written request. Most insurers
16.16 will also let you exchange the cash value of the policy for paid-up or extended term insurance.

16.17 **CONVERT TO PAID-UP INSURANCE:** This means you use your cash surrender value
16.18 to change your insurance to a paid-up policy with the same insurer. The death benefit
16.19 generally will be lower than under the old policy, but you will not have to pay any more
16.20 premiums.

16.21 **PLACE ON EXTENDED TERM:** This means you use your cash surrender value to
16.22 change your insurance to term insurance with the same insurer. In this case, the net death
16.23 benefit will be the same as before. However, you will only be covered for a specified period
16.24 of time stated in the policy.

16.25 **BORROW POLICY LOAN VALUES:** If your life insurance policy has a cash surrender
16.26 value, you can almost always borrow all or part of it from the insurer. Interest will be charged
16.27 according to the terms of the policy, and if the loan with unpaid interest ever exceeds the
16.28 cash surrender value, your policy will be surrendered. If you die, the amount of the loan
16.29 and any unpaid interest due will be subtracted from the death benefits.

16.30 **EVIDENCE OF INSURABILITY:** This means proof that you are an acceptable risk.
16.31 You have to meet the insurer's standards regarding age, health, occupation, etc., to be eligible
16.32 for coverage.

17.1 INCONTESTABLE CLAUSE: This says that after two years, depending on the policy
17.2 or insurer, the life insurer will not resist a claim because you made a false or incomplete
17.3 statement when you applied for the policy. For the early years, though, if there are wrong
17.4 answers on the application and the insurer finds out about them, the insurer can deny a claim
17.5 as if the policy had never existed.

17.6 SUICIDE CLAUSE: This says that if you ~~commit~~ complete suicide after being insured
17.7 for less than ~~two years~~ one year, depending on the policy and insurer, your beneficiaries
17.8 will receive only a refund of the premiums that were paid.

17.9 EFFECTIVE DATE. This section is effective January 1, 2024, and applies to policies
17.10 issued on or after that date.

17.11 Sec. 6. Minnesota Statutes 2022, section 62A.152, subdivision 3, is amended to read:

17.12 Subd. 3. **Provider discrimination prohibited.** All group policies and group subscriber
17.13 contracts that provide benefits for mental or nervous disorder treatments in a hospital must
17.14 provide direct reimbursement for those services at a hospital or psychiatric residential
17.15 treatment facility if performed by a mental health professional qualified according to section
17.16 245I.04, subdivision 2, to the extent that the services and treatment are within the scope of
17.17 mental health professional licensure.

17.18 This subdivision is intended to provide payment of benefits for mental or nervous disorder
17.19 treatments performed by a licensed mental health professional in a hospital or psychiatric
17.20 residential treatment facility and is not intended to change or add benefits for those services
17.21 provided in policies or contracts to which this subdivision applies.

17.22 EFFECTIVE DATE. This section is effective January 1, 2025, and applies to health
17.23 plans offered, issued, or renewed on or after that date.

17.24 Sec. 7. Minnesota Statutes 2022, section 62A.3099, is amended by adding a subdivision
17.25 to read:

17.26 Subd. 18b. **Open enrollment period.** "Open enrollment period" means the time period
17.27 described in Code of Federal Regulations, title 42, section 422.62, paragraph (a), clauses
17.28 (2) to (4), as amended.

17.29 EFFECTIVE DATE. This section is effective August 1, 2024, and applies to policies
17.30 offered, issued, or renewed on or after that date.

18.1 Sec. 8. Minnesota Statutes 2022, section 62A.31, subdivision 1, is amended to read:

18.2 Subdivision 1. **Policy requirements.** No individual or group policy, certificate, subscriber
18.3 contract issued by a health service plan corporation regulated under chapter 62C, or other
18.4 evidence of accident and health insurance the effect or purpose of which is to supplement
18.5 Medicare coverage, including to supplement coverage under Medicare Advantage plans
18.6 established under Medicare Part C, issued or delivered in this state or offered to a resident
18.7 of this state shall be sold or issued to an individual covered by Medicare unless the
18.8 requirements in subdivisions 1a to ~~1v~~ 1w are met.

18.9 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to policies
18.10 offered, issued, or renewed on or after that date.

18.11 Sec. 9. Minnesota Statutes 2022, section 62A.31, subdivision 1f, is amended to read:

18.12 Subd. 1f. **Suspension based on entitlement to medical assistance.** (a) The policy or
18.13 certificate must provide that benefits and premiums under the policy or certificate shall be
18.14 suspended for any period that may be provided by federal regulation at the request of the
18.15 policyholder or certificate holder for the period, not to exceed 24 months, in which the
18.16 policyholder or certificate holder has applied for and is determined to be entitled to medical
18.17 assistance under title XIX of the Social Security Act, but only if the policyholder or certificate
18.18 holder notifies the issuer of the policy or certificate within 90 days after the date the
18.19 individual becomes entitled to this assistance.

18.20 (b) If suspension occurs and if the policyholder or certificate holder loses entitlement
18.21 to this medical assistance, the policy or certificate shall be automatically reinstated, effective
18.22 as of the date of termination of this entitlement, if the policyholder or certificate holder
18.23 provides notice of loss of the entitlement within 90 days after the date of the loss and pays
18.24 the premium attributable to the period, effective as of the date of termination of entitlement.

18.25 (c) The policy must provide that upon reinstatement (1) there is no ~~additional~~ waiting
18.26 period with respect to treatment of preexisting conditions, (2) coverage is provided which
18.27 is substantially equivalent to coverage in effect before the date of the suspension. If the
18.28 suspended policy provided coverage for outpatient prescription drugs, reinstatement of the
18.29 policy for Medicare Part D enrollees must be without coverage for outpatient prescription
18.30 drugs and must otherwise provide coverage substantially equivalent to the coverage in effect
18.31 before the date of suspension, and (3) premiums are classified on terms that are at least as
18.32 favorable to the policyholder or certificate holder as the premium classification terms that
18.33 would have applied to the policyholder or certificate holder had coverage not been suspended.

19.1 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to policies
19.2 offered, issued, or renewed on or after that date.

19.3 Sec. 10. Minnesota Statutes 2022, section 62A.31, subdivision 1h, is amended to read:

19.4 Subd. 1h. **Limitations on denials, conditions, and pricing of coverage.** No health
19.5 carrier issuing Medicare-related coverage in this state may impose preexisting condition
19.6 limitations or otherwise deny or condition the issuance or effectiveness of any such coverage
19.7 available for sale in this state, nor may it discriminate in the pricing of such coverage,
19.8 because of the health status, claims experience, receipt of health care, medical condition,
19.9 or age of an applicant where an application for such coverage is submitted: (1) prior to or
19.10 during the six-month period beginning with the first day of the month in which an individual
19.11 first enrolled for benefits under Medicare Part B; or (2) during the open enrollment period.
19.12 This subdivision applies to each Medicare-related coverage offered by a health carrier
19.13 regardless of whether the individual has attained the age of 65 years. If an individual who
19.14 is enrolled in Medicare Part B due to disability status is involuntarily disenrolled due to loss
19.15 of disability status, the individual is eligible for another six-month enrollment period provided
19.16 under this subdivision beginning the first day of the month in which the individual later
19.17 becomes eligible for and enrolls again in Medicare Part B and during the open enrollment
19.18 period. An individual who is or was previously enrolled in Medicare Part B due to disability
19.19 status is eligible for another six-month enrollment period under this subdivision beginning
19.20 the first day of the month in which the individual has attained the age of 65 years and either
19.21 maintains enrollment in, or enrolls again in, Medicare Part B and during the open enrollment
19.22 period. If an individual enrolled in Medicare Part B voluntarily disenrolls from Medicare
19.23 Part B because the individual becomes enrolled under an employee welfare benefit plan,
19.24 the individual is eligible for another six-month enrollment period, as provided in this
19.25 subdivision, beginning the first day of the month in which the individual later becomes
19.26 eligible for and enrolls again in Medicare Part B and during the open enrollment period.

19.27 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to policies
19.28 offered, issued, or renewed on or after that date.

19.29 Sec. 11. Minnesota Statutes 2022, section 62A.31, subdivision 1p, is amended to read:

19.30 Subd. 1p. **Renewal or continuation provisions.** Medicare supplement policies and
19.31 certificates shall include a renewal or continuation provision. The language or specifications
19.32 of the provision shall be consistent with the type of contract issued. The provision shall be
19.33 appropriately captioned and shall appear on the first page of the policy or certificate, and

20.1 shall include any reservation by the issuer of the right to change premiums. Except for riders
20.2 or endorsements by which the issuer effectuates a request made in writing by the insured,
20.3 exercises a specifically reserved right under a Medicare supplement policy or certificate,
20.4 or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all
20.5 riders or endorsements added to a Medicare supplement policy or certificate after the date
20.6 of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the
20.7 policy or certificate shall require a signed acceptance by the insured. After the date of policy
20.8 or certificate issue, a rider or endorsement that increases benefits or coverage with a
20.9 concomitant increase in premium during the policy or certificate term shall be agreed to in
20.10 writing and signed by the insured, unless the benefits are required by the minimum standards
20.11 for Medicare supplement policies or if the increased benefits or coverage is required by
20.12 law. Where a separate additional premium is charged for benefits provided in connection
20.13 with riders or endorsements, the premium charge shall be set forth in the policy, declaration
20.14 page, or certificate. ~~If a Medicare supplement policy or certificate contains limitations with~~
20.15 ~~respect to preexisting conditions, the limitations shall appear as a separate paragraph of the~~
20.16 ~~policy or certificate and be labeled as "preexisting condition limitations."~~

20.17 Issuers of accident and sickness policies or certificates that provide hospital or medical
20.18 expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare
20.19 shall provide to those applicants a "Guide to Health Insurance for People with Medicare"
20.20 in the form developed by the Centers for Medicare and Medicaid Services and in a type
20.21 size no smaller than 12-point type. Delivery of the guide must be made whether or not such
20.22 policies or certificates are advertised, solicited, or issued as Medicare supplement policies
20.23 or certificates as defined in this section and section 62A.3099. Except in the case of direct
20.24 response issuers, delivery of the guide must be made to the applicant at the time of
20.25 application, and acknowledgment of receipt of the guide must be obtained by the issuer.
20.26 Direct response issuers shall deliver the guide to the applicant upon request, but no later
20.27 than the time at which the policy is delivered.

20.28 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to policies
20.29 offered, issued, or renewed on or after that date.

20.30 Sec. 12. Minnesota Statutes 2022, section 62A.31, subdivision 1u, is amended to read:

20.31 Subd. 1u. **Guaranteed issue for eligible persons.** (a)(1) Eligible persons are those
20.32 individuals described in paragraph (b) who seek to enroll under the policy during the period
20.33 specified in paragraph (c) and who submit evidence of the date of termination or

21.1 disenrollment described in paragraph (b), or of the date of Medicare Part D enrollment, with
21.2 the application for a Medicare supplement policy.

21.3 (2) With respect to eligible persons, an issuer shall not: deny or condition the issuance
21.4 or effectiveness of a Medicare supplement policy described in paragraph (c) that is offered
21.5 and is available for issuance to new enrollees by the issuer; discriminate in the pricing of
21.6 such a Medicare supplement policy because of health status, claims experience, receipt of
21.7 health care, medical condition, or age; or impose an exclusion of benefits based upon a
21.8 preexisting condition under such a Medicare supplement policy.

21.9 (b) An eligible person is an individual described in any of the following:

21.10 (1) the individual is enrolled under an employee welfare benefit plan that provides health
21.11 benefits that supplement the benefits under Medicare; and the plan terminates, or the plan
21.12 ceases to provide all such supplemental health benefits to the individual;

21.13 (2) the individual is enrolled with a Medicare Advantage organization under a Medicare
21.14 Advantage plan under Medicare Part C, and any of the following circumstances apply, or
21.15 the individual is 65 years of age or older and is enrolled with a Program of All-Inclusive
21.16 Care for the Elderly (PACE) provider under section 1894 of the federal Social Security Act,
21.17 and there are circumstances similar to those described in this clause that would permit
21.18 discontinuance of the individual's enrollment with the provider if the individual were enrolled
21.19 in a Medicare Advantage plan:

21.20 (i) the organization's or plan's certification under Medicare Part C has been terminated
21.21 or the organization has terminated or otherwise discontinued providing the plan in the area
21.22 in which the individual resides;

21.23 (ii) the individual is no longer eligible to elect the plan because of a change in the
21.24 individual's place of residence or other change in circumstances specified by the secretary,
21.25 but not including termination of the individual's enrollment on the basis described in section
21.26 1851(g)(3)(B) of the federal Social Security Act, United States Code, title 42, section
21.27 1395w-21(g)(3)(b) (where the individual has not paid premiums on a timely basis or has
21.28 engaged in disruptive behavior as specified in standards under section 1856 of the federal
21.29 Social Security Act, United States Code, title 42, section 1395w-26), or the plan is terminated
21.30 for all individuals within a residence area;

21.31 (iii) the individual demonstrates, in accordance with guidelines established by the
21.32 Secretary, that:

22.1 (A) the organization offering the plan substantially violated a material provision of the
22.2 organization's contract in relation to the individual, including the failure to provide an
22.3 enrollee on a timely basis medically necessary care for which benefits are available under
22.4 the plan or the failure to provide such covered care in accordance with applicable quality
22.5 standards; or

22.6 (B) the organization, or agent or other entity acting on the organization's behalf, materially
22.7 misrepresented the plan's provisions in marketing the plan to the individual; or

22.8 (iv) the individual meets such other exceptional conditions as the secretary may provide;

22.9 (3)(i) the individual is enrolled with:

22.10 (A) an eligible organization under a contract under section 1876 of the federal Social
22.11 Security Act, United States Code, title 42, section 1395mm (Medicare cost);

22.12 (B) a similar organization operating under demonstration project authority, effective for
22.13 periods before April 1, 1999;

22.14 (C) an organization under an agreement under section 1833(a)(1)(A) of the federal Social
22.15 Security Act, United States Code, title 42, section 1395l(a)(1)(A) (health care prepayment
22.16 plan); or

22.17 (D) an organization under a Medicare Select policy under section 62A.318 or the similar
22.18 law of another state; and

22.19 (ii) the enrollment ceases under the same circumstances that would permit discontinuance
22.20 of an individual's election of coverage under clause (2);

22.21 (4) the individual is enrolled under a Medicare supplement policy, and the enrollment
22.22 ceases because:

22.23 (i)(A) of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

22.24 (B) of other involuntary termination of coverage or enrollment under the policy;

22.25 (ii) the issuer of the policy substantially violated a material provision of the policy; or

22.26 (iii) the issuer, or an agent or other entity acting on the issuer's behalf, materially
22.27 misrepresented the policy's provisions in marketing the policy to the individual;

22.28 (5)(i) the individual was enrolled under a Medicare supplement policy and terminates
22.29 that enrollment and subsequently enrolls, for the first time, with any Medicare Advantage
22.30 organization under a Medicare Advantage plan under Medicare Part C; any eligible
22.31 organization under a contract under section 1876 of the federal Social Security Act, United

23.1 States Code, title 42, section 1395mm (Medicare cost); any similar organization operating
23.2 under demonstration project authority; any PACE provider under section 1894 of the federal
23.3 Social Security Act, or a Medicare Select policy under section 62A.318 or the similar law
23.4 of another state; and

23.5 (ii) the subsequent enrollment under item (i) is terminated by the enrollee during any
23.6 period within the first 12 months of the subsequent enrollment during which the enrollee
23.7 is permitted to terminate the subsequent enrollment under section 1851(e) of the federal
23.8 Social Security Act;

23.9 (6) the individual, upon first enrolling for benefits under Medicare Part B, enrolls in a
23.10 Medicare Advantage plan under Medicare Part C, or with a PACE provider under section
23.11 1894 of the federal Social Security Act, and disenrolls from the plan by not later than 12
23.12 months after the effective date of enrollment; ~~or~~

23.13 (7) the individual enrolls in a Medicare Part D plan during the initial Part D enrollment
23.14 period, as defined under United States Code, title 42, section 1395ss(v)(6)(D), and, at the
23.15 time of enrollment in Part D, was enrolled under a Medicare supplement policy that covers
23.16 outpatient prescription drugs and the individual terminates enrollment in the Medicare
23.17 supplement policy and submits evidence of enrollment in Medicare Part D along with the
23.18 application for a policy described in paragraph (e), clause (4); or

23.19 (8) the individual was enrolled in a state public program and is losing coverage due to
23.20 the unwinding of the Medicaid continuous enrollment conditions, as provided by Code of
23.21 Federal Regulations, title 45, section 155.420(d)(9) and (d)(1), and Public Law 117-328,
23.22 section 5131 (2022).

23.23 (c)(1) In the case of an individual described in paragraph (b), clause (1), the guaranteed
23.24 issue period begins on the later of: (i) the date the individual receives a notice of termination
23.25 or cessation of all supplemental health benefits or, if a notice is not received, notice that a
23.26 claim has been denied because of a termination or cessation; or (ii) the date that the applicable
23.27 coverage terminates or ceases; and ends 63 days after the later of those two dates.

23.28 (2) In the case of an individual described in paragraph (b), clause (2), (3), (5), or (6),
23.29 whose enrollment is terminated involuntarily, the guaranteed issue period begins on the
23.30 date that the individual receives a notice of termination and ends 63 days after the date the
23.31 applicable coverage is terminated.

23.32 (3) In the case of an individual described in paragraph (b), clause (4), item (i), the
23.33 guaranteed issue period begins on the earlier of: (i) the date that the individual receives a
23.34 notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar

24.1 notice if any; and (ii) the date that the applicable coverage is terminated, and ends on the
24.2 date that is 63 days after the date the coverage is terminated.

24.3 (4) In the case of an individual described in paragraph (b), clause (2), (4), (5), or (6),
24.4 who disenrolls voluntarily, the guaranteed issue period begins on the date that is 60 days
24.5 before the effective date of the disenrollment and ends on the date that is 63 days after the
24.6 effective date.

24.7 (5) In the case of an individual described in paragraph (b), clause (7), the guaranteed
24.8 issue period begins on the date the individual receives notice pursuant to section
24.9 1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the
24.10 60-day period immediately preceding the initial Part D enrollment period and ends on the
24.11 date that is 63 days after the effective date of the individual's coverage under Medicare Part
24.12 D.

24.13 (6) In the case of an individual described in paragraph (b) but not described in this
24.14 paragraph, the guaranteed issue period begins on the effective date of disenrollment and
24.15 ends on the date that is 63 days after the effective date.

24.16 (7) For all individuals described in paragraph (b), the open enrollment period is a
24.17 guaranteed issue period.

24.18 (d)(1) In the case of an individual described in paragraph (b), clause (5), or deemed to
24.19 be so described, pursuant to this paragraph, whose enrollment with an organization or
24.20 provider described in paragraph (b), clause (5), item (i), is involuntarily terminated within
24.21 the first 12 months of enrollment, and who, without an intervening enrollment, enrolls with
24.22 another such organization or provider, the subsequent enrollment is deemed to be an initial
24.23 enrollment described in paragraph (b), clause (5).

24.24 (2) In the case of an individual described in paragraph (b), clause (6), or deemed to be
24.25 so described, pursuant to this paragraph, whose enrollment with a plan or in a program
24.26 described in paragraph (b), clause (6), is involuntarily terminated within the first 12 months
24.27 of enrollment, and who, without an intervening enrollment, enrolls in another such plan or
24.28 program, the subsequent enrollment is deemed to be an initial enrollment described in
24.29 paragraph (b), clause (6).

24.30 (3) For purposes of paragraph (b), clauses (5) and (6), no enrollment of an individual
24.31 with an organization or provider described in paragraph (b), clause (5), item (i), or with a
24.32 plan or in a program described in paragraph (b), clause (6), may be deemed to be an initial
24.33 enrollment under this paragraph after the two-year period beginning on the date on which
24.34 the individual first enrolled with the organization, provider, plan, or program.

25.1 (e) The Medicare supplement policy to which eligible persons are entitled under:

25.2 (1) paragraph (b), clauses (1) to (4), is any Medicare supplement policy that has a benefit
25.3 package consisting of the basic Medicare supplement plan described in section 62A.316,
25.4 paragraph (a), plus any combination of the three optional riders described in section 62A.316,
25.5 paragraph (b), clauses (1) to (3), offered by any issuer;

25.6 (2) paragraph (b), clause (5), is the same Medicare supplement policy in which the
25.7 individual was most recently previously enrolled, if available from the same issuer, or, if
25.8 not so available, any policy described in clause (1) offered by any issuer, except that after
25.9 December 31, 2005, if the individual was most recently enrolled in a Medicare supplement
25.10 policy with an outpatient prescription drug benefit, a Medicare supplement policy to which
25.11 the individual is entitled under paragraph (b), clause (5), is:

25.12 (i) the policy available from the same issuer but modified to remove outpatient
25.13 prescription drug coverage; or

25.14 (ii) at the election of the policyholder, a policy described in clause (4), except that the
25.15 policy may be one that is offered and available for issuance to new enrollees that is offered
25.16 by any issuer;

25.17 (3) paragraph (b), clause (6), is any Medicare supplement policy offered by any issuer;

25.18 (4) paragraph (b), clause (7), is a Medicare supplement policy that has a benefit package
25.19 classified as a basic plan under section 62A.316 if the enrollee's existing Medicare
25.20 supplement policy is a basic plan or, if the enrollee's existing Medicare supplement policy
25.21 is an extended basic plan under section 62A.315, a basic or extended basic plan at the option
25.22 of the enrollee, provided that the policy is offered and is available for issuance to new
25.23 enrollees by the same issuer that issued the individual's Medicare supplement policy with
25.24 outpatient prescription drug coverage. The issuer must permit the enrollee to retain all
25.25 optional benefits contained in the enrollee's existing coverage, other than outpatient
25.26 prescription drugs, subject to the provision that the coverage be offered and available for
25.27 issuance to new enrollees by the same issuer.

25.28 (f)(1) At the time of an event described in paragraph (b), because of which an individual
25.29 loses coverage or benefits due to the termination of a contract or agreement, policy, or plan,
25.30 the organization that terminates the contract or agreement, the issuer terminating the policy,
25.31 or the administrator of the plan being terminated, respectively, shall notify the individual
25.32 of the individual's rights under this subdivision, and of the obligations of issuers of Medicare
25.33 supplement policies under paragraph (a). The notice must be communicated
25.34 contemporaneously with the notification of termination.

26.1 (2) At the time of an event described in paragraph (b), because of which an individual
26.2 ceases enrollment under a contract or agreement, policy, or plan, the organization that offers
26.3 the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer
26.4 offering the policy, or the administrator of the plan, respectively, shall notify the individual
26.5 of the individual's rights under this subdivision, and of the obligations of issuers of Medicare
26.6 supplement policies under paragraph (a). The notice must be communicated within ten
26.7 working days of the issuer receiving notification of disenrollment.

26.8 (g) Reference in this subdivision to a situation in which, or to a basis upon which, an
26.9 individual's coverage has been terminated does not provide authority under the laws of this
26.10 state for the termination in that situation or upon that basis.

26.11 (h) An individual's rights under this subdivision are in addition to, and do not modify
26.12 or limit, the individual's rights under subdivision 1h.

26.13 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to policies
26.14 offered, issued, or renewed on or after that date.

26.15 Sec. 13. Minnesota Statutes 2022, section 62A.31, is amended by adding a subdivision to
26.16 read:

26.17 Subd. 1w. **Open enrollment.** A medicare supplement policy or certificate must not be
26.18 sold or issued to an eligible individual outside of the time periods described in subdivision
26.19 1u.

26.20 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to policies
26.21 offered, issued, or renewed on or after that date.

26.22 Sec. 14. Minnesota Statutes 2022, section 62A.31, subdivision 4, is amended to read:

26.23 Subd. 4. **Prohibited policy provisions.** (a) A Medicare supplement policy or certificate
26.24 in force in the state shall not contain benefits that duplicate benefits provided by Medicare
26.25 or contain exclusions on coverage that are more restrictive than those of Medicare.
26.26 Duplication of benefits is permitted to the extent permitted under subdivision 1s, paragraph
26.27 (a), for benefits provided by Medicare Part D.

26.28 (b) No Medicare supplement policy or certificate may use waivers to exclude, limit, or
26.29 reduce coverage or benefits for specifically named or described preexisting diseases or
26.30 physical conditions, ~~except as permitted under subdivision 1b.~~

26.31 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to policies
26.32 offered, issued, or renewed on or after that date.

27.1 Sec. 15. Minnesota Statutes 2022, section 62A.44, subdivision 2, is amended to read:

27.2 Subd. 2. **Questions.** (a) Application forms shall include the following questions designed
27.3 to elicit information as to whether, as of the date of the application, the applicant has another
27.4 Medicare supplement or other health insurance policy or certificate in force or whether a
27.5 Medicare supplement policy or certificate is intended to replace any other accident and
27.6 sickness policy or certificate presently in force. A supplementary application or other form
27.7 to be signed by the applicant and agent containing the questions and statements may be
27.8 used.

27.9 "(1) You do not need more than one Medicare supplement policy or certificate.

27.10 (2) If you purchase this policy, you may want to evaluate your existing health coverage
27.11 and decide if you need multiple coverages.

27.12 (3) You may be eligible for benefits under Medicaid and may not need a Medicare
27.13 supplement policy or certificate.

27.14 (4) The benefits and premiums under your Medicare supplement policy or certificate
27.15 can be suspended, if requested, during your entitlement to benefits under Medicaid for
27.16 24 months. You must request this suspension within 90 days of becoming eligible for
27.17 Medicaid. If you are no longer entitled to Medicaid, your policy or certificate will be
27.18 reinstated if requested within 90 days of losing Medicaid eligibility.

27.19 (5) Counseling services may be available in Minnesota to provide advice concerning
27.20 medical assistance through state Medicaid, Qualified Medicare Beneficiaries (QMBs),
27.21 and Specified Low-Income Medicare Beneficiaries (SLMBs).

27.22 To the best of your knowledge:

27.23 (1) Do you have another Medicare supplement policy or certificate in force?

27.24 (a) If so, with which company?

27.25 (b) If so, do you intend to replace your current Medicare supplement policy with this
27.26 policy or certificate?

27.27 (2) Do you have any other health insurance policies that provide benefits which this
27.28 Medicare supplement policy or certificate would duplicate?

27.29 (a) If so, please name the company.

27.30 (b) What kind of policy?

28.1 (3) Are you covered for medical assistance through the state Medicaid program? If so,
28.2 which of the following programs provides coverage for you?

28.3 (a) Specified Low-Income Medicare Beneficiary (SLMB),

28.4 (b) Qualified Medicare Beneficiary (QMB), or

28.5 (c) full Medicaid Beneficiary?"

28.6 (b) Agents shall list any other health insurance policies they have sold to the applicant.

28.7 (1) List policies sold that are still in force.

28.8 (2) List policies sold in the past five years that are no longer in force.

28.9 (c) In the case of a direct response issuer, a copy of the application or supplemental
28.10 form, signed by the applicant, and acknowledged by the insurer, shall be returned to the
28.11 applicant by the insurer on delivery of the policy or certificate.

28.12 (d) Upon determining that a sale will involve replacement of Medicare supplement
28.13 coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the
28.14 applicant, before issuance or delivery of the Medicare supplement policy or certificate, a
28.15 notice regarding replacement of Medicare supplement coverage. One copy of the notice
28.16 signed by the applicant and the agent, except where the coverage is sold without an agent,
28.17 shall be provided to the applicant and an additional signed copy shall be retained by the
28.18 issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of
28.19 the policy or certificate the notice regarding replacement of Medicare supplement coverage.

28.20 (e) The notice required by paragraph (d) for an issuer shall be provided in substantially
28.21 the following form in no less than 12-point type:

28.22 "NOTICE TO APPLICANT REGARDING REPLACEMENT

28.23 OF MEDICARE SUPPLEMENT INSURANCE

28.24 (Insurance company's name and address)

28.25 **SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.**

28.26 According to (your application) (information you have furnished), you intend to terminate
28.27 existing Medicare supplement insurance and replace it with a policy or certificate to be
28.28 issued by (Company Name) Insurance Company. Your new policy or certificate will provide
28.29 30 days within which you may decide without cost whether you desire to keep the policy
28.30 or certificate.

29.1 You should review this new coverage carefully. Compare it with all accident and sickness
29.2 coverage you now have. If, after due consideration, you find that purchase of this Medicare
29.3 supplement coverage is a wise decision you should terminate your present Medicare
29.4 supplement policy. You should evaluate the need for other accident and sickness coverage
29.5 you have that may duplicate this policy.

29.6 STATEMENT TO APPLICANT BY ISSUER, AGENT, (BROKER OR OTHER
29.7 REPRESENTATIVE): I have reviewed your current medical or health insurance
29.8 coverage. To the best of my knowledge this Medicare supplement policy will not duplicate
29.9 your existing Medicare supplement policy because you intend to terminate the existing
29.10 Medicare supplement policy. The replacement policy or certificate is being purchased
29.11 for the following reason(s) (check one):

- 29.12 Additional benefits
- 29.13 No change in benefits, but lower premiums
- 29.14 Fewer benefits and lower premiums
- 29.15 Other (please specify)
- 29.16
- 29.17
- 29.18

29.19 ~~(1) Health conditions which you may presently have (preexisting conditions) may not~~
29.20 ~~be immediately or fully covered under the new policy or certificate. This could result~~
29.21 ~~in denial or delay of a claim for benefits under the new policy or certificate, whereas a~~
29.22 ~~similar claim might have been payable under your present policy or certificate.~~

29.23 ~~(2) State law provides that your replacement policy or certificate may not contain new~~
29.24 ~~preexisting conditions, waiting periods, elimination periods, or probationary periods.~~
29.25 ~~The insurer will waive any time periods applicable to preexisting conditions, waiting~~
29.26 ~~periods, elimination periods, or probationary periods in the new policy (or coverage)~~
29.27 ~~for similar benefits to the extent the time was spent (depleted) under the original policy~~
29.28 ~~or certificate.~~

29.29 ~~(3) If you still wish to terminate your present policy or certificate and replace it with~~
29.30 ~~new coverage, be certain to truthfully and completely answer all questions on the~~
29.31 ~~application concerning your medical and health history. Failure to include all material~~
29.32 ~~medical information on an application may provide a basis for the company to deny any~~
29.33 ~~future claims and to refund your premium as though your policy or certificate had never~~
29.34 ~~been in force. After the application has been completed and before you sign it, review~~

30.1 ~~it carefully to be certain that all information has been properly recorded. (If the policy~~
30.2 ~~or certificate is guaranteed issue, this paragraph need not appear.)~~

30.3 Do not cancel your present policy or certificate until you have received your new policy
30.4 or certificate and you are sure that you want to keep it.

30.5
30.6 (Signature of Agent, Broker, or Other Representative)*

30.7
30.8 (Typed Name and Address of Issuer, Agent, or Broker)

30.9
30.10 (Date)

30.11
30.12 (Applicant's Signature)

30.13
30.14 (Date)

30.15 *Signature not required for direct response sales."

30.16 ~~(f) Paragraph (e), clauses (1) and (2), of the replacement notice (applicable to preexisting~~
30.17 ~~conditions) may be deleted by an issuer if the replacement does not involve application of~~
30.18 ~~a new preexisting condition limitation.~~

30.19 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to policies
30.20 offered, issued, or renewed on or after that date.

30.21 Sec. 16. Minnesota Statutes 2022, section 62D.02, is amended by adding a subdivision to
30.22 read:

30.23 Subd. 17. **Preventive items and services.** "Preventive items and services" has the
30.24 meaning given in section 62Q.46, subdivision 1, paragraph (a).

30.25 Sec. 17. Minnesota Statutes 2022, section 62D.095, subdivision 2, is amended to read:

30.26 Subd. 2. **Co-payments.** A health maintenance contract may impose a co-payment and
30.27 coinsurance consistent with the provisions of the Affordable Care Act as defined under
30.28 section 62A.011, subdivision 1a, and for items and services that are not preventive items
30.29 and services.

31.1 Sec. 18. Minnesota Statutes 2022, section 62D.095, subdivision 3, is amended to read:

31.2 Subd. 3. **Deductibles.** A health maintenance contract ~~may~~ must not impose a deductible
31.3 ~~consistent with the provisions of the Affordable Care Act as defined under section 62A.011,~~
31.4 ~~subdivision 1a~~ for preventive items and services.

31.5 Sec. 19. Minnesota Statutes 2022, section 62D.095, subdivision 5, is amended to read:

31.6 Subd. 5. **Exceptions.** ~~No~~ Co-payments or deductibles ~~may~~ must not be imposed on
31.7 preventive ~~health care~~ items and services ~~consistent with the provisions of the Affordable~~
31.8 ~~Care Act as defined under section 62A.011, subdivision 1a.~~

31.9 Sec. 20. Minnesota Statutes 2022, section 62J.26, subdivision 1, is amended to read:

31.10 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
31.11 the meanings given unless the context otherwise requires:

31.12 (1) "commissioner" means the commissioner of commerce;

31.13 (2) "enrollee" has the meaning given in section 62Q.01, subdivision 2b;

31.14 (3) "health plan" means a health plan as defined in section 62A.011, subdivision 3, but
31.15 includes coverage listed in clauses (7) and (10) of that definition;

31.16 (4) "mandated health benefit proposal" or "proposal" means a proposal that would
31.17 statutorily require a health plan company to do the following:

31.18 (i) provide coverage or increase the amount of coverage for the treatment of a particular
31.19 disease, condition, or other health care need;

31.20 (ii) provide coverage or increase the amount of coverage of a particular type of health
31.21 care treatment or service or of equipment, supplies, or drugs used in connection with a health
31.22 care treatment or service;

31.23 (iii) provide coverage for care delivered by a specific type of provider;

31.24 (iv) require a particular benefit design or impose conditions on cost-sharing for:

31.25 (A) the treatment of a particular disease, condition, or other health care need;

31.26 (B) a particular type of health care treatment or service; or

31.27 (C) the provision of medical equipment, supplies, or a prescription drug used in
31.28 connection with treating a particular disease, condition, or other health care need; or

32.1 (v) impose limits or conditions on a contract between a health plan company and a health
32.2 care provider.

32.3 (b) "Mandated health benefit proposal" does not include health benefit proposals;

32.4 (1) amending the scope of practice of a licensed health care professional; or

32.5 (2) that make state law consistent with federal law.

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

32.7 Sec. 21. Minnesota Statutes 2022, section 62J.26, subdivision 2, is amended to read:

32.8 Subd. 2. **Evaluation process and content.** (a) The commissioner, in consultation with
32.9 the commissioners of health and management and budget, must evaluate all mandated health
32.10 benefit proposals as provided under subdivision 3.

32.11 (b) The purpose of the evaluation is to provide the legislature with a complete and timely
32.12 analysis of all ramifications of any mandated health benefit proposal. The evaluation must
32.13 include, in addition to other relevant information, the following to the extent applicable:

32.14 (1) scientific and medical information on the mandated health benefit proposal, on the
32.15 potential for harm or benefit to the patient, and on the comparative benefit or harm from
32.16 alternative forms of treatment, and must include the results of at least one professionally
32.17 accepted and controlled trial comparing the medical consequences of the proposed therapy,
32.18 alternative therapy, and no therapy;

32.19 (2) public health, economic, and fiscal impacts of the mandated health benefit proposal
32.20 on persons receiving health services in Minnesota, on the relative cost-effectiveness of the
32.21 proposal, and on the health care system in general;

32.22 (3) the extent to which the treatment, service, equipment, or drug is generally utilized
32.23 by a significant portion of the population;

32.24 (4) the extent to which insurance coverage for the mandated health benefit proposal is
32.25 already generally available;

32.26 (5) the extent to which the mandated health benefit proposal, by health plan category,
32.27 would apply to the benefits offered to the health plan's enrollees;

32.28 (6) the extent to which the mandated health benefit proposal will increase or decrease
32.29 the cost of the treatment, service, equipment, or drug;

32.30 (7) the extent to which the mandated health benefit proposal may increase enrollee
32.31 premiums; and

33.1 (8) if the proposal applies to a qualified health plan as defined in section 62A.011,
33.2 subdivision 7, the cost to the state to defray the cost of the mandated health benefit proposal
33.3 using commercial market reimbursement rates in accordance with Code of Federal
33.4 Regulations, title 45, section 155.70.

33.5 (c) The commissioner shall consider actuarial analysis done by health plan companies
33.6 and any other proponent or opponent of the mandated health benefit proposal in determining
33.7 the cost of the proposal.

33.8 (d) The commissioner must summarize the nature and quality of available information
33.9 on these issues, and, if possible, must provide preliminary information to the public. The
33.10 commissioner may conduct research on these issues or may determine that existing research
33.11 is sufficient to meet the informational needs of the legislature. The commissioner may seek
33.12 the assistance and advice of researchers, community leaders, or other persons or organizations
33.13 with relevant expertise. The commissioner must provide the public with at least 45 days'
33.14 notice when requesting information pursuant to this section. The commissioner must notify
33.15 the chief authors of a bill when a request for information is issued.

33.16 (e) Information submitted to the commissioner pursuant to this section that meets the
33.17 definition of trade secret information, as defined in section 13.37, subdivision 1, paragraph
33.18 (b), is nonpublic data.

33.19 Sec. 22. Minnesota Statutes 2022, section 62J.26, is amended by adding a subdivision to
33.20 read:

33.21 Subd. 6. **Notification.** (a) Upon passage of the law containing a mandated health benefit
33.22 proposal, the commissioner must notify health plan companies of the change to benefits.
33.23 Health plan companies must report to the commissioner estimated costs attributed to the
33.24 change in benefits over a ten-year period. A health plan company's calculation of the costs
33.25 must:

33.26 (1) be based on an analysis performed in accordance with generally accepted actuarial
33.27 principles and methodologies;

33.28 (2) be conducted by a member of the American Academy of Actuaries; and

33.29 (3) include projected costs for the ten years following the effective date of the change
33.30 in benefits.

33.31 (b) The commissioner must annually report to the legislature defrayal amounts paid to
33.32 health plan companies pursuant to Code of Federal Regulations, title 45, section 155.70.

34.1 The report must compare the amounts paid to each health plan company to the estimated
34.2 amount projected by each health plan company in its report pursuant to paragraph (a).

34.3 **Sec. 23. [62J.841] DEFINITIONS.**

34.4 Subdivision 1. **Scope.** For purposes of sections 62J.841 to 62J.845, the following
34.5 definitions apply.

34.6 Subd. 2. **Consumer Price Index.** "Consumer Price Index" means the Consumer Price
34.7 Index, Annual Average, for All Urban Consumers, CPI-U: U.S. City Average, All Items,
34.8 reported by the United States Department of Labor, Bureau of Labor Statistics, or its
34.9 successor or, if the index is discontinued, an equivalent index reported by a federal authority
34.10 or, if no such index is reported, "Consumer Price Index" means a comparable index chosen
34.11 by the Bureau of Labor Statistics.

34.12 Subd. 3. **Generic or off-patent drug.** "Generic or off-patent drug" means any prescription
34.13 drug for which any exclusive marketing rights granted under the Federal Food, Drug, and
34.14 Cosmetic Act, section 351 of the federal Public Health Service Act, and federal patent law
34.15 have expired, including any drug-device combination product for the delivery of a generic
34.16 drug.

34.17 Subd. 4. **Manufacturer.** "Manufacturer" has the meaning given in section 151.01,
34.18 subdivision 14a, but does not include an entity that must be licensed solely because the
34.19 entity repackages or relabels drugs.

34.20 Subd. 5. **Prescription drug.** "Prescription drug" means a drug for human use subject
34.21 to United States Code, title 21, section 353(b)(1).

34.22 Subd. 6. **Wholesale acquisition cost.** "Wholesale acquisition cost" has the meaning
34.23 provided in United States Code, title 42, section 1395w-3a.

34.24 Subd. 7. **Wholesale distributor.** "Wholesale distributor" has the meaning provided in
34.25 section 151.441, subdivision 14.

34.26 **Sec. 24. [62J.842] EXCESSIVE PRICE INCREASES PROHIBITED.**

34.27 Subdivision 1. **Prohibition.** No manufacturer shall impose, or cause to be imposed, an
34.28 excessive price increase, whether directly or through a wholesale distributor, pharmacy, or
34.29 similar intermediary, on the sale of any generic or off-patent drug sold, dispensed, or
34.30 delivered to any consumer in the state.

35.1 Subd. 2. Excessive price increase. A price increase is excessive for purposes of this
35.2 section when:

35.3 (1) the price increase, adjusted for inflation utilizing the Consumer Price Index, exceeds:

35.4 (i) 15 percent of the wholesale acquisition cost over the immediately preceding calendar
35.5 year; or

35.6 (ii) 40 percent of the wholesale acquisition cost over the immediately preceding three
35.7 calendar years; and

35.8 (2) the price increase, adjusted for inflation utilizing the Consumer Price Index, exceeds
35.9 \$30 for:

35.10 (i) a 30-day supply of the drug; or

35.11 (ii) a course of treatment lasting less than 30 days.

35.12 Subd. 3. Exemption. It is not a violation of this section for a wholesale distributor or
35.13 pharmacy to increase the price of a generic or off-patent drug if the price increase is directly
35.14 attributable to additional costs for the drug imposed on the wholesale distributor or pharmacy
35.15 by the manufacturer of the drug.

35.16 Sec. 25. [62J.843] REGISTERED AGENT AND OFFICE WITHIN THE STATE.

35.17 Any manufacturer that sells, distributes, delivers, or offers for sale any generic or
35.18 off-patent drug in the state must maintain a registered agent and office within the state.

35.19 Sec. 26. [62J.844] ENFORCEMENT.

35.20 Subdivision 1. Notification. (a) The commissioner of health shall notify the manufacturer
35.21 of a generic or off-patent drug and the attorney general of any price increase that the
35.22 commissioner believes may violate section 62J.842.

35.23 (b) The commissioner of management and budget and any other state agency that provides
35.24 or purchases a pharmacy benefit except the Department of Human Services, and any entity
35.25 under contract with a state agency to provide a pharmacy benefit other than an entity under
35.26 contract with the Department of Human Services, may notify the manufacturer of a generic
35.27 or off-patent drug and the attorney general of any price increase that the commissioner or
35.28 entity believes may violate section 62J.842.

35.29 Subd. 2. Submission of drug cost statement and other information by manufacturer;
35.30 investigation by attorney general. (a) Within 45 days of receiving a notice under subdivision

36.1 1, the manufacturer of the generic or off-patent drug shall submit a drug cost statement to
36.2 the attorney general. The statement must:

36.3 (1) itemize the cost components related to production of the drug;

36.4 (2) identify the circumstances and timing of any increase in materials or manufacturing
36.5 costs that caused any increase during the preceding calendar year, or preceding three calendar
36.6 years as applicable, in the price of the drug; and

36.7 (3) provide any other information that the manufacturer believes to be relevant to a
36.8 determination of whether a violation of section 62J.842 has occurred.

36.9 (b) The attorney general may investigate whether a violation of section 62J.842 has
36.10 occurred, in accordance with section 8.31, subdivision 2.

36.11 Subd. 3. **Petition to court.** (a) On petition of the attorney general, a court may issue an
36.12 order:

36.13 (1) compelling the manufacturer of a generic or off-patent drug to:

36.14 (i) provide the drug cost statement required under subdivision 2, paragraph (a); and

36.15 (ii) answer interrogatories, produce records or documents, or be examined under oath,
36.16 as required by the attorney general under subdivision 2, paragraph (b);

36.17 (2) restraining or enjoining a violation of sections 62J.841 to 62J.845, including issuing
36.18 an order requiring that drug prices be restored to levels that comply with section 62J.842;

36.19 (3) requiring the manufacturer to provide an accounting to the attorney general of all
36.20 revenues resulting from a violation of section 62J.842;

36.21 (4) requiring the manufacturer to repay to all Minnesota consumers, including any
36.22 third-party payers, any money acquired as a result of a price increase that violates section
36.23 62J.842;

36.24 (5) notwithstanding section 16A.151, requiring that all revenues generated from a
36.25 violation of section 62J.842 be remitted to the state and deposited into a special fund, to be
36.26 used for initiatives to reduce the cost to consumers of acquiring prescription drugs, if a
36.27 manufacturer is unable to determine the individual transactions necessary to provide the
36.28 repayments described in clause (4);

36.29 (6) imposing a civil penalty of up to \$10,000 per day for each violation of section 62J.842;

37.1 (7) providing for the attorney general's recovery of costs and disbursements incurred in
37.2 bringing an action against a manufacturer found in violation of section 62J.842, including
37.3 the costs of investigation and reasonable attorney's fees; and

37.4 (8) providing any other appropriate relief, including any other equitable relief as
37.5 determined by the court.

37.6 (b) For purposes of paragraph (a), clause (6), every individual transaction in violation
37.7 of section 62J.842 is considered a separate violation.

37.8 Subd. 4. **Private right of action.** Any action brought pursuant to section 8.31, subdivision
37.9 3a, by a person injured by a violation of section 62J.842 is for the benefit of the public.

37.10 Sec. 27. **[62J.845] PROHIBITION ON WITHDRAWAL OF GENERIC OR**
37.11 **OFF-PATENT DRUGS FOR SALE.**

37.12 Subdivision 1. **Prohibition.** A manufacturer of a generic or off-patent drug is prohibited
37.13 from withdrawing that drug from sale or distribution within this state for the purpose of
37.14 avoiding the prohibition on excessive price increases under section 62J.842.

37.15 Subd. 2. **Notice to board and attorney general.** Any manufacturer that intends to
37.16 withdraw a generic or off-patent drug from sale or distribution within the state shall provide
37.17 a written notice of withdrawal to the attorney general at least 90 days prior to the withdrawal.

37.18 Subd. 3. **Financial penalty.** The attorney general shall assess a penalty of \$500,000 on
37.19 any manufacturer of a generic or off-patent drug that the attorney general determines has
37.20 failed to comply with the requirements of this section.

37.21 Sec. 28. **[62J.846] SEVERABILITY.**

37.22 If any provision of sections 62J.841 to 62J.845 or the application thereof to any person
37.23 or circumstance is held invalid for any reason in a court of competent jurisdiction, the
37.24 invalidity does not affect other provisions or any other application of sections 62J.841 to
37.25 62J.845 that can be given effect without the invalid provision or application.

37.26 Sec. 29. **[62J.85] CITATION.**

37.27 Sections 62J.85 to 62J.95 may be cited as the "Prescription Drug Affordability Act."

37.28 Sec. 30. **[62J.86] DEFINITIONS.**

37.29 Subdivision 1. **Definitions.** For the purposes of sections 62J.85 to 62J.95, the following
37.30 terms have the meanings given.

38.1 Subd. 2. **Advisory council.** "Advisory council" means the Prescription Drug Affordability
38.2 Advisory Council established under section 62J.88.

38.3 Subd. 3. **Biologic.** "Biologic" means a drug that is produced or distributed in accordance
38.4 with a biologics license application approved under Code of Federal Regulations, title 42,
38.5 section 447.502.

38.6 Subd. 4. **Biosimilar.** "Biosimilar" has the meaning provided in section 62J.84, subdivision
38.7 2, paragraph (b).

38.8 Subd. 5. **Board.** "Board" means the Prescription Drug Affordability Board established
38.9 under section 62J.87.

38.10 Subd. 6. **Brand name drug.** "Brand name drug" means a drug that is produced or
38.11 distributed pursuant to:

38.12 (1) a new drug application approved under United States Code, title 21, section 355(c),
38.13 except for a generic drug as defined under Code of Federal Regulations, title 42, section
38.14 447.502; or

38.15 (2) a biologics license application approved under United States Code, title 45, section
38.16 262(a)(c).

38.17 Subd. 7. **Generic drug.** "Generic drug" has the meaning provided in section 62J.84,
38.18 subdivision 2, paragraph (e).

38.19 Subd. 8. **Group purchaser.** "Group purchaser" has the meaning given in section 62J.03,
38.20 subdivision 6, and includes pharmacy benefit managers, as defined in section 62W.02,
38.21 subdivision 15.

38.22 Subd. 9. **Manufacturer.** "Manufacturer" means an entity that:

38.23 (1) engages in the manufacture of a prescription drug product or enters into a lease with
38.24 another manufacturer to market and distribute a prescription drug product under the entity's
38.25 own name; and

38.26 (2) sets or changes the wholesale acquisition cost of the prescription drug product it
38.27 manufactures or markets.

38.28 Subd. 10. **Prescription drug product.** "Prescription drug product" means a brand name
38.29 drug, a generic drug, a biologic, or a biosimilar.

38.30 Subd. 11. **Wholesale acquisition cost or WAC.** "Wholesale acquisition cost" or "WAC"
38.31 has the meaning given in United States Code, title 42, section 1395W-3a(c)(6)(B).

39.1 Sec. 31. **[62J.87] PRESCRIPTION DRUG AFFORDABILITY BOARD.**

39.2 Subdivision 1. **Establishment.** The commissioner of commerce shall establish the
39.3 Prescription Drug Affordability Board, which shall be governed as a board under section
39.4 15.012, paragraph (a), to protect consumers, state and local governments, health plan
39.5 companies, providers, pharmacies, and other health care system stakeholders from
39.6 unaffordable costs of certain prescription drugs.

39.7 Subd. 2. **Membership.** (a) The Prescription Drug Affordability Board consists of nine
39.8 members appointed as follows:

39.9 (1) seven voting members appointed by the governor;

39.10 (2) one nonvoting member appointed by the majority leader of the senate; and

39.11 (3) one nonvoting member appointed by the speaker of the house.

39.12 (b) All members appointed must have knowledge and demonstrated expertise in
39.13 pharmaceutical economics and finance or health care economics and finance. A member
39.14 must not be an employee of, a board member of, or a consultant to a manufacturer or trade
39.15 association for manufacturers, or a pharmacy benefit manager or trade association for
39.16 pharmacy benefit managers.

39.17 (c) Initial appointments must be made by January 1, 2024.

39.18 Subd. 3. **Terms.** (a) Board appointees shall serve four-year terms, except that initial
39.19 appointees shall serve staggered terms of two, three, or four years as determined by lot by
39.20 the secretary of state. A board member shall serve no more than two consecutive terms.

39.21 (b) A board member may resign at any time by giving written notice to the board.

39.22 Subd. 4. **Chair; other officers.** (a) The governor shall designate an acting chair from
39.23 the members appointed by the governor.

39.24 (b) The board shall elect a chair to replace the acting chair at the first meeting of the
39.25 board by a majority of the members. The chair shall serve for one year.

39.26 (c) The board shall elect a vice-chair and other officers from its membership as it deems
39.27 necessary.

39.28 Subd. 5. **Staff; technical assistance.** (a) The board shall hire an executive director and
39.29 other staff, who shall serve in the unclassified service. The executive director must have
39.30 knowledge and demonstrated expertise in pharmacoeconomics, pharmacology, health policy,
39.31 health services research, medicine, or a related field or discipline.

40.1 (b) The commissioner of health shall provide technical assistance to the board. The board
40.2 may also employ or contract for professional and technical assistance as the board deems
40.3 necessary to perform the board's duties.

40.4 (c) The attorney general shall provide legal services to the board.

40.5 Subd. 6. **Compensation.** The board members shall not receive compensation but may
40.6 receive reimbursement for expenses as authorized under section 15.059, subdivision 3.

40.7 Subd. 7. **Meetings.** (a) Meetings of the board are subject to chapter 13D. The board shall
40.8 meet publicly at least every three months to review prescription drug product information
40.9 submitted to the board under section 62J.90. If there are no pending submissions, the chair
40.10 of the board may cancel or postpone the required meeting. The board may meet in closed
40.11 session when reviewing proprietary information, as determined under the standards developed
40.12 in accordance with section 62J.91, subdivision 3.

40.13 (b) The board shall announce each public meeting at least three weeks prior to the
40.14 scheduled date of the meeting. Any materials for the meeting shall be made public at least
40.15 two weeks prior to the scheduled date of the meeting.

40.16 (c) At each public meeting, the board shall provide the opportunity for comments from
40.17 the public, including the opportunity for written comments to be submitted to the board
40.18 prior to a decision by the board.

40.19 Sec. 32. **[62J.88] PRESCRIPTION DRUG AFFORDABILITY ADVISORY**
40.20 **COUNCIL.**

40.21 Subdivision 1. **Establishment.** The governor shall appoint a 18-member stakeholder
40.22 advisory council to provide advice to the board on drug cost issues and to represent
40.23 stakeholders' views. The governor shall appoint the members of the advisory council based
40.24 on the members' knowledge and demonstrated expertise in one or more of the following
40.25 areas: the pharmaceutical business; practice of medicine; patient perspectives; health care
40.26 cost trends and drivers; clinical and health services research; and the health care marketplace.

40.27 Subd. 2. **Membership.** The council's membership shall consist of the following:

40.28 (1) two members representing patients and health care consumers;

40.29 (2) two members representing health care providers;

40.30 (3) one member representing health plan companies;

40.31 (4) two members representing employers, with one member representing large employers
40.32 and one member representing small employers;

- 41.1 (5) one member representing government employee benefit plans;
41.2 (6) one member representing pharmaceutical manufacturers;
41.3 (7) one member who is a health services clinical researcher;
41.4 (8) one member who is a pharmacologist;
41.5 (9) one member representing the commissioner of health with expertise in health
41.6 economics;
41.7 (10) one member representing pharmaceutical wholesalers;
41.8 (11) one member representing pharmacy benefit managers;
41.9 (12) one member from the Rare Disease Advisory Council;
41.10 (13) one member representing generic drug manufacturers;
41.11 (14) one member representing pharmaceutical distributors; and
41.12 (15) one member who is an oncologist who is not employed by, under contract with, or
41.13 otherwise affiliated with a hospital.

41.14 Subd. 3. **Terms.** (a) The initial appointments to the advisory council must be made by
41.15 January 1, 2024. The initial appointed advisory council members shall serve staggered terms
41.16 of two, three, or four years, determined by lot by the secretary of state. Following the initial
41.17 appointments, the advisory council members shall serve four-year terms.

41.18 (b) Removal and vacancies of advisory council members shall be governed by section
41.19 15.059.

41.20 Subd. 4. **Compensation.** Advisory council members may be compensated according to
41.21 section 15.059.

41.22 Subd. 5. **Meetings.** Meetings of the advisory council are subject to chapter 13D. The
41.23 advisory council shall meet publicly at least every three months to advise the board on drug
41.24 cost issues related to the prescription drug product information submitted to the board under
41.25 section 62J.90.

41.26 Subd. 6. **Exemption.** Notwithstanding section 15.059, the advisory council shall not
41.27 expire.

41.28 Sec. 33. **[62J.89] CONFLICTS OF INTEREST.**

41.29 Subdivision 1. **Definition.** For purposes of this section, "conflict of interest" means a
41.30 financial or personal association that has the potential to bias or have the appearance of

42.1 biasing a person's decisions in matters related to the board, the advisory council, or in the
42.2 conduct of the board's or council's activities. A conflict of interest includes any instance in
42.3 which a person, a person's immediate family member, including a spouse, parent, child, or
42.4 other legal dependent, or an in-law of any of the preceding individuals, has received or
42.5 could receive a direct or indirect financial benefit of any amount deriving from the result
42.6 or findings of a decision or determination of the board. For purposes of this section, a
42.7 financial benefit includes honoraria, fees, stock, the value of the member's, immediate family
42.8 member's, or in-law's stock holdings, and any direct financial benefit deriving from the
42.9 finding of a review conducted under sections 62J.85 to 62J.95. Ownership of securities is
42.10 not a conflict of interest if the securities are: (1) part of a diversified mutual or exchange
42.11 traded fund; or (2) in a tax-deferred or tax-exempt retirement account that is administered
42.12 by an independent trustee.

42.13 Subd. 2. **General.** (a) Prior to the acceptance of an appointment or employment, or prior
42.14 to entering into a contractual agreement, a board or advisory council member, board staff
42.15 member, or third-party contractor must disclose to the appointing authority or the board
42.16 any conflicts of interest. The information disclosed must include the type, nature, and
42.17 magnitude of the interests involved.

42.18 (b) A board member, board staff member, or third-party contractor with a conflict of
42.19 interest with regard to any prescription drug product under review must recuse themselves
42.20 from any discussion, review, decision, or determination made by the board relating to the
42.21 prescription drug product.

42.22 (c) Any conflict of interest must be disclosed in advance of the first meeting after the
42.23 conflict is identified or within five days after the conflict is identified, whichever is earlier.

42.24 Subd. 3. **Prohibitions.** Board members, board staff, or third-party contractors are
42.25 prohibited from accepting gifts, bequeaths, or donations of services or property that raise
42.26 the specter of a conflict of interest or have the appearance of injecting bias into the activities
42.27 of the board.

42.28 Sec. 34. **[62J.90] PRESCRIPTION DRUG PRICE INFORMATION; DECISION**
42.29 **TO CONDUCT COST REVIEW.**

42.30 Subdivision 1. **Drug price information from the commissioner of health and other**
42.31 **sources.** (a) The commissioner of health shall provide to the board the information reported
42.32 to the commissioner by drug manufacturers under section 62J.84, subdivisions 3, 4, and 5.
42.33 The commissioner shall provide this information to the board within 30 days of the date the
42.34 information is received from drug manufacturers.

43.1 (b) The board may subscribe to one or more prescription drug pricing files, such as
43.2 Medispan or FirstDatabank, or as otherwise determined by the board.

43.3 Subd. 2. **Identification of certain prescription drug products.** (a) The board, in
43.4 consultation with the advisory council, shall identify selected prescription drug products
43.5 based on the following criteria:

43.6 (1) brand name drugs or biologics for which the WAC increases by more than 15 percent
43.7 or by more than \$3,000 during any 12-month period or course of treatment if less than 12
43.8 months, after adjusting for changes in the consumer price index (CPI);

43.9 (2) brand name drugs or biologics with a WAC of \$60,000 or more per calendar year
43.10 or per course of treatment;

43.11 (3) biosimilar drugs that have a WAC that is not at least 20 percent lower than the
43.12 referenced brand name biologic at the time the biosimilar is introduced; and

43.13 (4) generic drugs for which the WAC:

43.14 (i) is \$100 or more, after adjusting for changes in the CPI, for:

43.15 (A) a 30-day supply;

43.16 (B) a course of treatment lasting less than 30 days; or

43.17 (C) one unit of the drug, if the labeling approved by the Food and Drug Administration
43.18 does not recommend a finite dosage; and

43.19 (ii) increased by 200 percent or more during the immediate preceding 12-month period,
43.20 as determined by the difference between the resulting WAC and the average WAC reported
43.21 over the preceding 12 months, after adjusting for changes in the CPI.

43.22 The board is not required to identify all prescription drug products that meet the criteria in
43.23 this paragraph.

43.24 (b) The board, in consultation with the advisory council and the commissioner of health,
43.25 may identify prescription drug products not described in paragraph (a) that may impose
43.26 costs that create significant affordability challenges for the state health care system or for
43.27 patients, including but not limited to drugs to address public health emergencies.

43.28 (c) The board shall make available to the public the names and related price information
43.29 of the prescription drug products identified under this subdivision, with the exception of
43.30 information determined by the board to be proprietary under the standards developed by
43.31 the board under section 62J.91, subdivision 3, and information provided by the commissioner
43.32 of health classified as not public data under section 13.02, subdivision 8a, or as trade secret

44.1 information under section 13.37, subdivision 1, paragraph (b), or as trade secret information
44.2 under the Defend Trade Secrets Act of 2016, United States Code, title 18, section 1836, as
44.3 amended.

44.4 Subd. 3. **Determination to proceed with review.** (a) The board may initiate a cost
44.5 review of a prescription drug product identified by the board under this section.

44.6 (b) The board shall consider requests by the public for the board to proceed with a cost
44.7 review of any prescription drug product identified under this section.

44.8 (c) If there is no consensus among the members of the board on whether to initiate a
44.9 cost review of a prescription drug product, any member of the board may request a vote to
44.10 determine whether to review the cost of the prescription drug product.

44.11 Sec. 35. **[62J.91] PRESCRIPTION DRUG PRODUCT REVIEWS.**

44.12 Subdivision 1. **General.** Once a decision by the board has been made to proceed with
44.13 a cost review of a prescription drug product, the board shall conduct the review and make
44.14 a determination as to whether appropriate utilization of the prescription drug under review,
44.15 based on utilization that is consistent with the United States Food and Drug Administration
44.16 (FDA) label or standard medical practice, has led or will lead to affordability challenges
44.17 for the state health care system or for patients.

44.18 Subd. 2. **Review considerations.** In reviewing the cost of a prescription drug product,
44.19 the board may consider the following factors:

44.20 (1) the price at which the prescription drug product has been and will be sold in the state;

44.21 (2) manufacturer monetary price concessions, discounts, or rebates, and drug-specific
44.22 patient assistance;

44.23 (3) the price of therapeutic alternatives;

44.24 (4) the cost to group purchasers based on patient access consistent with the FDA-labeled
44.25 indications and standard medical practice;

44.26 (5) measures of patient access, including cost-sharing and other metrics;

44.27 (6) the extent to which the attorney general or a court has determined that a price increase
44.28 for a generic or off-patent prescription drug product was excessive under sections 62J.842
44.29 and 62J.844;

44.30 (7) any information a manufacturer chooses to provide; and

44.31 (8) any other factors as determined by the board.

45.1 Subd. 3. **Public data; proprietary information.** (a) Any submission made to the board
45.2 related to a drug cost review must be made available to the public with the exception of
45.3 information determined by the board to be proprietary and information provided by the
45.4 commissioner of health classified as not public data under section 13.02, subdivision 8a, or
45.5 as trade secret information under section 13.37, subdivision 1, paragraph (b), or as trade
45.6 secret information under the Defend Trade Secrets Act of 2016, United States Code, title
45.7 18, section 1836, as amended.

45.8 (b) The board shall establish the standards for the information to be considered proprietary
45.9 under paragraph (a) and section 62J.90, subdivision 2, including standards for heightened
45.10 consideration of proprietary information for submissions for a cost review of a drug that is
45.11 not yet approved by the FDA.

45.12 (c) Prior to the board establishing the standards under paragraph (b), the public shall be
45.13 provided notice and the opportunity to submit comments.

45.14 (d) The establishment of standards under this subdivision is exempt from the rulemaking
45.15 requirements under chapter 14, and section 14.386 does not apply.

45.16 **Sec. 36. [62J.92] DETERMINATIONS; COMPLIANCE; REMEDIES.**

45.17 Subdivision 1. **Upper payment limit.** (a) In the event the board finds that the spending
45.18 on a prescription drug product reviewed under section 62J.91 creates an affordability
45.19 challenge for the state health care system or for patients, the board shall establish an upper
45.20 payment limit after considering:

45.21 (1) extraordinary supply costs, if applicable;

45.22 (2) the range of prices at which the drug is sold in the United States according to one or
45.23 more pricing files accessed under section 62J.90, subdivision 1, and the range at which
45.24 pharmacies are reimbursed in Canada; and

45.25 (3) any other relevant pricing and administrative cost information for the drug.

45.26 (b) An upper payment limit applies to all purchases of, and payer reimbursements for,
45.27 a prescription drug that is dispensed or administered to individuals in the state in person,
45.28 by mail, or by other means, and for which an upper payment limit has been established.

45.29 Subd. 2. **Implementation and administration of the upper payment limit.** (a) An
45.30 upper payment limit may take effect no sooner than 120 days following the date of its public
45.31 release by the board.

46.1 (b) When setting an upper payment limit for a drug subject to the Medicare maximum
46.2 fair price under United States Code, title 42, section 1191(c), the board shall set the upper
46.3 payment limit at the Medicare maximum fair price.

46.4 (c) Pharmacy dispensing fees must not be counted toward or subject to any upper payment
46.5 limit. State-licensed independent pharmacies must not be reimbursed by health carriers and
46.6 pharmacy benefit managers at amounts that are less than the upper payment limit.

46.7 (d) Health plan companies and pharmacy benefit managers shall report annually to the
46.8 board, in the form and manner specified by the board, on how cost savings resulting from
46.9 the establishment of an upper payment limit have been used by the health plan company or
46.10 pharmacy benefit manager to benefit enrollees, including but not limited to reducing enrollee
46.11 cost-sharing.

46.12 Subd. 3. **Noncompliance.** (a) The board shall, and other persons may, notify the Office
46.13 of the Attorney General of a potential failure by an entity subject to an upper payment limit
46.14 to comply with that limit.

46.15 (b) If the Office of the Attorney General finds that an entity was noncompliant with the
46.16 upper payment limit requirements, the attorney general may pursue remedies consistent
46.17 with chapter 8 or appropriate criminal charges if there is evidence of intentional profiteering.

46.18 (c) An entity who obtains price concessions from a drug manufacturer that result in a
46.19 lower net cost to the stakeholder than the upper payment limit established by the board is
46.20 not considered noncompliant.

46.21 (d) The Office of the Attorney General may provide guidance to stakeholders concerning
46.22 activities that could be considered noncompliant.

46.23 Subd. 4. **Appeals.** (a) Persons affected by a decision of the board may request an appeal
46.24 of the board's decision within 30 days of the date of the decision. The board shall hear the
46.25 appeal and render a decision within 60 days of the hearing.

46.26 (b) All appeal decisions are subject to judicial review in accordance with chapter 14.

46.27 Sec. 37. **[62J.93] REPORTS.**

46.28 Beginning March 1, 2024, and each March 1 thereafter, the board shall submit a report
46.29 to the governor and legislature on general price trends for prescription drug products and
46.30 the number of prescription drug products that were subject to the board's cost review and
46.31 analysis, including the result of any analysis as well as the number and disposition of appeals
46.32 and judicial reviews.

47.1 Sec. 38. [62J.94] ERISA PLANS AND MEDICARE DRUG PLANS.

47.2 (a) Nothing in sections 62J.85 to 62J.95 shall be construed to require ERISA plans or
47.3 Medicare Part D plans to comply with decisions of the board. ERISA plans or Medicare
47.4 Part D plans are free to choose to exceed the upper payment limit established by the board
47.5 under section 62J.92.

47.6 (b) Providers who dispense and administer drugs in the state must bill all payers no more
47.7 than the upper payment limit without regard to whether an ERISA plan or Medicare Part
47.8 D plan chooses to reimburse the provider in an amount greater than the upper payment limit
47.9 established by the board.

47.10 (c) For purposes of this section, an ERISA plan or group health plan is an employee
47.11 welfare benefit plan established by or maintained by an employer or an employee
47.12 organization, or both, that provides employer sponsored health coverage to employees and
47.13 the employee's dependents and is subject to the Employee Retirement Income Security Act
47.14 of 1974 (ERISA).

47.15 Sec. 39. [62J.95] SEVERABILITY.

47.16 If any provision of sections 62J.85 to 62J.94 or the application thereof to any person or
47.17 circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity
47.18 does not affect other provisions or any other application of sections 62J.85 to 62J.94 that
47.19 can be given effect without the invalid provision or application.

47.20 Sec. 40. Minnesota Statutes 2022, section 62K.10, subdivision 4, is amended to read:

47.21 Subd. 4. **Network adequacy.** (a) Each designated provider network must include a
47.22 sufficient number and type of providers, including providers that specialize in mental health
47.23 and substance use disorder services, to ensure that covered services are available to all
47.24 enrollees without unreasonable delay. In determining network adequacy, the commissioner
47.25 of health shall consider availability of services, including the following:

47.26 (1) primary care physician services are available and accessible 24 hours per day, seven
47.27 days per week, within the network area;

47.28 (2) a sufficient number of primary care physicians have hospital admitting privileges at
47.29 one or more participating hospitals within the network area so that necessary admissions
47.30 are made on a timely basis consistent with generally accepted practice parameters;

47.31 (3) specialty physician service is available through the network or contract arrangement;

48.1 (4) mental health and substance use disorder treatment providers, including but not
48.2 limited to psychiatric residential treatment facilities, are available and accessible through
48.3 the network or contract arrangement;

48.4 (5) to the extent that primary care services are provided through primary care providers
48.5 other than physicians, and to the extent permitted under applicable scope of practice in state
48.6 law for a given provider, these services shall be available and accessible; and

48.7 (6) the network has available, either directly or through arrangements, appropriate and
48.8 sufficient personnel, physical resources, and equipment to meet the projected needs of
48.9 enrollees for covered health care services.

48.10 (b) The commissioner must determine network sufficiency in a manner that is consistent
48.11 with the requirements of this section and may establish sufficiency by referencing any
48.12 reasonable criteria, which may include but is not limited to:

48.13 (1) provider-covered person ratios by specialty;

48.14 (2) primary care professional-covered person ratios;

48.15 (3) geographic accessibility of providers;

48.16 (4) geographic variation and population dispersion;

48.17 (5) waiting times for an appointment with participating providers;

48.18 (6) hours of operation;

48.19 (7) the ability of the network to meet the needs of covered persons, which may include:

48.20 (i) low-income persons;

48.21 (ii) children and adults with serious, chronic, or complex health conditions, physical
48.22 disabilities, or mental illness; or

48.23 (iii) persons with limited English proficiency and persons from underserved communities;

48.24 (8) other health care service delivery system options, including telemedicine or telehealth,
48.25 mobile clinics, centers of excellence, and other ways of delivering care; and

48.26 (9) the volume of technological and specialty care services available to serve the needs
48.27 of covered persons that need technologically advanced or specialty care services.

48.28 **EFFECTIVE DATE.** The amendment to paragraph (a) is effective July 1, 2023.

48.29 Paragraph (b) is effective January 1, 2025, and applies to health plans offered, issued, or
48.30 renewed on or after that date.

49.1 Sec. 41. Minnesota Statutes 2022, section 62Q.096, is amended to read:

49.2 **62Q.096 CREDENTIALING OF PROVIDERS.**

49.3 (a) If a health plan company has initially credentialed, as providers in its provider network,
49.4 individual providers employed by or under contract with an entity that:

49.5 (1) is authorized to bill under section 256B.0625, subdivision 5;

49.6 (2) is a mental health clinic certified under section 245I.20;

49.7 (3) is designated an essential community provider under section 62Q.19; and

49.8 (4) is under contract with the health plan company to provide mental health services,
49.9 the health plan company must continue to credential at least the same number of providers
49.10 from that entity, as long as those providers meet the health plan company's credentialing
49.11 standards.

49.12 (b) In order to ensure timely access by patients to mental health services, between July
49.13 1, 2023, and June 30, 2025, a health plan company must credential and enter into a contract
49.14 for mental health services with any provider of mental health services that:

49.15 (1) meets the health plan company's credential requirements. For purposes of credentialing
49.16 under this paragraph, a health plan company may waive credentialing requirements that are
49.17 not directly related to quality of care in order to ensure patient access to providers from
49.18 underserved communities or to providers in rural areas;

49.19 (2) seeks to receive a credential from the health plan company;

49.20 (3) agrees to the health plan company's contract terms. The contract shall include payment
49.21 rates that are usual and customary for the services provided;

49.22 (4) is accepting new patients; and

49.23 (5) is not already under a contract with the health plan company under a separate tax
49.24 identification number or, if already under a contract with the health plan company, has
49.25 provided notice to the health plan company of termination of the existing contract.

49.26 (c) A health plan company shall not refuse to credential these providers on the grounds
49.27 that their provider network has:

49.28 (1) a sufficient number of providers of that type, including but not limited to the provider
49.29 types identified in paragraph (a); or

49.30 (2) a sufficient number of providers of mental health services in the aggregate.

50.1 Sec. 42. Minnesota Statutes 2022, section 62Q.19, subdivision 1, is amended to read:

50.2 Subdivision 1. **Designation.** (a) The commissioner shall designate essential community
50.3 providers. The criteria for essential community provider designation shall be the following:

50.4 (1) a demonstrated ability to integrate applicable supportive and stabilizing services with
50.5 medical care for uninsured persons and high-risk and special needs populations, underserved,
50.6 and other special needs populations; and

50.7 (2) a commitment to serve low-income and underserved populations by meeting the
50.8 following requirements:

50.9 (i) has nonprofit status in accordance with chapter 317A;

50.10 (ii) has tax-exempt status in accordance with the Internal Revenue Service Code, section
50.11 501(c)(3);

50.12 (iii) charges for services on a sliding fee schedule based on current poverty income
50.13 guidelines; and

50.14 (iv) does not restrict access or services because of a client's financial limitation;

50.15 (3) status as a local government unit as defined in section 62D.02, subdivision 11, a
50.16 hospital district created or reorganized under sections 447.31 to 447.37, an Indian Tribal
50.17 government, an Indian health service unit, or a community health board as defined in chapter
50.18 145A;

50.19 (4) a former state hospital that specializes in the treatment of cerebral palsy, spina bifida,
50.20 epilepsy, closed head injuries, specialized orthopedic problems, and other disabling
50.21 conditions;

50.22 (5) a sole community hospital. For these rural hospitals, the essential community provider
50.23 designation applies to all health services provided, including both inpatient and outpatient
50.24 services. For purposes of this section, "sole community hospital" means a rural hospital
50.25 that:

50.26 (i) is eligible to be classified as a sole community hospital according to Code of Federal
50.27 Regulations, title 42, section 412.92, or is located in a community with a population of less
50.28 than 5,000 and located more than 25 miles from a like hospital currently providing acute
50.29 short-term services;

50.30 (ii) has experienced net operating income losses in two of the previous three most recent
50.31 consecutive hospital fiscal years for which audited financial information is available; and

50.32 (iii) consists of 40 or fewer licensed beds;

51.1 (6) a birth center licensed under section 144.615; ~~or~~

51.2 (7) a hospital and affiliated specialty clinics that predominantly serve patients who are
51.3 under 21 years of age and meet the following criteria:

51.4 (i) provide intensive specialty pediatric services that are routinely provided in fewer
51.5 than five hospitals in the state; and

51.6 (ii) serve children from at least one-half of the counties in the state; or

51.7 (8) a psychiatric residential treatment facility, as defined in section 256B.0625,
51.8 subdivision 45a, paragraph (b), that is certified by the commissioner of health and licensed
51.9 by the commissioner of human services.

51.10 (b) Prior to designation, the commissioner shall publish the names of all applicants in
51.11 the State Register. The public shall have 30 days from the date of publication to submit
51.12 written comments to the commissioner on the application. No designation shall be made
51.13 by the commissioner until the 30-day period has expired.

51.14 (c) The commissioner may designate an eligible provider as an essential community
51.15 provider for all the services offered by that provider or for specific services designated by
51.16 the commissioner.

51.17 (d) For the purpose of this subdivision, supportive and stabilizing services include at a
51.18 minimum, transportation, child care, cultural, and linguistic services where appropriate.

51.19 **EFFECTIVE DATE.** This section is effective January 1, 2025, and applies to health
51.20 plans offered, issued, or renewed on or after that date.

51.21 Sec. 43. Minnesota Statutes 2022, section 62Q.46, subdivision 1, is amended to read:

51.22 Subdivision 1. **Coverage for preventive items and services.** (a) "Preventive items and
51.23 services" has the meaning specified in the Affordable Care Act. Preventive items and services
51.24 includes:

51.25 (1) evidence-based items or services that have in effect a rating of A or B in the current
51.26 recommendations of the United States Preventive Services Task Force with respect to the
51.27 individual involved;

51.28 (2) immunizations for routine use in children, adolescents, and adults that have in effect
51.29 a recommendation from the Advisory Committee on Immunization Practices of the Centers
51.30 for Disease Control and Prevention with respect to the individual involved. For purposes
51.31 of this clause, a recommendation from the Advisory Committee on Immunization Practices
51.32 of the Centers for Disease Control and Prevention is considered in effect after the

52.1 recommendation has been adopted by the Director of the Centers for Disease Control and
52.2 Prevention, and a recommendation is considered to be for routine use if the recommendation
52.3 is listed on the Immunization Schedules of the Centers for Disease Control and Prevention;

52.4 (3) with respect to infants, children, and adolescents, evidence-informed preventive care
52.5 and screenings provided for in comprehensive guidelines supported by the Health Resources
52.6 and Services Administration;

52.7 (4) with respect to women, additional preventive care and screenings that are not listed
52.8 with a rating of A or B by the United States Preventive Services Task Force but that are
52.9 provided for in comprehensive guidelines supported by the Health Resources and Services
52.10 Administration;

52.11 (5) all contraceptive methods established in guidelines published by the United States
52.12 Food and Drug Administration;

52.13 (6) screenings for human immunodeficiency virus for:

52.14 (i) all individuals at least 15 years of age but less than 65 years of age; and

52.15 (ii) all other individuals with increased risk of human immunodeficiency virus infection
52.16 according to guidance from the Centers for Disease Control;

52.17 (7) all preexposure prophylaxis when used for the prevention or treatment of human
52.18 immunodeficiency virus, including but not limited to all preexposure prophylaxis, as defined
52.19 in any guidance by the United States Preventive Services Task Force or the Centers for
52.20 Disease Control, including the June 11, 2019, Preexposure Prophylaxis for the Prevention
52.21 of HIV Infection United States Preventive Services Task Force Recommendation Statement;
52.22 and

52.23 (8) all postexposure prophylaxis when used for the prevention or treatment of human
52.24 immunodeficiency virus, including but not limited to all postexposure prophylaxis, as defined
52.25 in any guidance by the United States Preventive Services Task Force or the Centers for
52.26 Disease Control.

52.27 (b) A health plan company must provide coverage for preventive items and services at
52.28 a participating provider without imposing cost-sharing requirements, including a deductible,
52.29 coinsurance, or co-payment. Nothing in this section prohibits a health plan company that
52.30 has a network of providers from excluding coverage or imposing cost-sharing requirements
52.31 for preventive items or services that are delivered by an out-of-network provider.

52.32 (c) A health plan company is not required to provide coverage for any items or services
52.33 specified in any recommendation or guideline described in paragraph (a) if the

53.1 recommendation or guideline is no longer included as a preventive item or service as defined
53.2 in paragraph (a). Annually, a health plan company must determine whether any additional
53.3 items or services must be covered without cost-sharing requirements or whether any items
53.4 or services are no longer required to be covered.

53.5 (d) Nothing in this section prevents a health plan company from using reasonable medical
53.6 management techniques to determine the frequency, method, treatment, or setting for a
53.7 preventive item or service to the extent not specified in the recommendation or guideline.

53.8 (e) This section does not apply to grandfathered plans.

53.9 (f) This section does not apply to plans offered by the Minnesota Comprehensive Health
53.10 Association.

53.11 Sec. 44. Minnesota Statutes 2022, section 62Q.46, subdivision 3, is amended to read:

53.12 Subd. 3. **Additional services not prohibited.** Nothing in this section prohibits a health
53.13 plan company from providing coverage for preventive items and services in addition to
53.14 those specified ~~in the Affordable Care Act~~ under subdivision 1, paragraph (a), or from
53.15 denying coverage for preventive items and services that are not recommended as preventive
53.16 items and services specified under the Affordable Care Act subdivision 1, paragraph (a). A
53.17 health plan company may impose cost-sharing requirements for a treatment not described
53.18 ~~in the Affordable Care Act~~ under subdivision 1, paragraph (a), even if the treatment results
53.19 from a preventive item or service described ~~in the Affordable Care Act~~ under subdivision
53.20 1, paragraph (a).

53.21 Sec. 45. **[62Q.465] MENTAL HEALTH PARITY AND SUBSTANCE ABUSE**
53.22 **ACCOUNTABILITY OFFICE.**

53.23 (a) The Mental Health Parity and Substance Abuse Accountability Office is established
53.24 within the Department of Commerce to create and execute effective strategies for
53.25 implementing the requirements under:

53.26 (1) section 62Q.47;

53.27 (2) the federal Mental Health Parity Act of 1996, Public Law 104-204;

53.28 (3) the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction
53.29 Equity Act of 2008, Public Law 110-343, division C, sections 511 and 512;

53.30 (4) the Affordable Care Act, as defined under section 62A.011, subdivision 1a; and

54.1 (5) amendments made to, and federal guidance or regulations issued or adopted under,
54.2 the acts listed under clauses (2) to (4).

54.3 (b) The office may oversee compliance reviews, conduct and lead stakeholder
54.4 engagement, review consumer and provider complaints, and serve as a resource for ensuring
54.5 health plan compliance with mental health and substance abuse requirements.

54.6 Sec. 46. Minnesota Statutes 2022, section 62Q.47, is amended to read:

54.7 **62Q.47 ALCOHOLISM, MENTAL HEALTH, AND CHEMICAL DEPENDENCY**
54.8 **SERVICES.**

54.9 (a) All health plans, as defined in section 62Q.01, that provide coverage for alcoholism,
54.10 mental health, or chemical dependency services, must comply with the requirements of this
54.11 section.

54.12 (b) Cost-sharing requirements and benefit or service limitations for outpatient mental
54.13 health and outpatient chemical dependency and alcoholism services, except for persons
54.14 placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to
54.15 9530.6655, must not place a greater financial burden on the insured or enrollee, or be more
54.16 restrictive than those requirements and limitations for outpatient medical services.

54.17 (c) Cost-sharing requirements and benefit or service limitations for inpatient hospital
54.18 mental health services, psychiatric residential treatment facility services, and inpatient
54.19 hospital and residential chemical dependency and alcoholism services, except for persons
54.20 placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to
54.21 9530.6655, must not place a greater financial burden on the insured or enrollee, or be more
54.22 restrictive than those requirements and limitations for inpatient hospital medical services.

54.23 (d) A health plan company must not impose an NQTL with respect to mental health and
54.24 substance use disorders in any classification of benefits unless, under the terms of the health
54.25 plan as written and in operation, any processes, strategies, evidentiary standards, or other
54.26 factors used in applying the NQTL to mental health and substance use disorders in the
54.27 classification are comparable to, and are applied no more stringently than, the processes,
54.28 strategies, evidentiary standards, or other factors used in applying the NQTL with respect
54.29 to medical and surgical benefits in the same classification.

54.30 (e) All health plans must meet the requirements of the federal Mental Health Parity Act
54.31 of 1996, Public Law 104-204; Paul Wellstone and Pete Domenici Mental Health Parity and
54.32 Addiction Equity Act of 2008; the Affordable Care Act; and any amendments to, and federal
54.33 guidance or regulations issued under, those acts.

55.1 (f) The commissioner may require information from health plan companies to confirm
55.2 that mental health parity is being implemented by the health plan company. Information
55.3 required may include comparisons between mental health and substance use disorder
55.4 treatment and other medical conditions, including a comparison of prior authorization
55.5 requirements, drug formulary design, claim denials, rehabilitation services, and other
55.6 information the commissioner deems appropriate.

55.7 (g) Regardless of the health care provider's professional license, if the service provided
55.8 is consistent with the provider's scope of practice and the health plan company's credentialing
55.9 and contracting provisions, mental health therapy visits and medication maintenance visits
55.10 shall be considered primary care visits for the purpose of applying any enrollee cost-sharing
55.11 requirements imposed under the enrollee's health plan.

55.12 (h) All health plan companies offering health plans that provide coverage for alcoholism,
55.13 mental health, or chemical dependency benefits shall provide reimbursement for the benefits
55.14 delivered through the psychiatric Collaborative Care Model, which must include the following
55.15 Current Procedural Terminology or Healthcare Common Procedure Coding System billing
55.16 codes:

55.17 (1) 99492;

55.18 (2) 99493;

55.19 (3) 99494;

55.20 (4) G2214; and

55.21 (5) G0512.

55.22 This paragraph does not apply to managed care plans or county-based purchasing plans
55.23 when the plan provides coverage to public health care program enrollees under chapter
55.24 256B or 256L.

55.25 (i) The commissioner of commerce shall update the list of codes in paragraph (h) if any
55.26 alterations or additions to the billing codes for the psychiatric Collaborative Care Model
55.27 are made.

55.28 (j) "Psychiatric Collaborative Care Model" means the evidence-based, integrated
55.29 behavioral health service delivery method described at Federal Register, volume 81, page
55.30 80230, which includes a formal collaborative arrangement among a primary care team
55.31 consisting of a primary care provider, a care manager, and a psychiatric consultant, and
55.32 includes but is not limited to the following elements:

- 56.1 (1) care directed by the primary care team;
56.2 (2) structured care management;
56.3 (3) regular assessments of clinical status using validated tools; and
56.4 (4) modification of treatment as appropriate.

56.5 ~~(h)~~ (k) By June 1 of each year, beginning June 1, 2021, the commissioner of commerce,
56.6 in consultation with the commissioner of health, shall submit a report on compliance and
56.7 oversight to the chairs and ranking minority members of the legislative committees with
56.8 jurisdiction over health and commerce. The report must:

56.9 (1) describe the commissioner's process for reviewing health plan company compliance
56.10 with United States Code, title 42, section 18031(j), any federal regulations or guidance
56.11 relating to compliance and oversight, and compliance with this section and section 62Q.53;

56.12 (2) identify any enforcement actions taken by either commissioner during the preceding
56.13 12-month period regarding compliance with parity for mental health and substance use
56.14 disorders benefits under state and federal law, summarizing the results of any market conduct
56.15 examinations. The summary must include: (i) the number of formal enforcement actions
56.16 taken; (ii) the benefit classifications examined in each enforcement action; and (iii) the
56.17 subject matter of each enforcement action, including quantitative and nonquantitative
56.18 treatment limitations;

56.19 (3) detail any corrective action taken by either commissioner to ensure health plan
56.20 company compliance with this section, section 62Q.53, and United States Code, title 42,
56.21 section 18031(j); and

56.22 (4) describe the information provided by either commissioner to the public about
56.23 alcoholism, mental health, or chemical dependency parity protections under state and federal
56.24 law.

56.25 The report must be written in nontechnical, readily understandable language and must be
56.26 made available to the public by, among other means as the commissioners find appropriate,
56.27 posting the report on department websites. Individually identifiable information must be
56.28 excluded from the report, consistent with state and federal privacy protections.

56.29 **EFFECTIVE DATE.** This section is effective January 1, 2025, and applies to health
56.30 plans offered, issued, or renewed on or after that date.

57.1 Sec. 47. [62Q.481] COST-SHARING FOR PRESCRIPTION DRUGS AND RELATED
57.2 MEDICAL SUPPLIES TO TREAT CHRONIC DISEASE.

57.3 Subdivision 1. Cost-sharing limits. (a) A health plan must limit the amount of any
57.4 enrollee cost-sharing for prescription drugs prescribed to treat a chronic disease to no more
57.5 than: (1) \$25 per one-month supply for each prescription drug, regardless of the amount or
57.6 type of medication required to fill the prescription; and (2) \$50 per month in total for all
57.7 related medical supplies. The cost-sharing limit for related medical supplies does not increase
57.8 with the number of chronic diseases for which an enrollee is treated. Coverage under this
57.9 section shall not be subject to any deductible.

57.10 (b) If application of this section before an enrollee has met the enrollee's plan deductible
57.11 results in: (1) health savings account ineligibility under United States Code, title 26, section
57.12 223; or (2) catastrophic health plan ineligibility under United States Code, title 42, section
57.13 18022(e), this section applies to the specific prescription drug or related medical supply
57.14 only after the enrollee has met the enrollee's plan deductible.

57.15 Subd. 2. Definitions. (a) For purposes of this section, the following definitions apply.

57.16 (b) "Chronic disease" means diabetes, asthma, and allergies requiring the use of
57.17 epinephrine auto-injectors.

57.18 (c) "Cost-sharing" means co-payments and coinsurance.

57.19 (d) "Related medical supplies" means syringes, insulin pens, insulin pumps, test strips,
57.20 glucometers, continuous glucose monitors, epinephrine auto-injectors, asthma inhalers, and
57.21 other medical supply items necessary to effectively and appropriately treat a chronic disease
57.22 or administer a prescription drug prescribed to treat a chronic disease.

57.23 EFFECTIVE DATE. This section is effective January 1, 2025, and applies to health
57.24 plans offered, issued, or renewed on or after that date.

57.25 Sec. 48. Minnesota Statutes 2022, section 62Q.735, subdivision 1, is amended to read:

57.26 Subdivision 1. **Contract disclosure.** (a) Before requiring a health care provider to sign
57.27 a contract, a health plan company shall give to the provider a complete copy of the proposed
57.28 contract, including:

57.29 (1) all attachments and exhibits;

57.30 (2) operating manuals;

57.31 (3) a general description of the health plan company's health service coding guidelines
57.32 and requirement for procedures and diagnoses with modifiers, and multiple procedures; and

58.1 (4) all guidelines and treatment parameters incorporated or referenced in the contract.

58.2 (b) The health plan company shall make available to the provider the fee schedule or a
58.3 method or process that allows the provider to determine the fee schedule for each health
58.4 care service to be provided under the contract.

58.5 (c) ~~Notwithstanding paragraph (b), a health plan company that is a dental plan~~
58.6 ~~organization, as defined in section 62Q.76, shall disclose information related to the individual~~
58.7 ~~contracted provider's expected reimbursement from the dental plan organization.~~ Nothing
58.8 in this section requires a dental plan organization to disclose the plan's aggregate maximum
58.9 allowable fee table used to determine other providers' fees. The contracted provider must
58.10 not release this information in any way that would violate any state or federal antitrust law.

58.11 Sec. 49. Minnesota Statutes 2022, section 62Q.735, subdivision 5, is amended to read:

58.12 Subd. 5. **Fee schedules.** ~~(a)~~ A health plan company shall provide, upon request, any
58.13 additional fees or fee schedules relevant to the particular provider's practice beyond those
58.14 provided with the renewal documents for the next contract year to all participating providers,
58.15 excluding claims paid under the pharmacy benefit. Health plan companies may fulfill the
58.16 requirements of this section by making the full fee schedules available through a secure
58.17 web portal for contracted providers.

58.18 ~~(b) A dental organization may satisfy paragraph (a) by complying with section 62Q.735,~~
58.19 ~~subdivision 1, paragraph (e).~~

58.20 Sec. 50. Minnesota Statutes 2022, section 62Q.76, is amended by adding a subdivision to
58.21 read:

58.22 Subd. 9. **Third party.** "Third party" means a person or entity that enters into a contract
58.23 with a dental organization or with another third party to gain access to the dental care services
58.24 or contractual discounts under a dental provider contract. Third party does not include an
58.25 enrollee of a dental organization or an employer or other group for whom the dental
58.26 organization provides administrative services.

58.27 **EFFECTIVE DATE.** This section is effective January 1, 2024, and applies to dental
58.28 plans and dental provider agreements offered, issued, or renewed on or after that date.

59.1 Sec. 51. Minnesota Statutes 2022, section 62Q.78, is amended by adding a subdivision to
59.2 read:

59.3 Subd. 7. **Method of payments.** A dental provider contract must include a method of
59.4 payment for dental care services in which no fees associated with the method of payment,
59.5 including credit card fees and fees related to payment in the form of digital or virtual
59.6 currency, are incurred by the dentist or dental clinic. Any fees that may be incurred from a
59.7 payment must be disclosed to a dentist prior to entering into or renewing a dental provider
59.8 contract. For purposes of this section, fees related to a provider's electronic claims processing
59.9 vendor, financial institution, or other vendor used by a provider to facilitate the submission
59.10 of claims are excluded.

59.11 Sec. 52. Minnesota Statutes 2022, section 62Q.78, is amended by adding a subdivision to
59.12 read:

59.13 Subd. 8. **Network leasing.** (a) A dental organization may grant a third party access to
59.14 a dental provider contract or a provider's dental care services or contractual discounts
59.15 provided pursuant to a dental provider contract if, at the time the dental provider contract
59.16 is entered into or renewed, the dental organization allows a dentist to choose not to participate
59.17 in third-party access to the dental provider contract without any penalty to the dentist. The
59.18 third-party access provision of the dental provider contract must be clearly identified. A
59.19 dental organization must not grant a third party access to the dental provider contract of any
59.20 dentist who does not participate in third-party access to the dental provider contract.

59.21 (b) Notwithstanding paragraph (a), if a dental organization exists solely for the purpose
59.22 of recruiting dentists for dental provider contracts that establish a network to be leased to
59.23 third parties, the dentist waives the right to choose whether to participate in third-party
59.24 access.

59.25 (c) A dental organization may grant a third party access to a dental provider contract,
59.26 or a dentist's dental care services or contractual discounts under a dental provider contract,
59.27 if the following requirements are met:

59.28 (1) the dental organization lists all third parties that may have access to the dental provider
59.29 contract on the dental organization's website, which must be updated at least once every 90
59.30 days;

59.31 (2) the dental provider contract states that the dental organization may enter into an
59.32 agreement with a third party that would allow the third party to obtain the dental
59.33 organization's rights and responsibilities as if the third party were the dental organization,

60.1 and the dentist chose to participate in third-party access at the time the dental provider
60.2 contract was entered into; and

60.3 (3) the third party accessing the dental provider contract agrees to comply with all
60.4 applicable terms of the dental provider contract.

60.5 (d) A dentist is not bound by and is not required to perform dental care services under
60.6 a dental provider contract granted to a third party in violation of this section.

60.7 (e) This subdivision does not apply when:

60.8 (1) the dental provider contract is for dental services provided under a public health plan
60.9 program, including but not limited to medical assistance, MinnesotaCare, Medicare, or
60.10 Medicare Advantage; or

60.11 (2) access to a dental provider contract is granted to a dental organization, an entity
60.12 operating in accordance with the same brand licensee program as the dental organization
60.13 or other entity, or to an entity that is an affiliate of the dental organization, provided the
60.14 entity agrees to substantially similar terms and conditions as the originating dental provider
60.15 contract between the dental organization and the dentist or dental clinic. A list of the dental
60.16 organization's affiliates must be posted on the dental organization's website.

60.17 Sec. 53. Minnesota Statutes 2022, section 62Q.81, subdivision 4, is amended to read:

60.18 Subd. 4. **Essential health benefits; definition.** For purposes of this section, "essential
60.19 health benefits" has the meaning given under section 1302(b) of the Affordable Care Act
60.20 and includes:

60.21 (1) ambulatory patient services;

60.22 (2) emergency services;

60.23 (3) hospitalization;

60.24 (4) laboratory services;

60.25 (5) maternity and newborn care;

60.26 (6) mental health and substance use disorder services, including behavioral health
60.27 treatment;

60.28 (7) pediatric services, including oral and vision care;

60.29 (8) prescription drugs;

60.30 (9) preventive and wellness services and chronic disease management;

61.1 (10) rehabilitative and habilitative services and devices; and

61.2 (11) additional essential health benefits included in the EHB-benchmark plan, as defined
61.3 under the Affordable Care Act, and preventive items and services, as defined under section
61.4 62Q.46, subdivision 1, paragraph (a).

61.5 Sec. 54. Minnesota Statutes 2022, section 62Q.81, is amended by adding a subdivision to
61.6 read:

61.7 Subd. 7. **Standard plans.** (a) A health plan company that offers individual health plans
61.8 must ensure that no less than one individual health plan at each level of coverage described
61.9 in subdivision 1, paragraph (b), clause (3), that the health plan company offers in each
61.10 geographic rating area the health plan company serves conforms to the standard plan
61.11 parameters determined by the commissioner under paragraph (e).

61.12 (b) An individual health plan offered under this subdivision must be:

61.13 (1) clearly and appropriately labeled as standard plans to aid the purchaser in the selection
61.14 process;

61.15 (2) marketed as standard plans and in the same manner as other individual health plans
61.16 offered by the health plan company; and

61.17 (3) offered for purchase to any individual.

61.18 (c) This subdivision does not apply to catastrophic plans, grandfathered plans, small
61.19 group health plans, large group health plans, health savings accounts, qualified high
61.20 deductible health benefit plans, limited health benefit plans, or short-term limited-duration
61.21 health insurance policies.

61.22 (d) Health plan companies must meet the requirements in this subdivision separately for
61.23 plans offered through MNsure under chapter 62V and plans offered outside of MNsure.

61.24 (e) The commissioner of commerce, in consultation with the commissioner of health,
61.25 must annually determine standard plan parameters, including but not limited to cost-sharing
61.26 structure and covered benefits, that comprise a standard plan in Minnesota.

61.27 (f) Notwithstanding section 62A.65, subdivision 2, a health plan company may
61.28 discontinue offering a health plan under this subdivision if, three years after the date the
61.29 plan is initially offered, the plan has fewer than 75 enrollees. A health plan company
61.30 discontinuing a health plan under this paragraph may discontinue a health plan that has
61.31 fewer than 75 enrollees if it:

62.1 (1) provides notice of the plan's discontinuation in writing, in a form prescribed by the
62.2 commissioner, to each enrollee of the plan at least 90 calendar days before the date the
62.3 coverage is discontinued;

62.4 (2) offers on a guaranteed issue basis to each enrollee the option to purchase an individual
62.5 health plan currently being offered by the health plan company for individuals in that
62.6 geographic rating area. An enrollee who does not select an option shall be automatically
62.7 enrolled in the individual health plan closest in actuarial value to the enrollee's current plan;
62.8 and

62.9 (3) acts uniformly without regard to any health status-related factor of an enrollee or an
62.10 enrollee's dependents who may become eligible for coverage.

62.11 **EFFECTIVE DATE.** This section is effective January 1, 2025, and applies to individual
62.12 health plans offered, issued, or renewed on or after that date.

62.13 Sec. 55. **[62W.15] CLINICIAN-ADMINISTERED DRUGS.**

62.14 Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions
62.15 apply.

62.16 (b) "Affiliated pharmacy" means a pharmacy in which a pharmacy benefit manager or
62.17 health carrier has an ownership interest either directly or indirectly, or through an affiliate
62.18 or subsidiary.

62.19 (c) "Clinician-administered drug" means an outpatient prescription drug, other than a
62.20 vaccine, that:

62.21 (1) cannot reasonably be self-administered by the patient to whom the drug is prescribed
62.22 or by an individual assisting the patient with self-administration; and

62.23 (2) is typically administered:

62.24 (i) by a health care provider authorized to administer the drug, including when acting
62.25 under a physician's delegation and supervision; and

62.26 (ii) in a physician's office, hospital outpatient infusion center, or other clinical setting.

62.27 Subd. 2. **Safety and care requirements for clinician-administered drugs.** (a) A
62.28 specialty pharmacy that ships a clinician-administered drug to a health care provider or
62.29 pharmacy must:

62.30 (1) comply with all federal laws regulating the shipment of drugs, including but not
62.31 limited to the United States Pharmacopeia General Chapter 800;

63.1 (2) in response to questions from a health care provider or pharmacy, provide access to
63.2 a pharmacist or nurse employed by the specialty pharmacy 24 hours a day, seven days a
63.3 week;

63.4 (3) allow an enrollee and health care provider to request a refill of a clinician-administered
63.5 drug on behalf of an enrollee, in accordance with the pharmacy benefit manager or health
63.6 carrier's utilization review procedures; and

63.7 (4) adhere to the track and trace requirements, as defined in the Drug Supply Chain
63.8 Security Act, United States Code, title 21, section 360eee, et seq., for a clinician-administered
63.9 drug that needs to be compounded or manipulated.

63.10 (b) For any clinician-administered drug dispensed by a specialty pharmacy selected by
63.11 the pharmacy benefit manager or health carrier, the requesting health care provider or their
63.12 designee must provide the requested date, approximate time, and place of delivery of a
63.13 clinician-administered drug at least five business days before the date of delivery. The
63.14 specialty pharmacy must require a signature upon receipt of the shipment when shipped to
63.15 a health care provider.

63.16 (c) A pharmacy benefit manager or health carrier who requires dispensing of a
63.17 clinician-administered drug through a specialty pharmacy shall establish and disclose a
63.18 process that allows the health care provider or pharmacy to appeal and have exceptions to
63.19 the use of a specialty pharmacy when:

63.20 (1) a drug is not delivered as specified in paragraph (b); or

63.21 (2) an attending health care provider reasonably believes an enrollee may experience
63.22 immediate and irreparable harm without the immediate, onetime use of a
63.23 clinician-administered drug that a health care provider or pharmacy has in stock.

63.24 (d) A pharmacy benefit manager or health carrier shall not require a specialty pharmacy
63.25 to dispense a clinician-administered drug directly to an enrollee with the intention that the
63.26 enrollee will transport the clinician-administered drug to a health care provider for
63.27 administration.

63.28 (e) A pharmacy benefit manager, health carrier, health care provider, or pharmacist shall
63.29 not require or may not deny the use of a home infusion or infusion site external to the
63.30 enrollee's provider office or clinic to dispense or administer a clinician-administered drug
63.31 when requested by an enrollee, and such services are covered by the health plan and are
63.32 available and clinically appropriate as determined by the health care provider and delivered
63.33 in accordance with state law.

64.1 Subd. 3. **Exclusions.** This section does not apply to managed care plans or county-based
64.2 purchasing plans when the plan provides coverage to public health care program enrollees
64.3 under chapter 256B or 256L.

64.4 **EFFECTIVE DATE.** This section is effective January 1, 2024, and applies to health
64.5 plans offered, issued, or renewed on or after that date.

64.6 Sec. 56. **[65A.298] HOMEOWNER'S INSURANCE; FORTIFIED PROGRAM**
64.7 **STANDARDS.**

64.8 Subdivision 1. **Definitions.** (a) For purposes of this section the following term has the
64.9 meaning given.

64.10 (b) "Insurable property" means a residential property designated as meeting Fortified
64.11 program standards that include a hail supplement as administered by the Insurance Institute
64.12 for Business and Home Safety (IBHS).

64.13 Subd. 2. **Fortified new property.** (a) An insurer must provide a premium discount or
64.14 an insurance rate reduction to an owner who builds or locates a new insurable property in
64.15 Minnesota.

64.16 (b) An owner of insurable property claiming a premium discount or rate reduction under
64.17 this subdivision must submit and maintain a certificate issued by IBHS showing proof of
64.18 compliance with the Fortified program standards to the insurer prior to receiving the premium
64.19 discount or rate reduction. At the time of policy renewal an insurer may require evidence
64.20 that the issued certificate remains in good standing.

64.21 Subd. 3. **Fortified existing property.** (a) An insurer must provide a premium discount
64.22 or insurance rate reduction to an owner who retrofits an existing property to meet the
64.23 requirements to be an insurable property in Minnesota.

64.24 (b) An owner of insurable property claiming a premium discount or rate reduction under
64.25 this subdivision must submit a certificate issued by IBHS showing proof of compliance
64.26 with the Fortified program standards to the insurer prior to receiving the premium discount
64.27 or rate reduction.

64.28 Subd. 4. **Insurers.** (a) A participating insurer must submit to the commissioner actuarially
64.29 justified rates and a rating plan for a person who builds or locates a new insurable property
64.30 in Minnesota.

65.1 (b) A participating insurer must submit to the commissioner actuarially justified rates
65.2 and a rating plan for a person who retrofits an existing property to meet the requirements
65.3 to be an insurable property.

65.4 (c) A participating insurer may offer, in addition to the premium discount and insurance
65.5 rate reductions required under subdivisions 2 and 3, more generous mitigation adjustments
65.6 to an owner of insurable property.

65.7 (d) Any premium discount, rate reduction, or mitigation adjustment offered by an insurer
65.8 under this section applies only to policies that include wind coverage and may be applied
65.9 to: (1) only the portion of the premium for wind coverage; or (2) the total premium, if the
65.10 insurer does not separate the premium for wind coverage in the insurer's rate filing.

65.11 (e) A rate and rating plan submitted to the commissioner under this section must not be
65.12 used until 60 days after the rate and rating plan has been filed with the commissioner, unless
65.13 the commissioner approves the rate and rating plan before that time. A rating plan, rating
65.14 classification, and territories applicable to insurance written by a participating insurer and
65.15 any related statistics are subject to chapter 70A. When the commissioner is evaluating rate
65.16 and rating plans submitted under this section, the commissioner must evaluate:

65.17 (i) evidence of cost savings directly attributable to the Fortified program standards as
65.18 administered by IBHS; and

65.19 (ii) whether the cost savings are passed along in full to qualified policyholders.

65.20 (f) A participating insurer must resubmit a rate and rating plan at least once every five
65.21 years following the initial submission under this section.

65.22 (g) The commissioner may annually publish the premium savings that policyholders
65.23 experience pursuant to this section.

65.24 (h) An insurer must provide the commissioner with all requested information necessary
65.25 for the commissioner to meet the requirements of this subdivision.

65.26 **Sec. 57. [65A.299] STRENGTHEN MINNESOTA HOMES PROGRAM.**

65.27 Subdivision 1. **Short title.** This section may be cited as the "Strengthen Minnesota
65.28 Homes Act."

65.29 Subd. 2. **Definitions.** (a) For purposes of this section, the terms in this subdivision have
65.30 the meanings given.

65.31 (b) "Insurable property" has the meaning given in section 65A.298, subdivision 1.

66.1 (c) "Program" means the Strengthen Minnesota Homes program established under this
66.2 section.

66.3 Subd. 3. **Program established; purpose, permitted activities.** The Strengthen Minnesota
66.4 Homes program is established within the Department of Commerce. The purpose of the
66.5 program is to provide grants to retrofit insurable property to resist loss due to common
66.6 perils, including but not limited to tornadoes or other catastrophic windstorm events.

66.7 Subd. 4. **Strengthen Minnesota homes account; appropriation.** (a) A strengthen
66.8 Minnesota homes account is created as a separate account in the special revenue fund of
66.9 the state treasury. The account consists of money provided by law and any other money
66.10 donated, allotted, transferred, or otherwise provided to the account. Earnings, including
66.11 interest, dividends, and any other earnings arising from assets of the account, must be
66.12 credited to the account. Money remaining in the account at the end of a fiscal year does not
66.13 cancel to the general fund and remains in the account until expended. The commissioner
66.14 must manage the account.

66.15 (b) Money in the account is appropriated to the commissioner to pay for (1) grants issued
66.16 under the program, and (2) the reasonable costs incurred by the commissioner to administer
66.17 the program.

66.18 Subd. 5. **Use of grants.** (a) A grant under this section must be used to retrofit an insurable
66.19 property.

66.20 (b) Grant money provided under this section must not be used for maintenance or repairs,
66.21 but may be used in conjunction with repairs or reconstruction necessitated by damage from
66.22 wind or hail.

66.23 (c) A project funded by a grant under this section must be completed within three months
66.24 of the date the grant is approved. Failure to complete the project in a timely manner may
66.25 result in forfeiture of the grant.

66.26 Subd. 6. **Applicant eligibility.** The commissioner must develop (1) administrative
66.27 procedures to implement this section, and (2) criteria used to determine whether an applicant
66.28 is eligible for a grant under this section.

66.29 Subd. 7. **Contractor eligibility; conflicts of interest.** (a) To be eligible to work as a
66.30 contractor on a project funded by a grant under this section, the contractor must meet all
66.31 of the following program requirements and must maintain a current copy of all certificates,
66.32 licenses, and proof of insurance coverage with the program office. The eligible contractor
66.33 must:

67.1 (1) hold a valid residential building contractor and residential remodeler license issued
67.2 by the commissioner of labor and industry;

67.3 (2) not be subject to disciplinary action by the commissioner of labor and industry;

67.4 (3) hold any other valid state or jurisdictional business license or work permits required
67.5 by law;

67.6 (4) possess an in-force general liability policy with \$1,000,000 in liability coverage;

67.7 (5) possess an in-force workers compensation policy;

67.8 (6) possess a certificate of compliance from the commissioner of revenue;

67.9 (7) successfully complete the Fortified Roof for High Wind and Hail training provided
67.10 by the IBHS and maintain an active certification. The training may be offered as separate
67.11 courses;

67.12 (8) agree to the terms and successfully register as a vendor with the commissioner of
67.13 management and budget and receive direct deposit of payment for mitigation work performed
67.14 under the program;

67.15 (9) maintain Internet access and keep a valid email address on file with the program and
67.16 remain active in the commissioner of management and budget's vendor and supplier portal
67.17 while working on the program;

67.18 (10) maintain an active email address for the communication with the program;

67.19 (11) successfully complete the program training; and

67.20 (12) agree to follow program procedures and rules established under this section and by
67.21 the commissioner.

67.22 (b) An eligible contractor must not have a financial interest, other than payment on
67.23 behalf of the homeowner, in any project for which the eligible contractor performs work
67.24 toward a fortified designation under the program. An eligible contractor is prohibited from
67.25 acting as the evaluator for a fortified designation on any project funded by the program. An
67.26 eligible contractor must report to the commissioner regarding any potential conflict of
67.27 interest before work commences on any job funded by the program.

67.28 Subd. 8. Evaluator eligibility; conflicts of interest. (a) To be eligible to work on the
67.29 program as an evaluator, the evaluator must meet all program eligibility requirements and
67.30 must submit to the commissioner and maintain a copy of all current certificates and licenses.
67.31 The evaluator must:

68.1 (1) be in good standing with IBHS and maintain an active certification as a fortified
68.2 home evaluator for high wind and hail or a successor certification;

68.3 (2) possess a Minnesota business license and be registered with the secretary of state;
68.4 and

68.5 (3) successfully complete the program training.

68.6 (b) An evaluator must not have a financial interest in any project that the evaluator
68.7 inspects for designation purposes for the program. An evaluator must not be an eligible
68.8 contractor or supplier of any material, product, or system installed in any home that the
68.9 evaluator inspects for designation purposes for the program. An evaluator must not be a
68.10 sales agent for any home being designated for the program. An evaluator must inform the
68.11 commissioner of any potential conflict of interest impacting the evaluator's participation in
68.12 the program.

68.13 Subd. 9. **Grant approval; allocation.** (a) The commissioner must review all applications
68.14 for completeness and must perform appropriate audits to verify (1) the accuracy of the
68.15 information on the application, and (2) that the applicant meets all eligibility rules. All
68.16 verified applicants must be placed in the order the application was received. Grants must
68.17 be awarded on a first-come, first-served basis, subject to availability of money for the
68.18 program.

68.19 (b) When a grant is approved, an approval letter must be sent to the applicant.

68.20 (c) An eligible contractor is prohibited from beginning work until a grant is approved.

68.21 (d) In order to assure equitable distribution of grants in proportion to the income
68.22 demographics in counties where the program is made available, grant applications must be
68.23 accepted on a first-come, first-served basis. The commissioner may establish pilot projects
68.24 as needed to establish a sustainable program distribution system in any geographic area
68.25 within Minnesota.

68.26 Subd. 10. **Grant award process; release of grant money.** (a) After a grant application
68.27 is approved, the eligible contractor selected by the homeowner may begin the mitigation
68.28 work.

68.29 (b) Once the mitigation work is completed, the eligible contractor must submit a copy
68.30 of the signed contract to the commissioner, along with an invoice seeking payment and an
68.31 affidavit stating the fortified standards were met by the work.

69.1 (c) The IBHS evaluator must conduct all required evaluations, including a required
69.2 interim inspection during construction and the final inspection, and must confirm that the
69.3 work was completed according to the mitigation specifications.

69.4 (d) Grant money must be released on behalf of an approved applicant only after a fortified
69.5 designation certificate has been issued for the home. The program or another designated
69.6 entity must, on behalf of the homeowner, directly pay the eligible contractor that performed
69.7 the mitigation work. The program or the program's designated entity must pay the eligible
69.8 contractor the costs covered by the grant. The homeowner must pay the eligible contractor
69.9 for the remaining cost after receiving an IBHS fortified certificate.

69.10 (e) The program must confirm that the homeowner's insurer provides the appropriate
69.11 premium discount.

69.12 (f) The program must conduct random reinspections to detect any fraud and must submit
69.13 any irregularities to the attorney general.

69.14 Subd. 11. **Limitations.** (a) This section does not create an entitlement for property
69.15 owners or obligate the state of Minnesota to pay for residential property in Minnesota to be
69.16 inspected or retrofitted. The program under this section is subject to legislative appropriations,
69.17 the receipt of federal grants or money, or the receipt of other sources of grants or money.
69.18 The department may obtain grants or other money from the federal government or other
69.19 funding sources to support and enhance program activities.

69.20 (b) All mitigation under this section is contingent upon securing all required local permits
69.21 and applicable inspections to comply with local building codes and applicable Fortified
69.22 program standards. A mitigation project receiving a grant under this section is subject to
69.23 random reinspection at a later date.

69.24 Sec. 58. **[65A.303] HOMEOWNER'S LIABILITY INSURANCE; DOGS.**

69.25 Subdivision 1. **Discrimination prohibited.** An insurer writing homeowner's insurance
69.26 for property is prohibited from (1) refusing to issue or renew an insurance policy or contract,
69.27 or (2) canceling an insurance policy or contract based solely on the fact that the homeowner
69.28 harbors or owns one dog of a specific breed or mixture of breeds.

69.29 Subd. 2. **Exception.** (a) Subdivision 1 does not prohibit an insurer from (1) refusing to
69.30 issue or renew an insurance policy or contract, (2) canceling an insurance policy or contract,
69.31 or (3) imposing a reasonably increased premium or rate for an insurance policy or contract
69.32 based on a dog meeting the criteria of a dangerous dog or potentially dangerous dog under

70.1 section 347.50, or based on sound underwriting and actuarial principles that are reasonably
70.2 related to actual or anticipated loss experience.

70.3 (b) Subdivision 1 does not prohibit an insurer from (1) refusing to issue or renew an
70.4 insurance policy or contract, (2) canceling an insurance policy or contract, or (3) imposing
70.5 a reasonably increased premium or rate for an insurance policy or contract if the dog has a
70.6 history of causing bodily injury or if the dog owner has a history of owning other animals
70.7 who caused bodily injury.

70.8 **EFFECTIVE DATE.** This section is effective April 1, 2024, and applies to insurance
70.9 policies and contracts offered, issued, or sold after that date.

70.10 Sec. 59. Minnesota Statutes 2022, section 65B.49, is amended by adding a subdivision to
70.11 read:

70.12 Subd. 10. **Time limitations.** (a) Unless expressly provided for in this chapter, a plan of
70.13 reparation security must conform to the six-year time limitation provided under section
70.14 541.05, subdivision 1, clause (1).

70.15 (b) The time limitation for commencing a cause of action relating to underinsured motorist
70.16 coverage under subdivision 3a is four years from the date of accrual.

70.17 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to contracts
70.18 issued or renewed on or after that date.

70.19 Sec. 60. Minnesota Statutes 2022, section 151.071, subdivision 1, is amended to read:

70.20 Subdivision 1. **Forms of disciplinary action.** When the board finds that a licensee,
70.21 registrant, or applicant has engaged in conduct prohibited under subdivision 2, it may do
70.22 one or more of the following:

70.23 (1) deny the issuance of a license or registration;

70.24 (2) refuse to renew a license or registration;

70.25 (3) revoke the license or registration;

70.26 (4) suspend the license or registration;

70.27 (5) impose limitations, conditions, or both on the license or registration, including but
70.28 not limited to: the limitation of practice to designated settings; the limitation of the scope
70.29 of practice within designated settings; the imposition of retraining or rehabilitation
70.30 requirements; the requirement of practice under supervision; the requirement of participation
70.31 in a diversion program such as that established pursuant to section 214.31 or the conditioning

71.1 of continued practice on demonstration of knowledge or skills by appropriate examination
71.2 or other review of skill and competence;

71.3 (6) impose a civil penalty not exceeding \$10,000 for each separate violation, except that
71.4 a civil penalty not exceeding \$25,000 may be imposed for each separate violation of section
71.5 62J.842, the amount of the civil penalty to be fixed so as to deprive a licensee or registrant
71.6 of any economic advantage gained by reason of the violation, to discourage similar violations
71.7 by the licensee or registrant or any other licensee or registrant, or to reimburse the board
71.8 for the cost of the investigation and proceeding, including but not limited to, fees paid for
71.9 services provided by the Office of Administrative Hearings, legal and investigative services
71.10 provided by the Office of the Attorney General, court reporters, witnesses, reproduction of
71.11 records, board members' per diem compensation, board staff time, and travel costs and
71.12 expenses incurred by board staff and board members; and

71.13 (7) reprimand the licensee or registrant.

71.14 Sec. 61. Minnesota Statutes 2022, section 151.071, subdivision 2, is amended to read:

71.15 Subd. 2. **Grounds for disciplinary action.** The following conduct is prohibited and is
71.16 grounds for disciplinary action:

71.17 (1) failure to demonstrate the qualifications or satisfy the requirements for a license or
71.18 registration contained in this chapter or the rules of the board. The burden of proof is on
71.19 the applicant to demonstrate such qualifications or satisfaction of such requirements;

71.20 (2) obtaining a license by fraud or by misleading the board in any way during the
71.21 application process or obtaining a license by cheating, or attempting to subvert the licensing
71.22 examination process. Conduct that subverts or attempts to subvert the licensing examination
71.23 process includes, but is not limited to: (i) conduct that violates the security of the examination
71.24 materials, such as removing examination materials from the examination room or having
71.25 unauthorized possession of any portion of a future, current, or previously administered
71.26 licensing examination; (ii) conduct that violates the standard of test administration, such as
71.27 communicating with another examinee during administration of the examination, copying
71.28 another examinee's answers, permitting another examinee to copy one's answers, or
71.29 possessing unauthorized materials; or (iii) impersonating an examinee or permitting an
71.30 impersonator to take the examination on one's own behalf;

71.31 (3) for a pharmacist, pharmacy technician, pharmacist intern, applicant for a pharmacist
71.32 or pharmacy license, or applicant for a pharmacy technician or pharmacist intern registration,
71.33 conviction of a felony reasonably related to the practice of pharmacy. Conviction as used

72.1 in this subdivision includes a conviction of an offense that if committed in this state would
72.2 be deemed a felony without regard to its designation elsewhere, or a criminal proceeding
72.3 where a finding or verdict of guilt is made or returned but the adjudication of guilt is either
72.4 withheld or not entered thereon. The board may delay the issuance of a new license or
72.5 registration if the applicant has been charged with a felony until the matter has been
72.6 adjudicated;

72.7 (4) for a facility, other than a pharmacy, licensed or registered by the board, if an owner
72.8 or applicant is convicted of a felony reasonably related to the operation of the facility. The
72.9 board may delay the issuance of a new license or registration if the owner or applicant has
72.10 been charged with a felony until the matter has been adjudicated;

72.11 (5) for a controlled substance researcher, conviction of a felony reasonably related to
72.12 controlled substances or to the practice of the researcher's profession. The board may delay
72.13 the issuance of a registration if the applicant has been charged with a felony until the matter
72.14 has been adjudicated;

72.15 (6) disciplinary action taken by another state or by one of this state's health licensing
72.16 agencies:

72.17 (i) revocation, suspension, restriction, limitation, or other disciplinary action against a
72.18 license or registration in another state or jurisdiction, failure to report to the board that
72.19 charges or allegations regarding the person's license or registration have been brought in
72.20 another state or jurisdiction, or having been refused a license or registration by any other
72.21 state or jurisdiction. The board may delay the issuance of a new license or registration if an
72.22 investigation or disciplinary action is pending in another state or jurisdiction until the
72.23 investigation or action has been dismissed or otherwise resolved; and

72.24 (ii) revocation, suspension, restriction, limitation, or other disciplinary action against a
72.25 license or registration issued by another of this state's health licensing agencies, failure to
72.26 report to the board that charges regarding the person's license or registration have been
72.27 brought by another of this state's health licensing agencies, or having been refused a license
72.28 or registration by another of this state's health licensing agencies. The board may delay the
72.29 issuance of a new license or registration if a disciplinary action is pending before another
72.30 of this state's health licensing agencies until the action has been dismissed or otherwise
72.31 resolved;

72.32 (7) for a pharmacist, pharmacy, pharmacy technician, or pharmacist intern, violation of
72.33 any order of the board, of any of the provisions of this chapter or any rules of the board or

73.1 violation of any federal, state, or local law or rule reasonably pertaining to the practice of
73.2 pharmacy;

73.3 (8) for a facility, other than a pharmacy, licensed by the board, violations of any order
73.4 of the board, of any of the provisions of this chapter or the rules of the board or violation
73.5 of any federal, state, or local law relating to the operation of the facility;

73.6 (9) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the
73.7 public, or demonstrating a willful or careless disregard for the health, welfare, or safety of
73.8 a patient; or pharmacy practice that is professionally incompetent, in that it may create
73.9 unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of
73.10 actual injury need not be established;

73.11 (10) aiding or abetting an unlicensed person in the practice of pharmacy, except that it
73.12 is not a violation of this clause for a pharmacist to supervise a properly registered pharmacy
73.13 technician or pharmacist intern if that person is performing duties allowed by this chapter
73.14 or the rules of the board;

73.15 (11) for an individual licensed or registered by the board, adjudication as mentally ill
73.16 or developmentally disabled, or as a chemically dependent person, a person dangerous to
73.17 the public, a sexually dangerous person, or a person who has a sexual psychopathic
73.18 personality, by a court of competent jurisdiction, within or without this state. Such
73.19 adjudication shall automatically suspend a license for the duration thereof unless the board
73.20 orders otherwise;

73.21 (12) for a pharmacist or pharmacy intern, engaging in unprofessional conduct as specified
73.22 in the board's rules. In the case of a pharmacy technician, engaging in conduct specified in
73.23 board rules that would be unprofessional if it were engaged in by a pharmacist or pharmacist
73.24 intern or performing duties specifically reserved for pharmacists under this chapter or the
73.25 rules of the board;

73.26 (13) for a pharmacy, operation of the pharmacy without a pharmacist present and on
73.27 duty except as allowed by a variance approved by the board;

73.28 (14) for a pharmacist, the inability to practice pharmacy with reasonable skill and safety
73.29 to patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type
73.30 of material or as a result of any mental or physical condition, including deterioration through
73.31 the aging process or loss of motor skills. In the case of registered pharmacy technicians,
73.32 pharmacist interns, or controlled substance researchers, the inability to carry out duties
73.33 allowed under this chapter or the rules of the board with reasonable skill and safety to
73.34 patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type

74.1 of material or as a result of any mental or physical condition, including deterioration through
74.2 the aging process or loss of motor skills;

74.3 (15) for a pharmacist, pharmacy, pharmacist intern, pharmacy technician, medical gas
74.4 dispenser, or controlled substance researcher, revealing a privileged communication from
74.5 or relating to a patient except when otherwise required or permitted by law;

74.6 (16) for a pharmacist or pharmacy, improper management of patient records, including
74.7 failure to maintain adequate patient records, to comply with a patient's request made pursuant
74.8 to sections 144.291 to 144.298, or to furnish a patient record or report required by law;

74.9 (17) fee splitting, including without limitation:

74.10 (i) paying, offering to pay, receiving, or agreeing to receive, a commission, rebate,
74.11 kickback, or other form of remuneration, directly or indirectly, for the referral of patients;

74.12 (ii) referring a patient to any health care provider as defined in sections 144.291 to
74.13 144.298 in which the licensee or registrant has a financial or economic interest as defined
74.14 in section 144.6521, subdivision 3, unless the licensee or registrant has disclosed the
74.15 licensee's or registrant's financial or economic interest in accordance with section 144.6521;
74.16 and

74.17 (iii) any arrangement through which a pharmacy, in which the prescribing practitioner
74.18 does not have a significant ownership interest, fills a prescription drug order and the
74.19 prescribing practitioner is involved in any manner, directly or indirectly, in setting the price
74.20 for the filled prescription that is charged to the patient, the patient's insurer or pharmacy
74.21 benefit manager, or other person paying for the prescription or, in the case of veterinary
74.22 patients, the price for the filled prescription that is charged to the client or other person
74.23 paying for the prescription, except that a veterinarian and a pharmacy may enter into such
74.24 an arrangement provided that the client or other person paying for the prescription is notified,
74.25 in writing and with each prescription dispensed, about the arrangement, unless such
74.26 arrangement involves pharmacy services provided for livestock, poultry, and agricultural
74.27 production systems, in which case client notification would not be required;

74.28 (18) engaging in abusive or fraudulent billing practices, including violations of the
74.29 federal Medicare and Medicaid laws or state medical assistance laws or rules;

74.30 (19) engaging in conduct with a patient that is sexual or may reasonably be interpreted
74.31 by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning
74.32 to a patient;

75.1 (20) failure to make reports as required by section 151.072 or to cooperate with an
75.2 investigation of the board as required by section 151.074;

75.3 (21) knowingly providing false or misleading information that is directly related to the
75.4 care of a patient unless done for an accepted therapeutic purpose such as the dispensing and
75.5 administration of a placebo;

75.6 (22) aiding suicide or aiding attempted suicide in violation of section 609.215 as
75.7 established by any of the following:

75.8 (i) a copy of the record of criminal conviction or plea of guilty for a felony in violation
75.9 of section 609.215, subdivision 1 or 2;

75.10 (ii) a copy of the record of a judgment of contempt of court for violating an injunction
75.11 issued under section 609.215, subdivision 4;

75.12 (iii) a copy of the record of a judgment assessing damages under section 609.215,
75.13 subdivision 5; or

75.14 (iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2.
75.15 The board must investigate any complaint of a violation of section 609.215, subdivision 1
75.16 or 2;

75.17 (23) for a pharmacist, practice of pharmacy under a lapsed or nonrenewed license. For
75.18 a pharmacist intern, pharmacy technician, or controlled substance researcher, performing
75.19 duties permitted to such individuals by this chapter or the rules of the board under a lapsed
75.20 or nonrenewed registration. For a facility required to be licensed under this chapter, operation
75.21 of the facility under a lapsed or nonrenewed license or registration; ~~and~~

75.22 (24) for a pharmacist, pharmacist intern, or pharmacy technician, termination or discharge
75.23 from the health professionals services program for reasons other than the satisfactory
75.24 completion of the program; and

75.25 (25) for a manufacturer, a violation of section 62J.842 or 62J.845.

75.26 Sec. 62. Minnesota Statutes 2022, section 256B.0631, subdivision 1, is amended to read:

75.27 Subdivision 1. **Cost-sharing.** (a) Except as provided in subdivision 2, the medical
75.28 assistance benefit plan shall include the following cost-sharing for all recipients, ~~effective~~
75.29 ~~for services provided on or after September 1, 2011:~~

75.30 (1) \$3 per nonpreventive visit, except as provided in paragraph (b). For purposes of this
75.31 subdivision, a visit means an episode of service which is required because of a recipient's
75.32 symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting

76.1 by a physician or physician assistant, chiropractor, podiatrist, nurse midwife, advanced
76.2 practice nurse, audiologist, optician, or optometrist;

76.3 (2) \$3.50 for nonemergency visits to a hospital-based emergency room, except that this
76.4 co-payment shall be increased to \$20 upon federal approval;

76.5 (3) \$3 per brand-name drug prescription, \$1 per generic drug prescription, and \$1 per
76.6 prescription for a brand-name multisource drug listed in preferred status on the preferred
76.7 drug list, subject to a \$12 per month maximum for prescription drug co-payments. No
76.8 co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness;

76.9 (4) a family deductible equal to \$2.75 per month per family and adjusted annually by
76.10 the percentage increase in the medical care component of the CPI-U for the period of
76.11 September to September of the preceding calendar year, rounded to the next higher five-cent
76.12 increment; ~~and~~

76.13 (5) total monthly cost-sharing must not exceed five percent of family income. For
76.14 purposes of this paragraph, family income is the total earned and unearned income of the
76.15 individual and the individual's spouse, if the spouse is enrolled in medical assistance and
76.16 also subject to the five percent limit on cost-sharing. This paragraph does not apply to
76.17 premiums charged to individuals described under section 256B.057, subdivision 9-; and

76.18 (6) cost-sharing for prescription drugs and related medical supplies to treat chronic
76.19 disease must comply with the requirements of section 62Q.481.

76.20 (b) Recipients of medical assistance are responsible for all co-payments and deductibles
76.21 in this subdivision.

76.22 (c) Notwithstanding paragraph (b), the commissioner, through the contracting process
76.23 under sections 256B.69 and 256B.692, may allow managed care plans and county-based
76.24 purchasing plans to waive the family deductible under paragraph (a), clause (4). The value
76.25 of the family deductible shall not be included in the capitation payment to managed care
76.26 plans and county-based purchasing plans. Managed care plans and county-based purchasing
76.27 plans shall certify annually to the commissioner the dollar value of the family deductible.

76.28 (d) Notwithstanding paragraph (b), the commissioner may waive the collection of the
76.29 family deductible described under paragraph (a), clause (4), from individuals and allow
76.30 long-term care and waived service providers to assume responsibility for payment.

76.31 (e) Notwithstanding paragraph (b), the commissioner, through the contracting process
76.32 under section 256B.0756 shall allow the pilot program in Hennepin County to waive

77.1 co-payments. The value of the co-payments shall not be included in the capitation payment
77.2 amount to the integrated health care delivery networks under the pilot program.

77.3 **EFFECTIVE DATE.** This section is effective January 1, 2024.

77.4 Sec. 63. Minnesota Statutes 2022, section 256B.69, subdivision 5a, is amended to read:

77.5 Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and
77.6 section 256L.12 shall be entered into or renewed on a calendar year basis. The commissioner
77.7 may issue separate contracts with requirements specific to services to medical assistance
77.8 recipients age 65 and older.

77.9 (b) A prepaid health plan providing covered health services for eligible persons pursuant
77.10 to chapters 256B and 256L is responsible for complying with the terms of its contract with
77.11 the commissioner. Requirements applicable to managed care programs under chapters 256B
77.12 and 256L established after the effective date of a contract with the commissioner take effect
77.13 when the contract is next issued or renewed.

77.14 (c) The commissioner shall withhold five percent of managed care plan payments under
77.15 this section and county-based purchasing plan payments under section 256B.692 for the
77.16 prepaid medical assistance program pending completion of performance targets. Each
77.17 performance target must be quantifiable, objective, measurable, and reasonably attainable,
77.18 except in the case of a performance target based on a federal or state law or rule. Criteria
77.19 for assessment of each performance target must be outlined in writing prior to the contract
77.20 effective date. Clinical or utilization performance targets and their related criteria must
77.21 consider evidence-based research and reasonable interventions when available or applicable
77.22 to the populations served, and must be developed with input from external clinical experts
77.23 and stakeholders, including managed care plans, county-based purchasing plans, and
77.24 providers. The managed care or county-based purchasing plan must demonstrate, to the
77.25 commissioner's satisfaction, that the data submitted regarding attainment of the performance
77.26 target is accurate. The commissioner shall periodically change the administrative measures
77.27 used as performance targets in order to improve plan performance across a broader range
77.28 of administrative services. The performance targets must include measurement of plan
77.29 efforts to contain spending on health care services and administrative activities. The
77.30 commissioner may adopt plan-specific performance targets that take into account factors
77.31 affecting only one plan, including characteristics of the plan's enrollee population. The
77.32 withheld funds must be returned no sooner than July of the following year if performance
77.33 targets in the contract are achieved. The commissioner may exclude special demonstration
77.34 projects under subdivision 23.

78.1 (d) The commissioner shall require that managed care plans:

78.2 (1) use the assessment and authorization processes, forms, timelines, standards,
78.3 documentation, and data reporting requirements, protocols, billing processes, and policies
78.4 consistent with medical assistance fee-for-service or the Department of Human Services
78.5 contract requirements for all personal care assistance services under section 256B.0659 and
78.6 community first services and supports under section 256B.85; ~~and~~

78.7 (2) by January 30 of each year that follows a rate increase for any aspect of services
78.8 under section 256B.0659 or 256B.85, inform the commissioner and the chairs and ranking
78.9 minority members of the legislative committees with jurisdiction over rates determined
78.10 under section 256B.851 of the amount of the rate increase that is paid to each personal care
78.11 assistance provider agency with which the plan has a contract; and

78.12 (3) use a six-month timely filing standard and provide an exemption to the timely filing
78.13 timeliness for the resubmission of claims where there has been a denial, request for more
78.14 information, or system issue.

78.15 (e) Effective for services rendered on or after January 1, 2012, the commissioner shall
78.16 include as part of the performance targets described in paragraph (c) a reduction in the health
78.17 plan's emergency department utilization rate for medical assistance and MinnesotaCare
78.18 enrollees, as determined by the commissioner. For 2012, the reduction shall be based on
78.19 the health plan's utilization in 2009. To earn the return of the withhold each subsequent
78.20 year, the managed care plan or county-based purchasing plan must achieve a qualifying
78.21 reduction of no less than ten percent of the plan's emergency department utilization rate for
78.22 medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described
78.23 in subdivisions 23 and 28, compared to the previous measurement year until the final
78.24 performance target is reached. When measuring performance, the commissioner must
78.25 consider the difference in health risk in a managed care or county-based purchasing plan's
78.26 membership in the baseline year compared to the measurement year, and work with the
78.27 managed care or county-based purchasing plan to account for differences that they agree
78.28 are significant.

78.29 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
78.30 the following calendar year if the managed care plan or county-based purchasing plan
78.31 demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate
78.32 was achieved. The commissioner shall structure the withhold so that the commissioner
78.33 returns a portion of the withheld funds in amounts commensurate with achieved reductions
78.34 in utilization less than the targeted amount.

79.1 The withhold described in this paragraph shall continue for each consecutive contract
79.2 period until the plan's emergency room utilization rate for state health care program enrollees
79.3 is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance
79.4 and MinnesotaCare enrollees for calendar year 2009. Hospitals shall cooperate with the
79.5 health plans in meeting this performance target and shall accept payment withholds that
79.6 may be returned to the hospitals if the performance target is achieved.

79.7 (f) Effective for services rendered on or after January 1, 2012, the commissioner shall
79.8 include as part of the performance targets described in paragraph (c) a reduction in the plan's
79.9 hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as
79.10 determined by the commissioner. To earn the return of the withhold each year, the managed
79.11 care plan or county-based purchasing plan must achieve a qualifying reduction of no less
79.12 than five percent of the plan's hospital admission rate for medical assistance and
79.13 MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and
79.14 28, compared to the previous calendar year until the final performance target is reached.
79.15 When measuring performance, the commissioner must consider the difference in health risk
79.16 in a managed care or county-based purchasing plan's membership in the baseline year
79.17 compared to the measurement year, and work with the managed care or county-based
79.18 purchasing plan to account for differences that they agree are significant.

79.19 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
79.20 the following calendar year if the managed care plan or county-based purchasing plan
79.21 demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization
79.22 rate was achieved. The commissioner shall structure the withhold so that the commissioner
79.23 returns a portion of the withheld funds in amounts commensurate with achieved reductions
79.24 in utilization less than the targeted amount.

79.25 The withhold described in this paragraph shall continue until there is a 25 percent
79.26 reduction in the hospital admission rate compared to the hospital admission rates in calendar
79.27 year 2011, as determined by the commissioner. The hospital admissions in this performance
79.28 target do not include the admissions applicable to the subsequent hospital admission
79.29 performance target under paragraph (g). Hospitals shall cooperate with the plans in meeting
79.30 this performance target and shall accept payment withholds that may be returned to the
79.31 hospitals if the performance target is achieved.

79.32 (g) Effective for services rendered on or after January 1, 2012, the commissioner shall
79.33 include as part of the performance targets described in paragraph (c) a reduction in the plan's
79.34 hospitalization admission rates for subsequent hospitalizations within 30 days of a previous
79.35 hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare

80.1 enrollees, as determined by the commissioner. To earn the return of the withhold each year,
80.2 the managed care plan or county-based purchasing plan must achieve a qualifying reduction
80.3 of the subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees,
80.4 excluding enrollees in programs described in subdivisions 23 and 28, of no less than five
80.5 percent compared to the previous calendar year until the final performance target is reached.

80.6 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
80.7 the following calendar year if the managed care plan or county-based purchasing plan
80.8 demonstrates to the satisfaction of the commissioner that a qualifying reduction in the
80.9 subsequent hospitalization rate was achieved. The commissioner shall structure the withhold
80.10 so that the commissioner returns a portion of the withheld funds in amounts commensurate
80.11 with achieved reductions in utilization less than the targeted amount.

80.12 The withhold described in this paragraph must continue for each consecutive contract
80.13 period until the plan's subsequent hospitalization rate for medical assistance and
80.14 MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and
80.15 28, is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year
80.16 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall
80.17 accept payment withholds that must be returned to the hospitals if the performance target
80.18 is achieved.

80.19 (h) Effective for services rendered on or after January 1, 2013, through December 31,
80.20 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under
80.21 this section and county-based purchasing plan payments under section 256B.692 for the
80.22 prepaid medical assistance program. The withheld funds must be returned no sooner than
80.23 July 1 and no later than July 31 of the following year. The commissioner may exclude
80.24 special demonstration projects under subdivision 23.

80.25 (i) Effective for services rendered on or after January 1, 2014, the commissioner shall
80.26 withhold three percent of managed care plan payments under this section and county-based
80.27 purchasing plan payments under section 256B.692 for the prepaid medical assistance
80.28 program. The withheld funds must be returned no sooner than July 1 and no later than July
80.29 31 of the following year. The commissioner may exclude special demonstration projects
80.30 under subdivision 23.

80.31 (j) A managed care plan or a county-based purchasing plan under section 256B.692 may
80.32 include as admitted assets under section 62D.044 any amount withheld under this section
80.33 that is reasonably expected to be returned.

81.1 (k) Contracts between the commissioner and a prepaid health plan are exempt from the
81.2 set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and
81.3 7.

81.4 (l) The return of the withhold under paragraphs (h) and (i) is not subject to the
81.5 requirements of paragraph (c).

81.6 (m) Managed care plans and county-based purchasing plans shall maintain current and
81.7 fully executed agreements for all subcontractors, including bargaining groups, for
81.8 administrative services that are expensed to the state's public health care programs.
81.9 Subcontractor agreements determined to be material, as defined by the commissioner after
81.10 taking into account state contracting and relevant statutory requirements, must be in the
81.11 form of a written instrument or electronic document containing the elements of offer,
81.12 acceptance, consideration, payment terms, scope, duration of the contract, and how the
81.13 subcontractor services relate to state public health care programs. Upon request, the
81.14 commissioner shall have access to all subcontractor documentation under this paragraph.
81.15 Nothing in this paragraph shall allow release of information that is nonpublic data pursuant
81.16 to section 13.02.

81.17 Sec. 64. Minnesota Statutes 2022, section 256L.03, subdivision 5, is amended to read:

81.18 Subd. 5. **Cost-sharing.** (a) Co-payments, coinsurance, and deductibles do not apply to
81.19 children under the age of 21 and to American Indians as defined in Code of Federal
81.20 Regulations, title 42, section 600.5.

81.21 (b) The commissioner shall adjust co-payments, coinsurance, and deductibles for covered
81.22 services in a manner sufficient to maintain the actuarial value of the benefit to 94 percent.
81.23 The cost-sharing changes described in this paragraph do not apply to eligible recipients or
81.24 services exempt from cost-sharing under state law. The cost-sharing changes described in
81.25 this paragraph shall not be implemented prior to January 1, 2016.

81.26 (c) The cost-sharing changes authorized under paragraph (b) must satisfy the requirements
81.27 for cost-sharing under the Basic Health Program as set forth in Code of Federal Regulations,
81.28 title 42, sections 600.510 and 600.520.

81.29 (d) Cost-sharing for prescription drugs and related medical supplies to treat chronic
81.30 disease must comply with the requirements of section 62Q.481.

81.31 **EFFECTIVE DATE.** This section is effective January 1, 2024.

82.1 **Sec. 65. AUTOMOTIVE SELF-INSURANCE; RULES AMENDMENT; EXPEDITED**
82.2 **RULEMAKING.**

82.3 **Subdivision 1. Self-insurance working capital condition.** The commissioner of
82.4 commerce must amend Minnesota Rules, part 2770.6500, subpart 2, item B, subitem (5),
82.5 to require the commissioner's grant of self-insurance authority to an applicant to be based
82.6 on the applicant's net working capital in lieu of the applicant's net funds flow.

82.7 **Subd. 2. Commissioner discretion to grant self-insurance authority.** The commissioner
82.8 of commerce must amend Minnesota Rules, part 2770.6500, subpart 2, item D, to,
82.9 notwithstanding any other provision of Minnesota Rules, part 2770.6500, permit the
82.10 commissioner to grant self-insurance authority to an applicant that is not a political
82.11 subdivision and that has not had positive net income or positive working capital in at least
82.12 three years of the last five-year period if the applicant's working capital, debt structure,
82.13 profitability, and overall financial integrity of the applicant and its parent company, if one
82.14 exists, demonstrate a continuing ability of the applicant to satisfy any financial obligations
82.15 that have been and might be incurred under the no-fault act.

82.16 **Subd. 3. Working capital.** The commissioner of commerce must define working capital
82.17 for the purposes of Minnesota Rules, part 2770.6500.

82.18 **Subd. 4. Commissioner discretion to revoke self-insurance authority.** The
82.19 commissioner of commerce must amend Minnesota Rules, part 2770.7300, to permit, in
82.20 lieu of require, the commissioner to revoke a self-insurer's authorization to self-insure based
82.21 on the commissioner's determinations under Minnesota Rules, part 2770.7300, items A and
82.22 B.

82.23 **Subd. 5. Expedited rulemaking authorized.** The commissioner of commerce may use
82.24 the expedited rulemaking process under Minnesota Statutes, section 14.389, to amend rules
82.25 under this section.

82.26 **Sec. 66. EVALUATION OF EXISTING STATUTORY HEALTH BENEFIT**
82.27 **MANDATES.**

82.28 **Subdivision 1. Evaluation process and content.** Beginning August 1, 2023, and annually
82.29 thereafter for the next five calendar years, the commissioner of commerce shall conduct an
82.30 evaluation of the economic cost and health benefits of one state-required benefit included
82.31 in Minnesota's EHB-benchmark plan, as defined in Code of Federal Regulations, title 45,
82.32 section 156.20. The mandated benefit to be studied each year must be chosen from a list
82.33 developed by the chairs of the house of representatives and senate commerce committees,

83.1 in consultation with the ranking minority members of the house of representatives and senate
83.2 commerce committees. The chairs and ranking minority members of the house of
83.3 representatives and senate commerce committees must agree upon and inform the
83.4 commissioner of at least one mandate to be reviewed for the period between August 1, 2023,
83.5 and August 1, 2024. The commissioner shall consult with the commissioner of health and
83.6 clinical and actuarial experts to assist in the evaluation and synthesis of available evidence.
83.7 The commissioner may obtain public input as part of the evaluation. At a minimum, the
83.8 evaluation must consider the following:

83.9 (1) cost for services;

83.10 (2) the share of Minnesotans' health insurance premiums that are tied to each current
83.11 mandated benefit;

83.12 (3) utilization of services;

83.13 (4) contribution to individual and public health;

83.14 (5) extent to which the mandate conforms with existing standards of care in terms of
83.15 appropriateness or evidence-based medicine;

83.16 (6) the historical context in which the mandate was enacted, including how the mandate
83.17 interacts with other required benefits; and

83.18 (7) other relevant criteria of effectiveness and efficacy as determined by the commissioner
83.19 in consultation with the commissioner of health.

83.20 Subd. 2. **Report to legislature.** The commissioner must submit a written report on the
83.21 evaluation to the chairs and ranking minority members of the legislative committees with
83.22 jurisdiction over health insurance policy and finance no later than 180 days after the
83.23 commissioner receives notification from a chair, as required under Minnesota Statutes,
83.24 section 62J.26, subdivision 3.

83.25 **Sec. 67. REPEALER.**

83.26 Minnesota Statutes 2022, section 62A.31, subdivisions 1b and 1i, are repealed.

83.27 **ARTICLE 3**

83.28 **FINANCIAL INSTITUTIONS**

83.29 Section 1. Minnesota Statutes 2022, section 46.131, subdivision 11, is amended to read:

83.30 Subd. 11. **Financial institutions account; appropriation.** (a) The financial institutions
83.31 account is created as a separate account in the special revenue fund. Earnings, including

84.1 interest, dividends, and any other earnings arising from account assets, must be credited to
84.2 the account.

84.3 (b) The account consists of funds received from assessments under subdivision 7,
84.4 examination fees under subdivision 8, and funds received pursuant to subdivision 10 and
84.5 the following provisions: sections 46.04; 46.041; 46.048, subdivision 1; 47.101; 47.54,
84.6 subdivision 1; 47.60, subdivision 3; 47.62, subdivision 4; 48.61, subdivision 7, paragraph
84.7 (b); 49.36, subdivision 1; 52.203; ~~53B.09; 53B.11, subdivision 1;~~ 53B.38; 53B.41; 53B.43;
84.8 53C.02; 56.02; 58.10; 58A.045, subdivision 2; 59A.03; 216C.437, subdivision 12; 332A.04;
84.9 and 332B.04.

84.10 (c) Funds in the account are annually appropriated to the commissioner of commerce
84.11 for activities under this section.

84.12 Sec. 2. Minnesota Statutes 2022, section 47.0153, subdivision 1, is amended to read:

84.13 Subdivision 1. **Emergency closings.** When the officers of a financial institution are of
84.14 the opinion that an emergency exists, or is impending, which affects, or may affect, a
84.15 financial institution's offices, they shall have the authority, in the reasonable exercise of
84.16 their discretion, to determine not to open any of its offices on any business day or, if having
84.17 opened, to close an office during the continuation of the emergency, even if the commissioner
84.18 does not issue a proclamation of emergency. The office closed shall remain closed until the
84.19 time that the officers determine the emergency has ended, and for the further time reasonably
84.20 necessary to reopen. No financial institution office shall remain closed for more than 48
84.21 consecutive hours in a Monday through Friday period, excluding other legal holidays,
84.22 without the prior approval of the commissioner.

84.23 Sec. 3. Minnesota Statutes 2022, section 47.59, subdivision 2, is amended to read:

84.24 Subd. 2. **Application.** Extensions of credit or purchases of extensions of credit by
84.25 financial institutions under sections 47.20, 47.21, 47.201, 47.204, 47.58, ~~47.60~~, 48.153,
84.26 48.185, 48.195, 59A.01 to 59A.15, 334.01, 334.011, 334.012, 334.022, 334.06, and 334.061
84.27 to 334.19 may, but need not, be made according to those sections in lieu of the authority
84.28 set forth in this section to the extent those sections authorize the financial institution to make
84.29 extensions of credit or purchase extensions of credit under those sections. If a financial
84.30 institution elects to make an extension of credit or to purchase an extension of credit under
84.31 those other sections, the extension of credit or the purchase of an extension of credit is
84.32 subject to those sections and not this section, except this subdivision, and except as expressly
84.33 provided in those sections. A financial institution may also charge an organization a rate of

85.1 interest and any charges agreed to by the organization and may calculate and collect finance
85.2 and other charges in any manner agreed to by that organization. Except for extensions of
85.3 credit a financial institution elects to make under section 334.01, 334.011, 334.012, 334.022,
85.4 334.06, or 334.061 to 334.19, chapter 334 does not apply to extensions of credit made
85.5 according to this section or the sections listed in this subdivision. This subdivision does not
85.6 authorize a financial institution to extend credit or purchase an extension of credit under
85.7 any of the sections listed in this subdivision if the financial institution is not authorized to
85.8 do so under those sections. A financial institution extending credit under any of the sections
85.9 listed in this subdivision shall specify in the promissory note, contract, or other loan document
85.10 the section under which the extension of credit is made.

85.11 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
85.12 applies to consumer small loans and consumer short-term loans originated on or after that
85.13 date.

85.14 Sec. 4. Minnesota Statutes 2022, section 47.60, subdivision 1, is amended to read:

85.15 Subdivision 1. **Definitions.** For purposes of this section, the terms defined have the
85.16 meanings given them:

85.17 (a) "Consumer small loan" is a loan transaction in which cash is advanced to a borrower
85.18 for the borrower's own personal, family, or household purpose. A consumer small loan is
85.19 a short-term, unsecured loan to be repaid in a single installment. The cash advance of a
85.20 consumer small loan is equal to or less than \$350. A consumer small loan includes an
85.21 indebtedness evidenced by but not limited to a promissory note or agreement to defer the
85.22 presentation of a personal check for a fee.

85.23 (b) "Consumer small loan lender" is a financial institution as defined in section 47.59
85.24 or a business entity registered with the commissioner and engaged in the business of making
85.25 consumer small loans.

85.26 (c) "Annual percentage rate" means a measure of the cost of credit, expressed as a yearly
85.27 rate, that relates the amount and timing of value received by the consumer to the amount
85.28 and timing of payments made. Annual percentage interest rate includes all interest, finance
85.29 charges, and fees. The annual percentage rate must be determined in accordance with either
85.30 the actuarial method or the United States Rule method.

85.31 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
85.32 applies to consumer small loans and consumer short-term loans originated on or after that
85.33 date.

86.1 Sec. 5. Minnesota Statutes 2022, section 47.60, subdivision 2, is amended to read:

86.2 Subd. 2. **Authorization, terms, conditions, and prohibitions.** (a) ~~In lieu of the interest,~~
86.3 ~~finance charges, or fees in any other law~~ connection with a consumer small loan, a consumer
86.4 small loan lender may charge ~~the following:~~ an annual percentage rate of up to 36 percent.
86.5 No other charges or payments are permitted or may be received by the lender in connection
86.6 with a consumer small loan.

86.7 ~~(1) on any amount up to and including \$50, a charge of \$5.50 may be added;~~

86.8 ~~(2) on amounts in excess of \$50, but not more than \$100, a charge may be added equal~~
86.9 ~~to ten percent of the loan proceeds plus a \$5 administrative fee;~~

86.10 ~~(3) on amounts in excess of \$100, but not more than \$250, a charge may be added equal~~
86.11 ~~to seven percent of the loan proceeds with a minimum of \$10 plus a \$5 administrative fee;~~

86.12 ~~(4) for amounts in excess of \$250 and not greater than the maximum in subdivision 1,~~
86.13 ~~paragraph (a), a charge may be added equal to six percent of the loan proceeds with a~~
86.14 ~~minimum of \$17.50 plus a \$5 administrative fee.~~

86.15 (b) The term of a loan made under this section shall be for no more than 30 calendar
86.16 days.

86.17 (c) After maturity, the contract rate must not exceed 2.75 percent per month of the
86.18 remaining loan proceeds after the maturity date calculated at a rate of 1/30 of the monthly
86.19 rate in the contract for each calendar day the balance is outstanding.

86.20 (d) No insurance charges or other charges must be permitted to be charged, collected,
86.21 or imposed on a consumer small loan except as authorized in this section.

86.22 (e) On a loan transaction in which cash is advanced in exchange for a personal check,
86.23 a return check charge may be charged as authorized by section 604.113, subdivision 2,
86.24 paragraph (a). The civil penalty provisions of section 604.113, subdivision 2, paragraph
86.25 (b), may not be demanded or assessed against the borrower.

86.26 (f) A loan made under this section must not be repaid by the proceeds of another loan
86.27 made under this section by the same lender or related interest. The proceeds from a loan
86.28 made under this section must not be applied to another loan from the same lender or related
86.29 interest. No loan to a single borrower made pursuant to this section shall be split or divided
86.30 and no single borrower shall have outstanding more than one loan with the result of collecting
86.31 a higher charge than permitted by this section or in an aggregate amount of principal exceed
86.32 at any one time the maximum of \$350.

87.1 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
87.2 applies to consumer small loans and consumer short-term loans originated on or after that
87.3 date.

87.4 Sec. 6. Minnesota Statutes 2022, section 47.60, is amended by adding a subdivision to
87.5 read:

87.6 Subd. 8. **No evasion.** (a) A person must not engage in any device, subterfuge, or pretense
87.7 to evade the requirements of this section, including but not limited to:

87.8 (1) making loans disguised as a personal property sale and leaseback transaction;

87.9 (2) disguising loan proceeds as a cash rebate for the pretextual installment sale of goods
87.10 or services; or

87.11 (3) making, offering, assisting, or arranging for a debtor to obtain a loan with a greater
87.12 rate or amount of interest, consideration, charge, or payment than is permitted by this section
87.13 through any method, including mail, telephone, Internet, or any electronic means, regardless
87.14 of whether a person has a physical location in Minnesota.

87.15 (b) A person is a consumer small loan lender subject to the requirements of this section
87.16 notwithstanding the fact that a person purports to act as an agent or service provider, or acts
87.17 in another capacity for another person that is not subject to this section, if a person:

87.18 (1) directly or indirectly holds, acquires, or maintains the predominant economic interest,
87.19 risk, or reward in a loan or lending business; or

87.20 (2) both: (i) markets, solicits, brokers, arranges, or facilitates a loan; and (ii) holds or
87.21 holds the right, requirement, or first right of refusal to acquire loans, receivables, or other
87.22 direct or interest in a loan.

87.23 (c) A person is a consumer small loan lender subject to the requirements of this section
87.24 if the totality of the circumstances indicate that a person is a lender and the transaction is
87.25 structured to evade the requirements of this section. Circumstances that weigh in favor of
87.26 a person being a lender in a transaction include but are not limited to instances where a
87.27 person:

87.28 (1) indemnifies, insures, or protects a person not subject to this section from any costs
87.29 or risks related to a loan;

87.30 (2) predominantly designs, controls, or operates lending activity;

87.31 (3) holds the trademark or intellectual property rights in the brand, underwriting system,
87.32 or other core aspects of a lending business; or

88.1 (4) purports to act as an agent or service provider, or acts in another capacity, for a person
88.2 not subject to this section while acting directly as a lender in one or more states.

88.3 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
88.4 applies to consumer small loans and consumer short-term loans originated on or after that
88.5 date.

88.6 Sec. 7. Minnesota Statutes 2022, section 47.601, subdivision 1, is amended to read:

88.7 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this
88.8 subdivision have the meanings given.

88.9 (b) "Borrower" means an individual who obtains a consumer short-term loan primarily
88.10 for personal, family, or household purposes.

88.11 (c) "Commissioner" means the commissioner of commerce.

88.12 (d) "Consumer short-term loan" means a loan to a borrower which has a principal amount,
88.13 or an advance on a credit limit, of ~~\$1,000~~ \$1,300 or less and requires a minimum payment
88.14 within 60 days of loan origination or credit advance of more than 25 percent of the principal
88.15 balance or credit advance. For the purposes of this section, each new advance of money to
88.16 a borrower under a consumer short-term loan agreement constitutes a new consumer
88.17 short-term loan. A "consumer short-term loan" does not include any transaction made under
88.18 chapter 325J or a loan made by a consumer short-term lender where, in the event of default
88.19 on the loan, the sole recourse for recovery of the amount owed, other than a lawsuit for
88.20 damages for the debt, is to proceed against physical goods pledged by the borrower as
88.21 collateral for the loan.

88.22 (e) "Consumer short-term lender" means an individual or entity engaged in the business
88.23 of making or arranging consumer short-term loans, other than a state or federally chartered
88.24 bank, savings bank, or credit union. For the purposes of this paragraph, arranging consumer
88.25 short-term loans includes but is not limited to any substantial involvement in facilitating,
88.26 marketing, lead-generating, underwriting, servicing, or collecting consumer short-term
88.27 loans.

88.28 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
88.29 applies to consumer small loans and consumer short-term loans originated on or after that
88.30 date.

89.1 Sec. 8. Minnesota Statutes 2022, section 47.601, subdivision 2, is amended to read:

89.2 Subd. 2. **Consumer short-term loan contract.** (a) No contract or agreement between
89.3 a consumer short-term loan lender and a borrower residing in Minnesota may contain the
89.4 following:

89.5 (1) a provision selecting a law other than Minnesota law under which the contract is
89.6 construed or enforced;

89.7 (2) a provision choosing a forum for dispute resolution other than the state of Minnesota;
89.8 or

89.9 (3) a provision limiting class actions against a consumer short-term lender for violations
89.10 of subdivision 3 or for making consumer short-term loans:

89.11 (i) without a required license issued by the commissioner; or

89.12 (ii) in which interest rates, fees, charges, or loan amounts exceed those allowable under
89.13 section ~~47.59, subdivision 6, or 47.60, subdivision 2, other than by de minimis amounts if~~
89.14 ~~no pattern or practice exists.~~

89.15 (b) Any provision prohibited by paragraph (a) is void and unenforceable.

89.16 (c) A consumer short-term loan lender must furnish a copy of the written loan contract
89.17 to each borrower. The contract and disclosures must be written in the language in which
89.18 the loan was negotiated with the borrower and must contain:

89.19 (1) the name; address, which may not be a post office box; and telephone number of the
89.20 lender making the consumer short-term loan;

89.21 (2) the name and title of the individual employee or representative who signs the contract
89.22 on behalf of the lender;

89.23 (3) an itemization of the fees and interest charges to be paid by the borrower;

89.24 (4) in bold, 24-point type, the annual percentage rate as computed under United States
89.25 Code, chapter 15, section 1606; and

89.26 (5) a description of the borrower's payment obligations under the loan.

89.27 (d) The holder or assignee of a check or other instrument evidencing an obligation of a
89.28 borrower in connection with a consumer short-term loan takes the instrument subject to all
89.29 claims by and defenses of the borrower against the consumer short-term lender.

90.1 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
90.2 applies to consumer small loans and consumer short-term loans originated on or after that
90.3 date.

90.4 Sec. 9. Minnesota Statutes 2022, section 47.601, is amended by adding a subdivision to
90.5 read:

90.6 Subd. 5a. **No evasion.** (a) A person must not engage in any device, subterfuge, or pretense
90.7 to evade the requirements of this section, including but not limited to:

90.8 (1) making loans disguised as a personal property sale and leaseback transaction;

90.9 (2) disguising loan proceeds as a cash rebate for the pretextual installment sale of goods
90.10 or services; or

90.11 (3) making, offering, assisting, or arranging for a debtor to obtain a loan with a greater
90.12 rate or amount of interest, consideration, charge, or payment than is permitted by this section
90.13 through any method, including mail, telephone, Internet, or any electronic means, regardless
90.14 of whether a person has a physical location in Minnesota.

90.15 (b) A person is a consumer short-term loan lender subject to the requirements of this
90.16 section notwithstanding the fact that a person purports to act as an agent or service provider,
90.17 or acts in another capacity for another person that is not subject to this section, if a person:

90.18 (1) directly or indirectly holds, acquires, or maintains the predominant economic interest,
90.19 risk, or reward in a loan or lending business; or

90.20 (2) both: (i) markets, solicits, brokers, arranges, or facilitates a loan; and (ii) holds or
90.21 holds the right, requirement, or first right of refusal to acquire loans, receivables, or other
90.22 direct or interest in a loan.

90.23 (c) A person is a consumer short-term loan lender subject to the requirements of this
90.24 section if the totality of the circumstances indicate that a person is a lender and the transaction
90.25 is structured to evade the requirements of this section. Circumstances that weigh in favor
90.26 of a person being a lender in a transaction include but are not limited to instances where a
90.27 person:

90.28 (1) indemnifies, insures, or protects a person not subject to this section from any costs
90.29 or risks related to a loan;

90.30 (2) predominantly designs, controls, or operates lending activity;

90.31 (3) holds the trademark or intellectual property rights in the brand, underwriting system,
90.32 or other core aspects of a lending business; or

91.1 (4) purports to act as an agent or service provider, or acts in another capacity, for a person
91.2 not subject to this section while acting directly as a lender in one or more states.

91.3 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
91.4 applies to consumer small loans and consumer short-term loans originated on or after that
91.5 date.

91.6 Sec. 10. Minnesota Statutes 2022, section 47.601, subdivision 6, is amended to read:

91.7 Subd. 6. **Penalties for violation; private right of action.** (a) Except for a "bona fide
91.8 error" as set forth under United States Code, chapter 15, section 1640, subsection (c), an
91.9 individual or entity who violates subdivision 2 ~~or~~ 3, or 5a is liable to the borrower for:

91.10 (1) all money collected or received in connection with the loan;

91.11 (2) actual, incidental, and consequential damages;

91.12 (3) statutory damages of up to \$1,000 per violation;

91.13 (4) costs, disbursements, and reasonable attorney fees; and

91.14 (5) injunctive relief.

91.15 (b) In addition to the remedies provided in paragraph (a), a loan is void, and the borrower
91.16 is not obligated to pay any amounts owing if the loan is made:

91.17 (1) by a consumer short-term lender who has not obtained an applicable license from
91.18 the commissioner;

91.19 (2) in violation of any provision of subdivision 2 or 3; or

91.20 (3) in which interest, fees, charges, or loan amounts exceed the interest, fees, charges,
91.21 or loan amounts allowable under ~~sections 47.59, subdivision 6, and section 47.60, subdivision~~
91.22 ~~2.~~

91.23 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
91.24 applies to consumer small loans and consumer short-term loans originated on or after that
91.25 date.

91.26 Sec. 11. **[48.591] CLIMATE RISK DISCLOSURE SURVEY.**

91.27 Subdivision 1. **Requirement.** By July 30 each year, a banking institution with more
91.28 than \$1,000,000,000 in assets must submit a completed climate risk disclosure survey to
91.29 the commissioner. The commissioner must provide the form used to submit a climate risk
91.30 disclosure survey.

92.1 Subd. 2. **Data.** Data submitted to the commissioner under this section are public, except
92.2 that trade secret information is nonpublic under section 13.37.

92.3 Sec. 12. [52.065] CLIMATE RISK DISCLOSURE SURVEY.

92.4 Subdivision 1. **Requirement.** By July 30 each year, a credit union with more than
92.5 \$1,000,000,000 in assets must submit a completed climate risk disclosure survey to the
92.6 commissioner. The commissioner must provide the form used to submit a climate risk
92.7 disclosure survey.

92.8 Subd. 2. **Data.** Data submitted to the commissioner under this section are public, except
92.9 that trade secret information is nonpublic under section 13.37.

92.10 Sec. 13. Minnesota Statutes 2022, section 53.04, subdivision 3a, is amended to read:

92.11 Subd. 3a. **Loans.** (a) The right to make loans, secured or unsecured, at the rates and on
92.12 the terms and other conditions permitted under chapters 47 and 334. Loans made under this
92.13 authority must be in amounts in compliance with section 53.05, clause (7). A licensee making
92.14 a loan under this chapter secured by a lien on real estate shall comply with the requirements
92.15 of section 47.20, subdivision 8. A licensee making a loan that is a consumer small loan, as
92.16 defined in section 47.60, subdivision 1, paragraph (a), must comply with section 47.60. A
92.17 licensee making a loan that is a consumer short-term loan, as defined in section 47.601,
92.18 subdivision 1, paragraph (d), must comply with section 47.601.

92.19 (b) Loans made under this subdivision may be secured by real or personal property, or
92.20 both. If the proceeds of a loan secured by a first lien on the borrower's primary residence
92.21 are used to finance the purchase of the borrower's primary residence, the loan must comply
92.22 with the provisions of section 47.20.

92.23 (c) An agency or instrumentality of the United States government or a corporation
92.24 otherwise created by an act of the United States Congress or a lender approved or certified
92.25 by the secretary of housing and urban development, or approved or certified by the
92.26 administrator of veterans affairs, or approved or certified by the administrator of the Farmers
92.27 Home Administration, or approved or certified by the Federal Home Loan Mortgage
92.28 Corporation, or approved or certified by the Federal National Mortgage Association, that
92.29 engages in the business of purchasing or taking assignments of mortgage loans and undertakes
92.30 direct collection of payments from or enforcement of rights against borrowers arising from
92.31 mortgage loans, is not required to obtain a certificate of authorization under this chapter in
92.32 order to purchase or take assignments of mortgage loans from persons holding a certificate
92.33 of authorization under this chapter.

93.1 (d) This subdivision does not authorize an industrial loan and thrift company to make
93.2 loans under an overdraft checking plan.

93.3 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
93.4 applies to consumer small loans and consumer short-term loans originated on or after that
93.5 date.

93.6 Sec. 14. **[53B.28] DEFINITIONS.**

93.7 Subdivision 1. **Terms.** For the purposes of this chapter, the terms defined in this section
93.8 have the meanings given them.

93.9 Subd. 2. **Acting in concert.** "Acting in concert" means persons knowingly acting together
93.10 with a common goal of jointly acquiring control of a licensee, whether or not pursuant to
93.11 an express agreement.

93.12 Subd. 3. **Authorized delegate.** "Authorized delegate" means a person a licensee
93.13 designates to engage in money transmission on behalf of the licensee.

93.14 Subd. 4. **Average daily money transmission liability.** "Average daily money
93.15 transmission liability" means the amount of the licensee's outstanding money transmission
93.16 obligations in Minnesota at the end of each day in a given period of time, added together,
93.17 and divided by the total number of days in the given period of time. For purposes of
93.18 calculating average daily money transmission liability under this chapter for any licensee
93.19 required to do so, the given period of time shall be the quarters ending March 31, June 30,
93.20 September 30, and December 31.

93.21 Subd. 5. **Bank Secrecy Act.** "Bank Secrecy Act" means the Bank Secrecy Act under
93.22 United States Code, title 31, section 5311, et seq., and the Bank Secrecy Act's implementing
93.23 regulations, as amended and recodified from time to time.

93.24 Subd. 6. **Closed loop stored value.** "Closed loop stored value" means stored value that
93.25 is redeemable by the issuer only for a good or service provided by the issuer, the issuer's
93.26 affiliate, the issuer's franchisees, or an affiliate of the issuer's franchisees, except to the
93.27 extent required by applicable law to be redeemable in cash for the good or service's cash
93.28 value.

93.29 Subd. 7. **Control.** "Control" means:

93.30 (1) the power to vote, directly or indirectly, at least 25 percent of the outstanding voting
93.31 shares or voting interests of a licensee or person in control of a licensee;

94.1 (2) the power to elect or appoint a majority of key individuals or executive officers,
94.2 managers, directors, trustees, or other persons exercising managerial authority of a person
94.3 in control of a licensee; or

94.4 (3) the power to exercise, directly or indirectly, a controlling influence over the
94.5 management or policies of a licensee or person in control of a licensee.

94.6 Subd. 8. **Eligible rating.** "Eligible rating" means a credit rating of any of the three highest
94.7 rating categories provided by an eligible rating service, whereby each category may include
94.8 rating category modifiers such as "plus" or "minus" or the equivalent for any other eligible
94.9 rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or
94.10 higher or the equivalent from any other eligible rating service. Short-term credit ratings are
94.11 deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent
94.12 from any other eligible rating service. In the event that ratings differ among eligible rating
94.13 services, the highest rating shall apply when determining whether a security bears an eligible
94.14 rating.

94.15 Subd. 9. **Eligible rating service.** "Eligible rating service" means any Nationally
94.16 Recognized Statistical Rating Organization (NRSRO), as defined by the United States
94.17 Securities and Exchange Commission and any other organization designated by the
94.18 commissioner by rule or order.

94.19 Subd. 10. **Federally insured depository financial institution.** "Federally insured
94.20 depository financial institution" means a bank, credit union, savings and loan association,
94.21 trust company, savings association, savings bank, industrial bank, or industrial loan company
94.22 organized under the laws of the United States or any state of the United States, when the
94.23 bank, credit union, savings and loan association, trust company, savings association, savings
94.24 bank, industrial bank, or industrial loan company has federally insured deposits.

94.25 Subd. 11. **In Minnesota.** "In Minnesota" means at a physical location within the state
94.26 of Minnesota for a transaction requested in person. For a transaction requested electronically
94.27 or by telephone, the provider of money transmission may determine if the person requesting
94.28 the transaction is in Minnesota by relying on other information provided by the person
94.29 regarding the location of the individual's residential address or a business entity's principal
94.30 place of business or other physical address location, and any records associated with the
94.31 person that the provider of money transmission may have that indicate the location, including
94.32 but not limited to an address associated with an account.

94.33 Subd. 12. **Individual.** "Individual" means a natural person.

95.1 Subd. 13. **Key individual.** "Key individual" means any individual ultimately responsible
95.2 for establishing or directing policies and procedures of the licensee, including but not limited
95.3 to as an executive officer, manager, director, or trustee.

95.4 Subd. 14. **Licensee.** "Licensee" means a person licensed under this chapter.

95.5 Subd. 15. **Material litigation.** "Material litigation" means litigation that, according to
95.6 United States generally accepted accounting principles, is significant to a person's financial
95.7 health and would be required to be disclosed in the person's annual audited financial
95.8 statements, report to shareholders, or similar records.

95.9 Subd. 16. **Money.** "Money" means a medium of exchange that is authorized or adopted
95.10 by the United States or a foreign government. Money includes a monetary unit of account
95.11 established by an intergovernmental organization or by agreement between two or more
95.12 governments.

95.13 Subd. 17. **Monetary value.** "Monetary value" means a medium of exchange, whether
95.14 or not redeemable in money.

95.15 Subd. 18. **Money transmission.** (a) "Money transmission" means:

95.16 (1) selling or issuing payment instruments to a person located in this state;

95.17 (2) selling or issuing stored value to a person located in this state; or

95.18 (3) receiving money for transmission from a person located in this state.

95.19 (b) Money includes payroll processing services. Money does not include the provision
95.20 solely of online or telecommunications services or network access.

95.21 Subd. 19. **Money services business accredited state or MSB accredited state.** "Money
95.22 services businesses accredited state" or "MSB accredited state" means a state agency that
95.23 is accredited by the Conference of State Bank Supervisors and Money Transmitter Regulators
95.24 Association for money transmission licensing and supervision.

95.25 Subd. 20. **Multistate licensing process.** "Multistate licensing process" means any
95.26 agreement entered into by and among state regulators relating to coordinated processing of
95.27 applications for money transmission licenses, applications for the acquisition of control of
95.28 a licensee, control determinations, or notice and information requirements for a change of
95.29 key individuals.

95.30 Subd. 21. **NMLS.** "NMLS" means the Nationwide Multistate Licensing System and
95.31 Registry developed by the Conference of State Bank Supervisors and the American
95.32 Association of Residential Mortgage Regulators and owned and operated by the State

96.1 Regulatory Registry, LLC, or any successor or affiliated entity, for the licensing and
96.2 registration of persons in financial services industries.

96.3 Subd. 22. **Outstanding money transmission obligations.** (a) "Outstanding money
96.4 transmission obligations" must be established and extinguished in accordance with applicable
96.5 state law and means:

96.6 (1) any payment instrument or stored value issued or sold by the licensee to a person
96.7 located in the United States or reported as sold by an authorized delegate of the licensee to
96.8 a person that is located in the United States that has not yet been paid or refunded by or for
96.9 the licensee, or escheated in accordance with applicable abandoned property laws; or

96.10 (2) any money received for transmission by the licensee or an authorized delegate in the
96.11 United States from a person located in the United States that has not been received by the
96.12 payee or refunded to the sender, or escheated in accordance with applicable abandoned
96.13 property laws.

96.14 (b) For purposes of this subdivision, "in the United States" includes, to the extent
96.15 applicable, a person in any state, territory, or possession of the United States; the District
96.16 of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is
96.17 located in a foreign country.

96.18 Subd. 23. **Passive investor.** "Passive investor" means a person that:

96.19 (1) does not have the power to elect a majority of key individuals or executive officers,
96.20 managers, directors, trustees, or other persons exercising managerial authority of a person
96.21 in control of a licensee;

96.22 (2) is not employed by and does not have any managerial duties of the licensee or person
96.23 in control of a licensee;

96.24 (3) does not have the power to exercise, directly or indirectly, a controlling influence
96.25 over the management or policies of a licensee or person in control of a licensee; and

96.26 (4) attests to clauses (1), (2), and (3), in a form and in a medium prescribed by the
96.27 commissioner, or commits to the passivity characteristics under clauses (1), (2), and (3) in
96.28 a written document.

96.29 Subd. 24. **Payment instrument.** (a) "Payment instrument" means a written or electronic
96.30 check, draft, money order, traveler's check, or other written or electronic instrument for the
96.31 transmission or payment of money or monetary value, whether or not negotiable.

97.1 (b) Payment instrument does not include stored value or any instrument that is: (1)
97.2 redeemable by the issuer only for goods or services provided by the issuer, the issuer's
97.3 affiliate, the issuer's franchisees, or an affiliate of the issuer's franchisees, except to the
97.4 extent required by applicable law to be redeemable in cash for its cash value; or (2) not sold
97.5 to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

97.6 Subd. 25. **Payroll processing services.** "Payroll processing services" means receiving
97.7 money for transmission pursuant to a contract with a person to deliver wages or salaries,
97.8 make payment of payroll taxes to state and federal agencies, make payments relating to
97.9 employee benefit plans, or make distributions of other authorized deductions from wages
97.10 or salaries. The term payroll processing services does not include an employer performing
97.11 payroll processing services on the employer's own behalf or on behalf of the employer's
97.12 affiliate, or a professional employment organization subject to regulation under other
97.13 applicable state law.

97.14 Subd. 26. **Person.** "Person" means any individual, general partnership, limited partnership,
97.15 limited liability company, corporation, trust, association, joint stock corporation, or other
97.16 corporate entity identified by the commissioner.

97.17 Subd. 27. **Receiving money for transmission or money received for**
97.18 **transmission.** "Receiving money for transmission" or "money received for transmission"
97.19 means receiving money or monetary value in the United States for transmission within or
97.20 outside the United States by electronic or other means.

97.21 Subd. 28. **Stored value.** (a) "Stored value" means monetary value representing a claim
97.22 against the issuer evidenced by an electronic or digital record, and that is intended and
97.23 accepted for use as a means of redemption for money or monetary value, or payment for
97.24 goods or services. Stored value includes but is not limited to prepaid access, as defined
97.25 under Code of Federal Regulations, title 31, part 1010.100, as amended or recodified from
97.26 time to time.

97.27 (b) Notwithstanding this subdivision, stored value does not include: (1) a payment
97.28 instrument or closed loop stored value; or (2) stored value not sold to the public but issued
97.29 and distributed as part of a loyalty, rewards, or promotional program.

97.30 Subd. 29. **Tangible net worth.** "Tangible net worth" means the aggregate assets of a
97.31 licensee excluding all intangible assets, less liabilities, as determined in accordance with
97.32 United States generally accepted accounting principles.

98.1 Sec. 15. [53B.29] EXEMPTIONS.

98.2 This chapter does not apply to:

98.3 (1) an operator of a payment system, to the extent the operator of a payment system
98.4 provides processing, clearing, or settlement services between or among persons exempted
98.5 by this section or licensees in connection with wire transfers, credit card transactions, debit
98.6 card transactions, stored-value transactions, automated clearing house transfers, or similar
98.7 funds transfers;

98.8 (2) a person appointed as an agent of a payee to collect and process a payment from a
98.9 payor to the payee for goods or services, other than money transmission itself, provided to
98.10 the payor by the payee, provided that:

98.11 (i) there exists a written agreement between the payee and the agent directing the agent
98.12 to collect and process payments from payors on the payee's behalf;

98.13 (ii) the payee holds the agent out to the public as accepting payments for goods or services
98.14 on the payee's behalf; and

98.15 (iii) payment for the goods and services is treated as received by the payee upon receipt
98.16 by the agent so that the payor's obligation is extinguished and there is no risk of loss to the
98.17 payor if the agent fails to remit the funds to the payee;

98.18 (3) a person that acts as an intermediary by processing payments between an entity that
98.19 has directly incurred an outstanding money transmission obligation to a sender, and the
98.20 sender's designated recipient, provided that the entity:

98.21 (i) is properly licensed or exempt from licensing requirements under this chapter;

98.22 (ii) provides a receipt, electronic record, or other written confirmation to the sender
98.23 identifying the entity as the provider of money transmission in the transaction; and

98.24 (iii) bears sole responsibility to satisfy the outstanding money transmission obligation
98.25 to the sender, including the obligation to make the sender whole in connection with any
98.26 failure to transmit the funds to the sender's designated recipient;

98.27 (4) the United States; a department, agency, or instrumentality of the United States; or
98.28 an agent of the United States;

98.29 (5) money transmission by the United States Postal Service or by an agent of the United
98.30 States Postal Service;

98.31 (6) a state; county; city; any other governmental agency, governmental subdivision, or
98.32 instrumentality of a state; or the state's agent;

99.1 (7) a federally insured depository financial institution; bank holding company; office of
99.2 an international banking corporation; foreign bank that establishes a federal branch pursuant
99.3 to the International Bank Act, United States Code, title 12, section 3102, as amended or
99.4 recodified from time to time; corporation organized pursuant to the Bank Service Corporation
99.5 Act, United States Code, title 12, sections 1861 to 1867, as amended or recodified from
99.6 time to time; or corporation organized under the Edge Act, United States Code, title 12,
99.7 sections 611 to 633, as amended or recodified from time to time;

99.8 (8) electronic funds transfer of governmental benefits for a federal, state, county, or
99.9 governmental agency by a contractor on behalf of the United States or a department, agency,
99.10 or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or
99.11 instrumentality thereof;

99.12 (9) a board of trade designated as a contract market under the federal Commodity
99.13 Exchange Act, United States Code, title 7, sections 1 to 25, as amended or recodified from
99.14 time to time; or a person that in the ordinary course of business provides clearance and
99.15 settlement services for a board of trade to the extent of its operation as or for a board;

99.16 (10) a registered futures commission merchant under the federal commodities laws, to
99.17 the extent of the registered futures commission merchant's operation as a merchant;

99.18 (11) a person registered as a securities broker-dealer under federal or state securities
99.19 laws, to the extent of the person's operation as a securities broker-dealer;

99.20 (12) an individual employed by a licensee, authorized delegate, or any person exempted
99.21 from the licensing requirements under this chapter when acting within the scope of
99.22 employment and under the supervision of the licensee, authorized delegate, or exempted
99.23 person as an employee and not as an independent contractor;

99.24 (13) a person expressly appointed as a third-party service provider to or agent of an
99.25 entity exempt under clause (7), solely to the extent that:

99.26 (i) the service provider or agent is engaging in money transmission on behalf of and
99.27 pursuant to a written agreement with the exempt entity that sets forth the specific functions
99.28 that the service provider or agent is to perform; and

99.29 (ii) the exempt entity assumes all risk of loss and all legal responsibility for satisfying
99.30 the outstanding money transmission obligations owed to purchasers and holders of the
99.31 outstanding money transmission obligations upon receipt of the purchaser's or holder's
99.32 money or monetary value by the service provider or agent; or

100.1 (14) a person exempt by regulation or order if the commissioner finds that (i) the
100.2 exemption is in the public interest, and (ii) the regulation of the person is not necessary for
100.3 the purposes of this chapter.

100.4 Sec. 16. **[53B.30] AUTHORITY TO REQUIRE DEMONSTRATION OF**
100.5 **EXEMPTION.**

100.6 The commissioner may require any person that claims to be exempt from licensing under
100.7 section 53B.29 to provide to the commissioner information and documentation that
100.8 demonstrates the person qualifies for any claimed exemption.

100.9 Sec. 17. **[53B.31] IMPLEMENTATION.**

100.10 Subdivision 1. **General authority.** In order to carry out the purposes of this chapter, the
100.11 commissioner may, subject to section 53B.32, paragraphs (a) and (b):

100.12 (1) enter into agreements or relationships with other government officials or federal and
100.13 state regulatory agencies and regulatory associations in order to (i) improve efficiencies
100.14 and reduce regulatory burden by standardizing methods or procedures, and (ii) share
100.15 resources, records, or related information obtained under this chapter;

100.16 (2) use, hire, contract, or employ analytical systems, methods, or software to examine
100.17 or investigate any person subject to this chapter;

100.18 (3) accept from other state or federal government agencies or officials any licensing,
100.19 examination, or investigation reports made by the other state or federal government agencies
100.20 or officials; and

100.21 (4) accept audit reports made by an independent certified public accountant or other
100.22 qualified third-party auditor for an applicant or licensee and incorporate the audit report in
100.23 any report of examination or investigation.

100.24 Subd. 2. **Administrative authority.** The commissioner is granted broad administrative
100.25 authority to: (1) administer, interpret, and enforce this chapter; (2) adopt regulations to
100.26 implement this chapter; and (3) recover the costs incurred to administer and enforce this
100.27 chapter by imposing and collecting proportionate and equitable fees and costs associated
100.28 with applications, examinations, investigations, and other actions required to achieve the
100.29 purpose of this chapter.

101.1 Sec. 18. [53B.32] CONFIDENTIALITY.

101.2 (a) All information or reports obtained by the commissioner contained in or related to
101.3 an examination that is prepared by, on behalf of, or for the use of the commissioner are
101.4 confidential and are not subject to disclosure under section 46.07.

101.5 (b) The commissioner may disclose information not otherwise subject to disclosure
101.6 under paragraph (a) to representatives of state or federal agencies pursuant to section 53B.31,
101.7 subdivision 1.

101.8 (c) This section does not prohibit the commissioner from disclosing to the public a list
101.9 of all licensees or the aggregated financial or transactional data concerning those licensees.

101.10 Sec. 19. [53B.33] SUPERVISION.

101.11 (a) The commissioner may conduct an examination or investigation of a licensee or
101.12 authorized delegate or otherwise take independent action authorized by this chapter, or by
101.13 a rule adopted or order issued under this chapter, as reasonably necessary or appropriate to
101.14 administer and enforce this chapter, rules implementing this chapter, and other applicable
101.15 law, including the Bank Secrecy Act and the USA PATRIOT Act, Public Law 107-56. The
101.16 commissioner may:

101.17 (1) conduct an examination either on site or off site as the commissioner may reasonably
101.18 require;

101.19 (2) conduct an examination in conjunction with an examination conducted by
101.20 representatives of other state agencies or agencies of another state or of the federal
101.21 government;

101.22 (3) accept the examination report of another state agency or an agency of another state
101.23 or of the federal government, or a report prepared by an independent accounting firm, which
101.24 on being accepted is considered for all purposes as an official report of the commissioner;
101.25 and

101.26 (4) summon and examine under oath a key individual or employee of a licensee or
101.27 authorized delegate and require the person to produce records regarding any matter related
101.28 to the condition and business of the licensee or authorized delegate.

101.29 (b) A licensee or authorized delegate must provide, and the commissioner has full and
101.30 complete access to, all records the commissioner may reasonably require to conduct a
101.31 complete examination. The records must be provided at the location and in the format
101.32 specified by the commissioner. The commissioner may use multistate record production

102.1 standards and examination procedures when the standards reasonably achieve the
102.2 requirements of this paragraph.

102.3 (c) Unless otherwise directed by the commissioner, a licensee must pay all costs
102.4 reasonably incurred in connection with an examination of the licensee or the licensee's
102.5 authorized delegates.

102.6 Sec. 20. **[53B.34] NETWORKED SUPERVISION.**

102.7 (a) To efficiently and effectively administer and enforce this chapter and to minimize
102.8 regulatory burden, the commissioner is authorized to participate in multistate supervisory
102.9 processes established between states and coordinated through the Conference of State Bank
102.10 Supervisors, the Money Transmitter Regulators Association, and the affiliates and successors
102.11 of the Conference of State Bank Supervisors and the Money Transmitter Regulators
102.12 Association for all licensees that hold licenses in this state and other states. As a participant
102.13 in multistate supervision, the commissioner may:

102.14 (1) cooperate, coordinate, and share information with other state and federal regulators
102.15 in accordance with section 53B.32;

102.16 (2) enter into written cooperation, coordination, or information-sharing contracts or
102.17 agreements with organizations the membership of which is made up of state or federal
102.18 governmental agencies; and

102.19 (3) cooperate, coordinate, and share information with organizations the membership of
102.20 which is made up of state or federal governmental agencies, provided that the organizations
102.21 agree in writing to maintain the confidentiality and security of the shared information in
102.22 accordance with section 53B.32.

102.23 (b) The commissioner is prohibited from waiving, and nothing in this section constitutes
102.24 a waiver of, the commissioner's authority to conduct an examination or investigation or
102.25 otherwise take independent action authorized by this chapter, or a rule adopted or order
102.26 issued under this chapter, to enforce compliance with applicable state or federal law.

102.27 (c) A joint examination or investigation, or acceptance of an examination or investigation
102.28 report, does not waive an examination fee provided for in this chapter.

102.29 Sec. 21. **[53B.35] RELATIONSHIP TO FEDERAL LAW.**

102.30 (a) In the event state money transmission jurisdiction is conditioned on a federal law,
102.31 any inconsistencies between a provision of this chapter and the federal law governing money
102.32 transmission is governed by the applicable federal law to the extent of the inconsistency.

103.1 (b) In the event of any inconsistencies between this chapter and a federal law that governs
103.2 pursuant to paragraph (a), the commissioner may provide interpretive guidance that:

103.3 (1) identifies the inconsistency; and

103.4 (2) identifies the appropriate means of compliance with federal law.

103.5 **Sec. 22. [53B.36] LICENSE REQUIRED.**

103.6 (a) A person is prohibited from engaging in the business of money transmission, or
103.7 advertising, soliciting, or representing that the person provides money transmission, unless
103.8 the person is licensed under this chapter.

103.9 (b) Paragraph (a) does not apply to:

103.10 (1) a person that is an authorized delegate of a person licensed under this chapter acting
103.11 within the scope of authority conferred by a written contract with the licensee; or

103.12 (2) a person that is exempt under section 53B.29 and does not engage in money
103.13 transmission outside the scope of the exemption.

103.14 (c) A license issued under section 53B.40 is not transferable or assignable.

103.15 **Sec. 23. [53B.37] CONSISTENT STATE LICENSING.**

103.16 (a) To establish consistent licensing between Minnesota and other states, the
103.17 commissioner is authorized to:

103.18 (1) implement all licensing provisions of this chapter in a manner that is consistent with
103.19 (i) other states that have adopted substantially similar licensing requirements, or (ii) multistate
103.20 licensing processes; and

103.21 (2) participate in nationwide protocols for licensing cooperation and coordination among
103.22 state regulators, provided that the protocols are consistent with this chapter.

103.23 (b) In order to fulfill the purposes of this chapter, the commissioner is authorized to
103.24 establish relationships or contracts with NMLS or other entities designated by NMLS to
103.25 enable the commissioner to:

103.26 (1) collect and maintain records;

103.27 (2) coordinate multistate licensing processes and supervision processes;

103.28 (3) process fees; and

104.1 (4) facilitate communication between the commissioner and licensees or other persons
104.2 subject to this chapter.

104.3 (c) The commissioner is authorized to use NMLS for all aspects of licensing in accordance
104.4 with this chapter, including but not limited to license applications, applications for
104.5 acquisitions of control, surety bonds, reporting, criminal history background checks, credit
104.6 checks, fee processing, and examinations.

104.7 (d) The commissioner is authorized to use NMLS forms, processes, and functions in
104.8 accordance with this chapter. If NMLS does not provide functionality, forms, or processes
104.9 for a requirement under this chapter, the commissioner is authorized to implement the
104.10 requirements in a manner that facilitates uniformity with respect to licensing, supervision,
104.11 reporting, and regulation of licensees which are licensed in multiple jurisdictions.

104.12 (e) For the purpose of participating in the NMLS registry, the commissioner is authorized
104.13 to, by rule or order: (1) waive or modify, in whole or in part, any or all of the requirements;
104.14 and (2) establish new requirements as reasonably necessary to participate in the NMLS
104.15 registry.

104.16 Sec. 24. **[53B.38] APPLICATION FOR LICENSE.**

104.17 (a) An applicant for a license must apply in a form and in a medium as prescribed by
104.18 the commissioner. The application must state or contain, as applicable:

104.19 (1) the legal name and residential and business addresses of the applicant and any
104.20 fictitious or trade name used by the applicant in conducting business;

104.21 (2) a list of any criminal convictions of the applicant and any material litigation in which
104.22 the applicant has been involved in the ten-year period next preceding the submission of the
104.23 application;

104.24 (3) a description of any money transmission previously provided by the applicant and
104.25 the money transmission that the applicant seeks to provide in this state;

104.26 (4) a list of the applicant's proposed authorized delegates and the locations in this state
104.27 where the applicant and the applicant's authorized delegates propose to engage in money
104.28 transmission;

104.29 (5) a list of other states in which the applicant is licensed to engage in money transmission
104.30 and any license revocations, suspensions, or other disciplinary action taken against the
104.31 applicant in another state;

- 105.1 (6) information concerning any bankruptcy or receivership proceedings affecting the
105.2 licensee or a person in control of a licensee;
- 105.3 (7) a sample form of contract for authorized delegates, if applicable;
- 105.4 (8) a sample form of payment instrument or stored value, as applicable;
- 105.5 (9) the name and address of any federally insured depository financial institution through
105.6 which the applicant plans to conduct money transmission; and
- 105.7 (10) any other information the commissioner or NMLS reasonably requires with respect
105.8 to the applicant.
- 105.9 (b) If an applicant is a corporation, limited liability company, partnership, or other legal
105.10 entity, the applicant must also provide:
- 105.11 (1) the date of the applicant's incorporation or formation and state or country of
105.12 incorporation or formation;
- 105.13 (2) if applicable, a certificate of good standing from the state or country in which the
105.14 applicant is incorporated or formed;
- 105.15 (3) a brief description of the structure or organization of the applicant, including any
105.16 parents or subsidiaries of the applicant, and whether any parents or subsidiaries are publicly
105.17 traded;
- 105.18 (4) the legal name, any fictitious or trade name, all business and residential addresses,
105.19 and the employment, as applicable, in the ten-year period next preceding the submission of
105.20 the application of each key individual and person in control of the applicant;
- 105.21 (5) a list of any criminal convictions and material litigation in which a person in control
105.22 of the applicant that is not an individual has been involved in the ten-year period preceding
105.23 the submission of the application;
- 105.24 (6) a copy of audited financial statements of the applicant for the most recent fiscal year
105.25 and for the two-year period next preceding the submission of the application or, if the
105.26 commissioner deems acceptable, certified unaudited financial statements for the most recent
105.27 fiscal year or other period acceptable to the commissioner;
- 105.28 (7) a certified copy of unaudited financial statements of the applicant for the most recent
105.29 fiscal quarter;
- 105.30 (8) if the applicant is a publicly traded corporation, a copy of the most recent report filed
105.31 with the United States Securities and Exchange Commission under section 13 of the federal

106.1 Securities Exchange Act of 1934, United States Code, title 15, section 78m, as amended or
106.2 recodified from time to time;

106.3 (9) if the applicant is a wholly owned subsidiary of:

106.4 (i) a corporation publicly traded in the United States, a copy of audited financial
106.5 statements for the parent corporation for the most recent fiscal year or a copy of the parent
106.6 corporation's most recent report filed under section 13 of the Securities Exchange Act of
106.7 1934, United States Code, title 15, section 78m, as amended or recodified from time to time;

106.8 or

106.9 (ii) a corporation publicly traded outside the United States, a copy of similar
106.10 documentation filed with the regulator of the parent corporation's domicile outside the
106.11 United States;

106.12 (10) the name and address of the applicant's registered agent in this state; and

106.13 (11) any other information the commissioner reasonably requires with respect to the
106.14 applicant.

106.15 (c) A nonrefundable application fee of \$4,000 must accompany an application for a
106.16 license under this section.

106.17 (d) The commissioner may: (1) waive one or more requirements of paragraphs (a) and
106.18 (b); or (2) permit an applicant to submit other information in lieu of the required information.

106.19 **Sec. 25. [53B.39] INFORMATION REQUIREMENTS; CERTAIN INDIVIDUALS.**

106.20 Subdivision 1. **Individuals with or seeking control.** Any individual in control of a
106.21 licensee or applicant, any individual that seeks to acquire control of a licensee, and each
106.22 key individual must furnish to the commissioner through NMLS:

106.23 (1) the individual's fingerprints for submission to the Federal Bureau of Investigation
106.24 and the commissioner for a national criminal history background check, unless the person
106.25 currently resides outside of the United States and has resided outside of the United States
106.26 for the last ten years; and

106.27 (2) personal history and business experience in a form and in a medium prescribed by
106.28 the commissioner, to obtain:

106.29 (i) an independent credit report from a consumer reporting agency;

106.30 (ii) information related to any criminal convictions or pending charges; and

107.1 (iii) information related to any regulatory or administrative action and any civil litigation
107.2 involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach
107.3 of fiduciary duty, or breach of contract.

107.4 Subd. 2. **Individuals having resided outside the United States.** (a) If an individual
107.5 has resided outside of the United States at any time in the last ten years, the individual must
107.6 also provide an investigative background report prepared by an independent search firm
107.7 that meets the requirements of this subdivision.

107.8 (b) At a minimum, the search firm must:

107.9 (1) demonstrate that the search firm has sufficient knowledge, resources, and employs
107.10 accepted and reasonable methodologies to conduct the research of the background report;
107.11 and

107.12 (2) not be affiliated with or have an interest with the individual the search firm is
107.13 researching.

107.14 (c) At a minimum, the investigative background report must be written in English and
107.15 must contain:

107.16 (1) if available in the individual's current jurisdiction of residency, a comprehensive
107.17 credit report, or any equivalent information obtained or generated by the independent search
107.18 firm to accomplish a credit report, including a search of the court data in the countries,
107.19 provinces, states, cities, towns, and contiguous areas where the individual resided and
107.20 worked;

107.21 (2) criminal records information for the past ten years, including but not limited to
107.22 felonies, misdemeanors, or similar convictions for violations of law in the countries,
107.23 provinces, states, cities, towns, and contiguous areas where the individual resided and
107.24 worked;

107.25 (3) employment history;

107.26 (4) media history, including an electronic search of national and local publications, wire
107.27 services, and business applications; and

107.28 (5) financial services-related regulatory history, including but not limited to money
107.29 transmission, securities, banking, consumer finance, insurance, and mortgage-related
107.30 industries.

108.1 Sec. 26. [53B.40] LICENSE ISSUANCE.

108.2 (a) When an application for an original license under this chapter includes all of the
108.3 items and addresses all of the matters that are required, the application is complete and the
108.4 commissioner must promptly notify the applicant in a record of the date on which the
108.5 application is determined to be complete.

108.6 (b) The commissioner's determination that an application is complete and accepted for
108.7 processing means only that the application, on the application's face, appears to include all
108.8 of the items, including the criminal background check response from the Federal Bureau
108.9 of Investigation, and address all of the matters that are required. The commissioner's
108.10 determination that an application is complete is not an assessment of the substance of the
108.11 application or of the sufficiency of the information provided.

108.12 (c) When an application is filed and considered complete under this section, the
108.13 commissioner must investigate the applicant's financial condition and responsibility, financial
108.14 and business experience, character, and general fitness. The commissioner may conduct an
108.15 investigation of the applicant, the reasonable cost of which the applicant must pay. The
108.16 commissioner must issue a license to an applicant under this section if the commissioner
108.17 finds:

108.18 (1) the applicant has complied with sections 53B.38 and 53B.39; and

108.19 (2) the financial condition and responsibility; financial and business experience,
108.20 competence, character, and general fitness of the applicant; and the competence, experience,
108.21 character, and general fitness of the key individuals and persons in control of the applicant
108.22 indicate that it is in the interest of the public to permit the applicant to engage in money
108.23 transmission.

108.24 (d) If an applicant avails itself of or is otherwise subject to a multistate licensing process:

108.25 (1) the commissioner is authorized to accept the investigation results of a lead
108.26 investigative state for the purposes of paragraph (c); or

108.27 (2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate
108.28 the applicant pursuant to paragraph (c) and the time frames established by agreement through
108.29 the multistate licensing process, provided that the time frame complies with the application
108.30 review period provided under paragraph (e).

108.31 (e) The commissioner must approve or deny the application within 120 days after the
108.32 date the application is deemed complete. If the application is not approved or denied within

109.1 120 days after the completion date, the application is approved and the license takes effect
109.2 on the first business day after the 120-day period expires.

109.3 (f) The commissioner must issue a formal written notice of the denial of a license
109.4 application within 30 days of the date the decision to deny the application is made. The
109.5 commissioner must set forth in the notice of denial the specific reasons for the denial of the
109.6 application. An applicant whose application is denied by the commissioner under this
109.7 paragraph may appeal within 30 days of the date the written notice of the denial is received.
109.8 The commissioner must set a hearing date that is not later than 60 days after service of the
109.9 response, unless a later date is set with the consent of the denied applicant.

109.10 (g) The initial license term begins on the day the application is approved. The license
109.11 expires on December 31 of the year in which the license term began, unless the initial license
109.12 date is between November 1 and December 31, in which case the initial license term runs
109.13 through December 31 of the following year. If a license is approved between November 1
109.14 and December 31, the applicant is subject to the renewal fee under section 53B.31, paragraph
109.15 (a).

109.16 **Sec. 27. [53B.41] LICENSE RENEWAL.**

109.17 (a) A license under this chapter must be renewed annually. An annual renewal fee of
109.18 \$2,500 must be paid no more than 60 days before the license expires. The renewal term is
109.19 a period of one year and begins on January 1 each year after the initial license term. The
109.20 renewal term expires on December 31 of the year the renewal term begins.

109.21 (b) A licensee must submit a renewal report with the renewal fee, in a form and in a
109.22 medium prescribed by the commissioner. The renewal report must state or contain a
109.23 description of each material change in information submitted by the licensee in the licensee's
109.24 original license application that has not been previously reported to the commissioner.

109.25 (c) The commissioner may grant an extension of the renewal date for good cause.

109.26 (d) The commissioner is authorized to use the NMLS to process license renewals,
109.27 provided that the NMLS functionality is consistent with this section.

109.28 **Sec. 28. [53B.42] MAINTENANCE OF LICENSE.**

109.29 (a) If a licensee does not continue to meet the qualifications or satisfy the requirements
109.30 that apply to an applicant for a new money transmission license, the commissioner may
109.31 suspend or revoke the licensee's license in accordance with the procedures established by
109.32 this chapter or other applicable state law for license suspension or revocation.

110.1 (b) An applicant for a money transmission license must demonstrate that the applicant
110.2 meets or will meet, and a money transmission licensee must at all times meet, the
110.3 requirements in sections 53B.59 to 53B.61.

110.4 Sec. 29. [53B.43] ACQUISITION OF CONTROL.

110.5 (a) Any person, or group of persons acting in concert, seeking to acquire control of a
110.6 licensee must obtain the commissioner's written approval before acquiring control. An
110.7 individual is not deemed to acquire control of a licensee and is not subject to these acquisition
110.8 of control provisions when that individual becomes a key individual in the ordinary course
110.9 of business.

110.10 (b) For the purpose of this section, a person is presumed to exercise a controlling influence
110.11 when the person holds the power to vote, directly or indirectly, at least ten percent of the
110.12 outstanding voting shares or voting interests of a licensee or person in control of a licensee.
110.13 A person presumed to exercise a controlling influence as defined by this subdivision can
110.14 rebut the presumption of control if the person is a passive investor.

110.15 (c) For purposes of determining the percentage of a person controlled by any other
110.16 person, the person's interest must be aggregated with the interest of any other immediate
110.17 family member, including the person's spouse, parents, children, siblings, mothers- and
110.18 fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person
110.19 who shares the person's home.

110.20 (d) A person, or group of persons acting in concert, seeking to acquire control of a
110.21 licensee must, in cooperation with the licensee:

110.22 (1) submit an application in a form and in a medium prescribed by the commissioner;
110.23 and

110.24 (2) submit a nonrefundable fee of \$4,000 with the request for approval.

110.25 (e) Upon request, the commissioner may permit a licensee or the person, or group of
110.26 persons acting in concert, to submit some or all information required by the commissioner
110.27 pursuant to paragraph (d), clause (1), without using NMLS.

110.28 (f) The application required by paragraph (d), clause (1), must include information
110.29 required by section 53B.39 for any new key individuals that have not previously completed
110.30 the requirements of section 53B.39 for a licensee.

110.31 (g) When an application for acquisition of control under this section appears to include
110.32 all of the items and address all of the matters that are required, the application is considered

111.1 complete and the commissioner must promptly notify the applicant in a record of the date
111.2 on which the application was determined to be complete.

111.3 (h) The commissioner must approve or deny the application within 60 days after the
111.4 completion date. If the application is not approved or denied within 60 days after the
111.5 completion date, the application is approved and the person, or group of persons acting in
111.6 concert, are not prohibited from acquiring control. The commissioner may extend the
111.7 application period for good cause.

111.8 (i) The commissioner's determination that an application is complete and is accepted for
111.9 processing means only that the application, on the application's face, appears to include all
111.10 of the items and address all of the matters that are required. The commissioner's determination
111.11 that an application is complete is not an assessment of the application's substance or of the
111.12 sufficiency of the information provided.

111.13 (j) When an application is filed and considered complete under paragraph (g), the
111.14 commissioner must investigate the financial condition and responsibility; the financial and
111.15 business experience; character; and the general fitness of the person, or group of persons
111.16 acting in concert, seeking to acquire control. The commissioner must approve an acquisition
111.17 of control under this section if the commissioner finds:

111.18 (1) the requirements of paragraphs (d) and (f) have been met, as applicable; and

111.19 (2) the financial condition and responsibility, financial and business experience,
111.20 competence, character, and general fitness of the person, or group of persons acting in
111.21 concert, seeking to acquire control; and the competence, experience, character, and general
111.22 fitness of the key individuals and persons that control the licensee after the acquisition of
111.23 control indicate that it is in the interest of the public to permit the person, or group of persons
111.24 acting in concert, to control the licensee.

111.25 (k) If an applicant avails itself of or is otherwise subject to a multistate licensing process:

111.26 (1) the commissioner is authorized to accept the investigation results of a lead
111.27 investigative state for the purposes of paragraph (j); or

111.28 (2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate
111.29 the applicant under paragraph (j) and consistent with the time frames established by
111.30 agreement through the multistate licensing process.

111.31 (l) The commissioner must issue a formal written notice of the denial of an application
111.32 to acquire control. The commissioner must set forth in the notice of denial the specific
111.33 reasons the application was denied. An applicant whose application is denied by the

112.1 commissioner under this paragraph may appeal the denial within 30 days of the date the
112.2 written notice of the denial is received. Chapter 14 applies to appeals under this paragraph.

112.3 (m) Paragraphs (a) and (d) do not apply to:

112.4 (1) a person that acts as a proxy for the sole purpose of voting at a designated meeting
112.5 of the shareholders or holders of voting shares or voting interests of a licensee or a person
112.6 in control of a licensee;

112.7 (2) a person that acquires control of a licensee by devise or descent;

112.8 (3) a person that acquires control of a licensee as a personal representative, custodian,
112.9 guardian, conservator, or trustee, or as an officer appointed by a court of competent
112.10 jurisdiction or by operation of law;

112.11 (4) a person that is exempt under section 53B.29, clause (7);

112.12 (5) a person that the commissioner determines is not subject to paragraph (a), based on
112.13 the public interest;

112.14 (6) a public offering of securities of a licensee or a person in control of a licensee; or

112.15 (7) an internal reorganization of a person controlling the licensee, where the ultimate
112.16 person controlling the licensee remains the same.

112.17 (n) A person identified in paragraph (m), clause (2), (3), (4), or (6), that is cooperating
112.18 with the licensee must notify the commissioner within 15 days of the date the acquisition
112.19 of control occurs.

112.20 (o) Paragraphs (a) and (d) do not apply to a person that has complied with and received
112.21 approval to engage in money transmission under this chapter, or that was identified as a
112.22 person in control in a prior application filed with and approved by the commissioner or by
112.23 another state pursuant to a multistate licensing process, provided that:

112.24 (1) the person has not had a license revoked or suspended or controlled a licensee that
112.25 has had a license revoked or suspended while the person was in control of the licensee in
112.26 the previous five years;

112.27 (2) if the person is a licensee, the person is well managed and has received at least a
112.28 satisfactory rating for compliance at the person's most recent examination by an
112.29 MSB-accredited state if a rating was given;

112.30 (3) the licensee to be acquired is projected to meet the requirements of sections 53B.59
112.31 to 53B.61 after the acquisition of control is completed, and if the person acquiring control

113.1 is a licensee, the acquiring licensee is also projected to meet the requirements of sections
113.2 53B.59 to 53B.61 after the acquisition of control is completed;

113.3 (4) the licensee to be acquired does not implement any material changes to the acquired
113.4 licensee's business plan as a result of the acquisition of control, and if the person acquiring
113.5 control is a licensee, the acquiring licensee does not implement any material changes to the
113.6 acquiring licensee's business plan as a result of the acquisition of control; and

113.7 (5) the person provides notice of the acquisition in cooperation with the licensee and
113.8 attests to clauses (1), (2), (3), and (4) in a form and in a medium prescribed by the
113.9 commissioner.

113.10 (p) If the notice under paragraph (o), clause (5), is not disapproved within 30 days after
113.11 the date on which the notice was determined to be complete, the notice is deemed approved.

113.12 (q) Before filing an application for approval to acquire control of a licensee, a person
113.13 may request in writing a determination from the commissioner as to whether the person
113.14 would be considered a person in control of a licensee upon consummation of a proposed
113.15 transaction. If the commissioner determines that the person would not be a person in control
113.16 of a licensee, the proposed person and transaction is not subject to paragraphs (a) and (d).

113.17 (r) If a multistate licensing process includes a determination pursuant to paragraph (q)
113.18 and an applicant avails itself or is otherwise subject to the multistate licensing process:

113.19 (1) the commissioner is authorized to accept the control determination of a lead
113.20 investigative state with sufficient staffing, expertise, and minimum standards for the purposes
113.21 of paragraph (q); or

113.22 (2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate
113.23 the applicant under paragraph (q) and consistent with the time frames established by
113.24 agreement through the multistate licensing process.

113.25 **Sec. 30. [53B.44] CHANGE OF KEY INDIVIDUALS; NOTICE AND**
113.26 **INFORMATION REQUIREMENTS.**

113.27 (a) A licensee that adds or replaces any key individual must:

113.28 (1) provide notice, in a manner prescribed by the commissioner, within 15 days after
113.29 the effective date of the key individual's appointment; and

113.30 (2) provide the information required under section 53B.39 within 45 days of the effective
113.31 date of the key individual's appointment.

114.1 (b) Within 90 days of the date on which the notice provided under section 53B.44,
114.2 paragraph (a), was determined to be complete, the commissioner may issue a notice of
114.3 disapproval of a key individual if the commissioner finds that the competence, business
114.4 experience, character, or integrity of the individual is not in the best interests of the public
114.5 or the customers of the licensee.

114.6 (c) A notice of disapproval must contain a statement of the basis for disapproval and
114.7 must be sent to the licensee and the disapproved individual. A licensee may appeal a notice
114.8 of disapproval pursuant to chapter 14 within 30 days of the date the notice of disapproval
114.9 is received.

114.10 (d) If the notice provided under paragraph (a) is not disapproved within 90 days after
114.11 the date on which the notice was determined to be complete, the key individual is deemed
114.12 approved.

114.13 (e) If a multistate licensing process includes a key individual notice review and
114.14 disapproval process under this section and the licensee avails itself of or is otherwise subject
114.15 to the multistate licensing process:

114.16 (1) the commissioner is authorized to accept the determination of another state if the
114.17 investigating state has sufficient staffing, expertise, and minimum standards for the purposes
114.18 of this section; or

114.19 (2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate
114.20 the applicant under paragraph (b) and the time frames established by agreement through
114.21 the multistate licensing process.

114.22 **Sec. 31. [53B.45] REPORT OF CONDITION.**

114.23 (a) Each licensee must submit a report of condition within 45 days of the end of the
114.24 calendar quarter, or within any extended time the commissioner prescribes.

114.25 (b) The report of condition must include:

114.26 (1) financial information at the licensee level;

114.27 (2) nationwide and state-specific money transmission transaction information in every
114.28 jurisdiction in the United States where the licensee is licensed to engage in money
114.29 transmission;

114.30 (3) a permissible investments report;

114.31 (4) transaction destination country reporting for money received for transmission, if
114.32 applicable; and

115.1 (5) any other information the commissioner reasonably requires with respect to the
115.2 licensee.

115.3 (c) The commissioner is authorized to use NMLS to submit the report required under
115.4 paragraph (a).

115.5 (d) The information required by paragraph (b), clause (4), must only be included in a
115.6 report of condition submitted within 45 days of the end of the fourth calendar quarter.

115.7 **Sec. 32. [53B.46] AUDITED FINANCIAL STATEMENTS.**

115.8 (a) Each licensee must, within 90 days after the end of each fiscal year, or within any
115.9 extended time the commissioner prescribes, file with the commissioner:

115.10 (1) an audited financial statement of the licensee for the fiscal year prepared in accordance
115.11 with United States generally accepted accounting principles; and

115.12 (2) any other information the commissioner may reasonably require.

115.13 (b) The audited financial statements must be prepared by an independent certified public
115.14 accountant or independent public accountant who is satisfactory to the commissioner.

115.15 (c) The audited financial statements must include or be accompanied by a certificate of
115.16 opinion prepared by the independent certified public accountant or independent public
115.17 accountant that is satisfactory in form and content to the commissioner. If the certificate or
115.18 opinion is qualified, the commissioner may order the licensee to take any action the
115.19 commissioner finds necessary to enable the independent or certified public accountant or
115.20 independent public accountant to remove the qualification.

115.21 **Sec. 33. [53B.47] AUTHORIZED DELEGATE REPORTING.**

115.22 (a) Each licensee must submit a report of authorized delegates within 45 days of the end
115.23 of the calendar quarter. The commissioner is authorized to use NMLS to submit the report
115.24 required by this paragraph, provided that the functionality is consistent with the requirements
115.25 of this section.

115.26 (b) The authorized delegate report must include, at a minimum, each authorized delegate's:

115.27 (1) company legal name;

115.28 (2) taxpayer employer identification number;

115.29 (3) principal provider identifier;

115.30 (4) physical address;

- 116.1 (5) mailing address;
- 116.2 (6) any business conducted in other states;
- 116.3 (7) any fictitious or trade name;
- 116.4 (8) contact person name, telephone number, and email;
- 116.5 (9) start date as the licensee's authorized delegate;
- 116.6 (10) end date acting as the licensee's authorized delegate, if applicable;
- 116.7 (11) court orders under section 53B.53; and
- 116.8 (12) any other information the commissioner reasonably requires with respect to the
- 116.9 authorized delegate.

116.10 **Sec. 34. [53B.48] REPORTS OF CERTAIN EVENTS.**

116.11 (a) A licensee must file a report with the commissioner within ten business days after

116.12 the licensee has reason to know any of the following events has occurred:

116.13 (1) a petition by or against the licensee under the United States Bankruptcy Code, United

116.14 States Code, title 11, sections 101 to 110, as amended or recodified from time to time, for

116.15 bankruptcy or reorganization has been filed;

116.16 (2) a petition by or against the licensee for receivership, the commencement of any other

116.17 judicial or administrative proceeding for the licensee's dissolution or reorganization, or the

116.18 making of a general assignment for the benefit of the licensee's creditors has been filed; or

116.19 (3) a proceeding to revoke or suspend the licensee's license in a state or country in which

116.20 the licensee engages in business or is licensed has been commenced.

116.21 (b) A licensee must file a report with the commissioner within ten business days after

116.22 the licensee has reason to know any of the following events has occurred:

116.23 (1) the licensee or a key individual or person in control of the licensee is charged with

116.24 or convicted of a felony related to money transmission activities; or

116.25 (2) an authorized delegate is charged with or convicted of a felony related to money

116.26 transmission activities.

116.27 **Sec. 35. [53B.49] BANK SECRECY ACT REPORTS.**

116.28 A licensee and an authorized delegate must file all reports required by federal currency

116.29 reporting, record keeping, and suspicious activity reporting requirements as set forth in the

117.1 Bank Secrecy Act and other federal and state laws pertaining to money laundering. A licensee
117.2 and authorized delegate that timely files with the appropriate federal agency a complete and
117.3 accurate report required under this section is deemed to comply with the requirements of
117.4 this section.

117.5 Sec. 36. **[53B.50] RECORDS.**

117.6 (a) A licensee must maintain the following records, for purposes of determining the
117.7 licensee's compliance with this chapter, for at least three years:

117.8 (1) a record of each outstanding money transmission obligation sold;

117.9 (2) a general ledger posted at least monthly containing all asset, liability, capital, income,
117.10 and expense accounts;

117.11 (3) bank statements and bank reconciliation records;

117.12 (4) records of outstanding money transmission obligations;

117.13 (5) records of each outstanding money transmission obligation paid within the three-year
117.14 period;

117.15 (6) a list of the last known names and addresses of all of the licensee's authorized
117.16 delegates; and

117.17 (7) any other records the commissioner reasonably requires by administrative rule.

117.18 (b) The items specified in paragraph (a) may be maintained in any form of record.

117.19 (c) The records specified in paragraph (a) may be maintained outside of Minnesota if
117.20 the records are made accessible to the commissioner upon seven business-days' notice that
117.21 is sent in a record.

117.22 (d) All records maintained by the licensee as required under paragraphs (a) to (c) are
117.23 open to inspection by the commissioner under section 53B.33, paragraph (a).

117.24 Sec. 37. **[53B.51] RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED**
117.25 **DELEGATE.**

117.26 (a) For purposes of this section, "remit" means to make direct payments of money to (1)
117.27 a licensee, or (2) a licensee's representative authorized to receive money or to deposit money
117.28 in a bank in an account specified by the licensee.

117.29 (b) Before a licensee is authorized to conduct business through an authorized delegate
117.30 or allows a person to act as the licensee's authorized delegate, the licensee must:

118.1 (1) adopt, and update as necessary, written policies and procedures reasonably designed
118.2 to ensure that the licensee's authorized delegates comply with applicable state and federal
118.3 law;

118.4 (2) enter into a written contract that complies with paragraph (d); and

118.5 (3) conduct a reasonable risk-based background investigation sufficient for the licensee
118.6 to determine whether the authorized delegate has complied and will likely comply with
118.7 applicable state and federal law.

118.8 (c) An authorized delegate must operate in full compliance with this chapter.

118.9 (d) The written contract required by paragraph (b) must be signed by the licensee and
118.10 the authorized delegate. The written contract must, at a minimum:

118.11 (1) appoint the person signing the contract as the licensee's authorized delegate with the
118.12 authority to conduct money transmission on behalf of the licensee;

118.13 (2) set forth the nature and scope of the relationship between the licensee and the
118.14 authorized delegate and the respective rights and responsibilities of the parties;

118.15 (3) require the authorized delegate to agree to fully comply with all applicable state and
118.16 federal laws, rules, and regulations pertaining to money transmission, including this chapter
118.17 and regulations implementing this chapter, relevant provisions of the Bank Secrecy Act and
118.18 the USA PATRIOT Act, Public Law 107-56;

118.19 (4) require the authorized delegate to remit and handle money and monetary value in
118.20 accordance with the terms of the contract between the licensee and the authorized delegate;

118.21 (5) impose a trust on money and monetary value net of fees received for money
118.22 transmission for the benefit of the licensee;

118.23 (6) require the authorized delegate to prepare and maintain records as required by this
118.24 chapter or administrative rules implementing this chapter, or as reasonably requested by
118.25 the commissioner;

118.26 (7) acknowledge that the authorized delegate consents to examination or investigation
118.27 by the commissioner;

118.28 (8) state that the licensee is subject to regulation by the commissioner and that as part
118.29 of that regulation the commissioner may (1) suspend or revoke an authorized delegate
118.30 designation, or (2) require the licensee to terminate an authorized delegate designation; and

118.31 (9) acknowledge receipt of the written policies and procedures required under paragraph
118.32 (b), clause (1).

119.1 (e) If the licensee's license is suspended, revoked, surrendered, or expired, within five
119.2 business days the licensee must provide documentation to the commissioner that the licensee
119.3 has notified all applicable authorized delegates of the licensee whose names are in a record
119.4 filed with the commissioner of the suspension, revocation, surrender, or expiration of a
119.5 license. Upon suspension, revocation, surrender, or expiration of a license, applicable
119.6 authorized delegates must immediately cease to provide money transmission as an authorized
119.7 delegate of the licensee.

119.8 (f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all
119.9 money net of fees received from money transmission. If an authorized delegate commingles
119.10 any funds received from money transmission with other funds or property owned or
119.11 controlled by the authorized delegate, all commingled funds and other property are considered
119.12 held in trust in favor of the licensee in an amount equal to the amount of money net of fees
119.13 received from money transmission.

119.14 (g) An authorized delegate is prohibited from using a subdelegate to conduct money
119.15 transmission on behalf of a licensee.

119.16 **Sec. 38. [53B.52] UNAUTHORIZED ACTIVITIES.**

119.17 A person is prohibited from engaging in the business of money transmission on behalf
119.18 of a person not licensed under this chapter or not exempt under sections 53B.29 and 53B.30.
119.19 A person that engages in the business of money transmission on behalf of a person that is
119.20 not licensed under this chapter or not exempt under sections 53B.29 and 53B.30 provides
119.21 money transmission to the same extent as if the person were a licensee, and is jointly and
119.22 severally liable with the unlicensed or nonexempt person.

119.23 **Sec. 39. [53B.53] PROHIBITED AUTHORIZED DELEGATES.**

119.24 (a) The district court in an action brought by a licensee has jurisdiction to grant
119.25 appropriate equitable or legal relief, including without limitation prohibiting the authorized
119.26 delegate from directly or indirectly acting as an authorized delegate for any licensee in
119.27 Minnesota and the payment of restitution, damages, or other monetary relief, if the district
119.28 court finds that an authorized delegate failed to remit money in accordance with the written
119.29 contract required by section 53B.51, paragraph (b), or as otherwise directed by the licensee
119.30 or required by law.

119.31 (b) If the district court issues an order prohibiting a person from acting as an authorized
119.32 delegate for any licensee under paragraph (a), the licensee that brought the action must

120.1 report the order to the commissioner within 30 days of the date of the order and must report
120.2 the order through NMLS within 90 days of the date of the order.

120.3 Sec. 40. **[53B.54] TIMELY TRANSMISSION.**

120.4 (a) Every licensee must forward all money received for transmission in accordance with
120.5 the terms of the agreement between the licensee and the sender, unless the licensee has a
120.6 reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud
120.7 or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may
120.8 occur.

120.9 (b) If a licensee fails to forward money received for transmission as provided under this
120.10 section, the licensee must respond to inquiries by the sender with the reason for the failure,
120.11 unless providing a response would violate a state or federal law, rule, or regulation.

120.12 Sec. 41. **[53B.55] REFUNDS.**

120.13 (a) This section does not apply to:

120.14 (1) money received for transmission that is subject to the federal remittance rule under
120.15 Code of Federal Regulations, title 12, part 1005, subpart B, as amended or recodified from
120.16 time to time; or

120.17 (2) money received for transmission pursuant to a written agreement between the licensee
120.18 and payee to process payments for goods or services provided by the payee.

120.19 (b) A licensee must refund to the sender within ten days of the date the licensee receives
120.20 the sender's written request for a refund of any and all money received for transmission,
120.21 unless:

120.22 (1) the money has been forwarded within ten days of the date on which the money was
120.23 received for transmission;

120.24 (2) instructions have been given committing an equivalent amount of money to the
120.25 person designated by the sender within ten days of the date on which the money was received
120.26 for transmission;

120.27 (3) the agreement between the licensee and the sender instructs the licensee to forward
120.28 the money at a time that is beyond ten days of the date on which the money was received
120.29 for transmission. If money has not been forwarded in accordance with the terms of the
120.30 agreement between the licensee and the sender, the licensee must issue a refund in accordance
120.31 with the other provisions of this section; or

121.1 (4) the refund is requested for a transaction that the licensee has not completed based
121.2 on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule,
121.3 or regulation has occurred, is occurring, or may occur.

121.4 (c) A refund request does not enable the licensee to identify:

121.5 (1) the sender's name and address or telephone number; or

121.6 (2) the particular transaction to be refunded in the event the sender has multiple
121.7 transactions outstanding.

121.8 Sec. 42. **[53B.56] RECEIPTS.**

121.9 Subdivision 1. **Definition.** For purposes of this section, "receipt" means a paper receipt,
121.10 electronic record, or other written confirmation.

121.11 Subd. 2. **Exemption.** This section does not apply to:

121.12 (1) money received for transmission that is subject to the federal remittance rule under
121.13 Code of Federal Regulations, title 12, part 1005, subpart B, as amended or recodified from
121.14 time to time;

121.15 (2) money received for transmission that is not primarily for personal, family, or
121.16 household purposes;

121.17 (3) money received for transmission pursuant to a written agreement between the licensee
121.18 and payee to process payments for goods or services provided by the payee; or

121.19 (4) payroll processing services.

121.20 Subd. 3. **Transaction types; receipts form.** For a transaction conducted in person, the
121.21 receipt may be provided electronically if the sender requests or agrees to receive an electronic
121.22 receipt. For a transaction conducted electronically or by telephone, a receipt may be provided
121.23 electronically. All electronic receipts must be provided in a retainable form.

121.24 Subd. 4. **Receipts required.** (a) Every licensee or the licensee's authorized delegate
121.25 must provide the sender a receipt for money received for transmission.

121.26 (b) The receipt must contain, as applicable:

121.27 (1) the name of the sender;

121.28 (2) the name of the designated recipient;

121.29 (3) the date of the transaction;

121.30 (4) the unique transaction or identification number;

122.1 (5) the name of the licensee, NMLS Unique ID, the licensee's business address, and the
122.2 licensee's customer service telephone number;

122.3 (6) the transaction amount, expressed in United States dollars;

122.4 (7) any fee the licensee charges the sender for the transaction; and

122.5 (8) any taxes the licensee collects from the sender for the transaction.

122.6 (c) The receipt required by this section must be provided in (1) English, and (2) the
122.7 language principally used by the licensee or authorized delegate to advertise, solicit, or
122.8 negotiate, either orally or in writing, for a transaction conducted in person, electronically,
122.9 or by telephone, if the language principally used is a language other than English.

122.10 Sec. 43. **[53B.57] NOTICE.**

122.11 Every licensee or authorized delegate must include on a receipt or disclose on the
122.12 licensee's website or mobile application the name and telephone number of the department
122.13 and a statement that the licensee's customers can contact the department with questions or
122.14 complaints about the licensee's money transmission services.

122.15 Sec. 44. **[53B.58] PAYROLL PROCESSING SERVICES; DISCLOSURES.**

122.16 (a) A licensee that provides payroll processing services must:

122.17 (1) issue reports to clients detailing client payroll obligations in advance of the payroll
122.18 funds being deducted from an account; and

122.19 (2) make available worker pay stubs or an equivalent statement to workers.

122.20 (b) Paragraph (a) does not apply to a licensee providing payroll processing services if
122.21 the licensee's client designates the intended recipients to the licensee and is responsible for
122.22 providing the disclosures required by paragraph (a), clause (2).

122.23 Sec. 45. **[53B.59] NET WORTH.**

122.24 (a) A licensee under this chapter must maintain at all times a tangible net worth that is
122.25 the greater of: (1) \$100,000; or (2) three percent of total assets for the first \$100,000,000;
122.26 two percent of additional assets between \$100,000,000 to \$1,000,000,000; and one-half
122.27 percent of additional assets over \$1,000,000,000.

122.28 (b) Tangible net worth must be demonstrated in the initial application by the applicant's
122.29 most recent audited or unaudited financial statements under section 53B.38, paragraph (b),
122.30 clause (6).

123.1 (c) Notwithstanding paragraphs (a) and (b), the commissioner has the authority, for good
123.2 cause shown, to exempt any applicant or licensee in-part or in whole from the requirements
123.3 of this section.

123.4 Sec. 46. **[53B.60] SURETY BOND.**

123.5 (a) An applicant for a money transmission license must provide and a licensee must at
123.6 all times maintain (1) security consisting of a surety bond in a form satisfactory to the
123.7 commissioner, or (2) with the commissioner's approval, a deposit instead of a bond in
123.8 accordance with this section.

123.9 (b) The amount of the required security under this section is:

123.10 (1) the greater of (i) \$100,000, or (ii) an amount equal to one hundred percent of the
123.11 licensee's average daily money transmission liability in Minnesota, calculated for the most
123.12 recently completed three-month period, up to a maximum of \$500,000; or

123.13 (2) in the event that the licensee's tangible net worth exceeds ten percent of total assets,
123.14 the licensee must maintain a surety bond of \$100,000.

123.15 (c) A licensee that maintains a bond in the maximum amount provided for in paragraph
123.16 (b), clause (1) or (2), as applicable, is not required to calculate the licensee's average daily
123.17 money transmission liability in Minnesota for purposes of this section.

123.18 (d) A licensee may exceed the maximum required bond amount pursuant to section
123.19 53B.62, paragraph (a), clause (5).

123.20 (e) The security device remains effective until cancellation, which may occur only after
123.21 30 days' written notice to the commissioner. Cancellation does not affect the rights of any
123.22 claimant for any liability incurred or accrued during the period for which the bond was in
123.23 force.

123.24 (f) The security device must remain in place for no longer than five years after the
123.25 licensee ceases money transmission operations in Minnesota. Notwithstanding this paragraph,
123.26 the commissioner may permit the security device to be reduced or eliminated before that
123.27 time to the extent that the amount of the licensee's payment instruments outstanding in
123.28 Minnesota are reduced. The commissioner may also permit a licensee to substitute a letter
123.29 of credit or other form of security device acceptable to the commissioner for the security
123.30 device in place at the time the licensee ceases money transmission operations in Minnesota.

124.1 Sec. 47. 53B.61] MAINTENANCE OF PERMISSIBLE INVESTMENTS.

124.2 (a) A licensee must maintain at all times permissible investments that have a market
124.3 value computed in accordance with United States generally accepted accounting principles
124.4 of not less than the aggregate amount of all of the licensee's outstanding money transmission
124.5 obligations.

124.6 (b) Except for permissible investments enumerated in section 53B.62, paragraph (a),
124.7 the commissioner may by administrative rule or order, with respect to any licensee, limit
124.8 the extent to which a specific investment maintained by a licensee within a class of
124.9 permissible investments may be considered a permissible investment, if the specific
124.10 investment represents undue risk to customers not reflected in the market value of
124.11 investments.

124.12 (c) Permissible investments, even if commingled with other assets of the licensee, are
124.13 held in trust for the benefit of the purchasers and holders of the licensee's outstanding money
124.14 transmission obligations in the event of insolvency; the filing of a petition by or against the
124.15 licensee under the United States Bankruptcy Code, United States Code, title 11, sections
124.16 101 to 110, as amended or recodified from time to time, for bankruptcy or reorganization;
124.17 the filing of a petition by or against the licensee for receivership; the commencement of any
124.18 other judicial or administrative proceeding for the licensee's dissolution or reorganization;
124.19 or in the event of an action by a creditor against the licensee who is not a beneficiary of this
124.20 statutory trust. No permissible investments impressed with a trust pursuant to this paragraph
124.21 are subject to attachment, levy of execution, or sequestration by order of any court, except
124.22 for a beneficiary of the statutory trust.

124.23 (d) Upon the establishment of a statutory trust in accordance with paragraph (c), or when
124.24 any funds are drawn on a letter of credit pursuant to section 53B.62, paragraph (a), clause
124.25 (4), the commissioner must notify the applicable regulator of each state in which the licensee
124.26 is licensed to engage in money transmission, if any, of the establishment of the trust or the
124.27 funds drawn on the letter of credit, as applicable. Notice is deemed satisfied if performed
124.28 pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and
124.29 any other permissible investments held in trust for the benefit of the purchasers and holders
124.30 of the licensee's outstanding money transmission obligations, are deemed held in trust for
124.31 the benefit of the purchasers and holders of the licensee's outstanding money transmission
124.32 obligations on a pro rata and equitable basis in accordance with statutes pursuant to which
124.33 permissible investments are required to be held in Minnesota and other states, as defined
124.34 by a substantially similar statute in the other state. Any statutory trust established under this

125.1 section terminates upon extinguishment of all of the licensee's outstanding money
125.2 transmission obligations.

125.3 (e) The commissioner may by rule or by order allow other types of investments that the
125.4 commissioner determines are of sufficient liquidity and quality to be a permissible
125.5 investment. The commissioner is authorized to participate in efforts with other state regulators
125.6 to determine that other types of investments are of sufficient liquidity and quality to be a
125.7 permissible investment.

125.8 **Sec. 48. [53B.62] PERMISSIBLE INVESTMENTS.**

125.9 Subdivision 1. Certain investments permissible. The following investments are
125.10 permissible under section 53B.61:

125.11 (1) cash, including demand deposits, savings deposits, and funds in accounts held for
125.12 the benefit of the licensee's customers in a federally insured depository financial institution;
125.13 and cash equivalents, including ACH items in transit to the licensee and ACH items or
125.14 international wires in transit to a payee, cash in transit via armored car, cash in smart safes,
125.15 cash in licensee-owned locations, debit card or credit card funded transmission receivables
125.16 owed by any bank, or money market mutual funds rated AAA or the equivalent from any
125.17 eligible rating service;

125.18 (2) certificates of deposit or senior debt obligations of an insured depository institution,
125.19 as defined in section 3 of the Federal Deposit Insurance Act, United States Code, title 12,
125.20 section 1813, as amended or recodified from time to time, or as defined under the federal
125.21 Credit Union Act, United States Code, title 12, section 1781, as amended or recodified from
125.22 time to time;

125.23 (3) an obligation of the United States or a commission, agency, or instrumentality thereof;
125.24 an obligation that is guaranteed fully as to principal and interest by the United States; or an
125.25 obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

125.26 (4) the full drawable amount of an irrevocable standby letter of credit, for which the
125.27 stated beneficiary is the commissioner, that stipulates that the beneficiary need only draw
125.28 a sight draft under the letter of credit and present the sight draft to obtain funds up to the
125.29 letter of credit amount within seven days of presentation of the items required by subdivision
125.30 2, paragraph (c); and

125.31 (5) one hundred percent of the surety bond or deposit provided for under section 53B.60
125.32 that exceeds the average daily money transmission liability in Minnesota.

126.1 Subd. 2. Letter of credit; requirements. (a) A letter of credit under subdivision 1,
126.2 clause (4), must:

126.3 (1) be issued by a federally insured depository financial institution, a foreign bank that
126.4 is authorized under federal law to maintain a federal agency or federal branch office in a
126.5 state or states, or a foreign bank that is authorized under state law to maintain a branch in
126.6 a state that: (i) bears an eligible rating or whose parent company bears an eligible rating;
126.7 and (ii) is regulated, supervised, and examined by United States federal or state authorities
126.8 having regulatory authority over banks, credit unions, and trust companies;

126.9 (2) be irrevocable, unconditional, and indicate that it is not subject to any condition or
126.10 qualifications outside of the letter of credit;

126.11 (3) not contain reference to any other agreements, documents, or entities, or otherwise
126.12 provide for any security interest in the licensee; and

126.13 (4) contain an issue date and expiration date, and expressly provide for automatic
126.14 extension without a written amendment, for an additional period of one year from the present
126.15 or each future expiration date, unless the issuer of the letter of credit notifies the
126.16 commissioner in writing by certified or registered mail or courier mail or other receipted
126.17 means, at least 60 days before any expiration date, that the irrevocable letter of credit will
126.18 not be extended.

126.19 (b) In the event of any notice of expiration or nonextension of a letter of credit issued
126.20 under paragraph (a), clause (4), the licensee must demonstrate to the satisfaction of the
126.21 commissioner, 15 days before the letter or credit's expiration, that the licensee maintains
126.22 and will maintain permissible investments in accordance with section 53B.61, paragraph
126.23 (a), upon the expiration of the letter of credit. If the licensee is not able to do so, the
126.24 commissioner may draw on the letter of credit in an amount up to the amount necessary to
126.25 meet the licensee's requirements to maintain permissible investments in accordance with
126.26 section 53B.61, paragraph (a). Any draw under this paragraph must be offset against the
126.27 licensee's outstanding money transmission obligations. The drawn funds must be held in
126.28 trust by the commissioner or the commissioner's designated agent, to the extent authorized
126.29 by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding
126.30 money transmission obligations.

126.31 (c) The letter of credit must provide that the issuer of the letter of credit must honor, at
126.32 sight, a presentation made by the beneficiary to the issuer of the following documents on
126.33 or before the expiration date of the letter of credit:

126.34 (1) the original letter of credit, including any amendments; and

127.1 (2) a written statement from the beneficiary stating that any of the following events have
127.2 occurred:

127.3 (i) the filing of a petition by or against the licensee under the United States Bankruptcy
127.4 Code, United States Code, title 11, sections 101 to 110, as amended or recodified from time
127.5 to time, for bankruptcy or reorganization;

127.6 (ii) the filing of a petition by or against the licensee for receivership, or the
127.7 commencement of any other judicial or administrative proceeding for the licensee's
127.8 dissolution or reorganization;

127.9 (iii) the seizure of assets of a licensee by a commissioner of any other state pursuant to
127.10 an emergency order issued in accordance with applicable law, on the basis of an action,
127.11 violation, or condition that has caused or is likely to cause the insolvency of the licensee;
127.12 or

127.13 (iv) the beneficiary has received notice of expiration or nonextension of a letter of credit
127.14 and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee
127.15 will maintain permissible investments in accordance with section 53B.61, paragraph (a),
127.16 upon the expiration or nonextension of the letter of credit.

127.17 (d) The commissioner may designate an agent to serve on the commissioner's behalf as
127.18 beneficiary to a letter of credit, provided the agent and letter of credit meet requirements
127.19 the commissioner establishes. The commissioner's agent may serve as agent for multiple
127.20 licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable
127.21 amount for the purposes of subdivision 1, clause (4), and this subdivision are assigned to
127.22 the commissioner.

127.23 (e) The commissioner is authorized to participate in multistate processes designed to
127.24 facilitate the issuance and administration of letters of credit, including but not limited to
127.25 services provided by the NMLS and State Regulatory Registry, LLC.

127.26 Subd. 3. **Other permissible investments.** Unless the commissioner by administrative
127.27 rule or order otherwise permits an investment to exceed the limit set forth in this subdivision,
127.28 the following investments are permissible under section 53B.61 to the extent specified:

127.29 (1) receivables that are payable to a licensee from its authorized delegates in the ordinary
127.30 course of business that are less than seven days old, up to 50 percent of the aggregate value
127.31 of the licensee's total permissible investments;

128.1 (2) of the receivables permissible under clause (1), receivables that are payable to a
128.2 licensee from a single authorized delegate in the ordinary course of business may not exceed
128.3 ten percent of the aggregate value of the licensee's total permissible investments;

128.4 (3) the following investments are permissible up to 20 percent per category and combined
128.5 up to 50 percent of the aggregate value of the licensee's total permissible investments:

128.6 (i) a short-term investment of up to six months bearing an eligible rating;

128.7 (ii) commercial paper bearing an eligible rating;

128.8 (iii) a bill, note, bond, or debenture bearing an eligible rating;

128.9 (iv) United States tri-party repurchase agreements collateralized at 100 percent or more
128.10 with United States government or agency securities, municipal bonds, or other securities
128.11 bearing an eligible rating;

128.12 (v) money market mutual funds rated less than "AAA" and equal to or higher than "A-"
128.13 by S&P, or the equivalent from any other eligible rating service; and

128.14 (vi) a mutual fund or other investment fund composed solely and exclusively of one or
128.15 more permissible investments listed in subdivision 1, clauses (1) to (3); and

128.16 (4) cash, including demand deposits, savings deposits, and funds in accounts held for
128.17 the benefit of the licensee's customers, at foreign depository institutions are permissible up
128.18 to ten percent of the aggregate value of the licensee's total permissible investments, if the
128.19 licensee has received a satisfactory rating in the licensee's most recent examination and the
128.20 foreign depository institution:

128.21 (i) has an eligible rating;

128.22 (ii) is registered under the Foreign Account Tax Compliance Act, Public Law 111-147;

128.23 (iii) is not located in any country subject to sanctions from the Office of Foreign Asset
128.24 Control; and

128.25 (iv) is not located in a high-risk or noncooperative jurisdiction, as designated by the
128.26 Financial Action Task Force.

128.27 Sec. 49. **[53B.63] SUSPENSION; REVOCATION.**

128.28 (a) The commissioner may suspend or revoke a license or order a licensee to revoke the
128.29 designation of an authorized delegate if:

128.30 (1) the licensee violates this chapter, or an administrative rule adopted or an order issued
128.31 under this chapter;

129.1 (2) the licensee does not cooperate with an examination or investigation conducted by
129.2 the commissioner;

129.3 (3) the licensee engages in fraud, intentional misrepresentation, or gross negligence;

129.4 (4) an authorized delegate is convicted of a violation of a state or federal statute
129.5 prohibiting money laundering, or violates an administrative rule adopted or an order issued
129.6 under this chapter, as a result of the licensee's willful misconduct or willful blindness;

129.7 (5) the competence, experience, character, or general fitness of the licensee, authorized
129.8 delegate, person in control of a licensee, key individual, or responsible person of the
129.9 authorized delegate indicates that it is not in the public interest to permit the person to
129.10 provide money transmission;

129.11 (6) the licensee engages in an unsafe or unsound practice;

129.12 (7) the licensee is insolvent, suspends payment of the licensee's obligations, or makes a
129.13 general assignment for the benefit of the licensee's creditors; or

129.14 (8) the licensee does not remove an authorized delegate after the commissioner issues
129.15 and serves upon the licensee a final order that includes a finding that the authorized delegate
129.16 has violated this chapter.

129.17 (b) When determining whether a licensee is engaging in an unsafe or unsound practice,
129.18 the commissioner may consider the size and condition of the licensee's money transmission,
129.19 the magnitude of the loss, the gravity of the violation of this chapter, and the previous
129.20 conduct of the person involved.

129.21 **Sec. 50. [53B.64] AUTHORIZED DELEGATES; SUSPENSION AND**
129.22 **REVOCAATION.**

129.23 (a) The commissioner may issue an order suspending or revoking the designation of an
129.24 authorized delegate if the commissioner finds:

129.25 (1) the authorized delegate violated this chapter, or an administrative rule adopted or an
129.26 order issued under this chapter;

129.27 (2) the authorized delegate did not cooperate with an examination or investigation
129.28 conducted by the commissioner;

129.29 (3) the authorized delegate engaged in fraud, intentional misrepresentation, or gross
129.30 negligence;

130.1 (4) the authorized delegate is convicted of a violation of a state or federal anti-money
130.2 laundering statute;

130.3 (5) the competence, experience, character, or general fitness of the authorized delegate
130.4 or a person in control of the authorized delegate indicates that it is not in the public interest
130.5 to permit the authorized delegate to provide money transmission; or

130.6 (6) the authorized delegate is engaging in an unsafe or unsound practice.

130.7 (b) When determining whether an authorized delegate is engaging in an unsafe or unsound
130.8 practice, the commissioner may consider the size and condition of the authorized delegate's
130.9 provision of money transmission, the magnitude of the loss, the gravity of the violation of
130.10 this chapter, or an administrative rule adopted or order issued under this chapter, and the
130.11 previous conduct of the authorized delegate.

130.12 (c) An authorized delegate may apply for relief from a suspension or revocation of
130.13 designation as an authorized delegate in the same manner as a licensee.

130.14 Sec. 51. **[53B.65] ENFORCEMENT.**

130.15 Section 45.027 applies to this chapter.

130.16 Sec. 52. **[53B.66] CRIMINAL PENALTIES.**

130.17 (a) A person who intentionally makes a false statement, misrepresentation, or false
130.18 certification in a record filed or required to be maintained under this chapter or that
130.19 intentionally makes a false entry or omits a material entry in a record filed or required to
130.20 be maintained under this chapter is guilty of a felony.

130.21 (b) A person who knowingly engages in an activity for which a license is required under
130.22 this chapter without being licensed under this chapter, and who receives more than \$1,000
130.23 in compensation within a 30-day period from the activity, is guilty of a felony.

130.24 (c) A person who knowingly engages in an activity for which a license is required under
130.25 this chapter without being licensed under this chapter, and who receives more than \$500
130.26 but less than \$1,000 in compensation within a 30-day period from the activity, is guilty of
130.27 a gross misdemeanor.

130.28 (d) A person who knowingly engages in an activity for which a license is required under
130.29 this chapter without being licensed under this chapter, and who receives no more than \$500
130.30 in compensation within a 30-day period from the activity, is guilty of a misdemeanor.

131.1 Sec. 53. **[53B.67] SEVERABILITY.**

131.2 If any provision of this chapter or the chapter's application to any person or circumstance
131.3 is held invalid, the invalidity does not affect other provisions or applications of this chapter
131.4 that can be given effect without the invalid provision or application.

131.5 Sec. 54. **[53B.68] TRANSITION PERIOD.**

131.6 (a) A person licensed in Minnesota to engage in the business of money transmission is
131.7 not subject to the provisions of this chapter to the extent that this chapter's provisions conflict
131.8 with current law or establish new requirements not imposed under current law until the
131.9 licensee renews the licensee's current license or for five months after the effective date of
131.10 this chapter, whichever is later.

131.11 (b) Notwithstanding paragraph (a), a licensee is only required to amend the licensee's
131.12 authorized delegate contracts for contracts entered into or amended after the effective date
131.13 or the completion of any transition period contemplated under paragraph (a). Nothing in
131.14 this section limits an authorized delegate's obligations to operate in full compliance with
131.15 this chapter, as required under section 53B.51, paragraph (c).

131.16 Sec. 55. **[53B.69] DEFINITIONS.**

131.17 Subdivision 1. **Terms.** For purposes of sections 53B.70 to 53B.74, the following terms
131.18 have the meaning given them.

131.19 Subd. 2. **Control of virtual currency.** "Control of virtual currency," when used in
131.20 reference to a transaction or relationship involving virtual currency, means the power to
131.21 execute unilaterally or prevent indefinitely a virtual currency transaction.

131.22 Subd. 3. **Exchange.** "Exchange," used as a verb, means to assume control of virtual
131.23 currency from or on behalf of a person, at least momentarily, to sell, trade, or convert:

131.24 (1) virtual currency for money, bank credit, or one or more forms of virtual currency;
131.25 or

131.26 (2) money or bank credit for one or more forms of virtual currency.

131.27 Subd. 4. **Transfer.** "Transfer" means to assume control of virtual currency from or on
131.28 behalf of a person and to:

131.29 (1) credit the virtual currency to the account of another person;

131.30 (2) move the virtual currency from one account of a person to another account of the
131.31 same person; or

132.1 (3) relinquish control of virtual currency to another person.

132.2 **Subd. 5. United States dollar equivalent of virtual currency.** "United States dollar
132.3 equivalent of virtual currency" means the equivalent value of a particular virtual currency
132.4 in United States dollars shown on a virtual-currency exchange based in the United States
132.5 for a particular date or period specified in this chapter.

132.6 **Subd. 6. Virtual currency.** (a) "Virtual currency" means a digital representation of value
132.7 that:

132.8 (1) is used as a medium of exchange, unit of account, or store of value; and

132.9 (2) is not money, whether or not denominated in money.

132.10 (b) Virtual currency does not include:

132.11 (1) a transaction in which a merchant grants, as part of an affinity or rewards program,
132.12 value that cannot be taken from or exchanged with the merchant for money, bank credit, or
132.13 virtual currency; or

132.14 (2) a digital representation of value issued by or on behalf of a publisher and used solely
132.15 within an online game, game platform, or family of games sold by the same publisher or
132.16 offered on the same game platform.

132.17 **Subd. 7. Virtual-currency administration.** "Virtual-currency administration" means
132.18 issuing virtual currency with the authority to redeem the currency for money, bank credit,
132.19 or other virtual currency.

132.20 **Subd. 8. Virtual-currency business activity.** "Virtual-currency business activity" means:

132.21 (1) exchanging, transferring, or storing virtual currency or engaging in virtual-currency
132.22 administration, whether directly or through an agreement with a virtual-currency
132.23 control-services vendor;

132.24 (2) holding electronic precious metals or electronic certificates representing interests in
132.25 precious metals on behalf of another person or issuing shares or electronic certificates
132.26 representing interests in precious metals; or

132.27 (3) exchanging one or more digital representations of value used within one or more
132.28 online games, game platforms, or family of games for:

132.29 (i) virtual currency offered by or on behalf of the same publisher from which the original
132.30 digital representation of value was received; or

133.1 (ii) money or bank credit outside the online game, game platform, or family of games
133.2 offered by or on behalf of the same publisher from which the original digital representation
133.3 of value was received.

133.4 Subd. 9. **Virtual-currency control-services vendor.** "Virtual-currency control-services
133.5 vendor" means a person that has control of virtual currency solely under an agreement with
133.6 a person that, on behalf of another person, assumes control of virtual currency.

133.7 Sec. 56. **[53B.70] SCOPE.**

133.8 (a) Sections 53B.71 to 53B.74 do not apply to the exchange, transfer, or storage of virtual
133.9 currency or to virtual-currency administration to the extent the Electronic Fund Transfer
133.10 Act of 1978, United States Code, title 15, sections 1693 to 1693r, as amended or recodified
133.11 from time to time; the Securities Exchange Act of 1934, United States Code, title 15, sections
133.12 78a to 78oo, as amended or recodified from time to time; the Commodities Exchange Act
133.13 of 1936, United States Code, title 7, sections 1 to 27f, as amended or recodified from time
133.14 to time; or chapter 80A govern the activity.

133.15 (b) Sections 53B.71 to 53B.74 do not apply to activity by:

133.16 (1) a person that:

133.17 (i) contributes only connectivity software or computing power to a decentralized virtual
133.18 currency, or to a protocol governing transfer of the digital representation of value;

133.19 (ii) provides only data storage or security services for a business engaged in
133.20 virtual-currency business activity and does not otherwise engage in virtual-currency business
133.21 activity on behalf of another person; or

133.22 (iii) provides only to a person otherwise exempt from this chapter virtual currency as
133.23 one or more enterprise solutions used solely among each other and has no agreement or
133.24 relationship with a person that is an end-user of virtual currency;

133.25 (2) a person using virtual currency, including creating, investing, buying or selling, or
133.26 obtaining virtual currency as payment for the purchase or sale of goods or services, solely:

133.27 (i) on the person's own behalf;

133.28 (ii) for personal, family, or household purposes; or

133.29 (iii) for academic purposes;

134.1 (3) a person whose virtual-currency business activity with or on behalf of persons is
134.2 reasonably expected to be valued, in the aggregate, on an annual basis at \$5,000 or less,
134.3 measured by the United States dollar equivalent of virtual currency;

134.4 (4) an attorney to the extent of providing escrow services to a person;

134.5 (5) a title insurance company to the extent of providing escrow services to a person; or

134.6 (6) a securities intermediary, as defined under section 336.8-102(14), or a commodity
134.7 intermediary, as defined under section 336.9-102(17), that:

134.8 (i) does not engage in the ordinary course of business in virtual-currency business activity
134.9 with or on behalf of a person in addition to maintaining securities accounts or commodities
134.10 accounts and is regulated as a securities intermediary or commodity intermediary under
134.11 federal law, law of Minnesota other than this chapter, or law of another state; and

134.12 (ii) affords a person protections comparable to those set forth under section 53B.37.

134.13 (c) Sections 53B.71 to 53B.74 do not apply to a secured creditor, as defined under
134.14 sections 336.9-101 to 336.9-809, or to a creditor with a judicial lien or lien arising by
134.15 operation of law on collateral that is virtual currency, if the virtual-currency business activity
134.16 of the creditor is limited to enforcement of the security interest in compliance with sections
134.17 336.9-101 to 336.9-809 or lien in compliance with the law applicable to the lien.

134.18 (d) Sections 53B.71 to 53B.74 do not apply to a virtual-currency control-services vendor.

134.19 (e) Sections 53B.71 to 53B.74 do not apply to a person that:

134.20 (1) does not receive compensation from a person to:

134.21 (i) provide virtual-currency products or services; or

134.22 (ii) conduct virtual-currency business activity; or

134.23 (2) is engaged in testing products or services with the person's own money.

134.24 (f) The commissioner may determine that a person or class of persons, given facts
134.25 particular to the person or class, should be exempt from this chapter, whether the person or
134.26 class is covered by requirements imposed under federal law on a money-service business.

134.27 **Sec. 57. [53B.71] VIRTUAL CURRENCY BUSINESS ACTIVITY; CONDITIONS**
134.28 **PRECEDENT.**

134.29 (a) A person may not engage in virtual-currency business activity, or hold itself out as
134.30 being able to engage in virtual-currency business activity, with or on behalf of another
134.31 person unless the person is:

135.1 (1) licensed in Minnesota by the commissioner under section 53B.40; or

135.2 (2) exempt from licensing under section 53B.29.

135.3 (b) A person that is licensed to engage in virtual-currency business activity is engaged
135.4 in the business of money transmission and is subject to the requirements of this chapter.

135.5 **Sec. 58. [53B.72] REQUIRED DISCLOSURES.**

135.6 (a) A licensee that engages in virtual currency business activity must provide to a person
135.7 who uses the licensee's products or services the disclosures required by paragraph (b) and
135.8 any additional disclosure the commissioner by administrative rule determines reasonably
135.9 necessary to protect persons. The commissioner must determine by administrative rule the
135.10 time and form required for disclosure. A disclosure required by this section must be made
135.11 separately from any other information provided by the licensee and in a clear and conspicuous
135.12 manner in a record the person may keep. A licensee may propose for the commissioner's
135.13 approval alternate disclosures as more appropriate for the licensee's virtual-currency business
135.14 activity with or on behalf of persons.

135.15 (b) Before establishing a relationship with a person, a licensee must disclose, to the
135.16 extent applicable to the virtual-currency business activity the licensee undertakes with the
135.17 person:

135.18 (1) a schedule of fees and charges the licensee may assess, the manner by which fees
135.19 and charges are calculated if the fees and charges are not set in advance and disclosed, and
135.20 the timing of the fees and charges;

135.21 (2) whether the product or service provided by the licensee is covered by:

135.22 (i) a form of insurance or is otherwise guaranteed against loss by an agency of the United
135.23 States:

135.24 (A) up to the full United States dollar equivalent of virtual currency purchased from the
135.25 licensee or for control of virtual currency by the licensee as of the date of the placement or
135.26 purchase, including the maximum amount provided by insurance under the Federal Deposit
135.27 Insurance Corporation or otherwise available from the Securities Investor Protection
135.28 Corporation; or

135.29 (B) if not provided at the full United States dollar equivalent of virtual currency purchased
135.30 from the licensee or for control of virtual currency by the licensee, the maximum amount
135.31 of coverage for each person expressed in the United States dollar equivalent of the virtual
135.32 currency; or

- 136.1 (ii) private insurance against theft or loss, including cyber theft or theft by other means;
- 136.2 (3) the irrevocability of a transfer or exchange and any exception to irrevocability;
- 136.3 (4) a description of:
- 136.4 (i) liability for an unauthorized, mistaken, or accidental transfer or exchange;
- 136.5 (ii) the person's responsibility to provide notice to the licensee of the transfer or exchange;
- 136.6 (iii) the basis for any recovery by the person from the licensee;
- 136.7 (iv) general error-resolution rights applicable to the transfer or exchange; and
- 136.8 (v) the method for the person to update the person's contact information with the licensee;
- 136.9 (5) that the date or time when the transfer or exchange is made and the person's account
- 136.10 is debited may differ from the date or time when the person initiates the instruction to make
- 136.11 the transfer or exchange;
- 136.12 (6) whether the person has a right to stop a preauthorized payment or revoke authorization
- 136.13 for a transfer, and the procedure to initiate a stop-payment order or revoke authorization
- 136.14 for a subsequent transfer;
- 136.15 (7) the person's right to receive a receipt, trade ticket, or other evidence of the transfer
- 136.16 or exchange;
- 136.17 (8) the person's right to at least 30 days' prior notice of a change in the licensee's fee
- 136.18 schedule, other terms and conditions of operating the licensee's virtual-currency business
- 136.19 activity with the person, and the policies applicable to the person's account; and
- 136.20 (9) that virtual currency is not money.
- 136.21 (c) Except as otherwise provided in paragraph (d), at the conclusion of a virtual-currency
- 136.22 transaction with or on behalf of a person, a licensee must provide the person a confirmation
- 136.23 in a record. The record must contain:
- 136.24 (1) the name and contact information of the licensee, including information the person
- 136.25 may need to ask a question or file a complaint;
- 136.26 (2) the type, value, date, precise time, and amount of the transaction; and
- 136.27 (3) the fee charged for the transaction, including any charge for conversion of virtual
- 136.28 currency to money, bank credit, or other virtual currency.
- 136.29 (d) If a licensee discloses that it provides a daily confirmation in the initial disclosure
- 136.30 under paragraph (c), the licensee may elect to provide a single, daily confirmation for all

137.1 transactions with or on behalf of a person on that day instead of a per-transaction
137.2 confirmation.

137.3 Sec. 59. [53B.73] PROPERTY INTERESTS AND ENTITLEMENTS TO VIRTUAL
137.4 CURRENCY.

137.5 (a) A licensee that has control of virtual currency for one or more persons must maintain
137.6 control of virtual currency in each type of virtual currency sufficient to satisfy the aggregate
137.7 entitlements of the persons to the type of virtual currency.

137.8 (b) If a licensee violates paragraph (a), the property interests of the persons in the virtual
137.9 currency are pro rata property interests in the type of virtual currency to which the persons
137.10 are entitled, without regard to the time the persons became entitled to the virtual currency
137.11 or the licensee obtained control of the virtual currency.

137.12 (c) The virtual currency referred to in this section is:

137.13 (1) held for the persons entitled to the virtual currency;

137.14 (2) not property of the licensee;

137.15 (3) not subject to the claims of creditors of the licensee; and

137.16 (4) a permissible investment under this chapter.

137.17 Sec. 60. [53B.74] VIRTUAL CURRENCY BUSINESS ACTIVITIES; ADDITIONAL
137.18 REQUIREMENTS.

137.19 (a) A licensee engaged in virtual currency business activities may include virtual currency
137.20 in the licensee's calculation of tangible net worth, by measuring the average value of the
137.21 virtual currency in United States dollar equivalent over the prior six months, excluding
137.22 control of virtual currency for a person entitled to the protections under section 53B.73.

137.23 (b) A licensee must maintain, for all virtual-currency business activity with or on behalf
137.24 of a person five years after the date of the activity, a record of:

137.25 (1) each of the licensee's transactions with or on behalf of the person, or for the licensee's
137.26 account in Minnesota, including:

137.27 (i) the identity of the person;

137.28 (ii) the form of the transaction;

137.29 (iii) the amount, date, and payment instructions given by the person; and

138.1 (iv) the account number, name, and United States Postal Service address of the person,
138.2 and, to the extent feasible, other parties to the transaction;

138.3 (2) the aggregate number of transactions and aggregate value of transactions by the
138.4 licensee with or on behalf of the person and for the licensee's account in this state, expressed
138.5 in the United States dollar equivalent of the virtual currency for the previous 12 calendar
138.6 months;

138.7 (3) each transaction in which the licensee exchanges one form of virtual currency for
138.8 money or another form of virtual currency with or on behalf of the person;

138.9 (4) a general ledger posted at least monthly that lists all of the licensee's assets, liabilities,
138.10 capital, income, and expenses;

138.11 (5) each business-call report the licensee is required to create or provide to the department
138.12 or NMLS;

138.13 (6) bank statements and bank reconciliation records for the licensee and the name,
138.14 account number, and United States Postal Service address of each bank the licensee uses
138.15 to conduct virtual-currency business activity with or on behalf of the person;

138.16 (7) a report of any dispute with the person; and

138.17 (8) a report of any virtual-currency business activity transaction with or on behalf of a
138.18 person which the licensee was unable to complete.

138.19 (c) A licensee must maintain records required by paragraph (b) in a form that enables
138.20 the commissioner to determine whether the licensee is in compliance with this chapter, any
138.21 court order, and law of Minnesota other than this chapter.

138.22 Sec. 61. Minnesota Statutes 2022, section 56.131, subdivision 1, is amended to read:

138.23 Subdivision 1. **Interest rates and charges.** (a) On any loan in a principal amount not
138.24 exceeding \$100,000 or 15 percent of a Minnesota corporate licensee's capital stock and
138.25 surplus as defined in section 53.015, if greater, a licensee may contract for and receive
138.26 interest, finance charges, and other charges as provided in section 47.59.

138.27 (b) A licensee making a loan that is a consumer small loan, as defined in section 47.60,
138.28 subdivision 1, paragraph (a), must comply with section 47.60. A licensee making a loan
138.29 that is a consumer short-term loan, as defined in section 47.601, subdivision 1, paragraph
138.30 (d), must comply with section 47.601.

138.31 ~~(b)~~ (c) With respect to a loan secured by an interest in real estate, and having a maturity
138.32 of more than 60 months, the original schedule of installment payments must fully amortize

139.1 the principal and interest on the loan. The original schedule of installment payments for any
139.2 other loan secured by an interest in real estate must provide for payment amounts that are
139.3 sufficient to pay all interest scheduled to be due on the loan.

139.4 ~~(e)~~ (d) A licensee may contract for and collect a delinquency charge as provided for in
139.5 section 47.59, subdivision 6, paragraph (a), clause (4).

139.6 ~~(d)~~ (e) A licensee may grant extensions, deferments, or conversions to interest-bearing
139.7 as provided in section 47.59, subdivision 5.

139.8 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2023, and
139.9 applies to consumer small loans and consumer short-term loans originated on or after that
139.10 date.

139.11 Sec. 62. **[58.20] DEFINITIONS.**

139.12 **Subdivision 1. Scope.** For purposes of this section to section 58.23, the terms defined
139.13 in this section have the meanings given.

139.14 **Subd. 2. Allowable assets for liquidity.** "Allowable assets for liquidity" means assets
139.15 that may be used to satisfy the liquidity requirements under section 58.22, including:

139.16 (1) unrestricted cash and cash equivalents; and

139.17 (2) unencumbered investment grade assets held for sale or trade, including agency
139.18 mortgage-backed securities, obligations of government-sponsored enterprises, and United
139.19 States Treasury obligations.

139.20 **Subd. 3. Board of directors.** "Board of directors" means the formal body established
139.21 by a covered institution that is responsible for corporate governance and compliance with
139.22 sections 58.21 to 58.23.

139.23 **Subd. 4. Corporate governance.** "Corporate governance" means the structure of the
139.24 covered institution and how the covered institution is managed, including the corporate
139.25 rules, policies, processes, and practices used to oversee and manage the covered institution.

139.26 **Subd. 5. Covered institution.** "Covered institution" means a mortgage servicer that
139.27 services or subservices for others at least 2,000 or more residential mortgage loans in the
139.28 United States, excluding whole loans owned, and loans being interim serviced prior to sale
139.29 as of the most recent calendar year end, reported on the NMLS mortgage call report.

139.30 **Subd. 6. External audit.** "External audit" means the formal report, prepared by an
139.31 independent certified public accountant, expressing an opinion on whether the financial
139.32 statements are:

140.1 (1) presented fairly, in all material aspects, in accordance with the applicable financial
140.2 reporting framework; and

140.3 (2) inclusive of an evaluation of the adequacy of a company's internal control structure.

140.4 Subd. 7. **Government-sponsored enterprises.** "Government-sponsored enterprises"
140.5 means the Federal National Mortgage Association, and the Federal Home Loan Mortgage
140.6 Corporation.

140.7 Subd. 8. **Interim serviced prior to sale.** "Interim serviced prior to sale" means the
140.8 collection of a limited number of contractual mortgage payments immediately after
140.9 origination on loans held for sale but no longer than a period of ninety days prior to the
140.10 loans being sold into the secondary market.

140.11 Subd. 9. **Internal audit.** "Internal audit" means the internal activity of performing
140.12 independent and objective assurance and consulting to evaluate and improve the effectiveness
140.13 of company operations, risk management, internal controls, and governance processes.

140.14 Subd. 10. **Mortgage-backed security.** "Mortgage-backed security" means a financial
140.15 instrument, often debt securities, collateralized by residential mortgages.

140.16 Subd. 11. **Mortgage call report.** "Mortgage call report" means the quarterly or annual
140.17 report of residential real estate loan origination, servicing, and financial information
140.18 completed by companies licensed in NMLS.

140.19 Subd. 12. **Mortgage servicing rights.** "Mortgage servicing rights" means the contractual
140.20 right to service a residential mortgage loan on behalf of the owner of the associated mortgage
140.21 in exchange for compensation specified in the servicing contract.

140.22 Subd. 13. **Mortgage servicing rights investor.** "Mortgage servicing rights investor" or
140.23 "master servicer" means an entity that (1) invests in and owns mortgage servicing rights;
140.24 and (2) relies on subservicers to administer the loans on the mortgage servicing rights
140.25 investor's behalf.

140.26 Subd. 14. **Nationwide Multistate Licensing System.** "Nationwide Multistate Licensing
140.27 System" or "NMLS" has the meaning given in section 58A.02, subdivision 8.

140.28 Subd. 15. **Operating liquidity.** "Operating liquidity" means the money necessary for
140.29 an entity to perform normal business operations, including payment of rent, salaries, interest
140.30 expenses, and other typical expenses associated with operating the entity.

140.31 Subd. 16. **Residential mortgage loans serviced.** "Residential mortgage loans serviced"
140.32 means the specific portfolio or portfolios of residential mortgage loans for which a licensee

141.1 is contractually responsible to the owner or owners of the mortgage loans for the defined
141.2 servicing activities.

141.3 Subd. 17. **Reverse mortgage.** "Reverse mortgage" has the meaning given in section
141.4 47.58, subdivision 1, paragraph (a).

141.5 Subd. 18. **Risk management assessment.** "Risk management assessment" means the
141.6 functional evaluations performed under the risk management program and the reports
141.7 provided to the board of directors under the relevant governance protocol.

141.8 Subd. 19. **Risk management program.** "Risk management program" means the policies
141.9 and procedures designed to identify, measure, monitor, and mitigate risk commensurate
141.10 with the covered institution's size and complexity.

141.11 Subd. 20. **Servicer.** "Servicer" has the meaning given in section 58.02, subdivision 20.

141.12 Subd. 21. **Servicing liquidity.** "Servicing liquidity" or "liquidity" means the financial
141.13 resources necessary to manage liquidity risk arising from servicing functions required in
141.14 acquiring and financing mortgage servicing rights; hedging costs, including margin calls,
141.15 associated with the mortgage servicing rights asset and financing facilities; and advances
141.16 or costs of advance financing for principal, interest, taxes, insurance, and any other servicing
141.17 related advances.

141.18 Subd. 22. **Subservicer.** "Subservicer" means the entity performing routine administration
141.19 of residential mortgage loans as the agent of a servicer or mortgage servicing rights investor
141.20 under the terms of a subservicing contract.

141.21 Subd. 23. **Subservicing for others.** "Subservicing for others" means the contractual
141.22 activities performed by subservicers on behalf of a servicer or mortgage servicing rights
141.23 investor.

141.24 Subd. 24. **Tangible net worth.** "Tangible net worth" means total equity less receivables
141.25 due from related entities, less goodwill and other intangibles, less pledged assets.

141.26 Subd. 25. **Whole loans.** "Whole loans" means a loan where a mortgage and the underlying
141.27 credit risk is owned and held on a balance sheet of the entity possessing all ownership rights.

141.28 Sec. 63. **[58.21] APPLICABILITY; EXCLUSIONS.**

141.29 Subdivision 1. **Applicability.** Sections 58.20 to 58.23 apply to covered institutions. For
141.30 entities within a holding company or an affiliated group of companies, sections 58.20 to
141.31 58.23 apply at the covered institution level.

142.1 Subd. 2. Exclusions. (a) Sections 58.20 to 58.23 do not apply to (1) persons exempt
142.2 from licensing under sections 58.04 and 58.05, and (2) an institution of the Farm Credit
142.3 System established and authorized in accordance with the Farm Credit Act of 1971, as
142.4 amended, United States Code, title 12, section 2001 et seq.

142.5 (b) Section 58.22 does not apply to (1) servicers that solely own or conduct reverse
142.6 mortgage servicing, or (2) the reverse mortgage portfolio administered by a covered
142.7 institution.

142.8 **Sec. 64. [58.22] FINANCIAL CONDITION.**

142.9 Subdivision 1. Compliance required. A covered institution must maintain capital and
142.10 liquidity in compliance with this section.

142.11 Subd. 2. Generally accepted accounting principles. For the purposes of complying
142.12 with the capital and liquidity requirements of this section, all financial data must be
142.13 determined in accordance with generally accepted accounting principles.

142.14 Subd. 3. Federal Housing Finance Agency eligibility requirements; policies and
142.15 procedures. (a) A covered institution that meets the Federal Housing Finance Agency
142.16 eligibility requirements for enterprise single-family sellers and servicers with respect to
142.17 capital, net worth ratio, and liquidity meets the requirements of subdivisions 1 and 2,
142.18 regardless of whether the servicer is approved for government-sponsored enterprise servicing.

142.19 (b) A covered institution must maintain written policies and procedures that implement
142.20 the capital and servicing liquidity requirements of this section. The policies and procedures
142.21 implemented pursuant to this paragraph must include a sustainable written methodology to
142.22 satisfy the requirements of paragraph (a) and must be made available to the commissioner
142.23 upon request.

142.24 Subd. 4. Operating liquidity. (a) A covered institution must maintain sufficient allowable
142.25 assets for liquidity, in addition to the amounts required for servicing liquidity, to cover
142.26 normal business operations.

142.27 (b) Covered institutions must have sound cash management and business operating plans
142.28 that (1) match the complexity of the institution; and (2) ensure normal business operations.

142.29 (c) Management must develop, establish, and implement plans, policies, and procedures
142.30 to maintain operating liquidity sufficient for the ongoing needs of the covered institution.
142.31 Plans, policies, and procedures implemented pursuant to this paragraph must contain
142.32 sustainable, written methodologies to maintain sufficient operating liquidity and must be
142.33 made available to the commissioner upon request.

143.1 Sec. 65. [58.23] CORPORATE GOVERNANCE.

143.2 Subdivision 1. Board of directors required. A covered institution must establish and
143.3 maintain a board of directors that is responsible for oversight of the covered institution.

143.4 Subd. 2. Board of directors; alternative. If a covered institution has not received
143.5 approval to service loans by a government-sponsored enterprise or the Government National
143.6 Mortgage Association, or if a government-sponsored enterprise or the Government National
143.7 Mortgage Association has granted approval for a board of directors alternative, the covered
143.8 institution may establish a similar body constituted to exercise oversight and fulfill the
143.9 responsibilities specified under subdivision 3.

143.10 Subd. 3. Board of directors; responsibilities. The board of directors must:

143.11 (1) establish a written corporate governance framework, including appropriate internal
143.12 controls designed to monitor corporate governance and assess compliance with the corporate
143.13 governance framework, and must make the corporate governance framework available to
143.14 the commissioner upon request;

143.15 (2) monitor and ensure the covered institution complies with (i) the corporate governance
143.16 framework; and (ii) sections 58.20 to this section; and

143.17 (3) perform accurate and timely regulatory reporting, including filing the mortgage call
143.18 report.

143.19 Subd. 4. Internal audit. The board of directors must establish internal audit requirements
143.20 that (1) are appropriate for the size, complexity, and risk profile of the servicer; and (2)
143.21 ensure appropriate independence to provide a reliable evaluation of the servicer's internal
143.22 control structure, risk management, and governance. The board-established internal audit
143.23 requirements and the results of internal audits must be made available to the commissioner
143.24 upon request.

143.25 Subd. 5. External audit. (a) A covered institution must receive an external audit,
143.26 including audited financial statements and audit reports, that is conducted by an independent
143.27 public accountant annually. The external audit must be made available to the commissioner
143.28 upon request.

143.29 (b) The external audit must include, at a minimum:

143.30 (1) annual financial statements, including (i) a balance sheet; (ii) a statement of operations
143.31 and income statement; and (iii) cash flows, including notes and supplemental schedules
143.32 prepared in accordance with generally accepted accounting principles;

- 144.1 (2) an assessment of the internal control structure;
- 144.2 (3) a computation of tangible net worth;
- 144.3 (4) validation of mortgage servicing rights valuation and reserve methodology, if
- 144.4 applicable;
- 144.5 (5) verification of adequate fidelity and errors and omissions insurance; and
- 144.6 (6) testing of controls related to risk management activities, including compliance and
- 144.7 stress testing, if applicable.
- 144.8 Subd. 6. **Risk management.** (a) Under oversight by the board of directors, a covered
- 144.9 institution must establish a risk management program that identifies, measures, monitors,
- 144.10 and controls risk commensurate with the covered institution's size and complexity. The risk
- 144.11 management program must have appropriate processes and models in place to measure,
- 144.12 monitor, and mitigate financial risks and changes to the servicer's risk profile and assets
- 144.13 being serviced.
- 144.14 (b) The risk management program must be scaled to the size and complexity of the
- 144.15 organization, including but not limited to:
- 144.16 (1) the potential that a borrower or counterparty fails to perform on an obligation;
- 144.17 (2) the potential that the servicer (i) is unable to meet the servicer's obligations as the
- 144.18 obligations come due as a result of an inability to liquidate assets or obtain adequate funding;
- 144.19 or (ii) cannot easily unwind or offset specific exposures;
- 144.20 (3) the risk resulting from (i) inadequate or failed internal processes, people, and systems;
- 144.21 or (ii) external events;
- 144.22 (4) the risk to the servicer's condition resulting from adverse movements in market rates
- 144.23 or prices;
- 144.24 (5) the risk of regulatory sanctions, fines, penalties, or losses resulting from the failure
- 144.25 to comply with laws, rules, regulations, or other supervisory requirements that apply to the
- 144.26 servicer;
- 144.27 (6) the potential that legal proceedings against the institution resulting in unenforceable
- 144.28 contracts, lawsuits, legal sanctions, or adverse judgments can disrupt or otherwise negatively
- 144.29 affect the servicer's operations or condition; and
- 144.30 (7) the risk to earnings and capital arising from negative publicity regarding the servicer's
- 144.31 business practices.

145.1 Subd. 7. **Risk management assessment.** A covered institution must conduct a risk
145.2 management assessment on an annual basis. The risk management assessment must conclude
145.3 with a formal report to the board of directors and must be made available to the commissioner
145.4 upon request. A covered institution must maintain evidence of risk management activities
145.5 throughout the year and must include the evidence of risk management activities as part of
145.6 the report. The risk management assessment must include issue findings and the response
145.7 or action taken to address the issue findings.

145.8 Sec. 66. [58B.011] STUDENT LOAN ADVOCATE.

145.9 Subdivision 1. **Designation of a student loan advocate.** The commissioner of commerce
145.10 must designate a student loan advocate within the Department of Commerce to provide
145.11 timely assistance to borrowers and to effectuate this chapter.

145.12 Subd. 2. **Duties.** The student loan advocate has the following duties:

145.13 (1) receive, review, and attempt to resolve complaints from borrowers, including but
145.14 not limited to attempts to resolve borrower complaints in collaboration with institutions of
145.15 higher education, student loan servicers, and any other participants in student loan lending;

145.16 (2) compile and analyze data on borrower complaints received under clause (1);

145.17 (3) help borrowers understand the rights and responsibilities under the terms of student
145.18 loans;

145.19 (4) provide information to the public, state agencies, legislators, and relevant stakeholders
145.20 regarding the problems and concerns of borrowers;

145.21 (5) make recommendations to resolve the problems of borrowers;

145.22 (6) analyze and monitor the development and implementation of federal, state, and local
145.23 laws, regulations, and policies relating to borrowers, and recommend any changes deemed
145.24 necessary;

145.25 (7) review the complete student loan history for any borrower who has provided written
145.26 consent to conduct the review;

145.27 (8) increase public awareness that the advocate is available to assist in resolving the
145.28 student loan servicing concerns of potential and actual borrowers, institutions of higher
145.29 education, student loan servicers, and any other participant in student loan lending; and

145.30 (9) take other actions as necessary to fulfill the duties of the advocate, as provided under
145.31 this section.

146.1 Subd. 3. **Student loan education course.** The advocate must establish and maintain a
146.2 borrower education course. The course must include educational presentations and materials
146.3 regarding important topics in student loans, including but not limited to:

- 146.4 (1) the meaning of important terminology used in student lending;
146.5 (2) documentation requirements;
146.6 (3) monthly payment obligations;
146.7 (4) income-based repayment options;
146.8 (5) the availability of state and federal loan forgiveness programs; and
146.9 (6) disclosure requirements.

146.10 Subd. 4. **Reporting.** By January 15 of each odd-numbered year, the advocate must report
146.11 to the legislative committees with primary jurisdiction over commerce and higher education.
146.12 The report must describe the advocate's implementation of this section, the outcomes achieved
146.13 by the advocate during the previous two years, and recommendations to improve the
146.14 regulation of student loan servicers.

146.15 Sec. 67. Minnesota Statutes 2022, section 80A.50, is amended to read:

146.16 **80A.50 SECTION 302; FEDERAL COVERED SECURITIES; SMALL**
146.17 **CORPORATE OFFERING REGISTRATION.**

146.18 (a) **Federal covered securities.**

146.19 (1) **Required filing of records.** With respect to a federal covered security, as defined
146.20 in Section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(2)), that is not
146.21 otherwise exempt under sections 80A.45 through 80A.47, a rule adopted or order issued
146.22 under this chapter may require the filing of any or all of the following records:

146.23 (A) before the initial offer of a federal covered security in this state, all records that are
146.24 part of a federal registration statement filed with the Securities and Exchange Commission
146.25 under the Securities Act of 1933 and a consent to service of process complying with section
146.26 80A.88 signed by the issuer;

146.27 (B) after the initial offer of the federal covered security in this state, all records that are
146.28 part of an amendment to a federal registration statement filed with the Securities and
146.29 Exchange Commission under the Securities Act of 1933; and

147.1 (C) to the extent necessary or appropriate to compute fees, a report of the value of the
147.2 federal covered securities sold or offered to persons present in this state, if the sales data
147.3 are not included in records filed with the Securities and Exchange Commission.

147.4 (2) **Notice filing effectiveness and renewal.** A notice filing under subsection (a) is
147.5 effective for one year commencing on the later of the notice filing or the effectiveness of
147.6 the offering filed with the Securities and Exchange Commission. On or before expiration,
147.7 the issuer may renew a notice filing by filing a copy of those records filed by the issuer with
147.8 the Securities and Exchange Commission that are required by rule or order under this chapter
147.9 to be filed. A previously filed consent to service of process complying with section 80A.88
147.10 may be incorporated by reference in a renewal. A renewed notice filing becomes effective
147.11 upon the expiration of the filing being renewed.

147.12 (3) **Notice filings for federal covered securities under section 18(b)(4)(D).** With
147.13 respect to a security that is a federal covered security under Section 18(b)(4)(D) of the
147.14 Securities Act of 1933 (15 U.S.C. Section 77r(b)(4)(D)), a rule under this chapter may
147.15 require a notice filing by or on behalf of an issuer to include a copy of Form D, including
147.16 the Appendix, as promulgated by the Securities and Exchange Commission, and a consent
147.17 to service of process complying with section 80A.88 signed by the issuer not later than 15
147.18 days after the first sale of the federal covered security in this state.

147.19 (4) **Stop orders.** Except with respect to a federal security under Section 18(b)(1) of the
147.20 Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)), if the administrator finds that there is
147.21 a failure to comply with a notice or fee requirement of this section, the administrator may
147.22 issue a stop order suspending the offer and sale of a federal covered security in this state.
147.23 If the deficiency is corrected, the stop order is void as of the time of its issuance and no
147.24 penalty may be imposed by the administrator.

147.25 (b) **Small corporation offering registration.**

147.26 (1) **Registration required.** A security meeting the conditions set forth in this section
147.27 may be registered as set forth in this section.

147.28 (2) **Availability.** Registration under this section is available only to the issuer of securities
147.29 and not to an affiliate of the issuer or to any other person for resale of the issuer's securities.
147.30 The issuer must be organized under the laws of one of the states or possessions of the United
147.31 States. The securities offered must be exempt from registration under the Securities Act of
147.32 1933 pursuant to Rule 504 of Regulation D (15 U.S.C. Section 77c).

147.33 (3) **Disqualification.** Registration under this section is not available to any of the
147.34 following issuers:

148.1 (A) an issuer subject to the reporting requirements of Section 13 or 15(d) of the Securities
148.2 Exchange Act of 1934;

148.3 (B) an investment company;

148.4 (C) a development stage company that either has no specific business plan or purpose
148.5 or has indicated that its business plan is to engage in a merger or acquisition with an
148.6 unidentified company or companies or other entity or person;

148.7 (D) an issuer if the issuer or any of its predecessors, officers, directors, governors,
148.8 partners, ten percent stock or equity holders, promoters, or any selling agents of the securities
148.9 to be offered, or any officer, director, governor, or partner of the selling agent:

148.10 (i) has filed a registration statement that is the subject of a currently effective registration
148.11 stop order entered under a federal or state securities law within five years before the filing
148.12 of the small corporate offering registration application;

148.13 (ii) has been convicted within five years before the filing of the small corporate offering
148.14 registration application of a felony or misdemeanor in connection with the offer, purchase,
148.15 or sale of a security or a felony involving fraud or deceit, including, but not limited to,
148.16 forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to
148.17 defraud;

148.18 (iii) is currently subject to a state administrative enforcement order or judgment entered
148.19 by a state securities administrator or the Securities and Exchange Commission within five
148.20 years before the filing of the small corporate offering registration application, or is subject
148.21 to a federal or state administrative enforcement order or judgment in which fraud or deceit,
148.22 including, but not limited to, making untrue statements of material facts or omitting to state
148.23 material facts, was found and the order or judgment was entered within five years before
148.24 the filing of the small corporate offering registration application;

148.25 (iv) is currently subject to an order, judgment, or decree of a court of competent
148.26 jurisdiction temporarily restraining or enjoining, or is subject to an order, judgment, or
148.27 decree of a court of competent jurisdiction permanently restraining or enjoining the party
148.28 from engaging in or continuing any conduct or practice in connection with the purchase or
148.29 sale of any security or involving the making of a false filing with a state or with the Securities
148.30 and Exchange Commission entered within five years before the filing of the small corporate
148.31 offering registration application; or

149.1 (v) is subject to a state's administrative enforcement order, or judgment that prohibits,
149.2 denies, or revokes the use of an exemption for registration in connection with the offer,
149.3 purchase, or sale of securities,

149.4 (I) except that clauses (i) to (iv) do not apply if the person subject to the disqualification
149.5 is duly licensed or registered to conduct securities-related business in the state in which the
149.6 administrative order or judgment was entered against the person or if the dealer employing
149.7 the party is licensed or registered in this state and the form BD filed in this state discloses
149.8 the order, conviction, judgment, or decree relating to the person, and

149.9 (II) except that the disqualification under this subdivision is automatically waived if the
149.10 state securities administrator or federal agency that created the basis for disqualification
149.11 determines upon a showing of good cause that it is not necessary under the circumstances
149.12 to deny the registration.

149.13 (4) **Filing and effectiveness of registration statement.** A small corporate offering
149.14 registration statement must be filed with the administrator. If no stop order is in effect and
149.15 no proceeding is pending under section 80A.54, such registration statement shall become
149.16 effective automatically at the close of business on the 20th day after filing of the registration
149.17 statement or the last amendment of the registration statement or at such earlier time as the
149.18 administrator may designate by rule or order. For the purposes of a nonissuer transaction,
149.19 other than by an affiliate of the issuer, all outstanding securities of the same class identified
149.20 in the small corporate offering registration statement as a security registered under this
149.21 chapter are considered to be registered while the small corporate offering registration
149.22 statement is effective. A small corporate offering registration statement is effective for one
149.23 year after its effective date or for any longer period designated in an order under this chapter.
149.24 A small corporate offering registration statement may be withdrawn only with the approval
149.25 of the administrator.

149.26 (5) **Contents of registration statement.** A small corporate offering registration statement
149.27 under this section shall be on Form U-7, including exhibits required by the instructions
149.28 thereto, as adopted by the North American Securities Administrators Association, or such
149.29 alternative form as may be designated by the administrator by rule or order and must include:

149.30 (A) a consent to service of process complying with section 80A.88;

149.31 (B) a statement of the type and amount of securities to be offered and the amount of
149.32 securities to be offered in this state;

149.33 (C) a specimen or copy of the security being registered, unless the security is
149.34 uncertificated, a copy of the issuer's articles of incorporation and bylaws or their substantial

150.1 equivalents in effect, and a copy of any indenture or other instrument covering the security
150.2 to be registered;

150.3 (D) a signed or conformed copy of an opinion of counsel concerning the legality of the
150.4 securities being registered which states whether the securities, when sold, will be validly
150.5 issued, fully paid, and nonassessable and, if debt securities, binding obligations of the issuer;

150.6 (E) the states (i) in which the securities are proposed to be offered; (ii) in which a
150.7 registration statement or similar filing has been made in connection with the offering
150.8 including information as to effectiveness of each such filing; and (iii) in which a stop order
150.9 or similar proceeding has been entered or in which proceedings or actions seeking such an
150.10 order are pending;

150.11 (F) a copy of the offering document proposed to be delivered to offerees; and

150.12 (G) a copy of any other pamphlet, circular, form letter, advertisement, or other sales
150.13 literature intended as of the effective date to be used in connection with the offering and
150.14 any solicitation of interest used in compliance with section 80A.46(17)(B).

150.15 (6) **Copy to purchaser.** A copy of the offering document as filed with the administrator
150.16 must be delivered to each person purchasing the securities prior to sale of the securities to
150.17 such person.

150.18 (c) **Offering limit.** Offers and sales of securities under a small corporate offering
150.19 registration as set forth in this section are allowed up to the limit prescribed by Code of
150.20 Federal Regulations, title 17, part 230.504(b)(2), as amended.

150.21 Sec. 68. **[332.71] DEFINITIONS.**

150.22 Subdivision 1. **Scope.** For the purposes of sections 332.71 to 332.75, the definitions in
150.23 this section have the meanings given them.

150.24 Subd. 2. **Coerced debt.** (a) "Coerced debt" means all or a portion of debt in a debtor's
150.25 name that has been incurred as a result of:

150.26 (1) the use of the debtor's personal information without the debtor's knowledge,
150.27 authorization, or consent;

150.28 (2) the use or threat of force, intimidation, undue influence, harassment, fraud, deception,
150.29 coercion, or other similar means against the debtor; or

150.30 (3) economic abuse perpetrated against the debtor.

150.31 (b) Coerced debt does not include secured debt.

151.1 Subd. 3. **Creditor.** "Creditor" means a person, or the person's successor, assignee, or
151.2 agent, claiming to own or have the right to collect a debt owed by the debtor.

151.3 Subd. 4. **Debtor.** "Debtor" means a person who (1) is a victim of domestic abuse,
151.4 harassment, or sex or labor trafficking, and (2) owes coerced debt.

151.5 Subd. 5. **Documentation.** "Documentation" means a writing that identifies a debt or a
151.6 portion of a debt as coerced debt, describes the circumstances under which the coerced debt
151.7 was incurred, and takes the form of:

151.8 (1) a police report;

151.9 (2) a Federal Trade Commission identity theft report;

151.10 (3) an order in a dissolution proceeding under chapter 518 that declares that one or more
151.11 debts are coerced; or

151.12 (4) a sworn written certification.

151.13 Subd. 6. **Domestic abuse.** "Domestic abuse" has the meaning given in section 518B.01,
151.14 subdivision 2.

151.15 Subd. 7. **Economic abuse.** "Economic abuse" means behavior in the context of a domestic
151.16 relationship that controls, restrains, restricts, impairs, or interferes with the ability of a victim
151.17 of domestic abuse, harassment, or sex or labor trafficking to acquire, use, or maintain
151.18 economic resources, including but not limited to:

151.19 (1) withholding or restricting access to, or the acquisition of, money, assets, credit, or
151.20 financial information;

151.21 (2) interfering with the victim's ability to work and earn wages; or

151.22 (3) exerting undue influence over a person's financial and economic behavior or decisions.

151.23 Subd. 8. **Harassment.** "Harassment" has the meaning given in section 609.748.

151.24 Subd. 9. **Labor trafficking.** "Labor trafficking" has the meaning given in section 609.281,
151.25 subdivision 5.

151.26 Subd. 10. **Qualified third-party professional.** "Qualified third-party professional"
151.27 means:

151.28 (1) a domestic abuse advocate, as defined under section 595.02, subdivision 1, paragraph
151.29 (l);

151.30 (2) a sexual assault counselor, as defined under section 595.02, subdivision 1, paragraph
151.31 (k);

152.1 (3) a licensed health care provider, mental health care provider, social worker, or marriage
152.2 and family therapist; or

152.3 (4) a nonprofit organization in Minnesota that provides direct assistance to victims of
152.4 domestic abuse, sexual assault, or sex or labor trafficking.

152.5 Subd. 11. **Sex trafficking.** "Sex trafficking" has the meaning given in section 609.321,
152.6 subdivision 7a.

152.7 Subd. 12. **Sworn written certification.** "Sworn written certification" means a statement
152.8 by a qualified third-party professional in the following form:

152.9 CERTIFICATION OF QUALIFIED THIRD-PARTY PROFESSIONAL

152.10 I, (name of qualified third-party professional), do hereby certify under
152.11 penalty of perjury as follows:

152.12 1. I am a licensed health care provider, mental health care provider, social worker,
152.13 marriage and family therapist, domestic abuse advocate, as that term is defined in Minnesota
152.14 Statutes, section 595.02, subdivision 1, paragraph (l), or sexual assault counselor, as that
152.15 term is defined in Minnesota Statutes, section 595.02, subdivision 1, paragraph (k), or a
152.16 staff member of a nonprofit organization that provides direct assistance to victims of domestic
152.17 abuse, sexual assault, or sex or labor trafficking, who has had in-person contact or
152.18 face-to-face contact through an electronic medium with (name of debtor).

152.19 2. Based on my professional interactions with the debtor and information presented to
152.20 me in my professional capacity, I have a reasonable basis to believe (name of
152.21 debtor) is a victim of domestic abuse, harassment, sex trafficking or labor trafficking and
152.22 has incurred all or a portion of debt that is coerced debt, as that term is defined in Minnesota
152.23 Statutes, section 332.71, subdivision 2.

152.24 3. Based on my professional interactions with the debtor and on information presented
152.25 to me, I have reason to believe that the circumstances under which the coerced debt was
152.26 incurred are as follows:

152.27 4. The following debts or portions of the debts have been identified to me as coerced:

152.28 I attest that the foregoing is true and correct.

152.29 (Printed name of qualified third party)

152.30 (Signature of qualified third party)

152.31 (Business address and business telephone)

153.1 (Date)

153.2 **EFFECTIVE DATE; APPLICATION.** This section is effective January 1, 2024, and
153.3 applies to all debts incurred on or after that date.

153.4 Sec. 69. **[332.72] COERCED DEBT PROHIBITED.**

153.5 A person is prohibited from causing another person to incur coerced debt.

153.6 **EFFECTIVE DATE; APPLICATION.** This section is effective January 1, 2024, and
153.7 applies to all debts incurred on or after that date.

153.8 Sec. 70. **[332.73] NOTICE TO CREDITOR OF COERCED DEBT.**

153.9 Subdivision 1. **Notification.** (a) Before taking an affirmative action under section 332.74,
153.10 a debtor must, by certified mail, notify a creditor that the debt or a portion of a debt on
153.11 which the creditor demands payment is coerced debt and request that the creditor cease all
153.12 collection activity on the coerced debt. The notification and request must be in writing and
153.13 include documentation. The creditor, within 30 days of the date the notification and request
153.14 is received, must notify the debtor in writing of the creditor's decision to either immediately
153.15 cease all collection activity or continue to pursue collection.

153.16 (b) If a creditor ceases collection but subsequently decides to resume collection activity,
153.17 the creditor must notify the debtor ten days prior to the date the collection activity resumes.

153.18 (c) A debtor must not proceed with an action under section 332.74 until the 30-day
153.19 period provided under paragraph (a) has expired.

153.20 Subd. 2. **Sale or assignment of coerced debt.** A creditor may sell or assign a debt to
153.21 another party if the creditor selling or assigning the debt includes notification to the buyer
153.22 or assignee that the debtor has asserted the debt is coerced debt.

153.23 Subd. 3. **No inference upon cessation of collection activity.** The fact that a creditor
153.24 ceases collection activity under this section or section 332.74 does not create an inference
153.25 or presumption regarding the validity or invalidity of a debt for which a debtor is liable or
153.26 not liable. The exercise or nonexercise of rights under this section is not a waiver of any
153.27 other debtor or creditor rights or defenses.

153.28 **EFFECTIVE DATE; APPLICATION.** This section is effective January 1, 2024, and
153.29 applies to all debts incurred on or after that date.

154.1 Sec. 71. **[332.74] DEBTOR REMEDIES.**

154.2 Subdivision 1. **Right to petition for declaration and injunction.** A debtor alleging
154.3 violation of section 332.72 may petition for equitable relief in the district court in the county
154.4 where the debtor lives or where the coerced debt was incurred. The petition must include:

154.5 (1) the notice to the creditor required under section 332.73, subdivision 1;

154.6 (2) consistent with Rule 11 of the Minnesota Rules of General Practice, information
154.7 identifying (i) the account or accounts associated with the coerced debt, and (ii) the person
154.8 in whose name the debt was incurred; and

154.9 (3) the identity and, if known, contact information of the person who caused the debtor
154.10 to incur coerced debt, unless the debtor signs a sworn statement that disclosing the
154.11 information is likely to result in domestic abuse or other harm to the debtor, the debtor's
154.12 children, parents, other relatives, or a family pet.

154.13 Subd. 2. **Procedural safeguards.** The court must take appropriate steps necessary to
154.14 prevent abuse of the debtor or to the debtor, the debtor's children, parents, other relatives,
154.15 or a family pet. For purposes of this subdivision, appropriate steps include but are not limited
154.16 to sealing the file, marking the file as confidential, redacting personally identifiable
154.17 information about the debtor, and directing that any deposition or evidentiary hearing be
154.18 conducted remotely.

154.19 Subd. 3. **Relief.** (a) If a debtor shows by a preponderance of the evidence that the debtor
154.20 has been aggrieved by a violation of section 332.72 and the debtor has incurred coerced
154.21 debt, the debtor is entitled to one or more of the following:

154.22 (1) a declaratory judgment that the debt or portion of a debt is coerced debt;

154.23 (2) an injunction prohibiting the creditor from (i) holding or attempting to hold the debtor
154.24 liable for the debt or portion of a debt, or (ii) enforcing a judgment related to the coerced
154.25 debt; and

154.26 (3) an order dismissing any cause of action brought by the creditor to enforce or collect
154.27 the coerced debt from the debtor or, if only a portion of the debt is established as coerced
154.28 debt, an order directing that the judgment, if any, in the action be amended to reflect only
154.29 the portion of the debt that is not coerced debt.

154.30 (b) If the court orders relief for the debtor under paragraph (a), the court, after the
154.31 creditor's motion has been served by United States mail to the last known address of the
154.32 person who violated section 332.72, must issue a judgment in favor of the creditor against
154.33 the person in the amount of the debt or a portion of the debt.

155.1 (c) This subdivision applies regardless of the judicial district in which the creditor's
155.2 action or the debtor's petition was filed.

155.3 Subd. 4. **Affirmative defense.** In an action against a debtor to satisfy a debt, it is an
155.4 affirmative defense that the debtor incurred coerced debt.

155.5 Subd. 5. **Burden.** In any affirmative action taken under subdivision 1 or any affirmative
155.6 defense asserted in subdivision 3, the debtor bears the burden to show by a preponderance
155.7 of the evidence that the debtor incurred coerced debt. There is a presumption that the debtor
155.8 has incurred coerced debt if the person alleged to have caused the debtor to incur the coerced
155.9 debt has been criminally convicted, entered a guilty plea, or entered an Alford plea under
155.10 section 609.27, 609.282, 609.322, or 609.527.

155.11 Subd. 6. **Statute of limitations tolled.** (a) The statute of limitations under section 541.05
155.12 is tolled during the pendency of a proceeding instituted under this section.

155.13 (b) A creditor is prohibited from filing a collection action regarding a debt that is the
155.14 subject of a proceeding instituted under this section while the proceeding is pending.

155.15 (c) If a debtor commences a proceeding under this section while a collection action is
155.16 pending against the debtor regarding a debt that is subject to the proceeding, the court must
155.17 immediately stay the collection action pending the disposition of the proceeding under this
155.18 section.

155.19 **EFFECTIVE DATE; APPLICATION.** This section is effective January 1, 2024, and
155.20 applies to all debts incurred on or after that date.

155.21 Sec. 72. **[332.75] CREDITOR REMEDIES.**

155.22 Nothing in sections 332.71 to 332.74 diminishes the rights of a creditor to seek payment
155.23 recovery for a coerced debt from the person who caused the debtor to incur the coerced
155.24 debt.

155.25 **EFFECTIVE DATE; APPLICATION.** This section is effective January 1, 2024, and
155.26 applies to all debts incurred on or after that date.

155.27 Sec. 73. **UNAUDITED FINANCIAL STATEMENTS; RULEMAKING.**

155.28 The commissioner of commerce shall amend Minnesota Rules, part 2876.3021, subpart
155.29 2, to remove the prohibition on use of unaudited financial statements if the aggregate amount
155.30 of all previous sales of securities by the applicant, exclusive of debt financing with banks
155.31 and similar commercial lenders, exceeds \$1,000,000. The commissioner of commerce may

156.1 use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1,
156.2 clause (3), to amend the rule under this section, and Minnesota Statutes, section 14.386,
156.3 does not apply except as provided under Minnesota Statutes, section 14.388.

156.4 Sec. 74. **MINNESOTA COUNCIL ON ECONOMIC EDUCATION; GRANTS.**

156.5 (a) The grants provided under article 1, section 3, to the Minnesota Council on Economic
156.6 Education must be used by the council to:

156.7 (1) provide professional development to Minnesota teachers of courses or content related
156.8 to personal finance or consumer protection for students in grades 9 through 12;

156.9 (2) support the direct-to-student ancillary personal finance programs that Minnesota
156.10 teachers supervise and coach or that the Minnesota Council on Economic Education delivers
156.11 directly to students; and

156.12 (3) provide support to geographically diverse affiliated higher education-based centers
156.13 for economic education engaged in financial literacy education as it pertains to financial
156.14 literacy education initiatives, including those based at Minnesota State University Mankato,
156.15 St. Cloud State University, and St. Catherine University, as their work relates to activities
156.16 in clauses (1) and (2).

156.17 (b) The Minnesota Council on Economic Education must prepare and submit reports to
156.18 the commissioner of education in the form and manner prescribed by the commissioner
156.19 that:

156.20 (1) describe the number and type of in-person and online teacher professional
156.21 development opportunities provided by the Minnesota Council on Economic Education or
156.22 its affiliated state centers;

156.23 (2) list the content, length, and location of the programs;

156.24 (3) identify the number of preservice and licensed teachers receiving professional
156.25 development through each of these opportunities;

156.26 (4) summarize evaluations of professional opportunities for teachers; and

156.27 (5) list the number, types, and summary evaluations of the direct-to-student ancillary
156.28 personal finance programs that are supported with funds from the grant.

156.29 (c) By February 15 of each year following the receipt of a grant, the Minnesota Council
156.30 on Economic Education must provide a mid-year report to the commissioner of education
156.31 and, on August 15 of each year following receipt of a grant, the Minnesota Council on
156.32 Economic Education must prepare a year-end report according to the requirements of

157.1 paragraph (b). The reports must be prepared and filed according to Minnesota Statutes,
157.2 section 3.195. The commissioner may request additional information as necessary.

157.3 Sec. 75. **REPEALER.**

157.4 (a) Minnesota Statutes 2022, sections 53B.01; 53B.02; 53B.03; 53B.04; 53B.05; 53B.06;
157.5 53B.07; 53B.08; 53B.09; 53B.10; 53B.11; 53B.12; 53B.13; 53B.14; 53B.15; 53B.16;
157.6 53B.17; 53B.18; 53B.19; 53B.20; 53B.21; 53B.22; 53B.23; 53B.24; 53B.25; 53B.26; and
157.7 53B.27, subdivisions 1, 2, 5, 6, and 7, are repealed.

157.8 (b) Minnesota Statutes 2022, section 48.10, is repealed.

157.9 (c) Minnesota Rules, parts 2675.2610, subparts 1, 3, and 4; 2675.2620, subparts 1, 2, 3,
157.10 4, and 5; and 2675.2630, subpart 3, are repealed.

157.11 ARTICLE 4

157.12 COMMERCIAL REGULATION AND CONSUMER PROTECTION

157.13 Section 1. **[13.6505] ATTORNEY GENERAL DATA CODED ELSEWHERE.**

157.14 Subdivision 1. **Scope.** The sections referred to in this section are codified outside this
157.15 chapter. Those sections classify attorney general data as other than public, place restrictions
157.16 on access to government data, or involve data sharing.

157.17 Subd. 2. **Data protection impact assessments.** A data protection impact assessment
157.18 collected or maintained by the attorney general under section 325O.04 is classified under
157.19 section 325O.04, subdivision 4.

157.20 Sec. 2. Minnesota Statutes 2022, section 53C.01, is amended by adding a subdivision to
157.21 read:

157.22 Subd. 4a. **Global positioning system starter interrupt device.** "Global positioning
157.23 system starter interrupt device" or "GPS starter interrupt device" means a device installed
157.24 on a motor vehicle by a motor vehicle dealer that enables an individual who is not in
157.25 possession of the motor vehicle to remotely disable the motor vehicle's ignition. GPS starter
157.26 interrupt device includes a device commonly referred to as a fuel or ignition kill switch.

157.27 Sec. 3. Minnesota Statutes 2022, section 53C.01, subdivision 12c, is amended to read:

157.28 Subd. 12c. **Theft deterrent device.** "Theft deterrent device" means the following devices:

157.29 (1) a vehicle alarm system;

- 158.1 (2) a window etch product;
- 158.2 (3) a body part marking product;
- 158.3 (4) a steering lock; or
- 158.4 (5) a pedal or ignition lock; ~~or~~
- 158.5 ~~(6) a fuel or ignition kill switch.~~

158.6 Sec. 4. Minnesota Statutes 2022, section 53C.08, subdivision 1a, is amended to read:

158.7 Subd. 1a. **Disclosures required.** Prior to the execution of a retail installment contract,
158.8 the seller shall provide to a buyer, and obtain the buyer's signature on, a written disclosure
158.9 that sets forth the following information:

158.10 (1) a description and the total price of all items sold in the following categories if the
158.11 contract includes a charge for the item:

- 158.12 (i) a service contract;
- 158.13 (ii) an insurance product;
- 158.14 (iii) a debt cancellation agreement;
- 158.15 (iv) a theft deterrent device; or
- 158.16 (v) a surface protection product;

158.17 (2) whether a GPS starter interrupt device is installed on the motor vehicle, regardless
158.18 of whether the contract includes a charge for the GPS starter interrupt device;

158.19 (3) the amount that would be calculated under the contract as the regular installment
158.20 payment if charges for the items referenced under clause (1) are not included in the contract;

158.21 ~~(3)~~ (4) the amount that would be calculated under the contract as the regular installment
158.22 payment if charges for the items referenced under clause (1) are included in the contract;

158.23 and

158.24 ~~(4)~~ (5) the disclosures required under this subdivision must be in at least ten-point type
158.25 and must be contained in a single document that is separate from the retail installment
158.26 contract and any other vehicle purchase documents.

158.27 Sec. 5. Minnesota Statutes 2022, section 80E.041, subdivision 4, is amended to read:

158.28 Subd. 4. **Retail rate for labor.** (a) Compensation for warranty labor must equal the
158.29 dealer's effective nonwarranty labor rate multiplied by the time allowances recognized by

159.1 ~~the manufacturer to compensate its dealers for warranty work~~ guide used by the dealer for
159.2 nonwarranty customer-paid service repair orders. If no time guide exists for a warranty
159.3 repair, compensation for warranty labor must equal the dealer's effective nonwarranty labor
159.4 rate multiplied by the time actually spent to complete the repair order and must not be less
159.5 than the time charged to retail customers for the same or similar work performed. The
159.6 effective nonwarranty labor rate is determined by dividing the total customer labor charges
159.7 for qualifying nonwarranty repairs in the repair orders submitted under subdivision 2 by
159.8 the total number of labor hours that generated those sales. Compensation for warranty labor
159.9 must include ~~reasonable~~ all diagnostic time for repairs performed under this section, including
159.10 but not limited to all time spent communicating with the manufacturer's technical assistance
159.11 or external manufacturer source in order to provide a warranty repair, and must not be less
159.12 than the time charged to retail customers for the same or similar work performed.

159.13 (b) A manufacturer may disapprove a dealer's effective nonwarranty labor rate if:

159.14 (1) the disapproval is provided to the dealer in writing;

159.15 (2) the disapproval is sent to the dealer within 30 days of the submission of the effective
159.16 nonwarranty labor rate by the dealer to the manufacturer;

159.17 (3) the disapproval includes a reasonable substantiation that the effective nonwarranty
159.18 labor rate submission is inaccurate, incomplete, or unreasonable in light of a comparison
159.19 to the retail rate charged by other similarly situated franchised motor vehicle dealers in a
159.20 comparable geographic area in the state offering the same line-make vehicles; and

159.21 (4) the manufacturer proposes an adjustment of the effective nonwarranty labor rate.

159.22 (c) If a manufacturer fails to approve or disapprove the rate within this time period, the
159.23 rate is approved. If a manufacturer disapproves a dealer's effective nonwarranty labor rate,
159.24 and the dealer does not agree to the manufacturer's proposed adjustment, the parties shall
159.25 use the manufacturer's internal dispute resolution procedure, if any, within a reasonable
159.26 time after the dealer notifies the manufacturer of their failure to agree. If the manufacturer's
159.27 internal dispute resolution procedure is unsuccessful, or if the procedure is not implemented
159.28 within a reasonable time after the dealer notifies the manufacturer of their failure to agree,
159.29 the dealer may use the civil remedies available under section 80E.17. A dealer must file a
159.30 civil suit under section 80E.17, as permitted by this subdivision, within 60 days of receiving
159.31 the manufacturer's proposed adjustment to the effective nonwarranty labor rate, or the
159.32 conclusion of the manufacturer's internal dispute resolution procedure, whichever is later.

160.1 Sec. 6. Minnesota Statutes 2022, section 325D.01, subdivision 5, is amended to read:

160.2 Subd. 5. **Cost.** The term "cost," as applied to the wholesale or retail vendor, means:

160.3 (1) the actual current delivered invoice or replacement cost, whichever is lower, without
160.4 deducting customary cash discounts, plus any excise or sales taxes imposed on such
160.5 commodity, goods, wares or merchandise subsequent to the purchase thereof and prior to
160.6 the resale thereof, plus the cost of doing business at that location by the vendor;

160.7 (2) where a manufacturer publishes a list price and discounts, in determining such "cost"
160.8 the manufacturer's published list price then currently in effect, less the published trade
160.9 discount but without deducting the customary cash discount, plus any excise or sales taxes
160.10 imposed on such commodity, goods, wares or merchandise subsequent to the purchase
160.11 thereof and prior to the resale thereof, plus the cost of doing business by the vendor shall
160.12 be prima facie evidence of "cost"; and

160.13 (3) for purposes of gasoline offered for sale by way of posted price or indicating meter
160.14 by a retailer, at a retail location where gasoline is dispensed into passenger automobiles and
160.15 trucks by the consumer, "cost" means either:

160.16 (i) the average terminal price on the day, at the terminal from which the most recent
160.17 supply of gasoline delivered to the retail location was acquired, plus all applicable state and
160.18 federal excise taxes and fees; or

160.19 (ii) the actual current delivered invoice or replacement cost of the gasoline, whichever
160.20 is lower, plus all applicable state and federal excise taxes and fees, ~~plus the lesser of six~~
160.21 ~~percent or eight cents.~~

160.22 Sec. 7. Minnesota Statutes 2022, section 325D.44, subdivision 1, is amended to read:

160.23 Subdivision 1. **Acts constituting.** A person engages in a deceptive trade practice when,
160.24 in the course of business, vocation, or occupation, the person:

160.25 (1) passes off goods or services as those of another;

160.26 (2) causes likelihood of confusion or of misunderstanding as to the source, sponsorship,
160.27 approval, or certification of goods or services;

160.28 (3) causes likelihood of confusion or of misunderstanding as to affiliation, connection,
160.29 or association with, or certification by, another;

160.30 (4) uses deceptive representations or designations of geographic origin in connection
160.31 with goods or services;

161.1 (5) represents that goods or services have sponsorship, approval, characteristics,
161.2 ingredients, uses, benefits, or quantities that they do not have or that a person has a
161.3 sponsorship, approval, status, affiliation, or connection that the person does not have;

161.4 (6) represents that goods are original or new if they are deteriorated, altered,
161.5 reconditioned, reclaimed, used, or secondhand;

161.6 (7) represents that goods or services are of a particular standard, quality, or grade, or
161.7 that goods are of a particular style or model, if they are of another;

161.8 (8) disparages the goods, services, or business of another by false or misleading
161.9 representation of fact;

161.10 (9) advertises goods or services with intent not to sell them as advertised;

161.11 (10) advertises goods or services with intent not to supply reasonably expectable public
161.12 demand, unless the advertisement discloses a limitation of quantity;

161.13 (11) makes false or misleading statements of fact concerning the reasons for, existence
161.14 of, or amounts of price reductions;

161.15 (12) in attempting to collect delinquent accounts, implies or suggests that health care
161.16 services will be withheld in an emergency situation; or

161.17 (13) engages in (i) unfair methods of competition, or (ii) unfair or unconscionable acts
161.18 or practices; or

161.19 ~~(13)~~ (14) engages in any other conduct which similarly creates a likelihood of confusion
161.20 or of misunderstanding.

161.21 Sec. 8. Minnesota Statutes 2022, section 325D.44, subdivision 2, is amended to read:

161.22 Subd. 2. **Proof.** (a) In order to prevail in an action under sections 325D.43 to 325D.48,
161.23 a complainant need not prove competition between the parties or actual confusion or
161.24 misunderstanding.

161.25 (b) For purposes of subdivision 1, clause (13), the standard of proof provided under
161.26 section 325F.69, subdivision 7, applies.

161.27 Sec. 9. Minnesota Statutes 2022, section 325D.71, is amended to read:

161.28 **325D.71 UNLAWFUL GASOLINE SALES.**

161.29 (a) Any offer for sale of gasoline by a retailer by way of posted price or indicating meter
161.30 that is below cost, as defined by section 325D.01, subdivision 5, clause (3), is a violation

162.1 of section 325D.04, except that the criminal penalties in section 325D.071 do not apply. In
162.2 addition to the penalties for violations and the remedies provided for injured parties set forth
162.3 elsewhere in this chapter, the commissioner of commerce may use the authority under
162.4 section 45.027 for the purpose of preventing violations of this section. A retailer who sells
162.5 gasoline at the same or higher legally posted price of a competitor in the same market area,
162.6 on the same day, is not in violation of this section.

162.7 (b) A retailer who offers gasoline for sale at a price below cost as part of a promotion
162.8 at an individual location for no more than three days in any calendar quarter is not in violation
162.9 of this section.

162.10 (c) A retailer who offers gasoline for sale at a price below cost through the use of coupons,
162.11 loyalty programs, membership-based pricing programs, or promotions or programs of similar
162.12 import is not in violation of this section.

162.13 Sec. 10. Minnesota Statutes 2022, section 325E.31, is amended to read:

162.14 **325E.31 REMEDIES.**

162.15 (a) A person who is found to have violated sections 325E.27 to 325E.30 is subject to
162.16 the penalties and remedies, including a private right of action to recover damages, as provided
162.17 in section 8.31.

162.18 (b) In addition to the penalties and remedies under paragraph (a), the attorney general
162.19 is entitled to sue for and recover on behalf of the state a civil penalty from a person found
162.20 to have violated sections 325E.27 to 325E.30. The court must determine the civil penalty
162.21 amount, which must not exceed \$100,000.

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

162.23 Sec. 11. Minnesota Statutes 2022, section 325E.66, is amended by adding a subdivision
162.24 to read:

162.25 Subd. 1a. **Prices and rates.** Upon the occurrence of a weather event classified as a severe
162.26 thunderstorm pursuant to the criteria established by the National Oceanic and Atmospheric
162.27 Administration, a residential building contractor operating within the geographic region
162.28 impacted by the weather event and repairing damage caused by the weather event shall not:

162.29 (1) charge an unconscionably excessive price for labor in comparison to the market price
162.30 charged for comparable services in the geographic region impacted by the weather event;
162.31 or

163.1 (2) charge an insurance company a rate that exceeds what the residential building
163.2 contractor otherwise charges members of the general public.

163.3 Sec. 12. Minnesota Statutes 2022, section 325E.66, subdivision 2, is amended to read:

163.4 Subd. 2. **Private remedy.** If a residential contractor violates subdivision 1 or 1a, the
163.5 insured or the applicable insurer may bring an action against the residential contractor in a
163.6 court of competent jurisdiction for damages sustained by the insured or insurer as a
163.7 consequence of the residential contractor's violation.

163.8 Sec. 13. **[325E.72] DIGITAL FAIR REPAIR.**

163.9 Subdivision 1. **Short title.** This act may be cited as the "Digital Fair Repair Act."

163.10 Subd. 2. **Definitions.** (a) For the purposes of this section, the following terms have the
163.11 meanings given.

163.12 (b) "Authorized repair provider" means an individual or business who is unaffiliated
163.13 with an original equipment manufacturer and who has: (1) an arrangement with the original
163.14 equipment manufacturer, for a definite or indefinite period, under which the original
163.15 equipment manufacturer grants to the individual or business a license to use a trade name,
163.16 service mark, or other proprietary identifier to offer diagnostic, maintenance, or repair
163.17 services for digital electronic equipment under the name of the original equipment
163.18 manufacturer; or (2) an arrangement with the original equipment manufacturer to offer
163.19 diagnostic, maintenance, or repair services for digital electronic equipment on behalf of the
163.20 original equipment manufacturer. An original equipment manufacturer that offers diagnostic,
163.21 maintenance, or repair services for the original equipment manufacturer's digital electronic
163.22 equipment is considered an authorized repair provider with respect to the digital electronic
163.23 equipment if the original equipment manufacturer does not have an arrangement described
163.24 in this paragraph with an unaffiliated individual or business.

163.25 (c) "Contractor" has the meaning given in section 326B.31, subdivision 14.

163.26 (d) "Digital electronic equipment" or "equipment" means any hardware product that
163.27 depends, in whole or in part, on digital electronics embedded in or attached to the product
163.28 in order for the product to function, for which the original equipment manufacturer makes
163.29 available tools, parts, or documentation to authorized repair providers.

163.30 (e) "Documentation" means a manual, diagram, reporting output, service code description,
163.31 schematic diagram, or similar information made available by an original equipment

164.1 manufacturer to an authorized repair provider to facilitate diagnostic, maintenance, or repair
164.2 services for digital electronic equipment.

164.3 (f) "Embedded software" means any programmable instructions provided on firmware
164.4 delivered with digital electronic equipment, or with a part for the equipment, in order to
164.5 operate the equipment. Embedded software includes all relevant patches and fixes made by
164.6 the manufacturer of the equipment or part in order to operate the equipment.

164.7 (g) "Fair and reasonable terms" means, with respect to:

164.8 (1) parts for digital electronic equipment offered by an original equipment manufacturer:

164.9 (i) costs that are fair to both parties; and

164.10 (ii) terms under which an original equipment manufacturer offers the part to an authorized
164.11 repair provider and which:

164.12 (A) is not conditioned on or imposing a substantial obligation to use or restrict the use
164.13 of the part to diagnose, maintain, or repair digital electronic equipment sold, leased, or
164.14 otherwise supplied by the original equipment manufacturer, including a condition that the
164.15 owner or independent repair provider become an authorized repair provider of the original
164.16 equipment manufacturer; or

164.17 (B) a requirement that a part be registered, paired with, or approved by the original
164.18 equipment manufacturer or an authorized repair provider before the part is operational or
164.19 prohibit an original equipment manufacturer from imposing any additional cost or burden
164.20 that is not reasonably necessary or is designed to be an impediment on the owner or
164.21 independent repair provider;

164.22 (2) tools, software, and documentation for digital electronic equipment offered by an
164.23 original equipment manufacturer:

164.24 (i) costs that are equivalent to the lowest actual cost for which the original equipment
164.25 manufacturer offers the tool, software, or documentation to an authorized repair provider,
164.26 including any discount, rebate, or other financial incentive offered to an authorized repair
164.27 provider; and

164.28 (ii) terms that are equivalent to the most favorable terms under which an original
164.29 equipment manufacturer offers the tool, software, or documentation to an authorized repair
164.30 provider, including the methods and timeliness of delivery of the tool, software, or
164.31 documentation, do not impose on an owner or an independent repair provider:

165.1 (A) a substantial obligation to use or restrict the use of the tool, software, or
165.2 documentation to diagnose, maintain, or repair digital electronic equipment sold, leased, or
165.3 otherwise supplied by the original equipment manufacturer, including a condition that the
165.4 owner or independent repair provider become an authorized repair provider of the original
165.5 equipment manufacturer; or

165.6 (B) a requirement that a tool be registered, paired with, or approved by the original
165.7 equipment manufacturer or an authorized repair provider before the part or tool is operational;
165.8 and

165.9 (3) documentation offered by an original equipment manufacturer: that the documentation
165.10 is made available by the original equipment manufacturer at no charge, except that when
165.11 the documentation is requested in physical printed form, a charge may be included for the
165.12 reasonable actual costs of preparing and sending the copy.

165.13 (h) "Independent repair provider" means an individual or business operating in Minnesota
165.14 that: (1) does not have an arrangement described in paragraph (b) with an original equipment
165.15 manufacturer; (2) is not affiliated with any individual or business that has an arrangement
165.16 described in paragraph (b); and (3) is engaged in providing diagnostic, maintenance, or
165.17 repair services for digital electronic equipment. An original equipment manufacturer or,
165.18 with respect to the original equipment manufacturer, an individual or business that has an
165.19 arrangement with the original equipment manufacturer or is affiliated with an individual or
165.20 business that has an arrangement with that original equipment manufacturer, is considered
165.21 an independent repair provider for purposes of the instances the original equipment
165.22 manufacturer engages in diagnostic, maintenance, or repair services for digital electronic
165.23 equipment that is not manufactured by or sold under the name of the original equipment
165.24 manufacturer.

165.25 (i) "Manufacturer of motor vehicle equipment" means a business engaged in the business
165.26 of manufacturing or supplying components used to manufacture, maintain, or repair a motor
165.27 vehicle.

165.28 (j) "Motor vehicle" means a vehicle that is: (1) designed to transport persons or property
165.29 on a street or highway; and (2) certified by the manufacturer under (i) all applicable federal
165.30 safety and emissions standards, and (ii) all requirements for distribution and sale in the
165.31 United States. Motor vehicle does not include a recreational vehicle or an auto home equipped
165.32 for habitation.

165.33 (k) "Motor vehicle dealer" means an individual or business that, in the ordinary course
165.34 of business: (1) is engaged in the business of selling or leasing new motor vehicles to an

166.1 individual or business pursuant to a franchise agreement; (2) has obtained a license under
166.2 section 168.27; and (3) is engaged in providing diagnostic, maintenance, or repair services
166.3 for motor vehicles or motor vehicle engines pursuant to a franchise agreement.

166.4 (l) "Motor vehicle manufacturer" means a business engaged in the business of
166.5 manufacturing or assembling new motor vehicles.

166.6 (m) "Original equipment manufacturer" means any individual or business that, in the
166.7 normal course of business, is engaged in the business of selling or leasing to any individual
166.8 or business new digital electronic equipment manufactured by or on behalf of the original
166.9 equipment manufacturer.

166.10 (n) "Owner" means an individual or business that owns or leases digital electronic
166.11 equipment purchased or used in Minnesota.

166.12 (o) "Part" means any replacement part or assembly of parts, either new or used, made
166.13 available by an original equipment manufacturer to authorized repair providers to facilitate
166.14 the maintenance or repair of digital electronic equipment manufactured or sold by the original
166.15 equipment manufacturer.

166.16 (p) "Tool" means any software program, hardware implement, or other apparatus used
166.17 for diagnosis, maintenance, or repair of digital electronic equipment, including software or
166.18 other mechanisms that provide, program, pair a part, calibrate functionality, or perform any
166.19 other function required to repair the original equipment or part back to fully functional
166.20 condition, including updates.

166.21 (q) "Trade secret" has the meaning given in section 325C.01, subdivision 5.

166.22 (r) "Video game console" means a computing device, such as a console machine, a
166.23 handheld console device, or another device or system, and its components and peripherals,
166.24 that is primarily used by consumers for playing video games but which is neither a general
166.25 nor an all-purpose computer. A general or all-purpose computer includes but is not limited
166.26 to a desktop computer, laptop, tablet, or cell phone.

166.27 Subd. 3. **Requirements.** (a) For digital electronic equipment and parts for the equipment
166.28 sold or used in Minnesota, an original equipment manufacturer must make available to any
166.29 independent repair provider or to the owner of digital electronic equipment manufactured
166.30 by or on behalf of, or sold by, the original equipment manufacturer, on fair and reasonable
166.31 terms, documentation, parts, and tools, inclusive of any updates to information or embedded
166.32 software, for diagnostic, maintenance, or repair purposes. Nothing in this section requires

167.1 an original equipment manufacturer to make available a part, tools, or documentation if it
167.2 is no longer available to the original equipment manufacturer.

167.3 (b) Such parts, tools, and documentation shall be made available within 60 days after
167.4 the first sale of the digital electronic equipment in Minnesota.

167.5 Subd. 4. **Enforcement by attorney general.** A violation of this section is an unlawful
167.6 practice under section 325D.44. All remedies, penalties, and authority granted to the attorney
167.7 general under section 8.31 are available to the attorney general to enforce this section.

167.8 Subd. 5. **Limitations.** (a) Nothing in this section requires an original equipment
167.9 manufacturer to divulge a trade secret or license any intellectual property to an owner or
167.10 an independent service provider, except as necessary to provide documentation, parts, and
167.11 tools on fair and reasonable terms.

167.12 (b) Nothing in this section alters the terms of any arrangement described in subdivision
167.13 2, paragraph (b), including but not limited to the performance or provision of warranty or
167.14 recall repair work by an authorized repair provider on behalf of an original equipment
167.15 manufacturer pursuant to the arrangement, in force between an authorized repair provider
167.16 and an original equipment manufacturer. A provision in the terms of an arrangement
167.17 described in subdivision 2, paragraph (b), that purports to waive, avoid, restrict, or limit the
167.18 original equipment manufacturer's obligations to comply with this section is void and
167.19 unenforceable.

167.20 (c) Nothing in this section requires an original equipment manufacturer or an authorized
167.21 repair provider to provide to an owner or independent repair provider access to information,
167.22 other than documentation, that is provided by the original equipment manufacturer to an
167.23 authorized repair provider pursuant to the terms of an arrangement described in subdivision
167.24 2, paragraph (b).

167.25 (d) Nothing in this section requires an original equipment manufacturer or authorized
167.26 repair provider to make available any parts, tools, or documentation for the purpose of
167.27 making modifications to any digital electronic equipment.

167.28 (e) Nothing in this section shall be construed to require the original equipment
167.29 manufacturer to sell service parts if the service parts are no longer provided by the original
167.30 equipment manufacturer or made available to authorized repair providers of the original
167.31 equipment manufacturer.

168.1 (f) Nothing in this section shall require an original manufacturer to make available special
168.2 documentation, tools, and parts that would disable or override antitheft security measures
168.3 set by the owner of the equipment without the owner's authorization.

168.4 (g) Nothing in this section shall apply if the original equipment manufacturer provides
168.5 equivalent or better, readily available replacement equipment at no charge to the customer.

168.6 (h) Nothing in this section requires the original manufacturer to provide access to parts,
168.7 tools, or documentation for work that is required to be done or supervised by an individual
168.8 or contractor licensed under chapter 326B or with any individual or contractor who does
168.9 not possess the relevant license required for that work.

168.10 Subd. 6. Exclusions. (a) Nothing in this section applies to: (1) a motor vehicle
168.11 manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in
168.12 that capacity; or (2) any product or service of a motor vehicle manufacturer, manufacturer
168.13 of motor vehicle equipment, or motor vehicle dealer acting in that capacity.

168.14 (b) Nothing in this section applies to manufacturers or distributors of a medical device
168.15 as defined in the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section
168.16 301 et seq., or a digital electronic product or software manufactured for use in a medical
168.17 setting including diagnostic, monitoring, or control equipment or any product or service
168.18 that the manufacturer or distributor of a medical device offers.

168.19 (c) Nothing in this section applies to manufacturers, distributors, importers, or dealers
168.20 of any off-road or nonroad equipment, including without limitation farm and utility tractors;
168.21 farm implements; farm machinery; forestry equipment; industrial equipment; utility
168.22 equipment; construction equipment; compact construction equipment; road-building
168.23 equipment; electronic vehicle charging infrastructure equipment; mining equipment; turf,
168.24 yard, and garden equipment; outdoor power equipment; portable generators; marine,
168.25 all-terrain sports, and recreational vehicles, including without limitation racing vehicles;
168.26 stand-alone or integrated stationary or mobile internal combustion engines; generator sets
168.27 and fuel cell power; power tools; and any tools, technology, attachments, accessories,
168.28 components, and repair parts for any of the foregoing.

168.29 (d) Nothing in this section shall be construed to require any original equipment
168.30 manufacturer or authorized repair provider to make available any parts, tools, or
168.31 documentation required for the diagnosis, maintenance, or repair of a video game console
168.32 and its components and peripherals.

168.33 (e) Nothing in this section applies to an energy storage system, as defined in section
168.34 216B.2422, subdivision 1, paragraph (f).

169.1 (f) Nothing in this section requires an original equipment manufacturer to share parts,
169.2 documentation, or tools related to the manufacturer's cybersecurity.

169.3 Subd. 7. **Liability, defenses, and warranties.** No original equipment manufacturer or
169.4 authorized repair provider shall be liable for any damage or injury caused to any digital
169.5 electronic equipment, person, or property that occurs as a result of repair, diagnosis,
169.6 maintenance, or modification performed by an independent repair provider or owner,
169.7 including but not limited to any indirect, incidental, special, or consequential damages; any
169.8 loss of data, privacy, or profits; or an inability to use, or reduced functionality of, the digital
169.9 electronic equipment.

169.10 Subd. 8. **Applicability.** This section applies to equipment sold on or after July 1, 2017.

169.11 **EFFECTIVE DATE.** This section is effective July 1, 2024.

169.12 Sec. 14. Minnesota Statutes 2022, section 325F.662, subdivision 2, is amended to read:

169.13 **Subd. 2. Written warranty required.** (a) Every used motor vehicle sold by a dealer is
169.14 covered by an express warranty which the dealer shall provide to the consumer in writing.

169.15 At a minimum, the express warranty applies for the following terms:

169.16 (1) if the used motor vehicle has less than 36,000 miles, the warranty must remain in
169.17 effect for at least 60 days or 2,500 miles, whichever comes first;

169.18 (2) if the used motor vehicle has 36,000 miles or more, but less than 75,000 miles, the
169.19 warranty must remain in effect for at least 30 days or 1,000 miles, whichever comes first;

169.20 and

169.21 (3) unless the vehicle is sold by a new motor vehicle dealer, as defined in section 168.27,
169.22 subdivision 2, if the used motor vehicle has 75,000 miles or more, the warranty must remain
169.23 in effect for at least 15 days or 500 miles, whichever comes first.

169.24 (b) The express warranty must require the dealer, in the event of a malfunction, defect,
169.25 or failure in a covered part, to repair or replace the covered part, or at the dealer's election,
169.26 to accept return of the used motor vehicle from the consumer and provide a refund to the
169.27 consumer.

169.28 (c) For used motor vehicles with less than 36,000 miles, the dealer's express warranty
169.29 shall cover, at minimum, the following parts:

169.30 (1) with respect to the engine, all lubricated parts, intake manifolds, engine block, cylinder
169.31 head, rotary engine housings, and ring gear;

170.1 (2) with respect to the transmission, the automatic transmission case, internal parts, and
170.2 the torque converter; or, the manual transmission case, and the internal parts;

170.3 (3) with respect to the drive axle, the axle housings and internal parts, axle shafts, drive
170.4 shafts and output shafts, and universal joints; but excluding the secondary drive axle on
170.5 vehicles, other than passenger vans, mounted on a truck chassis;

170.6 (4) with respect to the brakes, the master cylinder, vacuum assist booster, wheel cylinders,
170.7 hydraulic lines and fittings, and disc brakes calipers;

170.8 (5) with respect to the steering, the steering gear housing and all internal parts, power
170.9 steering pump, valve body, piston, and rack;

170.10 (6) the water pump;

170.11 (7) the externally mounted mechanical fuel pump;

170.12 (8) the radiator;

170.13 (9) the alternator, generator, and starter.

170.14 (d) For used motor vehicles with 36,000 miles or more, ~~but less than 75,000 miles~~, the
170.15 dealer's express warranty shall cover, at minimum, the following parts:

170.16 (1) with respect to the engine, all lubricated parts, intake manifolds, engine block, cylinder
170.17 head, rotary engine housings, and ring gear;

170.18 (2) with respect to the transmission, the automatic transmission case, internal parts, and
170.19 the torque converter; or, the manual transmission case, and internal parts;

170.20 (3) with respect to the drive axle, the axle housings and internal parts, axle shafts, drive
170.21 shafts and output shafts, and universal joints; but excluding the secondary drive axle on
170.22 vehicles, other than passenger vans, mounted on a truck chassis;

170.23 (4) with respect to the brakes, the master cylinder, vacuum assist booster, wheel cylinders,
170.24 hydraulic lines and fittings, and disc brake calipers;

170.25 (5) with respect to the steering, the steering gear housing and all internal parts, power
170.26 steering pump, valve body, and piston;

170.27 (6) the water pump;

170.28 (7) the externally mounted mechanical fuel pump.

170.29 (e)(1) A dealer's obligations under the express warranty remain in effect notwithstanding
170.30 the fact that the warranty period has expired, if the consumer promptly notified the dealer
170.31 of the malfunction, defect, or failure in the covered part within the specified warranty period

171.1 and, within a reasonable time after notification, brings the vehicle or arranges with the dealer
171.2 to have the vehicle brought to the dealer for inspection and repair.

171.3 (2) If a dealer does not have a repair facility, the dealer shall designate where the vehicle
171.4 must be taken for inspection and repair.

171.5 (3) In the event the malfunction, defect, or failure in the covered part occurs at a location
171.6 which makes it impossible or unreasonable to return the vehicle to the selling dealer, the
171.7 consumer may have the repairs completed elsewhere with the consent of the selling dealer,
171.8 which consent may not be unreasonably withheld.

171.9 (4) Notwithstanding the provisions of this paragraph, a consumer may have nonwarranty
171.10 maintenance and nonwarranty repairs performed other than by the selling dealer and without
171.11 the selling dealer's consent.

171.12 (f) Nothing in this section diminishes the obligations of a manufacturer under an express
171.13 warranty issued by the manufacturer. The express warranties created by this section do not
171.14 require a dealer to repair or replace a covered part if the repair or replacement is covered
171.15 by a manufacturer's new car warranty, or the manufacturer otherwise agrees to repair or
171.16 replace the part.

171.17 (g) The express warranties created by this section do not cover defects or repair problems
171.18 which result from collision, abuse, negligence, or lack of adequate maintenance following
171.19 sale to the consumer.

171.20 (h) The terms of the express warranty, including the duration of the warranty and the
171.21 parts covered, must be fully, accurately, and conspicuously disclosed by the dealer on the
171.22 front of the Buyers Guide.

171.23 Sec. 15. Minnesota Statutes 2022, section 325F.662, subdivision 3, is amended to read:

171.24 Subd. 3. **Exclusions.** Notwithstanding the provisions of subdivision 2, a dealer is not
171.25 required to provide an express warranty for a used motor vehicle:

171.26 (1) except for a used motor vehicle described in subdivision 2, paragraph (a), clause (3),
171.27 sold for a total cash sale price of less than \$3,000, including the trade-in value of any vehicle
171.28 traded in by the consumer, but excluding tax, license fees, registration fees, and finance
171.29 charges;

171.30 (2) with an engine designed to use diesel fuel;

171.31 (3) with a gross weight, as defined in section 168.002, subdivision 13, in excess of 9,000
171.32 pounds;

172.1 (4) that has been custom-built or modified for show or for racing;

172.2 (5) except for a used motor vehicle described in subdivision 2, paragraph (a), clause (3),
172.3 that is eight years of age or older, as calculated from the first day in January of the designated
172.4 model year of the vehicle;

172.5 (6) that has been produced by a manufacturer which has never manufactured more than
172.6 10,000 motor vehicles in any one year;

172.7 ~~(7) that has 75,000 miles or more at time of sale;~~

172.8 ~~(8)~~ (7) that has not been manufactured in compliance with applicable federal emission
172.9 standards in force at the time of manufacture as provided by the Clean Air Act, United
172.10 States Code, title 42, sections 7401 ~~through~~ to 7642, and regulations adopted pursuant
172.11 thereto, and safety standards as provided by the National Traffic and Motor Safety Act,
172.12 United States Code, title 15, sections 1381 ~~through~~ to 1431, and regulations adopted pursuant
172.13 thereto; or

172.14 ~~(9)~~ (8) that has been issued a certificate of title that bears a "salvage" brand or stamp
172.15 under section 168A.151.

172.16 Sec. 16. Minnesota Statutes 2022, section 325F.6641, subdivision 2, is amended to read:

172.17 Subd. 2. **Disclosure requirements.** (a) If a motor vehicle dealer licensed under section
172.18 168.27 offers a vehicle for sale in the course of a sales presentation to any prospective buyer
172.19 the dealer must provide a written disclosure; and ~~an oral disclosure,~~ except for sales
172.20 performed online, an oral disclosure of:

172.21 (1) prior vehicle damage as required under subdivision 1;

172.22 (2) the existence or requirement of any title brand under section 168A.05, subdivision
172.23 3, 168A.151, 325F.6642, or 325F.665, subdivision 14, if the dealer has actual knowledge
172.24 of the brand; and

172.25 (3) if a motor vehicle, which is part of a licensed motor vehicle dealer's inventory, has
172.26 been submerged or flooded above the bottom dashboard while parked on the dealer's lot.

172.27 (b) If a person receives a flood disclosure as described in paragraph (a), clause (3),
172.28 whether from a motor vehicle dealer or another seller, and subsequently offers that vehicle
172.29 for sale, the person must provide the same disclosure to any prospective subsequent buyer.

172.30 (c) Written disclosure under this subdivision must be signed by the buyer and maintained
172.31 in the motor vehicle dealer's sales file in the manner prescribed by the registrar of motor
172.32 vehicles.

173.1 (d) The disclosure required in subdivision 1 must be made in substantially the following
173.2 form: "To the best of my knowledge, this vehicle has has not sustained damage in
173.3 excess of 80 percent actual cash value."

173.4 Sec. 17. Minnesota Statutes 2022, section 325F.69, subdivision 1, is amended to read:

173.5 Subdivision 1. **Fraud, misrepresentation, deceptive or unfair practices.** The act, use,
173.6 or employment by any person of any fraud, unfair or unconscionable practice, false pretense,
173.7 false promise, misrepresentation, misleading statement or deceptive practice, with the intent
173.8 that others rely thereon in connection with the sale of any merchandise, whether or not any
173.9 person has in fact been misled, deceived, or damaged thereby, is enjoined as provided in
173.10 section 325F.70.

173.11 Sec. 18. Minnesota Statutes 2022, section 325F.69, is amended by adding a subdivision
173.12 to read:

173.13 Subd. 7. **Unfair or unconscionable acts or practices; standard of proof.** For purposes
173.14 of this section, an unfair method of competition or an unfair or unconscionable act or practice
173.15 is any method of competition, act, or practice that: (1) offends public policy as established
173.16 by the statutes, rules, or common law of Minnesota; (2) is unethical, oppressive, or
173.17 unscrupulous; or (3) is substantially injurious to consumers.

173.18 Sec. 19. Minnesota Statutes 2022, section 325F.70, is amended by adding a subdivision
173.19 to read:

173.20 Subd. 3. **Private enforcement.** (a) In addition to the remedies otherwise provided by
173.21 law, an individual or family farmer injured by a violation of sections 325F.68 to 325F.70
173.22 may bring a civil action and recover damages, together with costs and disbursements,
173.23 including costs of investigation and reasonable attorney fees, and receive other equitable
173.24 relief as determined by the court. An action brought under this section benefits the public.

173.25 (b) For the purposes of this subdivision:

173.26 (1) "family farmer" means a person or persons operating a family farm; and

173.27 (2) "family farm" has the meaning given in section 116B.02, subdivision 6.

173.28 **EFFECTIVE DATE.** This section is effective on August 1, 2023, and applies to causes
173.29 of action commenced on or after that date.

174.1 Sec. 20. [325F.995] GENETIC INFORMATION PRIVACY ACT.

174.2 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
174.3 the meanings given.

174.4 (b) "Biological sample" means any material part of a human, discharge from a material
174.5 part of a human, or derivative from a material part of a human, including but not limited to
174.6 tissue, blood, urine, or saliva, that is known to contain deoxyribonucleic acid (DNA).

174.7 (c) "Consumer" means an individual who is a Minnesota resident.

174.8 (d) "Deidentified data" means data that cannot reasonably be used to infer information
174.9 about, or otherwise be linked to, an identifiable consumer and that is subject to:

174.10 (1) administrative and technical measures to ensure the data cannot be associated with
174.11 a particular consumer;

174.12 (2) public commitment by the company to (i) maintain and use data in deidentified form,
174.13 and (ii) not attempt to reidentify the data; and

174.14 (3) legally enforceable contractual obligations that prohibit any recipients of the data
174.15 from attempting to reidentify the data.

174.16 (e) "Direct-to-consumer genetic testing company" or "company" means an entity that:
174.17 (1) offers consumer genetic testing products or services directly to consumers; or (2) collects,
174.18 uses, or analyzes genetic data that was (i) collected via a direct-to-consumer genetic testing
174.19 product or service, and (ii) provided to the company by a consumer. Direct-to-consumer
174.20 genetic testing company does not include an entity that collects, uses, or analyzes genetic
174.21 data or biological samples only in the context of research, as defined in Code of Federal
174.22 Regulations, title 45, section 164.501, that is conducted in a manner that complies with the
174.23 federal policy for the protection of human research subjects under Code of Federal
174.24 Regulations, title 45, part 46; the Good Clinical Practice Guideline issued by the International
174.25 Council for Harmonisation; or the United States Food and Drug Administration Policy for
174.26 the Protection of Human Subjects under Code of Federal Regulations, title 21, parts 50 and
174.27 56.

174.28 (f) "Express consent" means a consumer's affirmative written response to a clear,
174.29 meaningful, and prominent written notice regarding the collection, use, or disclosure of
174.30 genetic data for a specific purpose. Written notices and responses may be presented and
174.31 captured electronically.

174.32 (g) "Genetic data" means any data, regardless of the data's format, that concerns a
174.33 consumer's genetic characteristics. Genetic data includes but is not limited to:

175.1 (1) raw sequence data that results from sequencing a consumer's complete extracted
175.2 DNA or a portion of the extracted DNA;

175.3 (2) genotypic and phenotypic information that results from analyzing the raw sequence
175.4 data; and

175.5 (3) self-reported health information that a consumer submits to a company regarding
175.6 the consumer's health conditions and that is (i) used for scientific research or product
175.7 development, and (ii) analyzed in connection with the consumer's raw sequence data.

175.8 Genetic data does not include deidentified data.

175.9 (h) "Genetic testing" means any laboratory test of a consumer's complete DNA, regions
175.10 of a consumer's DNA, chromosomes, genes, or gene products to determine the presence of
175.11 genetic characteristics.

175.12 (i) "Person" means an individual, partnership, corporation, association, business, business
175.13 trust, sole proprietorship, other entity, or representative of an organization.

175.14 (j) "Service provider" means a person that is involved in the collection, transportation,
175.15 analysis of, or any other service in connection with a consumer's biological sample, extracted
175.16 genetic material, or genetic data on behalf of the direct-to-consumer genetic testing company,
175.17 or on behalf of any other person that collects, uses, maintains, or discloses biological samples,
175.18 extracted genetic material, or genetic data collected or derived from a direct-to-consumer
175.19 genetic testing product or service, or is directly provided by a consumer, or the delivery of
175.20 the results of the analysis of the biological sample, extracted genetic material, or genetic
175.21 data.

175.22 Subd. 2. **Disclosure and consent requirements.** (a) To safeguard the privacy,
175.23 confidentiality, security, and integrity of a consumer's genetic data, a direct-to-consumer
175.24 genetic testing company must:

175.25 (1) provide easily accessible, clear, and complete information regarding the company's
175.26 policies and procedures governing the collection, use, maintenance, and disclosure of genetic
175.27 data by making available to a consumer all of the following written in plain language:

175.28 (i) a high-level privacy policy overview that includes basic, essential information about
175.29 the company's collection, use, or disclosure of genetic data;

175.30 (ii) a prominent, publicly available privacy notice that includes at a minimum information
175.31 about the company's data collection, consent, use, access, disclosure, maintenance, transfer,
175.32 security, retention, and deletion practices of genetic data; and

- 176.1 (iii) information that clearly describes how to file a complaint alleging a violation of
176.2 this section, pursuant to section 45.027;
- 176.3 (2) obtain a consumer's express consent to collect, use, and disclose the consumer's
176.4 genetic data, including at a minimum:
- 176.5 (i) initial express consent that clearly (A) describes the uses of the genetic data collected
176.6 through the genetic testing product service, and (B) specifies who has access to the test
176.7 results and how the genetic data may be shared;
- 176.8 (ii) separate express consent, which must include the name of the person receiving the
176.9 information, for each transfer or disclosure of the consumer's genetic data or biological
176.10 sample to any person other than the company's vendors and service providers;
- 176.11 (iii) separate express consent for each use of genetic data or the biological sample that
176.12 is beyond the primary purpose of the genetic testing product or service and inherent
176.13 contextual uses;
- 176.14 (iv) separate express consent to retain any biological sample provided by the consumer
176.15 following completion of the initial testing service requested by the consumer;
- 176.16 (v) informed consent in compliance with federal policy for the protection of human
176.17 research subjects under Code of Federal Regulations, title 45, part 46, to transfer or disclose
176.18 the consumer's genetic data to a third-party person for research purposes or research
176.19 conducted under the control of the company for publication or generalizable knowledge
176.20 purposes; and
- 176.21 (vi) express consent for marketing by (A) the direct-to-consumer genetic testing company
176.22 to a consumer based on the consumer's genetic data, or (B) a third party to a consumer based
176.23 on the consumer having ordered or purchased a genetic testing product or service. For
176.24 purposes of this clause, "marketing" does not include customized content or offers provided
176.25 on the websites or through the applications or services provided by the direct-to-consumer
176.26 genetic testing company with the first-party relationship to the customer;
- 176.27 (3) not disclose genetic data to law enforcement or any other governmental agency
176.28 without a consumer's express written consent, unless the disclosure is made pursuant to a
176.29 valid search warrant or court order;
- 176.30 (4) develop, implement, and maintain a comprehensive security program and measures
176.31 to protect a consumer's genetic data against unauthorized access, use, or disclosure; and
- 176.32 (5) provide a process for a consumer to:

177.1 (i) access the consumer's genetic data;

177.2 (ii) delete the consumer's account and genetic data; and

177.3 (iii) request and obtain the destruction of the consumer's biological sample.

177.4 (b) Notwithstanding any other provisions in this section, a direct-to-consumer genetic
177.5 testing company is prohibited from disclosing a consumer's genetic data without the
177.6 consumer's written consent to: (1) any entity offering health insurance, life insurance,
177.7 disability insurance, or long-term care insurance; or (2) any employer of the consumer. Any
177.8 consent under this paragraph must clearly identify the recipient of the consumer's genetic
177.9 data proposed to be disclosed.

177.10 (c) A company that is subject to the requirements described in paragraph (a), clause (2),
177.11 shall provide effective mechanisms, without any unnecessary steps, for a consumer to revoke
177.12 any consent of the consumer or all of the consumer's consents after a consent is given,
177.13 including at least one mechanism which utilizes the primary medium through which the
177.14 company communicates to the consumer. If a consumer revokes consent provided pursuant
177.15 to paragraph (a), clause (2), the company shall honor the consumer's consent revocation as
177.16 soon as practicable, but not later than 30 days after the consumer revokes consent. The
177.17 company shall destroy a consumer's biological sample within 30 days of receipt of revocation
177.18 of consent to store the sample.

177.19 (d) A direct-to-consumer genetic testing company must provide a clear and complete
177.20 notice to a consumer that the consumer's deidentified data may be shared with or disclosed
177.21 to third parties for research purposes in accordance with Code of Federal Regulations, title
177.22 45, part 46.

177.23 **Subd. 3. Service provider agreements.** (a) A contract between the company and a
177.24 service provider must prohibit the service provider from retaining, using, or disclosing any
177.25 biological sample, extracted genetic material, genetic data, or information regarding the
177.26 identity of the consumer, including whether that consumer has solicited or received genetic
177.27 testing, as applicable, for any purpose other than for the specific purpose of performing the
177.28 services specified in the service contract. The mandatory prohibition set forth in this
177.29 subdivision requires a service contract to include, at minimum, the following provisions:

177.30 (1) a provision prohibiting the service provider from retaining, using, or disclosing the
177.31 biological sample, extracted genetic material, genetic data, or any information regarding
177.32 the identity of the consumer, including whether the consumer has solicited or received
177.33 genetic testing, as applicable, for any purpose other than providing the services specified
177.34 in the service contract; and

178.1 (2) a provision prohibiting the service provider from associating or combining the
178.2 biological sample, extracted genetic material, genetic data, or any information regarding
178.3 the identity of the consumer, including whether that consumer has solicited or received
178.4 genetic testing, as applicable, with information the service provider has received from or
178.5 on behalf of another person or persons, or has collected from the service provider's own
178.6 interaction with consumers or as required by law.

178.7 (b) A service provider subject to this subdivision is subject to the same confidentiality
178.8 obligations as a direct-to-consumer genetic testing company with respect to all biological
178.9 samples, extracted genetic materials, and genetic material, or any information regarding the
178.10 identity of any consumer in the service provider's possession.

178.11 Subd. 4. **Enforcement.** The commissioner of commerce may enforce this section under
178.12 section 45.027.

178.13 Subd. 5. **Limitations.** This section does not apply to:

178.14 (1) protected health information that is collected by a covered entity or business associate,
178.15 as those terms are defined in Code of Federal Regulations, title 45, parts 160 and 164;

178.16 (2) a public or private institution of higher education; or

178.17 (3) an entity owned or operated by a public or private institution of higher education.

178.18 Subd. 6. **Construction.** This section does not supersede the requirements and rights
178.19 described in section 13.386 or the remedies available under chapter 13 for violations of
178.20 section 13.386.

178.21 Sec. 21. Minnesota Statutes 2022, section 325G.051, subdivision 1, is amended to read:

178.22 Subdivision 1. **Limitation; prohibition.** (a) A seller or lessor of goods or services doing
178.23 business in Minnesota may impose a surcharge on transactions in Minnesota with a purchaser
178.24 customer who elects to use a credit or charge card in lieu of payment by cash, check, or
178.25 similar means, provided:

178.26 (1) if the sale or lease of goods or services is processed in person, the seller or lessor
178.27 informs the purchaser customer of the surcharge both orally at the time of sale and by a sign
178.28 conspicuously posted on the seller's or lessor's premises;

178.29 (2) if the sale or lease of goods or services is processed through a website or mobile
178.30 device, the seller or lessor informs the customer of the surcharge by conspicuously posting
178.31 a surcharge notice during the sale, at the point of sale, on the customer order summary, or
178.32 on the checkout page of the website;

179.1 (3) if the sale or lease of services is processed over the telephone, the seller or lessor
179.2 informs the customer of the surcharge orally; and

179.3 ~~(2)~~ (4) the surcharge does not exceed five percent of the purchase price.

179.4 (b) A seller or lessor of goods or services that establishes and is responsible for ~~its~~ the
179.5 seller or lessor's own customer credit or charge card may not impose a surcharge on a
179.6 ~~purchaser~~ customer who elects to use that credit or charge card in lieu of payment by cash,
179.7 check, or similar means.

179.8 (c) For purposes of this section "surcharge" means a fee or charge imposed by a seller
179.9 or lessor upon a ~~buyer~~ customer that increases the price of goods or services to the ~~buyer~~
179.10 customer because the ~~buyer~~ customer uses a credit or charge card to purchase or lease the
179.11 goods or services. The term does not include a discount offered by a seller or lessor to a
179.12 ~~buyer~~ customer who makes payment for goods or services by cash, check, or similar means
179.13 not involving a credit or charge card if the discount is offered to all prospective ~~buyers~~
179.14 customers and its availability is clearly and conspicuously disclosed to all prospective ~~buyers~~
179.15 customers.

179.16 (d) This subdivision applies to an agent of a seller or lessor.

179.17 Sec. 22. **[3250.01] CITATION; CONSTRUCTION.**

179.18 Subdivision 1. Citation. This chapter may be cited as the "Minnesota Age-Appropriate
179.19 Design Code Act."

179.20 Subd. 2. Construction. (a) A business that develops and provides online services,
179.21 products, or features that children are likely to access must consider the best interests of
179.22 children when designing, developing, and providing that online service, product, or feature.

179.23 (b) If a conflict arises between commercial interests of a business and the best interests
179.24 of children likely to access an online product, service, or feature, the business must prioritize
179.25 the privacy, safety, and well-being of children over the business's commercial interests.

179.26 Sec. 23. **[3250.02] DEFINITIONS.**

179.27 (a) For purposes of this chapter, the following terms have the meanings given.

179.28 (b) "Affiliate" means a legal entity that controls, is controlled by, or is under common
179.29 control with that other legal entity. For these purposes, "control" or "controlled" means:
179.30 ownership of or the power to vote more than 50 percent of the outstanding shares of any
179.31 class of voting security of a company; control in any manner over the election of a majority

180.1 of the directors or of individuals exercising similar functions; or the power to exercise a
180.2 controlling influence over the management of a company.

180.3 (c) "Business" means:

180.4 (1) a sole proprietorship, partnership, limited liability company, corporation, association,
180.5 or other legal entity that is organized or operated for the profit or financial benefit of its
180.6 shareholders or other owners; and

180.7 (2) an affiliate of a business that shares common branding with the business. For purposes
180.8 of this clause, "common branding" means a shared name, servicemark, or trademark that
180.9 the average consumer would understand that two or more entities are commonly owned.

180.10 For purposes of this chapter, for a joint venture or partnership composed of businesses in
180.11 which each business has at least a 40 percent interest, the joint venture or partnership and
180.12 each business that composes the joint venture or partnership shall separately be considered
180.13 a single business, except that personal data in the possession of each business and disclosed
180.14 to the joint venture or partnership must not be shared with the other business.

180.15 (d) "Child" means a consumer who is under 18 years of age.

180.16 (e) "Collect" means buying, renting, gathering, obtaining, receiving, or accessing any
180.17 personal data pertaining to a consumer by any means. This includes receiving data from the
180.18 consumer, either actively or passively, or by observing the consumer's behavior.

180.19 (f) "Consumer" means a natural person who is a Minnesota resident, however identified,
180.20 including by any unique identifier.

180.21 (g) "Dark pattern" means a user interface designed or manipulated with the substantial
180.22 effect of subverting or impairing user autonomy, decision making, or choice.

180.23 (h) "Data protection impact assessment" means a systematic survey to assess and mitigate
180.24 risks to children who are reasonably likely to access the online service, product, or feature
180.25 that arise from the data management practices of the business.

180.26 (i) "Default" means a preselected option adopted by the business for the online service,
180.27 product, or feature.

180.28 (j) "Deidentified" means data that cannot reasonably be used to infer information about,
180.29 or otherwise be linked to, an identified or identifiable natural person, or a device linked to
180.30 such person, provided that the business that possesses the data:

180.31 (1) takes reasonable measures to ensure that the data cannot be associated with a natural
180.32 person;

181.1 (2) publicly commits to maintain and use the data only in a deidentified fashion and not
181.2 attempt to reidentify the data; and

181.3 (3) contractually obligates any recipients of the data to comply with all provisions of
181.4 this paragraph.

181.5 (k) "Likely to be accessed by children" means an online service, product, or feature that
181.6 it is reasonable to expect would be accessed by children based on any of the following
181.7 indicators:

181.8 (1) the online service, product, or feature is directed to children, as defined by the
181.9 Children's Online Privacy Protection Act, United States Code, title 15, section 6501 et seq.;

181.10 (2) the online service, product, or feature is determined, based on competent and reliable
181.11 evidence regarding audience composition, to be routinely accessed by a significant number
181.12 of children;

181.13 (3) the online service, product, or feature contains advertisements marketed to children;

181.14 (4) the online service, product, or feature is substantially similar or the same as an online
181.15 service, product, or feature subject to clause (2);

181.16 (5) the online service, product, or feature has design elements that are known to be of
181.17 interest to children, including but not limited to games, cartoons, music, and celebrities who
181.18 appeal to children; or

181.19 (6) a significant amount of the audience of the online service, product, or feature is
181.20 determined, based on internal company research, to be children.

181.21 (l) "Online service, product, or feature" does not mean any of the following:

181.22 (1) telecommunications service, as defined in United States Code, title 47, section 153;

181.23 (2) broadband service, as defined in section 116J.39, subdivision 1; or

181.24 (3) the sale, delivery, or use of a physical product.

181.25 (m) "Personal data" means any information that is linked or reasonably linkable to an
181.26 identified or identifiable natural person. Personal data does not include deidentified data or
181.27 publicly available information. For purposes of this paragraph, "publicly available
181.28 information" means information that (1) is lawfully made available from federal, state, or
181.29 local government records or widely distributed media, and (2) a controller has a reasonable
181.30 basis to believe a consumer has lawfully made available to the general public.

182.1 (n) "Precise geolocation" means any data that is derived from a device and that is used
182.2 or intended to be used to locate a consumer within a geographic area that is equal to or less
182.3 than the area of a circle with a radius of 1,850 feet, except as prescribed by regulations.

182.4 (o) "Process" or "processing" means any operation or set of operations that are performed
182.5 on personal data or on sets of personal data, whether or not by automated means, such as
182.6 the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

182.7 (p) "Profiling" means any form of automated processing of personal data to evaluate,
182.8 analyze, or predict personal aspects concerning an identified or identifiable natural person's
182.9 economic situation, health, personal preferences, interests, reliability, behavior, location,
182.10 or movements.

182.11 (q) "Sale," "sell," or "sold" means the exchange of personal data for monetary or other
182.12 valuable consideration by a business to a third party. Sale does not include the following:

182.13 (1) the disclosure of personal data to a third party who processes the personal data on
182.14 behalf of the business;

182.15 (2) the disclosure of personal data to a third party with whom the consumer has a direct
182.16 relationship for purposes of providing a product or service requested by the consumer;

182.17 (3) the disclosure or transfer of personal data to an affiliate of the business;

182.18 (4) the disclosure of data that the consumer intentionally made available to the general
182.19 public via a channel of mass media and did not restrict to a specific audience; or

182.20 (5) the disclosure or transfer of personal data to a third party as an asset that is part of a
182.21 completed or proposed merger, acquisition, bankruptcy, or other transaction in which the
182.22 third party assumes control of all or part of the business's assets.

182.23 (r) "Share" means sharing, renting, releasing, disclosing, disseminating, making available,
182.24 transferring, or otherwise communicating orally, in writing, or by electronic or other means
182.25 a consumer's personal data by the business to a third party for cross-context behavioral
182.26 advertising, whether or not for monetary or other valuable consideration, including
182.27 transactions between a business and a third party for cross-context behavioral advertising
182.28 for the benefit of a business in which no money is exchanged.

182.29 (s) "Third party" means a natural or legal person, public authority, agency, or body other
182.30 than the consumer or the business.

182.31 **Sec. 24. [3250.03] SCOPE; EXCLUSIONS.**

182.32 (a) A business is subject to this chapter if the business:

- 183.1 (1) collects consumers' personal data or has consumers' personal data collected on the
183.2 business's behalf by a third party;
- 183.3 (2) alone or jointly with others, determines the purposes and means of the processing
183.4 of consumers' personal data;
- 183.5 (3) does business in Minnesota; and
- 183.6 (4) satisfies one or more of the following thresholds:
- 183.7 (i) has annual gross revenues in excess of \$25,000,000, as adjusted every odd-numbered
183.8 year to reflect the Consumer Price Index;
- 183.9 (ii) alone or in combination, annually buys, receives for the business's commercial
183.10 purposes, sells, or shares for commercial purposes, alone or in combination, the personal
183.11 data of 50,000 or more consumers, households, or devices; or
- 183.12 (iii) derives 50 percent or more of its annual revenues from selling consumers' personal
183.13 data.
- 183.14 (b) This chapter does not apply to:
- 183.15 (1) protected health information that is collected by a covered entity or business associate
183.16 governed by the privacy, security, and breach notification rules issued by the United States
183.17 Department of Health and Human Services, Code of Federal Regulations, title 45, parts 160
183.18 and 164, established pursuant to the Health Insurance Portability and Accountability Act
183.19 of 1996, Public Law 104-191, and the Health Information Technology for Economic and
183.20 Clinical Health Act, Public Law 111-5;
- 183.21 (2) a covered entity governed by the privacy, security, and breach notification rules
183.22 issued by the United States Department of Health and Human Services, Code of Federal
183.23 Regulations, title 45, parts 160 and 164, established pursuant to the Health Insurance
183.24 Portability and Accountability Act of 1996, Public Law 104-191, to the extent the provider
183.25 or covered entity maintains patient information in the same manner as medical information
183.26 or protected health information as described in clause (1); or
- 183.27 (3) information collected as part of a clinical trial subject to the federal policy for the
183.28 protection of human subjects, also known as the common rule, pursuant to good clinical
183.29 practice guidelines issued by the International Council for Harmonisation or pursuant to
183.30 human subject protection requirements of the United States Food and Drug Administration.

184.1 Sec. 25. [3250.04] BUSINESS OBLIGATIONS.

184.2 Subdivision 1. Requirements for businesses. A business that provides an online service,
184.3 product, or feature likely to be accessed by children must:

184.4 (1) before any new online services, products, or features are offered to the public,
184.5 complete a data protection impact assessment for any online service, product, or feature
184.6 likely to be accessed by children and maintain documentation of this assessment as long as
184.7 the online service, product, or feature is likely to be accessed by children;

184.8 (2) biennially review all data protection impact assessments;

184.9 (3) document any risk of material detriment to children that arises from the data
184.10 management practices of the business identified in the data protection impact assessment
184.11 required by clause (1) and create a timed plan to mitigate or eliminate the risk before the
184.12 online service, product, or feature is accessed by children;

184.13 (4) within three business days of a written request by the attorney general, provide to
184.14 the attorney general a list of all data protection impact assessments the business has
184.15 completed;

184.16 (5) within five business days of a written request by the attorney general, provide the
184.17 attorney general with a copy of any data protection impact assessment;

184.18 (6) estimate the age of child users with a reasonable level of certainty appropriate to the
184.19 risks that arise from the data management practices of the business or apply the privacy and
184.20 data protections afforded to children to all consumers;

184.21 (7) configure all default privacy settings provided to children by the online service,
184.22 product, or feature to settings that offer a high level of privacy, unless the business can
184.23 demonstrate a compelling reason that a different setting is in the best interests of children;

184.24 (8) provide any privacy information, terms of service, policies, and community standards
184.25 concisely, prominently, and using clear language suited to the age of children likely to
184.26 access that online service, product, or feature;

184.27 (9) if the online service, product, or feature allows a child's parent, guardian, or any
184.28 other consumer to monitor the child's online activity or track the child's location, provide
184.29 an obvious signal to the child when the child is being monitored or tracked;

184.30 (10) enforce published terms, policies, and community standards established by the
184.31 business, including but not limited to privacy policies and those concerning children; and

185.1 (11) provide prominent, accessible, and responsive tools to help children, or if applicable
185.2 their parents or guardians, exercise their privacy rights and report concerns.

185.3 Subd. 2. **Data protection impact assessments; requirements.** (a) A data protection
185.4 impact assessment required by this section must:

185.5 (1) identify the purpose of the online service, product, or feature; how it uses children's
185.6 personal data; and the risks of material detriment to children that arise from the data
185.7 management practices of the business; and

185.8 (2) address, to the extent applicable:

185.9 (i) whether algorithms used by the online product, service, or feature could harm children;

185.10 (ii) whether the design of the online product, service, or feature could lead to children
185.11 experiencing or being targeted by harmful, or potentially harmful, contacts on the online
185.12 product, service, or feature;

185.13 (iii) whether the design of the online product, service, or feature could permit children
185.14 to witness, participate in, or be subject to harmful, or potentially harmful, conduct on the
185.15 online product, service, or feature;

185.16 (iv) whether the design of the online product, service, or feature could allow children
185.17 to be party to or exploited by a harmful, or potentially harmful, contact on the online product,
185.18 service, or feature;

185.19 (v) whether targeted advertising systems used by the online product, service, or feature
185.20 could harm children;

185.21 (vi) whether and how the online product, service, or feature uses system design features
185.22 to increase, sustain, or extend use of the online product, service, or feature by children,
185.23 including the automatic playing of media, rewards for time spent, and notifications; and

185.24 (vii) whether, how, and for what purpose the online product, service, or feature collects
185.25 or processes personal data of children.

185.26 (b) A data protection impact assessment conducted by a business for the purpose of
185.27 compliance with any other law complies with this section if the data protection impact
185.28 assessment meets the requirements of this chapter.

185.29 (c) A single data protection impact assessment may contain multiple similar processing
185.30 operations that present similar risks only if each relevant online service, product, or feature
185.31 is addressed.

186.1 Subd. 3. Prohibitions on businesses. A business that provides an online service, product,
186.2 or feature likely to be accessed by children must not:

186.3 (1) use the personal data of any child in a way that the business knows, or has reason to
186.4 know, is materially detrimental to the physical health, mental health, or well-being of a
186.5 child;

186.6 (2) profile a child by default unless both of the following criteria are met:

186.7 (i) the business can demonstrate it has appropriate safeguards in place to protect children;
186.8 and

186.9 (ii) either of the following is true:

186.10 (A) profiling is necessary to provide the online service, product, or feature requested
186.11 and only with respect to the aspects of the online service, product, or feature with which a
186.12 child is actively and knowingly engaged; or

186.13 (B) the business can demonstrate a compelling reason that profiling is in the best interests
186.14 of children;

186.15 (3) collect, sell, share, or retain any personal data that is not necessary to provide an
186.16 online service, product, or feature with which a child is actively and knowingly engaged,
186.17 or as described below, unless the business can demonstrate a compelling reason that the
186.18 collecting, selling, sharing, or retaining of the personal data is in the best interests of children
186.19 likely to access the online service, product, or feature;

186.20 (4) if the end user is a child, use personal data for any reason other than a reason for
186.21 which that personal data was collected, unless the business can demonstrate a compelling
186.22 reason that use of the personal data is in the best interests of children;

186.23 (5) collect, sell, or share any precise geolocation information of children by default,
186.24 unless the collection of that precise geolocation information is strictly necessary for the
186.25 business to provide the service, product, or feature requested and then only for the limited
186.26 time that the collection of precise geolocation information is necessary to provide the service,
186.27 product, or feature;

186.28 (6) collect any precise geolocation information of a child without providing an obvious
186.29 sign to the child for the duration of that collection that precise geolocation information is
186.30 being collected;

186.31 (7) use dark patterns to lead or encourage children to provide personal data beyond what
186.32 is reasonably expected to provide that online service, product, or feature to forego privacy

187.1 protections, or to take any action that the business knows, or has reason to know, is materially
187.2 detrimental to the child's physical health, mental health, or well-being; or

187.3 (8) use any personal data collected to estimate age or age range for any purpose other
187.4 than to fulfill the requirements of subdivision 1, clause (6), or retain that personal data longer
187.5 than necessary to estimate age. Age assurance must be proportionate to the risks and data
187.6 practice of an online service, product, or feature.

187.7 Subd. 4. **Data practices.** (a) A data protection impact assessment collected or maintained
187.8 by the attorney general under subdivision 1 is classified as nonpublic data or private data
187.9 on individuals under section 13.02, subdivisions 9 and 12.

187.10 (b) To the extent any information contained in a data protection impact assessment
187.11 disclosed to the attorney general includes information subject to attorney-client privilege
187.12 or work product protection, disclosure pursuant to this section does not constitute a waiver
187.13 of the privilege or protection.

187.14 Sec. 26. **[3250.05] ATTORNEY GENERAL ENFORCEMENT.**

187.15 (a) A business that violates this chapter may be subject to an injunction and liable for a
187.16 civil penalty of not more than \$2,500 per affected child for each negligent violation, or not
187.17 more than \$7,500 per affected child for each intentional violation, which may be assessed
187.18 and recovered only in a civil action brought by the attorney general in accordance with
187.19 section 8.31. If the state prevails in an action to enforce this chapter, the state may, in addition
187.20 to penalties provided by this paragraph or other remedies provided by law, be allowed an
187.21 amount determined by the court to be the reasonable value of all or part of the state's litigation
187.22 expenses incurred.

187.23 (b) Any penalties, fees, and expenses recovered in an action brought under this chapter
187.24 must be deposited in an account in the special revenue fund and are appropriated to the
187.25 attorney general to offset costs incurred by the attorney general in connection with
187.26 enforcement of this chapter.

187.27 (c) If a business is in substantial compliance with the requirements of section 3250.04,
187.28 subdivision 1, clauses (1) to (5), the attorney general must, before initiating a civil action
187.29 under this section, provide written notice to the business identifying the specific provisions
187.30 of this chapter that the attorney general alleges have been or are being violated. If, within
187.31 90 days of the notice required by this paragraph, the business cures any noticed violation
187.32 and provides the attorney general a written statement that the alleged violations have been

188.1 cured, and sufficient measures have been taken to prevent future violations, the business is
188.2 not liable for a civil penalty for any violation cured pursuant to this section.

188.3 (d) Nothing in this chapter provides a private right of action under this chapter, section
188.4 8.31, or any other law.

188.5 Sec. 27. **EFFECTIVE DATE.**

188.6 (a) Sections 20 to 24 are effective July 1, 2024.

188.7 (b) By July 1, 2025, and as required by section 23, a business must complete a data
188.8 protection impact assessment for any online service, product, or feature likely to be accessed
188.9 by children offered to the public before July 1, 2024, unless that online service, product, or
188.10 feature is exempt under paragraph (c).

188.11 (c) Sections 20 to 24 do not apply to an online service, product, or feature that is not
188.12 offered to the public on or after July 1, 2024.

188.13 **ARTICLE 5**

188.14 **MISCELLANEOUS COMMERCE POLICY**

188.15 Section 1. Minnesota Statutes 2022, section 103G.291, subdivision 4, is amended to read:

188.16 **Subd. 4. Demand reduction measures.** (a) For the purposes of this section, "demand
188.17 reduction measures" means measures that reduce water demand, water losses, peak water
188.18 demands, and nonessential water uses. Demand reduction measures must include a
188.19 conservation rate structure, or a uniform rate structure with a conservation program that
188.20 achieves demand reduction. A "conservation rate structure" means a rate structure that
188.21 encourages conservation and may include increasing block rates, seasonal rates, time of use
188.22 rates, individualized goal rates, or excess use rates. If a conservation rate is applied to
188.23 multifamily dwellings or a manufactured home park, as defined in section 327C.015,
188.24 subdivision 8, the rate structure must consider each residential unit as an individual user.

188.25 (b) To encourage conservation, a public water supplier serving more than 1,000 people
188.26 must implement demand reduction measures by January 1, 2015.

188.27 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to a billing
188.28 period that begins on or after that date.

189.1 Sec. 2. Minnesota Statutes 2022, section 237.066, is amended to read:

189.2 **237.066 STATE GOVERNMENT PRICING PLANS.**

189.3 Subdivision 1. **Purpose.** A state government or Tribal government telecommunications
189.4 pricing plan is authorized and found to be in the public interest as it will:

189.5 (1) provide and ensure availability of high-quality, technologically advanced
189.6 telecommunications services at a reasonable cost to the state or Tribal government; and

189.7 (2) further the state telecommunications goals as set forth in section 237.011.

189.8 Subd. 2. **Program participation.** A state government or Tribal government
189.9 telecommunications pricing plan may be available to serve individually or collectively:
189.10 state agencies; Tribal governments; educational institutions, including public schools and
189.11 Tribal schools complying with section 120A.05, subdivision 9, 11, 13, or 17, and nonpublic
189.12 schools complying with sections 120A.22, 120A.24, and 120A.41; private colleges; public
189.13 corporations; and political subdivisions of the state or a Tribal Nation. Plans shall be available
189.14 to carry out the commissioner of administration's duties under sections 16E.17 and 16E.18
189.15 and shall also be available to those entities not using the commissioner for contracting for
189.16 telecommunications services.

189.17 Subd. 3. **Rates.** Notwithstanding section 237.09, 237.14, 237.60, subdivision 3, or
189.18 237.74, a telephone company or a telecommunications carrier may, individually or in
189.19 cooperation with other telephone companies or telecommunications carriers, develop and
189.20 offer basic or advanced telecommunications services at discounted or reduced rates as a
189.21 state government or Tribal government telecommunications pricing plan. Any
189.22 telecommunications services provided under any state government or Tribal government
189.23 telecommunications pricing plan shall be used exclusively by ~~those~~ the entities described
189.24 in subdivision 2 subject to the plan solely for ~~their~~ the entities' own use and shall not be
189.25 made available to any other entities by resale, sublease, or in any other way.

189.26 Subd. 4. **Applicability to other customers.** A telephone company or telecommunications
189.27 carrier providing telecommunications services under a state government or Tribal government
189.28 telecommunications pricing plan is not required to provide any other person or entity those
189.29 services at the rates made available to the state or Tribal government.

189.30 Subd. 5. **Commission review.** (a) The terms and conditions of any state government or
189.31 Tribal government telecommunications pricing plan must be submitted to the commission
189.32 for ~~its~~ review and approval within 90 days before implementation to:

190.1 (1) ensure that the terms and conditions benefit the state or Tribal Nation and not any
190.2 private entity;

190.3 (2) ensure that the rates for any telecommunications service in any state government or
190.4 Tribal government telecommunications pricing plan are at or below any applicable tariffed
190.5 rates; and

190.6 (3) ensure that the state telecommunications or Tribal government pricing plan meets
190.7 the requirements of this section and is in the public interest.

190.8 (b) The commission shall reject any state government or Tribal government
190.9 telecommunications pricing plan that does not meet these the criteria in paragraph (a).

190.10 Sec. 3. Minnesota Statutes 2022, section 239.791, subdivision 8, is amended to read:

190.11 Subd. 8. **Disclosure; reporting.** (a) A refinery or terminal, shall provide, at the time
190.12 gasoline is sold or transferred from the refinery or terminal, a bill of lading or shipping
190.13 manifest to the person who receives the gasoline. For oxygenated gasoline, the bill of lading
190.14 or shipping manifest must include the identity and the volume percentage or gallons of
190.15 oxygenate included in the gasoline, and it must state: "This fuel contains an oxygenate. Do
190.16 not blend this fuel with ethanol or with any other oxygenate." For nonoxygenated gasoline
190.17 ~~sold or transferred after September 30, 1997,~~ the bill or manifest must state: "This fuel is
190.18 not oxygenated. It must not be sold at retail in Minnesota." This subdivision does not apply
190.19 to sales or transfers of gasoline between refineries, between terminals, or between a refinery
190.20 and a terminal.

190.21 (b) A delivery ticket required under section 239.092 for biofuel blended with gasoline
190.22 must state the volume percentage of biofuel blended into gasoline delivered through a meter
190.23 into a storage tank used for dispensing by persons not exempt under subdivisions 10 to 14
190.24 and 16.

190.25 (c) On or before the 23rd day of each month, a person responsible for the product must
190.26 report to the department, in the form prescribed by the commissioner, the gross number of
190.27 gallons of intermediate blends sold at retail by the person during the preceding calendar
190.28 month. The report must identify the number of gallons by blend type. For purposes of this
190.29 subdivision, "intermediate blends" means blends of gasoline and biofuel in which the biofuel
190.30 content, exclusive of denaturants and other permitted components, is greater than ten percent
190.31 and no more than 50 percent by volume. This paragraph only applies to a person who is
190.32 responsible for selling intermediate blends at retail at more than ten locations. A person

191.1 responsible for the product at fewer than ten locations is not precluded from reporting the
191.2 gross number of intermediate blends if a report is available.

191.3 (d) All reports provided pursuant to paragraph (c) are nonpublic data, as defined in
191.4 section 13.02, subdivision 9.

191.5 **EFFECTIVE DATE.** This section is effective July 1, 2023.

191.6 Sec. 4. Minnesota Statutes 2022, section 327C.015, is amended by adding a subdivision
191.7 to read:

191.8 Subd. 3a. **Commodity rate.** "Commodity rate" means the per unit price for utility service
191.9 that varies directly with the volume of a resident's consumption of utility service and that
191.10 is established or approved by the Minnesota Public Utilities Commission or a municipal
191.11 public utilities commission, an electric cooperative association, or a municipality and charged
191.12 to a user of the service.

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

191.14 Sec. 5. Minnesota Statutes 2022, section 327C.015, is amended by adding a subdivision
191.15 to read:

191.16 Subd. 11a. **Public utility.** "Public utility" has the meaning given in section 216B.02,
191.17 subdivision 4.

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

191.19 Sec. 6. Minnesota Statutes 2022, section 327C.015, subdivision 17, is amended to read:

191.20 Subd. 17. **Substantial modification.** "Substantial modification" means any change in
191.21 a rule which: (a) significantly diminishes or eliminates any material obligation of the park
191.22 owner; (b) significantly diminishes or eliminates any material right, privilege or freedom
191.23 of action of a resident; or (c) involves a significant new expense for a resident. The
191.24 installation of water and sewer meters and the subsequent metering of and billing for water
191.25 and sewer service is not a substantial modification of the lease, provided the park owner
191.26 complies with section 327C.04, subdivision 6.

191.27 **EFFECTIVE DATE.** This section is effective for meter installations initiated on or
191.28 after August 1, 2023.

192.1 Sec. 7. Minnesota Statutes 2022, section 327C.015, is amended by adding a subdivision
192.2 to read:

192.3 Subd. 17a. **Utility provider.** "Utility provider" means a public utility, an electric
192.4 cooperative association, or a municipal utility.

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

192.6 Sec. 8. Minnesota Statutes 2022, section 327C.04, subdivision 1, is amended to read:

192.7 Subdivision 1. **Billing permitted.** A park owner who either provides utility service
192.8 directly to residents or who redistributes to residents utility service provided to the park
192.9 owner by a utility provider may charge the residents for that service, only if the charges
192.10 comply with this section.

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

192.12 Sec. 9. Minnesota Statutes 2022, section 327C.04, subdivision 2, is amended to read:

192.13 Subd. 2. **Metering required.** A park owner who charges residents for a utility service
192.14 must charge each household the same amount, unless the park owner has installed measuring
192.15 devices which accurately meter each household's use of the utility. Utility measuring devices
192.16 installed by the park owner must be installed or repaired only by a licensed plumber, licensed
192.17 electrician, or licensed manufactured home installer.

192.18 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to meters
192.19 installed or repaired on or after that date.

192.20 Sec. 10. Minnesota Statutes 2022, section 327C.04, is amended by adding a subdivision
192.21 to read:

192.22 Subd. 5. **Utility charge for metered service.** (a) A park owner who redistributes utility
192.23 service may not charge a resident a commodity rate that exceeds the commodity rate at
192.24 which the park owner purchases utility service from a utility provider. Before billing residents
192.25 for redistributed utility service, a park owner must deduct utility service used exclusively
192.26 or primarily for the park owner's purposes.

192.27 (b) If a utility bill that a park owner receives from a utility provider separates from
192.28 variable consumption charges a fixed service or meter charge or fee, taxes, surcharges, or
192.29 other miscellaneous charges, the park owner must deduct the park owner's pro rata share
192.30 of these separately itemized charges and apportion the remaining fixed portion of the bill
192.31 equally among residents based on the total number of occupied units in the park.

193.1 (c) A park owner may not charge to or collect from residents any administrative, capital,
193.2 or other expenses associated with the distribution of utility services, including but not limited
193.3 to disconnection, reconnection, and late payment fees.

193.4 **EFFECTIVE DATE.** This section is effective July 1, 2023.

193.5 Sec. 11. Minnesota Statutes 2022, section 327C.04, is amended by adding a subdivision
193.6 to read:

193.7 Subd. 6. **Rent increases following the installation of water meters.** A park owner may
193.8 not increase lot rents for 13 months following the commencement of utility bills for a resident
193.9 whose lease included water and sewer service. In each of the three months prior to
193.10 commencement of utility billing, a park owner must provide the resident with a sample bill
193.11 for water and sewer service.

193.12 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to meter
193.13 installations initiated on or after that date.

193.14 Sec. 12. Minnesota Statutes 2022, section 515B.3-102, is amended to read:

193.15 **515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

193.16 (a) Except as provided in subsections (b), (c), (d), ~~and (e)~~, and (f) and subject to the
193.17 provisions of the declaration or bylaws, the association shall have the power to:

193.18 (1) adopt, amend and revoke rules and regulations not inconsistent with the articles of
193.19 incorporation, bylaws and declaration, as follows: (i) regulating the use of the common
193.20 elements; (ii) regulating the use of the units, and conduct of unit occupants, which may
193.21 jeopardize the health, safety or welfare of other occupants, which involves noise or other
193.22 disturbing activity, or which may damage the common elements or other units; (iii) regulating
193.23 or prohibiting animals; (iv) regulating changes in the appearance of the common elements
193.24 and conduct which may damage the common interest community; (v) regulating the exterior
193.25 appearance of the common interest community, including, for example, balconies and patios,
193.26 window treatments, and signs and other displays, regardless of whether inside a unit; (vi)
193.27 implementing the articles of incorporation, declaration and bylaws, and exercising the
193.28 powers granted by this section; and (vii) otherwise facilitating the operation of the common
193.29 interest community;

193.30 (2) adopt and amend budgets for revenues, expenditures and reserves, and levy and
193.31 collect assessments for common expenses from unit owners;

194.1 (3) hire and discharge managing agents and other employees, agents, and independent
194.2 contractors;

194.3 (4) institute, defend, or intervene in litigation or administrative proceedings (i) in its
194.4 own name on behalf of itself or two or more unit owners on matters affecting the common
194.5 elements or other matters affecting the common interest community or, (ii) with the consent
194.6 of the owners of the affected units on matters affecting only those units;

194.7 (5) make contracts and incur liabilities;

194.8 (6) regulate the use, maintenance, repair, replacement, and modification of the common
194.9 elements and the units;

194.10 (7) cause improvements to be made as a part of the common elements, and, in the case
194.11 of a cooperative, the units;

194.12 (8) acquire, hold, encumber, and convey in its own name any right, title, or interest to
194.13 real estate or personal property, but (i) common elements in a condominium or planned
194.14 community may be conveyed or subjected to a security interest only pursuant to section
194.15 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative
194.16 may be subjected to a security interest, only pursuant to section 515B.3-112;

194.17 (9) grant or amend easements for public utilities, public rights-of-way or other public
194.18 purposes, and cable television or other communications, through, over or under the common
194.19 elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized
194.20 by the declaration; and, subject to approval by a vote of unit owners other than declarant
194.21 or its affiliates, grant or amend other easements, leases, and licenses through, over or under
194.22 the common elements;

194.23 (10) impose and receive any payments, fees, or charges for the use, rental, or operation
194.24 of the common elements, other than limited common elements, and for services provided
194.25 to unit owners;

194.26 (11) impose interest and late charges for late payment of assessments and, after notice
194.27 and an opportunity to be heard before the board or a committee appointed by it, levy
194.28 reasonable fines for violations of the declaration, bylaws, and rules and regulations of the
194.29 association, provided that attorney fees and costs must not be charged or collected from a
194.30 unit owner who disputes a fine or assessment and, if after being heard by the board or a
194.31 committee of the board, the board does not adopt a resolution levying the fine or upholding
194.32 the assessment against the unit owner or owner's unit;

195.1 (12) impose reasonable charges for the review, preparation and recordation of
195.2 amendments to the declaration, resale certificates required by section 515B.4-107, statements
195.3 of unpaid assessments, or furnishing copies of association records;

195.4 (13) provide for the indemnification of its officers and directors, and maintain directors'
195.5 and officers' liability insurance;

195.6 (14) provide for reasonable procedures governing the conduct of meetings and election
195.7 of directors;

195.8 (15) exercise any other powers conferred by law, or by the declaration, articles of
195.9 incorporation or bylaws; and

195.10 (16) exercise any other powers necessary and proper for the governance and operation
195.11 of the association.

195.12 (b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations
195.13 on the power of the association to deal with the declarant which are more restrictive than
195.14 the limitations imposed on the power of the association to deal with other persons.

195.15 (c) An association that levies a fine pursuant to subsection (a)(11), or an assessment
195.16 pursuant to section 515B.3-115(g), or 515B.3-1151(g), must provide a dated, written notice
195.17 to a unit owner that:

195.18 (1) states the amount and reason for the fine or assessment;

195.19 (2) for fines levied under section 515B.3-102(a)(11), specifies: (i) the violation for which
195.20 a fine is being levied; and (ii) the specific section of the declaration, bylaws, rules, or
195.21 regulations allegedly violated;

195.22 (3) for assessments levied under section 515B.3-115(g) or 515B.3-1151(g), identifies:
195.23 (i) the damage caused; and (ii) the act or omission alleged to have caused the damage;

195.24 (4) states that all unpaid fines and assessments are liens which, if not satisfied, could
195.25 lead to foreclosure of the lien against the owner's unit;

195.26 (5) describes the unit owner's right to be heard by the board or a committee appointed
195.27 by the board;

195.28 (6) states that if the assessment, fine, late fees, and other allowable charges are not paid,
195.29 the amount may increase as a result of the imposition of attorney fees and other collection
195.30 costs; and

195.31 (7) informs the unit owner that homeownership assistance is available from, and includes
195.32 the contact information for, the Minnesota Homeownership Center.

196.1 ~~(e)~~(d) Notwithstanding subsection (a), powers exercised under this section must comply
196.2 with section 500.215.

196.3 ~~(d)~~(e) Notwithstanding subsection (a)(4) or any other provision of this chapter, the
196.4 association, before instituting litigation or arbitration involving construction defect claims
196.5 against a development party, shall:

196.6 (1) mail or deliver written notice of the anticipated commencement of the action to each
196.7 unit owner at the addresses, if any, established for notices to owners in the declaration and,
196.8 if the declaration does not state how notices are to be given to owners, to the owner's last
196.9 known address. The notice shall specify the nature of the construction defect claims to be
196.10 alleged, the relief sought, and the manner in which the association proposes to fund the cost
196.11 of pursuing the construction defect claims; and

196.12 (2) obtain the approval of owners of units to which a majority of the total votes in the
196.13 association are allocated. Votes allocated to units owned by the declarant, an affiliate of the
196.14 declarant, or a mortgagee who obtained ownership of the unit through a foreclosure sale
196.15 are excluded. The association may obtain the required approval by a vote at an annual or
196.16 special meeting of the members or, if authorized by the statute under which the association
196.17 is created and taken in compliance with that statute, by a vote of the members taken by
196.18 electronic means or mailed ballots. If the association holds a meeting and voting by electronic
196.19 means or mailed ballots is authorized by that statute, the association shall also provide for
196.20 voting by those methods. Section 515B.3-110(c) applies to votes taken by electronic means
196.21 or mailed ballots, except that the votes must be used in combination with the vote taken at
196.22 a meeting and are not in lieu of holding a meeting, if a meeting is held, and are considered
196.23 for purposes of determining whether a quorum was present. Proxies may not be used for a
196.24 vote taken under this paragraph unless the unit owner executes the proxy after receipt of
196.25 the notice required under subsection ~~(d)~~(1) ~~(e)~~(1) and the proxy expressly references this
196.26 notice.

196.27 ~~(e)~~(f) The association may intervene in a litigation or arbitration involving a construction
196.28 defect claim or assert a construction defect claim as a counterclaim, crossclaim, or third-party
196.29 claim before complying with subsections ~~(d)~~(1) ~~(e)~~(1) and ~~(d)~~(2) ~~(e)~~(2) but the association's
196.30 complaint in an intervention, counterclaim, crossclaim, or third-party claim shall be dismissed
196.31 without prejudice unless the association has complied with the requirements of subsection
196.32 ~~(d)~~(e) within 90 days of the association's commencement of the complaint in an intervention
196.33 or the assertion of the counterclaim, crossclaim, or third-party claim.

197.1 **EFFECTIVE DATE.** This section is effective January 1, 2024, for fines and assessments
197.2 levied on or after that date.

197.3 Sec. 13. Minnesota Statutes 2022, section 515B.3-115, is amended to read:

197.4 **515B.3-115 ASSESSMENTS FOR COMMON EXPENSES; CIC CREATED**
197.5 **BEFORE AUGUST 1, 2010.**

197.6 (a) The obligation of a unit owner to pay common expense assessments shall be as
197.7 follows:

197.8 (1) If a common expense assessment has not been levied, the declarant shall pay all
197.9 operating expenses of the common interest community, and shall fund the replacement
197.10 reserve component of the common expenses as required by subsection (b).

197.11 (2) If a common expense assessment has been levied, all unit owners, including the
197.12 declarant, shall pay the assessments allocated to their units, subject to the following:

197.13 (i) If the declaration so provides, a declarant's liability, and the assessment lien, for the
197.14 common expense assessments, exclusive of replacement reserves, on any unit owned by
197.15 the declarant may be limited to 25 percent or more of any assessment, exclusive of
197.16 replacement reserves, until the unit or any building located in the unit is substantially
197.17 completed. Substantial completion shall be evidenced by a certificate of occupancy in any
197.18 jurisdiction that issues the certificate.

197.19 (ii) If the declaration provides for a reduced assessment pursuant to paragraph (2)(i),
197.20 the declarant shall be obligated, within 60 days following the termination of the period of
197.21 declarant control, to make up any operating deficit incurred by the association during the
197.22 period of declarant control. The existence and amount, if any, of the operating deficit shall
197.23 be determined using the accrual basis of accounting applied as of the date of termination
197.24 of the period of declarant control, regardless of the accounting methodology previously
197.25 used by the association to maintain its accounts.

197.26 (b) The replacement reserve component of the common expenses shall be funded for
197.27 each unit in accordance with the projected annual budget required by section
197.28 515B.4-102(a)(23) provided that the funding of replacement reserves with respect to a unit
197.29 shall commence no later than the date that the unit or any building located within the unit
197.30 boundaries is substantially completed. Substantial completion shall be evidenced by a
197.31 certificate of occupancy in any jurisdiction that issues the certificate.

197.32 (c) After an assessment has been levied by the association, assessments shall be levied
197.33 at least annually, based upon a budget approved at least annually by the association.

198.1 (d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common
198.2 expenses shall be assessed against all the units in accordance with the allocations established
198.3 by the declaration pursuant to section 515B.2-108.

198.4 (e) Unless otherwise required by the declaration:

198.5 (1) any common expense associated with the maintenance, repair, or replacement of a
198.6 limited common element shall be assessed against the units to which that limited common
198.7 element is assigned, equally, or in any other proportion the declaration provides;

198.8 (2) any common expense or portion thereof benefiting fewer than all of the units may
198.9 be assessed exclusively against the units benefited, equally, or in any other proportion the
198.10 declaration provides;

198.11 (3) the costs of insurance may be assessed in proportion to risk or coverage, and the
198.12 costs of utilities may be assessed in proportion to usage;

198.13 (4) reasonable ~~attorneys~~ attorney fees and costs incurred by the association in connection
198.14 with (i) the collection of assessments against a unit owner, and; (ii) the enforcement of this
198.15 chapter, the articles, bylaws, declaration, or rules and regulations; against a unit owner, may
198.16 be assessed against the unit owner's unit subject to section 515B.3-116(h); and

198.17 (5) fees, charges, late charges, fines and interest may be assessed as provided in section
198.18 515B.3-116(a).

198.19 (f) Assessments levied under section 515B.3-116 to pay a judgment against the association
198.20 may be levied only against the units in the common interest community at the time the
198.21 judgment was entered, in proportion to their common expense liabilities.

198.22 (g) If any damage to the common elements or another unit is caused by the act or omission
198.23 of any unit owner, or occupant of a unit, or their invitees, the association may assess the
198.24 costs of repairing the damage exclusively against the unit owner's unit to the extent not
198.25 covered by insurance.

198.26 (h) Subject to any shorter period specified by the declaration or bylaws, if any installment
198.27 of an assessment becomes more than 60 days past due, then the association may, upon ten
198.28 days' written notice to the unit owner, declare the entire amount of the assessment
198.29 immediately due and payable in full, except that any portion of the assessment that represents
198.30 installments that are not due and payable without acceleration as of the date of reinstatement
198.31 must not be included in the amount that a unit owner must pay to reinstate under section
198.32 580.30 or chapter 581.

199.1 (i) If common expense liabilities are reallocated for any purpose authorized by this
199.2 chapter, common expense assessments and any installment thereof not yet due shall be
199.3 recalculated in accordance with the reallocated common expense liabilities.

199.4 (j) An assessment against fewer than all of the units must be levied within three years
199.5 after the event or circumstances forming the basis for the assessment, or shall be barred.

199.6 (k) This section applies only to common interest communities created before August 1,
199.7 2010.

199.8 **EFFECTIVE DATE.** This section is effective August 1, 2023.

199.9 Sec. 14. Minnesota Statutes 2022, section 515B.3-1151, is amended to read:

199.10 **515B.3-1151 ASSESSMENTS FOR COMMON EXPENSES; CIC CREATED ON**
199.11 **OR AFTER AUGUST 1, 2010.**

199.12 (a) The association shall approve an annual budget of common expenses at or prior to
199.13 the conveyance of the first unit in the common interest community to a purchaser and
199.14 annually thereafter. The annual budget shall include all customary and necessary operating
199.15 expenses and replacement reserves for the common interest community, consistent with
199.16 this section and section 515B.3-114. For purposes of replacement reserves under subsection
199.17 (b), until an annual budget has been approved, the reserves shall be paid based upon the
199.18 budget contained in the disclosure statement required by section 515B.4-102. The obligation
199.19 of a unit owner to pay common expenses shall be as follows:

199.20 (1) If a common expense assessment has not been levied by the association, the declarant
199.21 shall pay all common expenses of the common interest community, including the payment
199.22 of the replacement reserve component of the common expenses for all units in compliance
199.23 with subsection (b).

199.24 (2) If a common expense assessment has been levied by the association, all unit owners,
199.25 including the declarant, shall pay the assessments levied against their units, except as follows:

199.26 (i) The declaration may provide for an alternate common expense plan whereby the
199.27 declarant's common expense liability, and the corresponding assessment lien against the
199.28 units owned by the declarant, is limited to: (A) paying when due, in compliance with
199.29 subsection (b), an amount equal to the full share of the replacement reserves allocated to
199.30 units owned by the declarant, as set forth in the association's annual budget approved as
199.31 provided in this subsection; and (B) paying when due all accrued expenses of the common
199.32 interest community in excess of the aggregate assessments payable with respect to units
199.33 owned by persons other than a declarant; provided, that the alternate common expense plan

200.1 shall not affect a declarant's obligation to make up any operating deficit pursuant to item
200.2 (iv), and shall terminate upon the termination of any period of declarant control unless
200.3 terminated earlier pursuant to item (iii).

200.4 (ii) The alternate common expense plan may be authorized only by including in the
200.5 declaration and the disclosure statement required by section 515B.4-102 provisions
200.6 authorizing and disclosing the alternate common expense plan as described in item (i), and
200.7 including in the disclosure statement either (A) a statement that the alternate common
200.8 expense plan will have no effect on the level of services or amenities anticipated by the
200.9 association's budget contained in the disclosure statement, or (B) a statement describing
200.10 how the services or amenities may be affected.

200.11 (iii) A declarant shall give notice to the association of its intent to utilize the alternate
200.12 common expense plan and a commencement date after the date the notice is given. The
200.13 alternate common expense plan shall be valid only for periods after the notice is given. A
200.14 declarant may terminate its right to utilize the alternate common expense plan prior to the
200.15 termination of the period of declarant control only by giving notice to the association and
200.16 the unit owners at least 30 days prior to a selected termination date set forth in the notice.

200.17 (iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause
200.18 to be prepared and delivered to the association, at the declarant's expense, within 90 days
200.19 after the termination of the period of declarant control, an audited balance sheet and profit
200.20 and loss statement certified to the association and prepared by an accountant having the
200.21 qualifications set forth in section 515B.3-121(b). The audit shall be binding on the declarant
200.22 and the association.

200.23 (v) If the audited profit and loss statement shows an accumulated operating deficit, the
200.24 declarant shall be obligated to make up the deficit within 15 days after delivery of the audit
200.25 to the association, and the association shall have a claim against the declarant for an amount
200.26 equal to the deficit until paid. A declarant who does not utilize an alternate common expense
200.27 plan is not liable to make up any operating deficit. If more than one declarant utilizes an
200.28 alternate common expense plan, all declarants who utilize the plan are jointly and severally
200.29 liable to the association for any operating deficit.

200.30 (vi) The existence and amount, if any, of the operating deficit shall be determined using
200.31 the accrual method of accounting applied as of the date of termination of the period of
200.32 declarant control, regardless of the accounting methodology previously used by the
200.33 association to maintain its accounts.

201.1 (vii) Unless approved by a vote of the unit owners other than the declarant and its
201.2 affiliates, the operating deficit shall not be made up, prior to the election by the unit owners
201.3 of a board of directors pursuant to section 515B.3-103(d), through the use of a special
201.4 assessment described in subsection (c) or by assessments described in subsections (e), (f),
201.5 and (g).

201.6 (viii) The use by a declarant of an alternate common expense plan shall not affect the
201.7 obligations of the declarant or the association as provided in the declaration, the bylaws, or
201.8 this chapter, or as represented in the disclosure statement required by section 515B.4-102,
201.9 except as to matters authorized by this chapter.

201.10 (b) The replacement reserves required by section 515B.3-114 shall be paid to the
201.11 association by each unit owner for each unit owned by that unit owner in accordance with
201.12 the association's annual budget approved pursuant to subsection (a), regardless of whether
201.13 an annual assessment has been levied or whether the declarant has utilized an alternate
201.14 common expense plan under subsection (a)(2). Replacement reserves shall be paid with
201.15 respect to a unit commencing as of the later of (1) the date of creation of the common interest
201.16 community or (2) the date that the structure and exterior of the building containing the unit,
201.17 or the structure and exterior of any building located within the unit boundaries, but excluding
201.18 the interior finishing of the structure itself, are substantially completed. If the association
201.19 has not approved an annual budget as of the commencement date for the payment of
201.20 replacement reserves, then the reserves shall be paid based upon the budget contained in
201.21 the disclosure statement required by section 515B.4-102.

201.22 (c) After an assessment has been levied by the association, assessments shall be levied
201.23 at least annually, based upon an annual budget approved by the association. In addition to
201.24 and not in lieu of annual assessments, an association may, if so provided in the declaration,
201.25 levy special assessments against all units in the common interest community based upon
201.26 the same formula required by the declaration for levying annual assessments. Special
201.27 assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to
201.28 replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures
201.29 or operating expenses, or (4) to replace certain components of the common interest
201.30 community described in section 515B.3-114(a), if such alternative method of funding is
201.31 approved under section 515B.3-114(a)(5). The association may also levy assessments against
201.32 fewer than all units as provided in subsections (e), (f), and (g). An assessment under
201.33 subsection (e)(2) for replacement reserves is subject to the requirements of section
201.34 515B.3-114(a)(5).

202.1 (d) Except as modified by subsections (a), clauses (1) and (2), (e), (f), and (g), all common
202.2 expenses shall be assessed against all the units in accordance with the allocations established
202.3 by the declaration pursuant to section 515B.2-108.

202.4 (e) Unless otherwise required by the declaration:

202.5 (1) any common expense associated with the maintenance, repair, or replacement of a
202.6 limited common element shall be assessed against the units to which that limited common
202.7 element is assigned, equally, or in any other proportion the declaration provides;

202.8 (2) any common expense or portion thereof benefiting fewer than all of the units may
202.9 be assessed exclusively against the units benefited, equally, or in any other proportion the
202.10 declaration provides;

202.11 (3) the costs of insurance may be assessed in proportion to risk or coverage, and the
202.12 costs of utilities may be assessed in proportion to usage;

202.13 (4) reasonable attorney fees and costs incurred by the association in connection with (i)
202.14 the collection of assessments, and (ii) the enforcement of this chapter, the articles, bylaws,
202.15 declaration, or rules and regulations, against a unit owner, may be assessed against the unit
202.16 owner's unit, subject to section 515B.3-116(h); and

202.17 (5) fees, charges, late charges, fines, and interest may be assessed as provided in section
202.18 515B.3-116(a).

202.19 (f) Assessments levied under section 515B.3-116 to pay a judgment against the association
202.20 may be levied only against the units in the common interest community at the time the
202.21 judgment was entered, in proportion to their common expense liabilities.

202.22 (g) If any damage to the common elements or another unit is caused by the act or omission
202.23 of any unit owner, or occupant of a unit, or their invitees, the association may assess the
202.24 costs of repairing the damage exclusively against the unit owner's unit to the extent not
202.25 covered by insurance.

202.26 (h) Subject to any shorter period specified by the declaration or bylaws, if any installment
202.27 of an assessment becomes more than 60 days past due, then the association may, upon ten
202.28 days' written notice to the unit owner, declare the entire amount of the assessment
202.29 immediately due and payable in full, except that any portion of the assessment that represents
202.30 installments that are not due and payable without acceleration as of the date of reinstatement
202.31 must not be included in the amount that a unit owner must pay to reinstate under section
202.32 580.30 or chapter 581.

203.1 (i) If common expense liabilities are reallocated for any purpose authorized by this
203.2 chapter, common expense assessments and any installment thereof not yet due shall be
203.3 recalculated in accordance with the reallocated common expense liabilities.

203.4 (j) An assessment against fewer than all of the units must be levied within three years
203.5 after the event or circumstances forming the basis for the assessment, or shall be barred.

203.6 (k) This section applies only to common interest communities created on or after August
203.7 1, 2010.

203.8 **EFFECTIVE DATE.** This section is effective August 1, 2023.

203.9 Sec. 15. Minnesota Statutes 2022, section 515B.3-116, is amended to read:

203.10 **515B.3-116 LIEN FOR ASSESSMENTS.**

203.11 (a) The association has a lien on a unit for any assessment levied against that unit from
203.12 the time the assessment becomes due. If an assessment is payable in installments, the full
203.13 amount of the assessment is a lien from the time the first installment thereof becomes due.
203.14 Unless the declaration otherwise provides, fees, charges, late charges, fines and interest
203.15 charges pursuant to section 515B.3-102(a)(10), (11) and (12) are liens, and are enforceable
203.16 as assessments, under this section. Recording of the declaration constitutes record notice
203.17 and perfection of any assessment lien under this section, and no further recording of any
203.18 notice of or claim for the lien is required.

203.19 (b) Subject to subsection (c), a lien under this section is prior to all other liens and
203.20 encumbrances on a unit except (i) liens and encumbrances recorded before the declaration
203.21 and, in a cooperative, liens and encumbrances which the association creates, assumes, or
203.22 takes subject to, (ii) any first mortgage encumbering the fee simple interest in the unit, or,
203.23 in a cooperative, any first security interest encumbering only the unit owner's interest in the
203.24 unit, (iii) liens for real estate taxes and other governmental assessments or charges against
203.25 the unit, and (iv) a master association lien under section 515B.2-121(h). This subsection
203.26 shall not affect the priority of mechanic's liens.

203.27 (c) If a first mortgage on a unit is foreclosed, the first mortgage was recorded after June
203.28 1, 1994, and no owner or person who acquires the owner's interest in the unit redeems
203.29 pursuant to chapter 580, 581, or 582, the holder of the sheriff's certificate of sale from the
203.30 foreclosure of the first mortgage or any person who acquires title to the unit by redemption
203.31 as a junior creditor shall take title to the unit subject to a lien in favor of the association for
203.32 unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (e)(1)
203.33 to (3), (f), and (i) which became due, without acceleration, during the six months immediately

204.1 preceding the end of the owner's period of redemption. The common expenses shall be
204.2 based upon the association's then current annual budget, notwithstanding the use of an
204.3 alternate common expense plan under section 515B.3-115(a)(2). If a first security interest
204.4 encumbering a unit owner's interest in a cooperative unit which is personal property is
204.5 foreclosed, the secured party or the purchaser at the sale shall take title to the unit subject
204.6 to unpaid assessments for common expenses levied pursuant to section 515B.3-115(a),
204.7 (e)(1) to (3), (f), and (i) which became due, without acceleration, during the six months
204.8 immediately preceding the first day following either the disposition date pursuant to section
204.9 336.9-610 or the date on which the obligation of the unit owner is discharged pursuant to
204.10 section 336.9-622.

204.11 (d) Proceedings to enforce an assessment lien shall be instituted within three years after
204.12 the last installment of the assessment becomes payable, or shall be barred.

204.13 (e) The unit owner of a unit at the time an assessment is due shall be personally liable
204.14 to the association for payment of the assessment levied against the unit. If there are multiple
204.15 owners of the unit, they shall be jointly and severally liable.

204.16 (f) This section does not prohibit actions to recover sums for which subsection (a) creates
204.17 a lien nor prohibit an association from taking a deed in lieu of foreclosure.

204.18 (g) The association shall furnish to a unit owner or the owner's authorized agent upon
204.19 written request of the unit owner or the authorized agent a statement setting forth the amount
204.20 of unpaid assessments currently levied against the owner's unit. If the unit owner's interest
204.21 is real estate, the statement shall be in recordable form. The statement shall be furnished
204.22 within ten business days after receipt of the request and is binding on the association and
204.23 every unit owner.

204.24 (h) The association's lien may be foreclosed as provided in this subsection.

204.25 (1) In a condominium or planned community, the association's lien may be foreclosed
204.26 in a like manner as a mortgage containing a power of sale pursuant to chapter 580, or by
204.27 action pursuant to chapter 581. The association shall have a power of sale to foreclose the
204.28 lien pursuant to chapter 580, except that any portion of the assessment that represents
204.29 attorney fees or costs shall not be included in the amount a unit owner must pay to reinstate
204.30 under section 580.30 or chapter 581.

204.31 (2) In a cooperative whose unit owners' interests are real estate, the association's lien
204.32 shall be foreclosed in a like manner as a mortgage on real estate as provided in paragraph
204.33 (1).

205.1 (3) In a cooperative whose unit owners' interests in the units are personal property, the
205.2 association's lien shall be foreclosed in a like manner as a security interest under article 9
205.3 of chapter 336. In any disposition pursuant to section 336.9-610 or retention pursuant to
205.4 sections 336.9-620 to 336.9-622, the rights of the parties shall be the same as those provided
205.5 by law, except (i) notice of sale, disposition, or retention shall be served on the unit owner
205.6 90 days prior to sale, disposition, or retention, (ii) the association shall be entitled to its
205.7 reasonable costs and attorney fees not exceeding the amount provided by section 582.01,
205.8 subdivision 1a, (iii) the amount of the association's lien shall be deemed to be adequate
205.9 consideration for the unit subject to disposition or retention, notwithstanding the value of
205.10 the unit, and (iv) the notice of sale, disposition, or retention shall contain the following
205.11 statement in capital letters with the name of the association or secured party filled in:

205.12 "THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of association or
205.13 secured party) HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES,
205.14 CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST IN YOUR UNIT FOR THE
205.15 REASON SPECIFIED IN THIS NOTICE. YOUR INTEREST IN YOUR UNIT WILL
205.16 TERMINATE 90 DAYS AFTER SERVICE OF THIS NOTICE ON YOU UNLESS
205.17 BEFORE THEN:

205.18 (a) THE PERSON AUTHORIZED BY (fill in the name of association or secured party)
205.19 AND DESCRIBED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM
205.20 YOU:

205.21 (1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

205.22 (2) THE COSTS INCURRED TO SERVE THIS NOTICE ON YOU; PLUS

205.23 (3) \$500 TO APPLY TO ~~ATTORNEYS~~ ATTORNEY FEES ACTUALLY EXPENDED
205.24 OR INCURRED; PLUS

205.25 (4) ANY ADDITIONAL AMOUNTS FOR YOUR UNIT BECOMING DUE TO (fill
205.26 in name of association or secured party) AFTER THE DATE OF THIS NOTICE; OR

205.27 (b) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE
205.28 FORECLOSURE OF YOUR RIGHTS TO YOUR UNIT BE SUSPENDED UNTIL YOUR
205.29 CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR
205.30 SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND
205.31 GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

205.32 IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN
205.33 THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR OWNERSHIP RIGHTS IN

206.1 YOUR UNIT WILL TERMINATE AT THE END OF THE PERIOD, YOU WILL LOSE
206.2 ALL THE MONEY YOU HAVE PAID FOR YOUR UNIT, YOU WILL LOSE YOUR
206.3 RIGHT TO POSSESSION OF YOUR UNIT, YOU MAY LOSE YOUR RIGHT TO
206.4 ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE, AND YOU WILL
206.5 BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT
206.6 AN ATTORNEY IMMEDIATELY."

206.7 (4) In any foreclosure pursuant to chapter 580, 581, or 582, the rights of the parties shall
206.8 be the same as those provided by law, except (i) the period of redemption for unit owners
206.9 shall be six months from the date of sale or a lesser period authorized by law, (ii) in a
206.10 foreclosure by advertisement under chapter 580, the foreclosing party shall be entitled to
206.11 costs and disbursements of foreclosure and ~~attorneys~~ attorney fees authorized by the
206.12 declaration or bylaws, notwithstanding the provisions of section 582.01, subdivisions 1 and
206.13 1a, (iii) in a foreclosure by action under chapter 581, the foreclosing party shall be entitled
206.14 to costs and disbursements of foreclosure and attorneys fees as the court shall determine,
206.15 and (iv) the amount of the association's lien shall be deemed to be adequate consideration
206.16 for the unit subject to foreclosure, notwithstanding the value of the unit.

206.17 (i) If a holder of a sheriff's certificate of sale, prior to the expiration of the period of
206.18 redemption, pays any past due or current assessments, or any other charges lienable as
206.19 assessments, with respect to the unit described in the sheriff's certificate, then the amount
206.20 paid shall be a part of the sum required to be paid to redeem under section 582.03.

206.21 (j) In a cooperative, if the unit owner fails to redeem before the expiration of the
206.22 redemption period in a foreclosure of the association's assessment lien, the association may
206.23 bring an action for eviction against the unit owner and any persons in possession of the unit,
206.24 and in that case section 504B.291 shall not apply.

206.25 (k) An association may assign its lien rights in the same manner as any other secured
206.26 party.

206.27 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to foreclosures
206.28 initiated on or after that date.

206.29 Sec. 16. Laws 2022, chapter 93, article 1, section 2, subdivision 5, is amended to read:

206.30 Subd. 5. **Enforcement and Examinations** -0- 522,000
206.31 \$522,000 in fiscal year 2023 is for the auto
206.32 theft prevention library under Minnesota
206.33 Statutes, section 65B.84, subdivision 1,

207.1 paragraph (d). This is a onetime appropriation

207.2 and is available until June 30, 2024.

207.3 Sec. 17. Laws 2023, chapter 24, section 3, is amended to read:

207.4 Sec. 3. **APPROPRIATION.**

207.5 (a) \$115,000,000 in fiscal year 2023 is ~~appropriated~~ transferred from the general fund
207.6 to the ~~commissioner of commerce for the purposes of~~ state competitiveness fund account
207.7 under Minnesota Statutes, section 216C.391. This is a onetime ~~appropriation~~ transfer. Of
207.8 this amount:

207.9 (1) \$100,000,000 is for grant awards made under Minnesota Statutes, section 216C.391,
207.10 subdivision 3, of which at least \$75,000,000 is for grant awards of less than \$1,000,000;

207.11 (2) \$6,000,000 is for grant awards made under Minnesota Statutes, section 216C.391,
207.12 subdivision 4;

207.13 (3) \$750,000 is for the reports and audits under Minnesota Statutes, section 216C.391,
207.14 subdivision 7;

207.15 (4) \$1,500,000 is for information system development improvements necessary to carry
207.16 out Minnesota Statutes, section 216C.391, and to improve digital access and reporting;

207.17 (5) \$6,750,000 is for technical assistance to applicants and administration of Minnesota
207.18 Statutes, section 216C.391, by the Department of Commerce; and

207.19 (6) the commissioner may transfer money from clause (2) to clause (1) if less than 75
207.20 percent of the money in clause (2) has been awarded by June 30, 2028.

207.21 (b) To the extent that federal funds for energy projects under the Infrastructure Investment
207.22 and Jobs Act, Public Law 117-58, or the Inflation Reduction Act of 2022, Public Law
207.23 117-169, become permanently unavailable to be matched with funds appropriated under
207.24 this section, the commissioner of management and budget must certify the proportional
207.25 amount of unencumbered funds remaining in the account established under Minnesota
207.26 Statutes, section 216C.391, and those unencumbered funds cancel to the general fund.

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

208.1 Sec. 18. **FINANCIAL REVIEW OF GRANT AND BUSINESS SUBSIDY**

208.2 **RECIPIENTS.**

208.3 **Subdivision 1. Definitions.** (a) As used in this section, the following terms have the
208.4 meanings given.

208.5 (b) "Grant" means a grant or business subsidy over \$25,000 funded by an appropriation
208.6 in this act.

208.7 (c) "Grantee" means a business entity, as defined in Minnesota Statutes, section 5.001.

208.8 **Subd. 2. Financial information required; determination of ability to perform.** Before
208.9 an agency awards a competitive, legislatively named, single source, or sole source grant,
208.10 the agency must assess the risk that a grantee cannot or would not perform the required
208.11 duties. In making this assessment, the agency must review the following information:

208.12 (1) the grantee's history of performing duties similar to those required by the grant,
208.13 whether the size of the grant requires the grantee to perform services at a significantly
208.14 increased scale, and whether the size of the grant will require significant changes to the
208.15 operation of the grantee's organization;

208.16 (2) for a grantee that is a nonprofit organization, the grantee's most recent Form 990 or
208.17 Form 990-EZ filed with the Internal Revenue Service. If the grantee has not been in existence
208.18 long enough or is not required to file Form 990 or Form 990-EZ, the grantee must
208.19 demonstrate to the grantor's satisfaction that the grantee is exempt and must instead submit
208.20 the grantee's most recent board-reviewed financial statements and documentation of internal
208.21 controls;

208.22 (3) for a for-profit business, three years of federal and state tax returns, current financial
208.23 statements, certification that the business is not under bankruptcy proceedings, and disclosure
208.24 of any liens on its assets. If a business has not been in business long enough to have three
208.25 years of tax returns, the grantee must demonstrate to the grantor's satisfaction that the grantee
208.26 has appropriate internal financial controls;

208.27 (4) evidence of registration and good standing with the secretary of state under Minnesota
208.28 Statutes, chapter 317A, or other applicable law;

208.29 (5) if the grantee is required to complete an audit under Minnesota Statutes, section
208.30 309.53, subdivision 3, the grantee's most recent financial audit performed by an independent
208.31 third party in accordance with generally accepted accounting principles; and

208.32 (6) certification, provided by the grantee, that none of its principals have been convicted
208.33 of a financial crime or, if a principal has been convicted of a financial crime, information

209.1 regarding the circumstances under which the crime occurred. For purposes of this paragraph,
209.2 "principal" means a staff or board member with the authority to (i) access funds provided
209.3 by the grantor, or (ii) determine how those funds are used.

209.4 Subd. 3. **Additional measures for some grantees.** The agency may require additional
209.5 information and must provide enhanced oversight for a grantee that has not previously
209.6 received state or federal grants for similar amounts or similar duties and therefore has not
209.7 yet demonstrated the ability to perform the duties required under the grant on the scale
209.8 required.

209.9 Subd. 4. **Agency authority to not award grant.** If an agency determines that there is
209.10 a substantial risk that a grantee receiving a competitive, single source, or sole source grant
209.11 cannot or would not perform the required duties under the grant agreement based on the
209.12 results of the required steps performed under subdivision 2 and pursuant to Minnesota
209.13 Statutes, sections 16B.97, 16B.98, and 16B.991, the agency must notify the grantee and the
209.14 commissioner of administration and give the grantee an opportunity to respond to the
209.15 agency's concerns. If the grantee does not satisfy the agency's concerns within 45 days, the
209.16 agency must not award the grant. If the grant is not awarded, the funds will cancel and revert
209.17 to the original funding source.

209.18 Subd. 5. **Legislatively named grantees.** If an agency determines that there is a substantial
209.19 risk that a grantee receiving a legislatively named grant cannot or would not perform the
209.20 required duties under the grant agreement based on the results of the required steps performed
209.21 under subdivision 2 and pursuant to Minnesota Statutes, sections 16B.97, 16B.98, and
209.22 16B.991, the agency must notify the grantee, the commissioner of administration, and the
209.23 chair and ranking minority member of the Ways and Means Committee in the house of
209.24 representatives, and the chair and ranking minority member of the Finance Committee in
209.25 the senate. The agency must give the grantee an opportunity to respond to the agency's
209.26 concerns. If the grantee does not satisfy the agency's concerns within 45 days, the agency
209.27 must delay award of the grant until adjournment of the next regular or special legislative
209.28 session.

209.29 Subd. 6. **Authority to award subject to additional assistance and oversight.** A grantor
209.30 that identifies an area of significant concern regarding an applicant's financial standing or
209.31 management may award a grant to the applicant if the grantor provides or the grantee
209.32 otherwise obtains additional technical assistance, as needed, and the grantor imposes
209.33 additional requirements in the grant agreement. Additional requirements may include but
209.34 are not limited to enhanced monitoring, additional reporting, or other reasonable requirements
209.35 imposed by the grantor to protect the interests of the state.

210.1 Subd. 7. **Effect.** The requirements of this section are in addition to other requirements
210.2 imposed by law; the commissioner of administration under Minnesota Statutes, sections
210.3 16B.97 and 16B.98; or agency grant policy.

210.4 Sec. 19. **REPEALER.**

210.5 Minnesota Statutes 2022, section 327C.04, subdivision 4, is repealed.

210.6 **EFFECTIVE DATE.** This section is effective July 1, 2023.

48.10 ANNUAL AUDIT; REPORT.

The board of directors of a bank, bank and trust, or trust company shall annually examine its books, either in person, or by appointing an examining committee, or an auditor, who may be an independent auditor or accountant. The examining committee or auditor shall be solely responsible to the directors. A report shall be made to the directors as to the scope of the examination or audit, and also to show those assets, excluding marketable securities and fixed assets, which are carried on the books for more than actual value. This report shall be retained as a permanent record or incorporated in the minutes of the meeting.

53B.01 CITATION.

This chapter may be cited as the "Minnesota Money Transmitters Act."

53B.02 LICENSE REQUIRED.

On or after January 1, 2002, no person except those exempt pursuant to section 53B.04 shall engage in the business of money transmission without a license as provided in this chapter. A licensee may conduct business in this state at one or more locations, directly or indirectly owned, or through one or more authorized delegates, or both, under a single license granted to the licensee.

53B.03 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of this chapter, the definitions in this section apply unless the context requires otherwise.

Subd. 2. **Applicant.** "Applicant" means a person filing an application for a license under this chapter.

Subd. 3. **Authorized delegate.** "Authorized delegate" means an entity designated by the licensee under this chapter, or by an exempt entity, to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5. **Control.** "Control" means ownership of, or the power to vote, ten percent or more of the outstanding voting securities of a licensee or controlling person. For purposes of determining the percentage of a licensee controlled by any person, the person's interest must be aggregated with the interest of any other person controlled by the person or by any spouse, parent, or child of the person.

Subd. 6. **Controlling person.** "Controlling person" means any person in control of a licensee.

Subd. 7. **Electronic instrument.** "Electronic instrument" means a card or other tangible object for the transmission or payment of money that contains a microprocessor chip, magnetic stripe, or other means for the storage of information, that is prefunded and for which the value is decreased upon each use. The term does not include a prepaid telephone card, electronic benefits transfer card, or any other card or other tangible object that is redeemable by the issuer in the issuer's goods or services.

Subd. 8. **Executive officer.** "Executive officer" means the licensee's president, chair of the executive committee, senior officer responsible for the licensee's business, chief financial officer, and any other person who performs similar functions.

Subd. 9. **Exempt entity.** "Exempt entity" means a person to which this chapter does not apply under section 53B.04.

Subd. 10. **Key shareholder.** "Key shareholder" means any person, or group of persons acting in concert, who is the owner of ten percent or more of any voting class of an applicant's stock.

Subd. 11. **Licensee.** "Licensee" means a person licensed under this chapter.

Subd. 12. **Material litigation.** "Material litigation" means any litigation in which an applicant or a licensee has been a defendant or been named in a civil judgment involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

Subd. 13. **Money transmission.** "Money transmission" means selling or issuing payment instruments or engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile, or electronic transfer.

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Subd. 14. **Outstanding payment instrument.** "Outstanding payment instrument" means any payment instrument issued by the licensee that has been sold in the United States directly by the licensee or any payment instrument issued by the licensee that has been sold by an authorized delegate of the licensee in the United States, and that has not yet been paid by or for the licensee.

Subd. 15. **Payment instrument.** "Payment instrument" means any electronic or written check, draft, money order, travelers check, or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable. The term does not include any credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

Subd. 16. **Permissible investments.** "Permissible investments" means:

- (1) cash;
- (2) certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;
- (3) bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, that are eligible for purchase by member banks of the Federal Reserve System;
- (4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates these securities;
- (5) investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any obligations of any state, municipality, or any political subdivision of a state or municipality;
- (6) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures, or a fund composed of one or more permissible investments;
- (7) any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;
- (8) receivables that are due to a licensee from its authorized delegates under a contract described in section 53B.20, that are not past due or doubtful of collection; or
- (9) any other investments or security device approved by the commissioner.

Subd. 17. **Person.** "Person" means any individual, corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.

Subd. 18. **Remit.** "Remit" means either to make direct payment of the funds to the licensee or its representatives authorized to receive those funds or to deposit the funds in a bank, credit union, savings association, or other similar financial institution in an account specified by the licensee.

53B.04 EXEMPTIONS.

Authorized delegates of a licensee or of an exempt entity, acting within the scope of authority conferred by a written contract as described in section 53B.20, are not required to obtain a license under this chapter. This chapter does not apply to:

- (1) the United States or any department, agency, or instrumentality of the United States;
- (2) the United States Postal Service;
- (3) the state or any political subdivision of the state;
- (4) banks, credit unions, savings associations, savings banks, mutual banks organized under the laws of any state or the United States, or bank holding companies which have a banking subsidiary located in Minnesota and whose debt securities have an investment grade rating by a national rating agency, provided that if they issue or sell payment instruments through authorized delegates who are not banks, bank holding companies, credit unions, savings associations, savings banks, or mutual banks, those authorized delegates must comply with all requirements imposed upon authorized delegates under this chapter; and
- (5) the provision of electronic transfer of government benefits for any federal, state, or county governmental agency as defined in Federal Reserve Board Regulation E, by a contractor for and on behalf of the United States or any department, agency, or instrumentality of the United States, or any state or any political subdivision of the state.

53B.05 LICENSE QUALIFICATIONS.

Subdivision 1. **Net worth.** Each licensee engaging in money transmission in three or fewer locations in the state, either directly or through authorized delegates, must have a net worth of at least \$25,000. Each licensee engaging in money transmission at more than three locations in the state, but fewer than seven locations, either directly or through authorized delegates, must have a net worth of at least \$50,000. Each licensee engaging in money transmission at more than six locations in the state, either directly or through authorized delegates, shall have a net worth of \$100,000 and an additional net worth of \$50,000 for each location or authorized delegate located in the state in excess of seven, to a maximum of \$500,000. Net worth shall be calculated in accordance with generally accepted accounting principles.

Subd. 2. **Corporate applicant; good standing.** Every corporate applicant, at the time of the filing of an application for a license under this chapter and at all times after a license is issued, must be in good standing in the state of its incorporation. All noncorporate applicants shall, at the time of the filing of an application for a license under this chapter and at all times after a license is issued, be registered or qualified to do business in the state.

53B.06 PERMISSIBLE INVESTMENTS AND STATUTORY TRUST.

(a) Each licensee under this chapter must at all times possess permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments sold by the licensee or reported as sold by an authorized delegate in the United States. This requirement may be waived by the commissioner if the dollar volume of a licensee's outstanding payment instruments does not exceed the bond or other security devices posted by the licensee under section 53B.08.

(b) Permissible investments, even if commingled with other assets of the licensee, are considered to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of the bankruptcy of the licensee.

53B.07 LICENSE APPLICATION.

Subdivision 1. **Requirements.** An application for a license under this chapter must be made in writing, under oath, and in a form prescribed by the commissioner.

Subd. 2. **General contents.** An application must contain:

(1) the exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of its business, and the location of the applicant's business records;

(2) the history of the applicant's or any controlling person's material litigation during the preceding ten years and criminal convictions;

(3) a description of the activities conducted by the applicant and a history of operations;

(4) a description of the business activities in which the applicant seeks to be engaged in the state;

(5) a list identifying the applicant's proposed authorized delegates in the state, if any, at the time of the filing of the license application;

(6) a sample authorized delegate contract, if applicable;

(7) a sample form of payment instrument, if applicable;

(8) the location or locations at which the applicant and its authorized delegates, if any, propose to conduct the licensed activities in the state; and

(9) the name, address, and account numbers for the clearing bank or banks on which the applicant's payment instruments will be drawn or through which these payment instruments will be payable.

Subd. 3. **Additional information from corporations.** If the applicant is a corporation, the applicant must also provide:

(1) the date of the applicant's incorporation and state of incorporation;

(2) a certificate of good standing from the state in which the applicant was incorporated;

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(3) a description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange;

(4) the name, business and residence address, and employment history for the past five years of the applicant's executive officers and the officers or managers who will be in charge of the applicant's activities to be licensed under this chapter;

(5) the name, business and residence address, and employment history for the period five years prior to the date of the application of any key shareholder of the applicant;

(6) the history of material litigation during the preceding ten years and criminal convictions of every executive officer or key shareholder of the applicant;

(7) a copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity, and statement of changes in financial position, and, if available, the applicant's audited financial statements for the immediately preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this provision; and

(8) copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing the application.

Subd. 4. **Additional information from noncorporate applicants.** If the applicant is not a corporation, the applicant must also provide:

(1) the name, business and residence address, personal financial statement, and employment history for the past five years, of each principal of the applicant and the name, business and residence address, and employment history for the past five years of any other person or persons who will be in charge of the applicant's activities to be licensed under this chapter;

(2) the place and date of the applicant's registration or qualification to do business in this state;

(3) the history of material litigation during the preceding ten years and criminal convictions for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility with respect to the applicant's activities; and

(4) copies of the applicant's audited financial statements, including balance sheet, statement of income or loss, and statement of changes in financial position, for the current year and, if available, for the immediately preceding two-year period.

Subd. 5. **Waiver.** The commissioner may, for good cause shown, waive any requirement of this section with respect to any license application or to permit a license applicant to submit substituted information in its license application in lieu of the information required by this section.

Subd. 6. **Records and fees; maintenance and processing.** Section 58A.04, subdivisions 2 and 3, apply to this section.

53B.08 BOND OR OTHER SECURITY DEVICE.

Subdivision 1. **Requirement.** Each application must be accompanied by a surety bond, irrevocable letter of credit, or other similar security device acceptable to the commissioner in the amount of \$25,000. If the applicant proposes to engage in business under this chapter at more than three locations, but less than seven locations, through authorized delegates or otherwise, then the amount of the security device must be increased to \$50,000. If the applicant proposes to engage in business under this chapter at more than six locations, through authorized delegates or otherwise, then the amount of the security device must be increased by \$50,000 for each location over six, up to a maximum of \$250,000. The security device must be in a form satisfactory to the commissioner and must run to the state for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money in connection with the sale and issuance of payment instruments or transmission of money. In the case of a bond, the aggregate liability of the surety in no event shall

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exceed the principal sum of the bond. Claimants against the licensee may themselves bring suit directly on the security device or the commissioner may bring suit on behalf of these claimants, either in one action or in successive actions.

Subd. 2. **Acceptable alternatives.** In lieu of a security device under subdivision 1 or of any portion of the principal of the security device, as required by subdivision 1, the licensee may deposit with the commissioner, or with banks in this state that the licensee designates and the commissioner approves, cash, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality of the United States, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the security device or portion of the security device. The securities or cash must be deposited and held to secure the same obligations as would the security device. The depositor shall receive all interest and dividends. The depositor may, with the approval of the commissioner, substitute other securities for those deposited, and is required to do so on written order of the commissioner made for good cause shown.

Subd. 3. **Cancellation.** The security device remains in effect until cancellation, which may occur only after 30 days' written notice to the commissioner. Cancellation does not affect the rights of any claimant for any liability incurred or accrued during the period for which the bond was in force.

Subd. 4. **Duration.** The security device must remain in place for no longer than five years after the licensee ceases money transmission operations in the state. However, notwithstanding this provision, the commissioner may permit the security device to be reduced or eliminated before that time to the extent that the amount of the licensee's payment instruments outstanding in this state are reduced. The commissioner may also permit a licensee to substitute a letter of credit or other form of security device acceptable to the commissioner for the security device in place at the time the licensee ceases money transmission operations in the state.

53B.09 APPLICATION FEE.

Each application must be accompanied by a nonrefundable application fee in the amount of \$4,000.

53B.10 ISSUANCE OF LICENSE.

Subdivision 1. **Investigation.** Upon the filing of a complete application, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which must be borne by the applicant. If the commissioner finds that the requirements imposed by this chapter have been met and that the required license fee has been paid, the commissioner shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in this state for a term of one year. If these requirements have not been met, the commissioner shall deny the application in writing, setting forth the reasons for the denial.

Subd. 2. **Denial hearing.** Any applicant aggrieved by a denial issued by the commissioner under this section may at any time within 30 days from the date of receipt of written notice of the denial contest the denial by serving a response on the commissioner. The commissioner shall set a date for a hearing not later than 60 days after service of the response, unless a later date is set with the consent of the denied applicant.

53B.11 RENEWAL OF LICENSE AND ANNUAL REPORT.

Subdivision 1. **Fee.** The annual fee for renewal of a license under this chapter is \$2,500.

Subd. 2. **Report.** The renewal fee must be accompanied by a report, in a form prescribed by the commissioner. The form must be sent by the commissioner to each licensee no later than three months immediately preceding the date established by the commissioner for license renewal. The licensee must include in this annual renewal report:

(1) a copy of its most recent audited consolidated annual financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder's equity, and statement of changes in financial position, or, in the case of a licensee that is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited annual financial statement;

(2) for the most recent quarter for which data are available prior to the date of the filing of the renewal application, but in no event more than 120 days prior to the renewal date, the licensee must

provide the number of payment instruments sold by the licensee in the state, the dollar amount of those instruments, and the dollar amount of those instruments currently outstanding;

(3) any material changes to any of the information submitted by the licensee on its original application that have not previously been reported to the commissioner on any other report required to be filed under this chapter;

(4) a list of the licensee's permissible investments; and

(5) a list of the locations within this state at which business regulated by this chapter is being conducted by either the licensee or its authorized delegate.

Subd. 3. **License display.** A copy of the license issued by the commissioner to the licensee shall be prominently displayed in each location where money transmission services are offered.

53B.12 EXTRAORDINARY REPORTING REQUIREMENTS.

Within 15 days of the occurrence of any one of the events listed below, a licensee shall file a written report with the commissioner describing the event and its expected impact on the licensee's activities in the state:

(1) the filing for bankruptcy or reorganization by the licensee;

(2) the institution of revocation or suspension proceedings against the licensee by any state or governmental authority with regard to the licensee's money transmission activities;

(3) any felony indictment of the licensee or any of its key officers or directors related to money transmission activities; or

(4) any felony conviction of the licensee or any of its key officers or directors related to money transmission activities.

53B.13 CHANGES IN CONTROL OF A LICENSEE.

Any purchaser of ten percent or more of an ownership interest in a licensee must notify the commissioner at least 30 days in advance of the purchase and submit a completed license application form. The commissioner may revoke the license if the new ownership would have resulted in a denial of the initial license under this chapter. The commissioner may waive this notification requirement if, in the commissioner's discretion, the change in control does not pose any risk to the interests of the public.

53B.14 EXAMINATIONS.

The commissioner has under this chapter the same powers with respect to financial examinations that the commissioner has under section 46.04.

53B.15 MAINTENANCE OF RECORDS.

Subdivision 1. **Requirement.** Each licensee shall make, keep, and preserve the following books, accounts, and other records for a period of three years:

(1) a record or records of each payment instrument sold;

(2) a general ledger containing all assets, liability, capital, income, and expense accounts, which must be posted at least monthly;

(3) bank statements and bank reconciliation records;

(4) records of outstanding payment instruments;

(5) records of each payment instrument paid within the three-year period; and

(6) a list of the names and addresses of all of the licensee's authorized delegates.

Subd. 2. **Compliance.** (a) Any licensee selling money orders shall maintain a record of the date, amount, serial number, and the location of the sale for each money order sold in this state.

(b) Any licensee engaged in the business of receiving money for transmission or transmitting money shall maintain a record of the identity of the remitter, identity of the recipient, amount of the transmission, date of the transaction, date funds were transmitted, and the location from which the funds were remitted for each transaction initiated in this state.

(c) Maintenance of the documents required by this section in a photographic, electronic, or other similar form constitutes compliance with this section.

Subd. 3. **Location.** Records may be maintained at a location other than within this state if they are made accessible to the commissioner on seven days' written notice.

53B.16 CONFIDENTIALITY OF DATA SUBMITTED TO THE COMMISSIONER.

Data or other information obtained by the commissioner under this chapter, whether as a result of the license application or renewal process or examinations, is subject to chapter 13.

53B.17 SOLVENCY REQUIRED.

If the commissioner determines that a licensee is insolvent, that its capital is impaired, or that its condition is such as to render the continuance of its business hazardous to the public or to those having funds in its custody, the commissioner may apply to the district court for the county in which the main office is located, or for Ramsey County if the licensee does not have a main office in Minnesota, for appointment of a receiver to receive the assets of the licensee for the purpose of liquidating or rehabilitating its business and for such other relief as the interest of the public may require. The reasonable and necessary expenses of the receivership have priority over all other claims on the bond required by this chapter.

53B.18 PROHIBITED PRACTICES.

(a) No licensee shall:

(1) fail to comply with chapter 345 as it relates to unclaimed property requirements;

(2) refuse to indemnify an instrument holder for any misappropriation of money caused by any of its authorized delegates in conducting activities on behalf of the licensee for whom it acts as an authorized delegate; or

(3) fail to comply with section 53B.27.

(b) A licensee must transmit all money received for transmission in accordance with the sender's instructions within five business days of the date the licensee receives the money from the sender unless:

(1) otherwise ordered by the sender;

(2) the licensee or its authorized delegate has a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur as a result of transmission; or

(3) the transmission is payment for goods or services.

(c) A licensee must conspicuously state in an agreement with a merchant to transmit money from a sender for goods or services:

(1) that the licensee has the authority to place a hold on or delay the transmission of a sender's money for more than five business days; and

(2) the general circumstances under which a transmittal may be subject to a hold or delay.

(d) A licensee that receives money from a sender for transmission to a merchant to pay for goods or services must transmit the money to the merchant within the time frame agreed upon in the merchant's agreement with the licensee.

(e) If a licensee fails to transmit money received for transmission in accordance with this section, the licensee must respond to inquiries by the sender or recipient with the reason for the failure unless the response violates state or federal law.

(f) A licensee or its authorized delegate must refund to the customer all money received for transmittal within ten days of receipt of a request for a refund unless any of the following has occurred:

(1) the money has been transmitted and delivered to the person designated by the customer prior to receipt of the written request for a refund;

(2) instructions have been given committing an equivalent amount of money to the person designated by the customer prior to the receipt of a request for a refund; or

(3) the licensee is otherwise barred by law from making a refund.

53B.19 SUSPENSION OR REVOCATION OF LICENSES.

After notice and hearing, the commissioner may suspend or revoke a licensee's license if the commissioner finds that:

- (1) any fact or condition exists that, if it had existed at the time when the licensee applied for its license, would have been grounds for denying the application;
- (2) the licensee's net worth becomes inadequate and the licensee, after ten days' written notice from the commissioner, fails to take steps the commissioner considers necessary to remedy the deficiency;
- (3) the licensee violates any material provision of this chapter or any rule or order validly adopted by the commissioner under authority of this chapter;
- (4) the licensee is conducting its business in an unsafe or unsound manner;
- (5) the licensee is insolvent;
- (6) the licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;
- (7) the licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy;
- (8) the licensee refuses to permit the commissioner to make any examination authorized by this chapter; or
- (9) the licensee fails to make any report required by this chapter.

53B.20 AUTHORIZED DELEGATE CONTRACTS.

Subdivision 1. **Contents of contract.** Licensees that conduct licensed activities through authorized delegates shall authorize each delegate to operate under an express written contract that, for contracts entered into after August 1, 2001, provide the following:

- (1) that the licensee appoint the person as its delegate with authority to engage in money transmission on behalf of the licensee;
- (2) that neither a licensee nor an authorized delegate authorize subdelegates without the written consent of the commissioner; and
- (3) that licensees are subject to supervision and regulation by the commissioner and that as a part of that supervision and regulation, the commissioner may require the licensee to cancel an authorized delegate contract as a result of a violation of section 53B.21.

Subd. 2. **Termination of authorized delegate contract.** Upon termination of any authorized delegate contract, the licensee must notify the commissioner within a reasonable amount of time of the termination.

Subd. 3. **Exempt entities.** For purposes of this section, "licensee" includes exempt entities.

53B.21 AUTHORIZED DELEGATE CONDUCT.

(a) An authorized delegate shall not make any fraudulent or false statement or misrepresentation to a licensee or to the commissioner.

(b) An authorized delegate shall conduct its money transmission activities in a safe and sound manner.

(c) An authorized delegate shall cooperate with an investigation conducted by the commissioner under this chapter by providing any relevant information in its possession that the commissioner cannot reasonably obtain from another source.

(d) An authorized delegate is under a duty to act only as authorized under the contract with the licensee and any authorized delegate who exceeds its authority is subject to cancellation of its contract.

(e) All funds, less fees, received by an authorized delegate of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized delegate for transmission, constitute trust funds owned by and belonging to the licensee from the time the funds are received by the authorized delegate until the time when the funds or an equivalent amount are remitted by the authorized delegate to the licensee. If an authorized delegate commingles any funds with other

funds or property owned or controlled by the authorized delegate, all commingled proceeds and other property must be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

(f) For purposes of this section, "licensee" includes exempt entities.

53B.22 LICENSEE LIABILITY.

A licensee's responsibility to any person for a money transmission conducted on that person's behalf by the licensee or the licensee's authorized delegate is limited to the amount of money tendered or the face amount of the payment instrument purchased.

53B.23 HEARINGS; PROCEDURES.

The provisions of the Minnesota Administrative Procedure Act, chapter 14, apply to any hearing under this chapter.

53B.24 ENFORCEMENT.

Section 45.027 applies to this chapter.

53B.25 RULE NOTICES.

At the time the commissioner files a notice of proposed adoption, amendment, or repeal of a rule adopted under this chapter, a copy of the notice must be sent by regular United States mail, postage prepaid, to all then-current licensees and applicants for licenses under this chapter.

53B.26 APPOINTMENT OF COMMISSIONER AS AGENT FOR SERVICE OF PROCESS.

Subdivision 1. **Consent and appointment.** Any licensee, authorized delegate, or other person who knowingly engages in business activities that are regulated under this chapter, with or without filing an application, is considered to have done both of the following:

(1) consented to the jurisdiction of the courts of this state for all actions arising under this chapter; and

(2) appointed the commissioner as the lawful agent for the purpose of accepting service of process in any action, suit, or proceeding that may arise under this chapter.

Subd. 2. **Service of process.** Service of process must be made in accordance with section 45.028, subdivision 2.

53B.27 MONEY TRANSMITTERS; COOPERATION REQUIRED IN COMBATTING FRAUD.

Subdivision 1. **Fraud prevention measures required.** Each money transmitter shall:

(1) provide a clear, concise, and conspicuous consumer fraud warning on all transmittal forms used by consumers to send money to an individual;

(2) provide consumer fraud prevention training for agents involved with transmittals;

(3) monitor agent activity relating to consumer transmittals; and

(4) establish a toll-free number for consumers to call to report fraud or suspected fraud.

Subd. 2. **Voluntary disqualification by customer.** A money transmitter that originates money transfers in this state must allow an individual to voluntarily disqualify the individual from sending or receiving money transfers. The disqualification lasts for one year, unless the individual requests that it be in effect for a period longer than one year. The individual may terminate the disqualification at any time upon written notice to the money transmitter.

Subd. 5. **High incidence of schemes to defraud.** The commissioner, after consulting with licensed money transmitters, may recommend a maximum transaction amount for money transmissions to countries associated with high incidence of schemes to defraud.

Subd. 6. **Notification of attempted receipt of money transfer at unexpected location.** Upon request of a sender of a money transmission, a money transmitter shall promptly notify the sender if the money transmitter receives notice that a person has attempted to receive the transfer at a physical location in a state or country other than the state or country specified by the sender. The money transmitter shall not authorize receipt of the transfer at any physical location not specified

in writing by the sender at the time of the transmission unless the money transmitter has received authorization from the sender.

Subd. 7. **Verification of name and location of receipt of money transfer.** Upon request of a sender or the authorized delegate of a money transmission, a money transmitter shall provide the sender verification of the location where the transfer was received and the name of the person receiving the transfer. This subdivision only applies to transmissions received at a physical location.

62A.31 MEDICARE SUPPLEMENT BENEFITS; MINIMUM STANDARDS.

Subd. 1b. **Preexisting condition coverage.** The policy must cover preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage.

Subd. 1i. **Replacement coverage.** If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the issuer of the replacing policy or certificate shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy or certificate for benefits to the extent the time was spent under the original policy or certificate. For purposes of this subdivision, "Medicare supplement policy or certificate" means all coverage described in section 62A.011, subdivision 3, clause (10).

327C.04 UTILITY CHARGES.

Subd. 4. **Electricity.** If a park owner provides electricity to residents by reselling electricity purchased from a public or municipal utility or electrical cooperative, and compliance with subdivision 3 would cause the park owner to lose money on the sale of electricity, the park owner may bill residents at a rate calculated to allow the park owner to avoid losing money on the sale of electricity. In calculating the cost of providing electricity, the park owner may consider only the actual amount billed by the public utility or electrical cooperative to the park owner for electricity furnished to residents. The park owner may not consider administrative, capital or other expenses.

2675.2610 ANNUAL EXAMINATION REPORT.

Subpart 1. **Contents.** An annual examination report made under the direction of the board of directors pursuant to Minnesota Statutes, section 48.10, must at a minimum:

- A. determine that an internal control system is in place as required by part 2675.2600 and that control procedures are being followed (describe process and findings);
- B. determine when the board last reviewed loan, investment, audit, and asset/liability policies;
- C. confirm securities held at the bank, in safekeeping elsewhere, or in book entry form;
- D. confirm loans and deposits through a sample positive or negative verification (define and describe process);
- E. determine if the board has reviewed fixed assets, other real estate, and equity accounts since the last examination;
- F. examine income, expense, and related accrual accounts since the last examination (describe process and findings);
- G. determine that general ledger supporting accounts are promptly reconciled and appropriateness of reconciling items, and account makeup (describe process and findings);
- H. determine that the board is reviewing delinquent loans and collection action taking place (show frequency of review);
- I. determine when the board last reviewed the allowance for loan loss account and the basis on which the funding determination was made;
- J. determine that the board has approved charge off loans, that charge off notes and files are secure, and that IRS Forms 1099C have been prepared where appropriate;
- K. sample loan files for documentation and approvals required by loan policy (describe sample methodology and findings);
- L. determine that an internal audit function exists regarding the electronic data processing system or computer applications and that procedures are in place for authorizing input data and master file changes and consider the effect of a service organization on the bank's internal control system and, if applicable, obtain an auditor's report on the policies and procedures in operation at the service organization;
- M. examine significant activity in employee and officer accounts (depository and loan) for propriety and compliance with bank policies and regulations (describe process and findings); and
- N. determine that off-balance sheet items have been authorized and detail items that may have a material impact on the condition of the financial institution.

Subp. 3. **Preparation.** A written report of the annual examination must be prepared and must include the scope of the examination including the size of the samplings taken. The report must summarize the findings and make recommendations for improving conditions, where appropriate.

Subp. 4. **Transmittal.** The written report shall be transmitted to the board of directors within 30 days of completion of the annual examination.

2675.2620 QUALIFICATIONS OF EXAMINING AUTHORITY.

Subpart 1. **Board to specify examining authority.** The board shall have the discretion to determine the method of examination used to meet the requirements of this part provided the examination is accomplished through one of the methods in subparts 2 to 5.

Subp. 2. **Examining committee.** If the requirements of this part are to be accomplished in whole or in part by an examining committee appointed by the board, the annual examination must be completed by qualified directors or their appointees who are in fact reasonably independent. A director or appointee serving as a member of the examining committee will not be considered independent if:

- A. the person is closely related to active officers or employees of the bank;
- B. the person has outstanding loans with the bank subject to criticism by state or federal supervisory agencies; or
- C. the person has other unusual relationships or affiliations with the bank that raise the question of independence.

Subp. 3. **Internal auditor.** If the requirements of this part are to be accomplished in whole or in part by an internal auditor, the examination must be completed by a qualified internal auditor who is in fact reasonably independent. An internal auditor will not be considered independent if:

- A. the person is employed or accountable to anyone other than the board of directors, and salary and annual bonus are not set by the board, unless the person is employed by the institution's holding company;
- B. the person's duties within the bank are not confined entirely to bank auditing;
- C. the person has any proprietary interest in any partnership, firm, or corporation which controls the bank, directly or indirectly;
- D. the person has outstanding loans subject to criticism by state or federal supervisory agencies;
- E. the person is a member of the immediate family of an officer, director, attorney, or employee for the bank; or
- F. the person has other unusual relationships or affiliations with the bank that raise the question of independence.

In banks of less than \$50,000,000 in total assets as of the immediately preceding calendar year end, where duties of the internal auditor cannot be confined entirely to bank auditing, the internal auditor will be considered reasonably independent only if someone else audits the areas for which the internal auditor has operational responsibilities. The board is responsible for determining that this degree of internal audit dependence is maintained.

Subp. 4. **Certified public accountants or licensed public accountants.** If the requirements of this part are to be accomplished in whole or in part by a certified public accountant or licensed public accountant, the examination must be completed by a qualified certified public accountant or a qualified licensed public accountant who is in fact independent. A certified public accountant or licensed public accountant will not be considered independent if:

- A. The certified public accountant, licensed public accountant, or any member of a firm performing the examination is connected with the bank as an officer, director, attorney, or employee or is a member of the immediate family of an officer, director, bank attorney, or employee.
- B. He or she is the beneficial owner, directly or indirectly, of any of the shares of stock of the bank.
- C. He or she has any proprietary interest in any partnership, firm, or corporation which controls the banks, directly or indirectly.
- D. The bank under examination has outstanding loans to the certified public accountant, licensed public accountant, partners, principals of the firm, or employees of such a firm who are directly involved in the examination, unless the loans are adequately

disclosed in the examination report to the board of directors of the bank. Adequate disclosure includes the name of the borrower, the amount of the loan, the security pledged, and the appraisal or market value of the security at the time of the engagement.

E. He or she makes entries or postings on the books of account or performs any other operating functions for the bank, except functions for which prior approval was requested and obtained in writing from the commissioner of commerce.

F. He or she has other unusual relationships or affiliations with the bank that raise the question of independence.

In circumstances where directors, appointees, or the internal auditor are considered not independent or qualified to perform the annual examination, the board should engage a certified public accountant or licensed public accountant.

Subp. 5. **Board of directors.** If the requirements of this part are to be accomplished by the board of directors as provided in Minnesota Statutes, section 48.10, the board must number at least five and include at a minimum one outside director.

2675.2630 OPINION AUDIT.

Subp. 3. **Satisfaction of annual examination report requirement.** An unqualified opinion audit on the financial statement of the institution or a consolidated opinion audit on the institution taken as a whole will satisfy the annual examination report requirements of part 2675.2610, subpart 1. However, documentation of internal audit procedures performed in testing the internal control system, part 2675.2600, must be maintained by the bank for inspection by the supervisory examiners and external auditors.