CONFERENCE COMMITTEE REPORT ON S.F. No. 2744

A bill for an act

relating to commerce; establishing a biennial budget for Department of Commerce; modifying various provisions governing insurance; regulating virtual currency activities; providing for reports relating to retail sales of intermediate blends of gasoline and biofuel; prohibiting excessive price increases by pharmaceutical manufacturers; establishing a Prescription Drug Affordability Board; establishing a student loan advocate position; regulating money transmitters; making technical changes; establishing penalties; authorizing administrative rulemaking; requiring reports; appropriating money; transferring money; amending Minnesota Statutes 2022, sections 46.131, subdivision 11; 60A.14, subdivision 1; 62A.152, subdivision 3; 62D.02, by adding a subdivision; 62D.095, subdivisions 2, 3, 4, 5; 62K.10, subdivision 4; 62Q.19, subdivision 1; 62Q.46, subdivisions 1, 3; 62Q.47; 62Q.81, subdivision 4, by adding a subdivision; 151.071, subdivisions 1, 2; 239.791, subdivision 8; 256B.0631, subdivision 1; 256L.03, subdivision 5; Laws 2022, chapter 93, article 1, section 2, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 53B; 58B; 62J; 62Q; 62W; repealing Minnesota Statutes 2022, sections 53B.01; 53B.02; 53B.03; 53B.04; 53B.05; 53B.06; 53B.07; 53B.08; 53B.09; 53B.10; 53B.11; 53B.12; 53B.13; 53B.14; 53B.15; 53B.16; 53B.17; 53B.18; 53B.19; 53B.20; 53B.21; 53B.22; 53B.23; 53B.24; 53B.25; 53B.26; 53B.27, subdivisions 1, 2, 5, 6, 7.

May 15, 2023

The Honorable Bobby Joe Champion
President of the Senate

The Honorable Melissa Hortman
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2744 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2744 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1
COMMERCE FINANCE

Section 1. **APPROPRIATIONS.**

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

	APPROPRIATIONS Available for the Year Ending June 30	
	2024	**2025**
Sec. 2. **DEPARTMENT OF COMMERCE**		
Subdivision 1. **Total Appropriation**	**$ 33,757,000**	**$ 34,660,000**

Appropriations by Fund	2024	2025
General	30,876,000	31,752,000
Workers' Compensation Fund	788,000	815,000
Special Revenue	2,093,000	2,093,000

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

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

(a) $400,000 each year is for a grant to Prepare and Prosper to develop, market, evaluate, and distribute a financial services inclusion program that (1) assists low-income and financially underserved populations to build savings and strengthen credit, and (2) provides services to assist low-income and financially underserved populations to become more financially stable and secure. Money

remaining after the first year is available for the second year.

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

Subd. 3. **Administrative Services**	10,078,000	10,104,000

(a) $353,000 each year is for system modernization and cybersecurity upgrades for the unclaimed property program.

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

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

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

(e) $150,000 each year is for a grant to Exodus Lending to expand program and operational capacity to assist individuals with financial stability through small dollar consumer loans, including but not limited to resolving consumer short-term loans carrying interest rates greater than 36 percent. Loans issued under the program must be: (1) interest- and fee-free; and (2) made to Minnesotans facing significant barriers to mainstream financial products. Program participants must be recruited through a statewide network of trusted community-based partners. Loan payments by borrowers must be reported to the credit bureaus. These are onetime

appropriations and are available until June 30, 2027.

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

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

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

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

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

(h) No later than July 15, 2024, and annually thereafter until the appropriations under paragraphs (e) and (f) have been exhausted or canceled, Exodus Lending must submit a report to the commissioner of commerce on the activities required of Exodus Lending under paragraphs (e) and (f). Until July 15, 2027, the report must detail, at a minimum,

each of the following for the prior calendar year and, after July 15, 2027, the report must detail, at a minimum, each of the following that relate to the activities of Exodus Lending under paragraph (f) for the prior calendar year:

(1) the total number of loans granted;

(2) the total number of participants granted loans;

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

(4) the average loan amount;

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

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

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

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

(i) No later than August 15, 2024, and annually thereafter until the appropriations under paragraphs (e) and (f) have been exhausted or canceled, the commissioner of commerce must submit a report to the chairs and ranking minority members of the legislative committees with primary jurisdiction over commerce and consumer protection. The report must detail the information collected by the commissioner of commerce under paragraph (h).

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

(k) The total base for administrative services under this subdivision is $10,042,000 in fiscal year 2026 and beyond.

Subd. 4. **Enforcement**	7,382,000	7,670,000

Appropriations by Fund		
General	7,174,000	7,455,000
Workers' Compensation	208,000	215,000

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

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

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

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

(e) $100,000 in the second year is for the creation and maintenance of the Mental Health Parity and Substance Abuse Accountability Office under Minnesota Statutes, section 62Q.465. The base for fiscal year 2026 is $225,000.

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

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

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

Appropriations by Fund		
General	1,128,000	1,168,000
Special Revenue	2,093,000	2,093,000

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

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

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

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

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

Subd. 6. **Insurance**		9,173,000	9,577,000
	Appropriations by Fund		
General	8,593,000	8,977,000	
Workers' Compensation	580,000	600,000	

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

(b) $318,000 each year is to conduct a feasibility study on a proposal to offer free primary care to Minnesotans. These are onetime appropriations.

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

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

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

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

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

(h) $20,000 each year is to pay membership dues for Minnesota to the National Conference of Insurance Legislators. The appropriations in this paragraph are onetime.

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

Sec. 3. **DEPARTMENT OF EDUCATION**

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

Appropriations by Fund	2024	2025
General	100,000	-0-

$100,000 in the first year is to issue grants of $50,000 each year to the Minnesota Council on Economic Education. This balance does not cancel but is available in the second year. This appropriation is onetime.

Sec. 4. **ATTORNEY GENERAL**

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

Appropriations by Fund	2024	2025
General	691,000	691,000

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

Subd. 2. **Excessive Price Increases to Generic Drugs**	549,000	549,000

$549,000 each year is for the duties under Minnesota Statutes, sections 62J.841 to 64J.845.

Subd. 3. **Report.**	142,000	142,000

(a) $142,000 each year is for a report on the effect of new and emerging technologies on the well-being of Minnesotans. The appropriations in this paragraph are onetime. The report must:

(1) evaluate the impact of technology companies and their products on the mental health and well-being of Minnesotans, with a focus on children;

(2) discuss proposed and enacted consumer protection laws related to the regulation of

technology companies in other jurisdictions; and

(3) include policy recommendations to the Minnesota legislature.

(b) The report is due beginning February 1, 2024, and by the same date the following year and must be filed according to Minnesota Statutes, section 3.195, with copies submitted to the chairs and ranking minority members of the legislative committees with jurisdiction over data and commerce.

Sec. 5. **DEPARTMENT OF HEALTH**

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

Appropriations by Fund

	2024	2025
General	74,000	56,000

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

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

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

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

Sec. 7. **TRANSFER FROM CONSUMER EDUCATION ACCOUNT.**

$100,000 in fiscal year 2024 is transferred from the consumer education account in the special revenue fund to the general fund.

Sec. 8. Laws 2022, chapter 93, article 1, section 2, subdivision 5, is amended to read:

Subd. 5. **Enforcement and Examinations**	-0-	522,000

$522,000 in fiscal year 2023 is for the auto theft prevention library under Minnesota Statutes, section 65B.84, subdivision 1, paragraph (d). This is a onetime appropriation and is available until June 30, 2024.

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

ARTICLE 2
INSURANCE POLICY

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

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

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

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

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

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

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

~~(f)~~ (g) Notwithstanding paragraphs (b) and (c), for all rate increases subject to review under section 2794 of the Public Health Services Act and any amendments to, or regulations, or guidance issued under the act that are filed with the commissioner on or after September 1, 2011, the commissioner:

(1) may acknowledge receipt of the information;

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

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

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

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

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

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

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

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

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

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

(1) a spouse of a named insured;

(2) a relative of a named insured; or

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

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

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

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

(1) an insured other than a named insured;

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

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

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

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

(2) a boat insurance policy;

(3) a personal excess liability policy; and

(4) a personal umbrella policy.

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

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

Subd. 6. **Election of coverage for boat insurance policies.** (a) An insurer issuing bodily injury liability coverage for a boat insurance policy under this section must notify a person at the time of sale of the person's rights under this section to decline coverage for insureds and be provided an updated quote reflecting the appropriate premium for the coverage provided.

(b) Named insureds must affirmatively make an election to decline coverage, in a form approved by the commissioner, after being informed that an updated quote will be provided. The election must be signed and dated, and is binding on all persons insured under the policy and to any renewal of the policy.

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

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

Subd. 7. **No endorsement required.** An endorsement, rider, or contract amendment is not required for this section to be effective.

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

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

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

(a) by township mutual fire insurance companies:

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

(2) for filing annual statements, $15;

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

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

(b) by other domestic and foreign companies including fraternals and reciprocal exchanges:

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

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

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

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

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

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

(c) the following general fees apply:

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

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

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

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

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

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

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

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

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

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

61A.031 SUICIDE PROVISIONS.

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

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

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

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

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

DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 3. **Provider discrimination prohibited.** All group policies and group subscriber contracts that provide benefits for mental or nervous disorder treatments in a hospital must

provide direct reimbursement for those services at a hospital or psychiatric residential treatment facility if performed by a mental health professional qualified according to section 245I.04, subdivision 2, to the extent that the services and treatment are within the scope of mental health professional licensure.

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

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

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

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

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

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

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

Subd. 1f. **Suspension based on entitlement to medical assistance.** (a) The policy or certificate must provide that benefits and premiums under the policy or certificate shall be suspended for any period that may be provided by federal regulation at the request of the

policyholder or certificate holder for the period, not to exceed 24 months, in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to this assistance.

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

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

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

Subd. 1h. **Limitations on denials, conditions, and pricing of coverage.** No health carrier issuing Medicare-related coverage in this state may impose preexisting condition limitations or otherwise deny or condition the issuance or effectiveness of any such coverage available for sale in this state, nor may it discriminate in the pricing of such coverage, because of the health status, claims experience, receipt of health care, medical condition, or age of an applicant where an application for such coverage is submitted: (1) prior to or during the six-month period beginning with the first day of the month in which an individual first enrolled for benefits under Medicare Part B; or (2) during the open enrollment period. This subdivision applies to each Medicare-related coverage offered by a health carrier regardless of whether the individual has attained the age of 65 years. If an individual who is enrolled in Medicare Part B due to disability status is involuntarily disenrolled due to loss of disability status, the individual is eligible for another six-month enrollment period provided

under this subdivision beginning the first day of the month in which the individual later becomes eligible for and enrolls again in Medicare Part B and during the open enrollment period. An individual who is or was previously enrolled in Medicare Part B due to disability status is eligible for another six-month enrollment period under this subdivision beginning the first day of the month in which the individual has attained the age of 65 years and either maintains enrollment in, or enrolls again in, Medicare Part B and during the open enrollment period. If an individual enrolled in Medicare Part B voluntarily disenrolls from Medicare Part B because the individual becomes enrolled under an employee welfare benefit plan, the individual is eligible for another six-month enrollment period, as provided in this subdivision, beginning the first day of the month in which the individual later becomes eligible for and enrolls again in Medicare Part B and during the open enrollment period.

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

Subd. 1p. **Renewal or continuation provisions.** Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy or certificate, and shall include any reservation by the issuer of the right to change premiums. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy or certificate, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy or certificate after the date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy or certificate shall require a signed acceptance by the insured. After the date of policy or certificate issue, a rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy or certificate term shall be agreed to in writing and signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, declaration page, or certificate. ~~If a Medicare supplement policy or certificate contains limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and be labeled as "preexisting condition limitations."~~

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

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

Subd. 1u. **Guaranteed issue for eligible persons.** (a)(1) Eligible persons are those individuals described in paragraph (b) who seek to enroll under the policy during the period specified in paragraph (c) and who submit evidence of the date of termination or disenrollment described in paragraph (b), or of the date of Medicare Part D enrollment, with the application for a Medicare supplement policy.

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

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

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

(2) the individual is enrolled with a Medicare Advantage organization under a Medicare Advantage plan under Medicare Part C, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under section 1894 of the federal Social Security Act,

and there are circumstances similar to those described in this clause that would permit discontinuance of the individual's enrollment with the provider if the individual were enrolled in a Medicare Advantage plan:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5)(i) the individual was enrolled under a Medicare supplement policy and terminates that enrollment and subsequently enrolls, for the first time, with any Medicare Advantage organization under a Medicare Advantage plan under Medicare Part C; any eligible organization under a contract under section 1876 of the federal Social Security Act, United States Code, title 42, section 1395mm (Medicare cost); any similar organization operating under demonstration project authority; any PACE provider under section 1894 of the federal Social Security Act, or a Medicare Select policy under section 62A.318 or the similar law of another state; and

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

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

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

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

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

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

(3) In the case of an individual described in paragraph (b), clause (4), item (i), the guaranteed issue period begins on the earlier of: (i) the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any; and (ii) the date that the applicable coverage is terminated, and ends on the date that is 63 days after the date the coverage is terminated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

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

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

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

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

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

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

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

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

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

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

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

To the best of your knowledge:

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

(a) If so, with which company?

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

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

(a) If so, please name the company.

(b) What kind of policy?

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

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

(b) Qualified Medicare Beneficiary (QMB), or

(c) full Medicaid Beneficiary?"

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

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

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

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

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the

applicant, before issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy or certificate the notice regarding replacement of Medicare supplement coverage.

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

"NOTICE TO APPLICANT REGARDING REPLACEMENT

OF MEDICARE SUPPLEMENT INSURANCE

(Insurance company's name and address)

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

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

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

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

..... Additional benefits

..... No change in benefits, but lower premiums

..... Fewer benefits and lower premiums

..... Other (please specify)

.....

.....

.....

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

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

~~(3) If you still wish to terminate your present policy or certificate and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy or certificate had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)~~

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

.....

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

.....

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

.....

(Date)

.....

(Applicant's Signature)

.....

(Date)

*Signature not required for direct response sales."

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

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) scientific and medical information on the mandated health benefit proposal, on the potential for harm or benefit to the patient, and on the comparative benefit or harm from alternative forms of treatment, and must include the results of at least one professionally

accepted and controlled trial comparing the medical consequences of the proposed therapy, alternative therapy, and no therapy;

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

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

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

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

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

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

(8) if the proposal applies to a qualified health plan as defined in section 62A.011, subdivision 7, the cost to the state to defray the cost of the mandated health benefit proposal using commercial market reimbursement rates in accordance with Code of Federal Regulations, title 45, section ~~155.70~~ 155.170.

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

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

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

Sec. 22. **[62J.841] DEFINITIONS.**

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

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

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

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

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

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

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

Sec. 23. **[62J.842] EXCESSIVE PRICE INCREASES PROHIBITED.**

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

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

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

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

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

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

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

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

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

Sec. 24. **[62J.843] REGISTERED AGENT AND OFFICE WITHIN THE STATE.**

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

Sec. 25. **[62J.844] ENFORCEMENT.**

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

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

Subd. 2. **Submission of drug cost statement and other information by manufacturer; investigation by attorney general.** (a) Within 45 days of receiving a notice under subdivision 1, the manufacturer of the generic or off-patent drug shall submit a drug cost statement to the attorney general. The statement must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 26. **[62J.845] PROHIBITION ON WITHDRAWAL OF GENERIC OR OFF-PATENT DRUGS FOR SALE.**

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

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

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

Sec. 27. **[62J.846] SEVERABILITY.**

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

Sec. 28. **[62J.85] CITATION.**

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

Sec. 29. **[62J.86] DEFINITIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 30. **[62J.87] PRESCRIPTION DRUG AFFORDABILITY BOARD.**

Subdivision 1. **Establishment.** The commissioner of commerce shall establish the Prescription Drug Affordability Board, which shall be governed as a board under section 15.012, paragraph (a), to protect consumers, state and local governments, health plan

companies, providers, pharmacies, and other health care system stakeholders from unaffordable costs of certain prescription drugs.

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

(1) seven voting members appointed by the governor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 31. **[62J.88] PRESCRIPTION DRUG AFFORDABILITY ADVISORY COUNCIL.**

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

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

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

(2) two members representing health care providers;

(3) one member representing health plan companies;

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

(5) one member representing government employee benefit plans;

(6) one member representing pharmaceutical manufacturers;

(7) one member who is a health services clinical researcher;

(8) one member who is a pharmacologist;

(9) one member representing the commissioner of health with expertise in health economics;

(10) one member representing pharmaceutical wholesalers;

(11) one member representing pharmacy benefit managers;

(12) one member from the Rare Disease Advisory Council;

(13) one member representing generic drug manufacturers;

(14) one member representing pharmaceutical distributors; and

(15) one member who is an oncologist who is not employed by, under contract with, or otherwise affiliated with a hospital.

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

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

Subd. 4. **Compensation.** Advisory council members may be compensated according to section 15.059, except that those advisory council members designated in subdivision 2, clauses (10) to (15), must not be compensated.

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

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

Sec. 32. **[62J.89] CONFLICTS OF INTEREST.**

Subdivision 1. **Definition.** For purposes of this section, "conflict of interest" means a financial or personal association that has the potential to bias or have the appearance of biasing a person's decisions in matters related to the board, the advisory council, or in the conduct of the board's or council's activities. A conflict of interest includes any instance in which a person, a person's immediate family member, including a spouse, parent, child, or

other legal dependent, or an in-law of any of the preceding individuals, has received or could receive a direct or indirect financial benefit of any amount deriving from the result or findings of a decision or determination of the board. For purposes of this section, a financial benefit includes honoraria, fees, stock, the value of the member's, immediate family member's, or in-law's stock holdings, and any direct financial benefit deriving from the finding of a review conducted under sections 62J.85 to 62J.95. Ownership of securities is not a conflict of interest if the securities are: (1) part of a diversified mutual or exchange traded fund; or (2) in a tax-deferred or tax-exempt retirement account that is administered by an independent trustee.

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

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

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

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

Sec. 33. **[62J.90] PRESCRIPTION DRUG PRICE INFORMATION; DECISION TO CONDUCT COST REVIEW.**

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

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

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

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

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

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

(4) generic drugs for which the WAC:

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

(A) a 30-day supply;

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

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

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

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

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

(c) The board shall make available to the public the names and related price information of the prescription drug products identified under this subdivision, with the exception of information determined by the board to be proprietary under the standards developed by the board under section 62J.91, subdivision 3, and information provided by the commissioner of health classified as not public data under section 13.02, subdivision 8a, or as trade secret information under section 13.37, subdivision 1, paragraph (b), or as trade secret information

under the Defend Trade Secrets Act of 2016, United States Code, title 18, section 1836, as amended.

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

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

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

Sec. 34. **[62J.91] PRESCRIPTION DRUG PRODUCT REVIEWS.**

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

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

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

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

(3) the price of therapeutic alternatives;

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

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

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

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

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

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

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

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

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

Sec. 35. **[62J.92] DETERMINATIONS; COMPLIANCE; REMEDIES.**

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

(1) extraordinary supply costs, if applicable;

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

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

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

(c) In determining whether a drug creates an affordability challenge or determining an upper payment limit amount, the board may not use cost-effectiveness analyses that include the cost-per-quality adjusted life year or similar measure to identify subpopulations for which a treatment would be less cost-effective due to severity of illness, age, or pre-existing

disability. For any treatment that extends life, if the board uses cost-effectiveness results, it must use results that weigh the value of all additional lifetime gained equally for all patients no matter their severity of illness, age, or pre-existing disability.

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

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

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

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

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

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

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

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

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

Sec. 36. **[62J.93] REPORTS.**

Beginning March 1, 2024, and each March 1 thereafter, the board shall submit a report to the governor and legislature on general price trends for prescription drug products and

the number of prescription drug products that were subject to the board's cost review and analysis, including the result of any analysis as well as the number and disposition of appeals and judicial reviews.

Sec. 37. **[62J.94] ERISA PLANS AND MEDICARE DRUG PLANS.**

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

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

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

Sec. 38. **[62J.95] SEVERABILITY.**

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

Sec. 39. Minnesota Statutes 2022, section 62K.10, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

(1) provider-covered person ratios by specialty;

(2) primary care professional-covered person ratios;

(3) geographic accessibility of providers;

(4) geographic variation and population dispersion;

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

(6) hours of operation;

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

(i) low-income persons;

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

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

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

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

EFFECTIVE DATE. The amendment to paragraph (a) is effective July 1, 2023. Paragraph (b) is effective January 1, 2025, and applies to health plans offered, issued, or renewed on or after that date.

Sec. 40. Minnesota Statutes 2022, section 62Q.096, is amended to read:

62Q.096 CREDENTIALING OF PROVIDERS.

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

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

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

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

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

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

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

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

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

(4) is accepting new patients; and

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

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

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

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

Sec. 41. Minnesota Statutes 2022, section 62Q.19, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(iii) consists of 40 or fewer licensed beds;

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

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

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

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

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

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

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

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

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

Sec. 42. Minnesota Statutes 2022, section 62Q.46, subdivision 1, is amended to read:

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

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

(2) immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved. For purposes of this clause, a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention is considered in effect after the recommendation has been adopted by the Director of the Centers for Disease Control and Prevention, and a recommendation is considered to be for routine use if the recommendation is listed on the Immunization Schedules of the Centers for Disease Control and Prevention;

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

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

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

(6) screenings for human immunodeficiency virus for:

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

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

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

(8) all postexposure prophylaxis when used for the prevention or treatment of human immunodeficiency virus, including but not limited to all postexposure prophylaxis as defined

in any guidance by the United States Preventive Services Task Force or the Centers for Disease Control.

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

(c) A health plan company is not required to provide coverage for any items or services specified in any recommendation or guideline described in paragraph (a) if the recommendation or guideline is no longer included as a preventive item or service as defined in paragraph (a). Annually, a health plan company must determine whether any additional items or services must be covered without cost-sharing requirements or whether any items or services are no longer required to be covered.

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

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

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

Sec. 43. Minnesota Statutes 2022, section 62Q.46, subdivision 3, is amended to read:

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

Sec. 44. **[62Q.465] MENTAL HEALTH PARITY AND SUBSTANCE ABUSE ACCOUNTABILITY OFFICE.**

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

(1) section 62Q.47;

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

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

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

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

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

Sec. 45. Minnesota Statutes 2022, section 62Q.47, is amended to read:

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

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

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

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

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

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

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

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

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

(1) 99492;

(2) 99493;

(3) 99494;

(4) G2214; and

(5) G0512.

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

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

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

(1) care directed by the primary care team;

(2) structured care management;

(3) regular assessments of clinical status using validated tools; and

(4) modification of treatment as appropriate.

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

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

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

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

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

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

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

Sec. 46. **[62Q.481] COST-SHARING FOR PRESCRIPTION DRUGS AND RELATED MEDICAL SUPPLIES TO TREAT CHRONIC DISEASE.**

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

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

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

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

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

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

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

Sec. 47. Minnesota Statutes 2022, section 62Q.735, subdivision 1, is amended to read:

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

(1) all attachments and exhibits;

(2) operating manuals;

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

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

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

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

Sec. 48. Minnesota Statutes 2022, section 62Q.735, subdivision 5, is amended to read:

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

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

Sec. 49. Minnesota Statutes 2022, section 62Q.76, is amended by adding a subdivision to read:

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

Sec. 50. Minnesota Statutes 2022, section 62Q.78, is amended by adding a subdivision to read:

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

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

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

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

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

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

(2) the dental provider contract states that the dental organization may enter into an agreement with a third party that would allow the third party to obtain the dental organization's rights and responsibilities as if the third party were the dental organization, and the dentist chose to participate in third-party access at the time the dental provider contract was entered into; and

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

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

(e) This subdivision does not apply when:

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

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

Sec. 52. Minnesota Statutes 2022, section 62Q.81, subdivision 4, is amended to read:

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

(1) ambulatory patient services;

(2) emergency services;

(3) hospitalization;

(4) laboratory services;

(5) maternity and newborn care;

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

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

(8) prescription drugs;

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

(10) rehabilitative and habilitative services and devices; and

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

Sec. 53. Minnesota Statutes 2022, section 62Q.81, is amended by adding a subdivision to read:

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

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

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

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

(3) offered for purchase to any individual.

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

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

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

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

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

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

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

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

Sec. 54. **[62W.15] CLINICIAN-ADMINISTERED DRUGS.**

Subdivision 1. **Definition.** (a) For purposes of this section, the following definition applies.

(b) "Clinician-administered drug" means an outpatient prescription drug other than a vaccine that:

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

(2) is typically administered:

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

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

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

(1) comply with all federal laws regulating the shipment of drugs, including but not limited to the U.S. Pharmacopeia General Chapter 800;

(2) in response to questions from a health care provider or pharmacy, provide access to a pharmacist or nurse employed by the specialty pharmacy 24 hours a day, 7 days a week;

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

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

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

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

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

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

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

(e) A pharmacy benefit manager, health carrier, health care provider, or pharmacist shall not require and may not deny the use of a home infusion or infusion site external to the

enrollee's provider office or clinic to administer a clinician-administered drug when requested by an enrollee and such services are covered by the health plan and are available and clinically appropriate as determined by the health care provider and delivered in accordance with state law.

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

Sec. 55. **[65A.298] HOMEOWNER'S INSURANCE; FORTIFIED PROGRAM STANDARDS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 56. **[65A.299] STRENGTHEN MINNESOTA HOMES PROGRAM.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) successfully complete the program training; and

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

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

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

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

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

(3) successfully complete the program training.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 57. **[65A.303] HOMEOWNER'S LIABILITY INSURANCE; DOGS.**

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

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

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

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

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

Sec. 58. Minnesota Statutes 2022, section 65B.49, is amended by adding a subdivision to read:

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

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

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

Sec. 59. Minnesota Statutes 2022, section 151.071, subdivision 1, is amended to read:

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

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

(2) refuse to renew a license or registration;

(3) revoke the license or registration;

(4) suspend the license or registration;

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

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

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

(7) reprimand the licensee or registrant.

Sec. 60. Minnesota Statutes 2022, section 151.071, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) fee splitting, including without limitation:

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

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

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

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

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

(20) failure to make reports as required by section 151.072 or to cooperate with an investigation of the board as required by section 151.074;

(21) knowingly providing false or misleading information that is directly related to the care of a patient unless done for an accepted therapeutic purpose such as the dispensing and administration of a placebo;

(22) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board must investigate any complaint of a violation of section 609.215, subdivision 1 or 2;

(23) for a pharmacist, practice of pharmacy under a lapsed or nonrenewed license. For a pharmacist intern, pharmacy technician, or controlled substance researcher, performing duties permitted to such individuals by this chapter or the rules of the board under a lapsed or nonrenewed registration. For a facility required to be licensed under this chapter, operation of the facility under a lapsed or nonrenewed license or registration; ~~and~~

(24) for a pharmacist, pharmacist intern, or pharmacy technician, termination or discharge from the health professionals services program for reasons other than the satisfactory completion of the program~~.~~; and

(25) for a manufacturer, a violation of section 62J.842 or 62J.845.

Sec. 61. Minnesota Statutes 2022, section 256B.0631, subdivision 1, is amended to read:

Subdivision 1. **Cost-sharing.** (a) Except as provided in subdivision 2, the medical assistance benefit plan shall include the following cost-sharing for all recipients~~, effective for services provided on or after September 1, 2011~~:

(1) $3 per nonpreventive visit, except as provided in paragraph (b). For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting

by a physician or physician assistant, chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or optometrist;

(2) $3.50 for nonemergency visits to a hospital-based emergency room, except that this co-payment shall be increased to $20 upon federal approval;

(3) $3 per brand-name drug prescription, $1 per generic drug prescription, and $1 per prescription for a brand-name multisource drug listed in preferred status on the preferred drug list, subject to a $12 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness;

(4) a family deductible equal to $2.75 per month per family and adjusted annually by the percentage increase in the medical care component of the CPI-U for the period of September to September of the preceding calendar year, rounded to the next higher five-cent increment; ~~and~~

(5) total monthly cost-sharing must not exceed five percent of family income. For purposes of this paragraph, family income is the total earned and unearned income of the individual and the individual's spouse, if the spouse is enrolled in medical assistance and also subject to the five percent limit on cost-sharing. This paragraph does not apply to premiums charged to individuals described under section 256B.057, subdivision 9~~.~~; and

(6) cost-sharing for prescription drugs and related medical supplies to treat chronic disease must comply with the requirements of section 62Q.481.

(b) Recipients of medical assistance are responsible for all co-payments and deductibles in this subdivision.

(c) Notwithstanding paragraph (b), the commissioner, through the contracting process under sections 256B.69 and 256B.692, may allow managed care plans and county-based purchasing plans to waive the family deductible under paragraph (a), clause (4). The value of the family deductible shall not be included in the capitation payment to managed care plans and county-based purchasing plans. Managed care plans and county-based purchasing plans shall certify annually to the commissioner the dollar value of the family deductible.

(d) Notwithstanding paragraph (b), the commissioner may waive the collection of the family deductible described under paragraph (a), clause (4), from individuals and allow long-term care and waivered service providers to assume responsibility for payment.

(e) Notwithstanding paragraph (b), the commissioner, through the contracting process under section 256B.0756 shall allow the pilot program in Hennepin County to waive

co-payments. The value of the co-payments shall not be included in the capitation payment amount to the integrated health care delivery networks under the pilot program.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 62. Minnesota Statutes 2022, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and section 256L.12 shall be entered into or renewed on a calendar year basis. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B and 256L is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B and 256L established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) The commissioner shall withhold five percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. Clinical or utilization performance targets and their related criteria must consider evidence-based research and reasonable interventions when available or applicable to the populations served, and must be developed with input from external clinical experts and stakeholders, including managed care plans, county-based purchasing plans, and providers. The managed care or county-based purchasing plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23.

(d) The commissioner shall require that managed care plans:

(1) use the assessment and authorization processes, forms, timelines, standards, documentation, and data reporting requirements, protocols, billing processes, and policies consistent with medical assistance fee-for-service or the Department of Human Services contract requirements for all personal care assistance services under section 256B.0659 and community first services and supports under section 256B.85; ~~and~~

(2) by January 30 of each year that follows a rate increase for any aspect of services under section 256B.0659 or 256B.85, inform the commissioner and the chairs and ranking minority members of the legislative committees with jurisdiction over rates determined under section 256B.851 of the amount of the rate increase that is paid to each personal care assistance provider agency with which the plan has a contract~~.~~; and

(3) use a six-month timely filing standard and provide an exemption to the timely filing timeliness for the resubmission of claims where there has been a denial, request for more information, or system issue.

(e) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the health plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. For 2012, the reduction shall be based on the health plan's utilization in 2009. To earn the return of the withhold each subsequent year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than ten percent of the plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, compared to the previous measurement year until the final performance target is reached. When measuring performance, the commissioner must consider the difference in health risk in a managed care or county-based purchasing plan's membership in the baseline year compared to the measurement year, and work with the managed care or county-based purchasing plan to account for differences that they agree are significant.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue for each consecutive contract period until the plan's emergency room utilization rate for state health care program enrollees is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance and MinnesotaCare enrollees for calendar year 2009. Hospitals shall cooperate with the health plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(f) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the plan's hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than five percent of the plan's hospital admission rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, compared to the previous calendar year until the final performance target is reached. When measuring performance, the commissioner must consider the difference in health risk in a managed care or county-based purchasing plan's membership in the baseline year compared to the measurement year, and work with the managed care or county-based purchasing plan to account for differences that they agree are significant.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue until there is a 25 percent reduction in the hospital admission rate compared to the hospital admission rates in calendar year 2011, as determined by the commissioner. The hospital admissions in this performance target do not include the admissions applicable to the subsequent hospital admission performance target under paragraph (g). Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(g) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the plan's hospitalization admission rates for subsequent hospitalizations within 30 days of a previous hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare

enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of the subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, of no less than five percent compared to the previous calendar year until the final performance target is reached.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a qualifying reduction in the subsequent hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph must continue for each consecutive contract period until the plan's subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that must be returned to the hospitals if the performance target is achieved.

(h) Effective for services rendered on or after January 1, 2013, through December 31, 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(i) Effective for services rendered on or after January 1, 2014, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(j) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section that is reasonably expected to be returned.

(k) Contracts between the commissioner and a prepaid health plan are exempt from the set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and 7.

(l) The return of the withhold under paragraphs (h) and (i) is not subject to the requirements of paragraph (c).

(m) Managed care plans and county-based purchasing plans shall maintain current and fully executed agreements for all subcontractors, including bargaining groups, for administrative services that are expensed to the state's public health care programs. Subcontractor agreements determined to be material, as defined by the commissioner after taking into account state contracting and relevant statutory requirements, must be in the form of a written instrument or electronic document containing the elements of offer, acceptance, consideration, payment terms, scope, duration of the contract, and how the subcontractor services relate to state public health care programs. Upon request, the commissioner shall have access to all subcontractor documentation under this paragraph. Nothing in this paragraph shall allow release of information that is nonpublic data pursuant to section 13.02.

Sec. 63. Minnesota Statutes 2022, section 256L.03, subdivision 5, is amended to read:

Subd. 5. **Cost-sharing.** (a) Co-payments, coinsurance, and deductibles do not apply to children under the age of 21 and to American Indians as defined in Code of Federal Regulations, title 42, section 600.5.

(b) The commissioner shall adjust co-payments, coinsurance, and deductibles for covered services in a manner sufficient to maintain the actuarial value of the benefit to 94 percent. The cost-sharing changes described in this paragraph do not apply to eligible recipients or services exempt from cost-sharing under state law. The cost-sharing changes described in this paragraph shall not be implemented prior to January 1, 2016.

(c) The cost-sharing changes authorized under paragraph (b) must satisfy the requirements for cost-sharing under the Basic Health Program as set forth in Code of Federal Regulations, title 42, sections 600.510 and 600.520.

(d) Cost-sharing for prescription drugs and related medical supplies to treat chronic disease must comply with the requirements of section 62Q.481.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 64. **AUTOMOTIVE SELF-INSURANCE; RULES AMENDMENT; EXPEDITED RULEMAKING.**

Subdivision 1. **Self-insurance working capital condition.** The commissioner of commerce must amend Minnesota Rules, part 2770.6500, subpart 2, item B, subitem (5), to require the commissioner's grant of self-insurance authority to an applicant to be based on the applicant's net working capital in lieu of the applicant's net funds flow.

Subd. 2. **Commissioner discretion to grant self-insurance authority.** The commissioner of commerce must amend Minnesota Rules, part 2770.6500, subpart 2, item D, to, notwithstanding any other provision of Minnesota Rules, part 2770.6500, permit the commissioner to grant self-insurance authority to an applicant that is not a political subdivision and that has not had positive net income or positive working capital in at least three years of the last five-year period if the applicant's working capital, debt structure, profitability, and overall financial integrity of the applicant and its parent company, if one exists, demonstrate a continuing ability of the applicant to satisfy any financial obligations that have been and might be incurred under the no-fault act.

Subd. 3. **Working capital.** The commissioner of commerce must define working capital for the purposes of Minnesota Rules, part 2770.6500.

Subd. 4. **Commissioner discretion to revoke self-insurance authority.** The commissioner of commerce must amend Minnesota Rules, part 2770.7300, to permit, in lieu of require, the commissioner to revoke a self-insurer's authorization to self-insure based on the commissioner's determinations under Minnesota Rules, part 2770.7300, items A and B.

Subd. 5. **Expedited rulemaking authorized.** The commissioner of commerce may use the expedited rulemaking process under Minnesota Statutes, section 14.389, to amend rules under this section.

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

Sec. 65. **EVALUATION OF EXISTING STATUTORY HEALTH BENEFIT MANDATES.**

Subdivision 1. **Evaluation process and content.** Beginning August 1, 2023, and annually thereafter for the next five calendar years, the commissioner of commerce shall conduct an evaluation of the economic cost and health benefits of one state-required benefit included in Minnesota's EHB-benchmark plan, as defined in Code of Federal Regulations, title 45, section 156.20. The mandated benefit to be studied each year must be chosen from a list

developed by the chairs of the house of representatives and senate commerce committees, in consultation with the ranking minority members of the house of representatives and senate commerce committees. The chairs and ranking minority members of the house of representatives and senate commerce committees must agree upon and inform the commissioner of at least one mandate to be reviewed for the period between August 1, 2023, and August 1, 2024. The commissioner shall consult with the commissioner of health and clinical and actuarial experts to assist in the evaluation and synthesis of available evidence. The commissioner may obtain public input as part of the evaluation. At a minimum, the evaluation must consider the following:

(1) cost for services;

(2) the share of Minnesotans' health insurance premiums that are tied to each current mandated benefit;

(3) utilization of services;

(4) contribution to individual and public health;

(5) extent to which the mandate conforms with existing standards of care in terms of appropriateness or evidence-based medicine;

(6) the historical context in which the mandate was enacted, including how the mandate interacts with other required benefits; and

(7) other relevant criteria of effectiveness and efficacy as determined by the commissioner in consultation with the commissioner of health.

Subd. 2. **Report to legislature.** The commissioner must submit a written report on the evaluation to the chairs and ranking minority members of the legislative committees with jurisdiction over health insurance policy and finance no later than 180 days after the commissioner receives notification from a chair, as required under Minnesota Statutes, section 62J.26, subdivision 3.

Sec. 66. **REPEALER.**

Minnesota Statutes 2022, section 62A.31, subdivisions 1b and 1i, are repealed.

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to policies offered, issued, or renewed on or after that date.

ARTICLE 3
FINANCIAL INSTITUTIONS

Section 1. Minnesota Statutes 2022, section 46.131, subdivision 11, is amended to read:

Subd. 11. **Financial institutions account; appropriation.** (a) The financial institutions account is created as a separate account in the special revenue fund. Earnings, including interest, dividends, and any other earnings arising from account assets, must be credited to the account.

(b) The account consists of funds received from assessments under subdivision 7, examination fees under subdivision 8, and funds received pursuant to subdivision 10 and the following provisions: sections 46.04; 46.041; 46.048, subdivision 1; 47.101; 47.54, subdivision 1; 47.60, subdivision 3; 47.62, subdivision 4; 48.61, subdivision 7, paragraph (b); 49.36, subdivision 1; 52.203; ~~53B.09; 53B.11, subdivision 1;~~ 53B.38; 53B.41; 53B.43; 53C.02; 56.02; 58.10; 58A.045, subdivision 2; 59A.03; 216C.437, subdivision 12; 332A.04; and 332B.04.

(c) Funds in the account are annually appropriated to the commissioner of commerce for activities under this section.

Sec. 2. Minnesota Statutes 2022, section 47.0153, subdivision 1, is amended to read:

Subdivision 1. **Emergency closings.** When the officers of a financial institution are of the opinion that an emergency exists, or is impending, which affects, or may affect, a financial institution's offices, they shall have the authority, in the reasonable exercise of their discretion, to determine not to open any of its offices on any business day or, if having opened, to close an office during the continuation of the emergency, even if the commissioner does not issue a proclamation of emergency. The office closed shall remain closed until the time that the officers determine the emergency has ended, and for the further time reasonably necessary to reopen. No financial institution office shall remain closed for more than 48 consecutive hours in a Monday through Friday period, excluding other legal holidays, without the prior approval of the commissioner.

Sec. 3. Minnesota Statutes 2022, section 47.59, subdivision 2, is amended to read:

Subd. 2. **Application.** Extensions of credit or purchases of extensions of credit by financial institutions under sections 47.20, 47.21, 47.201, 47.204, 47.58, ~~47.60,~~ 48.153, 48.185, 48.195, 59A.01 to 59A.15, 334.01, 334.011, 334.012, 334.022, 334.06, and 334.061 to 334.19 may, but need not, be made according to those sections in lieu of the authority

set forth in this section to the extent those sections authorize the financial institution to make extensions of credit or purchase extensions of credit under those sections. If a financial institution elects to make an extension of credit or to purchase an extension of credit under those other sections, the extension of credit or the purchase of an extension of credit is subject to those sections and not this section, except this subdivision, and except as expressly provided in those sections. A financial institution may also charge an organization a rate of interest and any charges agreed to by the organization and may calculate and collect finance and other charges in any manner agreed to by that organization. Except for extensions of credit a financial institution elects to make under section 334.01, 334.011, 334.012, 334.022, 334.06, or 334.061 to 334.19, chapter 334 does not apply to extensions of credit made according to this section or the sections listed in this subdivision. This subdivision does not authorize a financial institution to extend credit or purchase an extension of credit under any of the sections listed in this subdivision if the financial institution is not authorized to do so under those sections. A financial institution extending credit under any of the sections listed in this subdivision shall specify in the promissory note, contract, or other loan document the section under which the extension of credit is made.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 4. Minnesota Statutes 2022, section 47.60, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the terms defined have the meanings given them:

(a) "Consumer small loan" is a loan transaction in which cash is advanced to a borrower for the borrower's own personal, family, or household purpose. A consumer small loan is a short-term, unsecured loan to be repaid in a single installment. The cash advance of a consumer small loan is equal to or less than $350. A consumer small loan includes an indebtedness evidenced by but not limited to a promissory note or agreement to defer the presentation of a personal check for a fee.

(b) "Consumer small loan lender" is a financial institution as defined in section 47.59 or a business entity registered with the commissioner and engaged in the business of making consumer small loans.

(c) "Annual percentage rate" means a measure of the cost of credit, expressed as a yearly rate, that relates the amount and timing of value received by the consumer to the amount and timing of payments made. Annual percentage interest rate includes all interest, finance

charges, and fees. The annual percentage rate must be determined in accordance with either the actuarial method or the United States Rule method.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 5. Minnesota Statutes 2022, section 47.60, subdivision 2, is amended to read:

Subd. 2. **Authorization, terms, conditions, and prohibitions.** (a) In ~~lieu of the interest, finance charges, or fees in any other law~~ connection with a consumer small loan, a consumer small loan lender may charge ~~the following:~~ an annual percentage rate of up to 50 percent. No other charges or payments are permitted or may be received by the lender in connection with a consumer small loan.

~~(1) on any amount up to and including $50, a charge of $5.50 may be added;~~

~~(2) on amounts in excess of $50, but not more than $100, a charge may be added equal to ten percent of the loan proceeds plus a $5 administrative fee;~~

~~(3) on amounts in excess of $100, but not more than $250, a charge may be added equal to seven percent of the loan proceeds with a minimum of $10 plus a $5 administrative fee;~~

~~(4) for amounts in excess of $250 and not greater than the maximum in subdivision 1, paragraph (a), a charge may be added equal to six percent of the loan proceeds with a minimum of $17.50 plus a $5 administrative fee.~~

(b) The term of a loan made under this section shall be for no more than 30 calendar days.

(c) After maturity, the contract rate must not exceed 2.75 percent per month of the remaining loan proceeds after the maturity date calculated at a rate of 1/30 of the monthly rate in the contract for each calendar day the balance is outstanding.

(d) No insurance charges or other charges must be permitted to be charged, collected, or imposed on a consumer small loan except as authorized in this section.

(e) On a loan transaction in which cash is advanced in exchange for a personal check, a return check charge may be charged as authorized by section 604.113, subdivision 2, paragraph (a). The civil penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded or assessed against the borrower.

(f) A loan made under this section must not be repaid by the proceeds of another loan made under this section by the same lender or related interest. The proceeds from a loan

made under this section must not be applied to another loan from the same lender or related interest. No loan to a single borrower made pursuant to this section shall be split or divided and no single borrower shall have outstanding more than one loan with the result of collecting a higher charge than permitted by this section or in an aggregate amount of principal exceed at any one time the maximum of $350.

(g) A loan made under this section with an annual percentage rate that exceeds 36 percent must comply with section 47.603.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 6. Minnesota Statutes 2022, section 47.60, is amended by adding a subdivision to read:

Subd. 8. **No evasion.** (a) A person must not engage in any device, subterfuge, or pretense to evade the requirements of this section, including but not limited to:

(1) making loans disguised as a personal property sale and leaseback transaction;

(2) disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services; or

(3) making, offering, assisting, or arranging for a debtor to obtain a loan with a greater rate or amount of interest, consideration, charge, or payment than is permitted by this section through any method, including mail, telephone, Internet, or any electronic means, regardless of whether a person has a physical location in Minnesota.

(b) A person is a consumer small loan lender subject to the requirements of this section notwithstanding the fact that a person purports to act as an agent or service provider, or acts in another capacity for another person that is not subject to this section, if a person:

(1) directly or indirectly holds, acquires, or maintains the predominant economic interest, risk, or reward in a loan or lending business; or

(2) both: (i) markets, solicits, brokers, arranges, or facilitates a loan; and (ii) holds or holds the right, requirement, or first right of refusal to acquire loans, receivables, or other direct or interest in a loan.

(c) A person is a consumer small loan lender subject to the requirements of this section if the totality of the circumstances indicate that a person is a lender and the transaction is structured to evade the requirements of this section. Circumstances that weigh in favor of

a person being a lender in a transaction include but are not limited to instances where a person:

(1) indemnifies, insures, or protects a person not subject to this section from any costs or risks related to a loan;

(2) predominantly designs, controls, or operates lending activity;

(3) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of a lending business; or

(4) purports to act as an agent or service provider, or acts in another capacity, for a person not subject to this section while acting directly as a lender in one or more states.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 7. Minnesota Statutes 2022, section 47.601, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Annual percentage rate" has the meaning given in section 47.60, subdivision 1.

~~(b)~~ (c) "Borrower" means an individual who obtains a consumer short-term loan primarily for personal, family, or household purposes.

~~(c)~~ (d) "Commissioner" means the commissioner of commerce.

~~(d)~~ (e) "Consumer short-term loan" means a loan to a borrower which has a principal amount, or an advance on a credit limit, of ~~$1,000~~ $1,300 or less and requires a minimum payment within 60 days of loan origination or credit advance of more than 25 percent of the principal balance or credit advance. For the purposes of this section, each new advance of money to a borrower under a consumer short-term loan agreement constitutes a new consumer short-term loan. A "consumer short-term loan" does not include any transaction made under chapter 325J or a loan made by a consumer short-term lender where, in the event of default on the loan, the sole recourse for recovery of the amount owed, other than a lawsuit for damages for the debt, is to proceed against physical goods pledged by the borrower as collateral for the loan.

~~(e)~~ (f) "Consumer short-term lender" means an individual or entity engaged in the business of making or arranging consumer short-term loans, other than a state or federally chartered bank, savings bank, or credit union. For the purposes of this paragraph, arranging consumer

short-term loans includes but is not limited to any substantial involvement in facilitating, marketing, lead-generating, underwriting, servicing, or collecting consumer short-term loans.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 8. Minnesota Statutes 2022, section 47.601, subdivision 2, is amended to read:

Subd. 2. **Consumer short-term loan contract.** (a) No contract or agreement between a consumer short-term loan lender and a borrower residing in Minnesota may contain the following:

(1) a provision selecting a law other than Minnesota law under which the contract is construed or enforced;

(2) a provision choosing a forum for dispute resolution other than the state of Minnesota; or

(3) a provision limiting class actions against a consumer short-term lender for violations of subdivision 3 or for making consumer short-term loans:

(i) without a required license issued by the commissioner; or

(ii) in which interest rates, fees, charges, or loan amounts exceed those allowable under section ~~47.59, subdivision 6, or~~ 47.60, subdivision 2~~, other than by de minimis amounts if no pattern or practice exists~~.

(b) Any provision prohibited by paragraph (a) is void and unenforceable.

(c) A consumer short-term loan lender must furnish a copy of the written loan contract to each borrower. The contract and disclosures must be written in the language in which the loan was negotiated with the borrower and must contain:

(1) the name; address, which may not be a post office box; and telephone number of the lender making the consumer short-term loan;

(2) the name and title of the individual employee or representative who signs the contract on behalf of the lender;

(3) an itemization of the fees and interest charges to be paid by the borrower;

(4) in bold, 24-point type, the annual percentage rate as computed under United States Code, chapter 15, section 1606; and

(5) a description of the borrower's payment obligations under the loan.

(d) The holder or assignee of a check or other instrument evidencing an obligation of a borrower in connection with a consumer short-term loan takes the instrument subject to all claims by and defenses of the borrower against the consumer short-term lender.

(e) In connection with a consumer short-term loan, a consumer short-term loan lender may charge an annual percentage rate of up to 50 percent. No other charges or payments are permitted or may be received by the lender in connection with a consumer short-term loan.

(f) A loan made under this section with an annual percentage rate that exceeds 36 percent must comply with section 47.603.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 9. Minnesota Statutes 2022, section 47.601, is amended by adding a subdivision to read:

Subd. 5a. **No evasion.** (a) A person must not engage in any device, subterfuge, or pretense to evade the requirements of this section, including but not limited to:

(1) making loans disguised as a personal property sale and leaseback transaction;

(2) disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services; or

(3) making, offering, assisting, or arranging for a debtor to obtain a loan with a greater rate or amount of interest, consideration, charge, or payment than is permitted by this section through any method, including mail, telephone, Internet, or any electronic means, regardless of whether a person has a physical location in Minnesota.

(b) A person is a consumer short-term loan lender subject to the requirements of this section notwithstanding the fact that a person purports to act as an agent or service provider, or acts in another capacity for another person that is not subject to this section, if a person:

(1) directly or indirectly holds, acquires, or maintains the predominant economic interest, risk, or reward in a loan or lending business; or

(2) both: (i) markets, solicits, brokers, arranges, or facilitates a loan; and (ii) holds or holds the right, requirement, or first right of refusal to acquire loans, receivables, or other direct or interest in a loan.

(c) A person is a consumer short-term loan lender subject to the requirements of this section if the totality of the circumstances indicate that a person is a lender and the transaction is structured to evade the requirements of this section. Circumstances that weigh in favor of a person being a lender in a transaction include but are not limited to instances where a person:

(1) indemnifies, insures, or protects a person not subject to this section from any costs or risks related to a loan;

(2) predominantly designs, controls, or operates lending activity;

(3) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of a lending business; or

(4) purports to act as an agent or service provider, or acts in another capacity, for a person not subject to this section while acting directly as a lender in one or more states.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 10. Minnesota Statutes 2022, section 47.601, subdivision 6, is amended to read:

Subd. 6. **Penalties for violation; private right of action.** (a) Except for a "bona fide error" as set forth under United States Code, chapter 15, section 1640, subsection (c), an individual or entity who violates subdivision 2 ~~or~~, 3, or 5a is liable to the borrower for:

(1) all money collected or received in connection with the loan;

(2) actual, incidental, and consequential damages;

(3) statutory damages of up to $1,000 per violation;

(4) costs, disbursements, and reasonable attorney fees; and

(5) injunctive relief.

(b) In addition to the remedies provided in paragraph (a), a loan is void, and the borrower is not obligated to pay any amounts owing if the loan is made:

(1) by a consumer short-term lender who has not obtained an applicable license from the commissioner;

(2) in violation of any provision of subdivision 2 or 3; or

(3) in which interest, fees, charges, or loan amounts exceed the interest, fees, charges, or loan amounts allowable under ~~sections 47.59, subdivision 6, and~~ section 47.60, subdivision 2.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 11. **[47.603] ABILITY TO REPAY ANALYSIS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Annual percentage rate" has the meaning given in section 47.60, subdivision 1.

(c) "Basic living expenses" means expenditures, other than payments for major financial obligations, that a borrower makes for goods and services that are necessary to maintain: (1) the borrower's health, welfare, and ability to produce income; and (2) the health and welfare of the members of the borrower's household who are financially dependent on the borrower.

(d) "Borrower" means an individual who seeks to obtain a payday loan or a payday advance.

(e) "Consumer credit report" means a consumer report, as defined in section 603(d) of the Fair Credit Reporting Act, United States Code, title 15, section 1681a(d), obtained from a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined in section 603(p) of the Fair Credit Reporting Act, United States Code, title 15, section 1681a(p).

(f) "Debt-to-income ratio" means the ratio, expressed as a percentage, comparing (1) the sum of the debt amounts that the lender projects will be payable by the borrower, including major financial obligations, outstanding loans other than the payday loan, the payday loan payment, all other debt obligations, and basic living expenses, to (2) the net income that the lender projects the borrower will receive during the loan period.

(g) "Major financial obligations" means the sum of:

(1) a borrower's housing expense;

(2) outstanding loans, including any other payday loans or payday advances; and

(3) all other debt obligations, including without limitation child support and alimony obligations.

(h) "Net income" means the total amount of income received by the borrower during the loan period, as demonstrated by documentation evidencing proof of income.

(i) "Payday lender" means a consumer small lender under section 47.60 or consumer short-term lender under section 47.601.

(j) "Payday loan" means a consumer small loan under section 47.60 or a consumer short-term loan under section 47.601.

(k) "Payday advance" means a consumer small loan under section 47.60 or a consumer short-term loan under section 47.601 that is offered under a line of credit.

(l) "Payday loan payment" means the total payment due for the payday loan at the end of the payday loan period. Payday loan payment includes all principal, interest, charges, and fees.

Subd. 2. **Applicability.** This section applies to all payday loans with an annual percentage rate that exceeds 36 percent.

Subd. 3. **Ability to repay determination required.** A payday lender must not make a payday loan or permit a borrower to obtain a payday advance unless the lender first determines, based on an analysis that complies with subdivision 5, that the borrower has the ability to make the payday loan payment when the payday loan payment comes due at the end of the loan period. For purposes of this subdivision, each payday advance constitutes a new loan and requires a new ability to repay determination.

Subd. 4. **Ability to repay; borrower information determination required.** (a) To conduct an ability to repay analysis, a payday lender must first obtain commercially reasonable documented evidence of the borrower's net income, major financial obligations, and basic living expenses. To the extent documentation is not available for any of the borrower's basic living expenses, the lender may reasonably rely on a written, signed statement by the borrower indicating the specific basic living expenses.

(b) If the payday lender obtains a borrower's consumer credit report, there is a presumption that a payday lender has obtained commercially reasonable documented evidence of:

(1) outstanding loans other than the payday loan or payday advance; and

(2) all other debt obligations, without limitation, except for child support and alimony obligations.

(c) For a borrower's required payments under child support or alimony obligations, the lender must obtain a consumer credit report. If the report does not include a child support or spousal maintenance obligation, as applicable, the lender may reasonably rely on a written, signed statement by the borrower indicating the child support payment or spousal maintenance payments, as applicable.

Subd. 5. **Ability to pay analysis; determination of ability to pay.** (a) A payday lender's determination of a borrower's ability to repay a payday loan or payday advance must be based on the calculation of the borrower's debt-to-income ratio for the loan period.

(b) A payday lender's ability to repay determination is reasonable if, based on the calculated debt-to-income ratio for the loan period, the borrower can make payments for all major financial obligations, make all payments under the loan, and meet basic living expenses during the period ending 30 days after repayment of the loan.

Subd. 6. **Violations.** A payday lender that fails to comply with this section is subject to: (1) the penalties and enforcement under section 47.601, subdivisions 6 and 7; and (2) revocation of a filing or license, as provided under section 47.60, subdivision 3, or section 45.027, subdivision 7.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2024, and applies to payday loans and payday advances originated on or after that date.

Sec. 12. **[48.591] CLIMATE RISK DISCLOSURE SURVEY.**

Subdivision 1. **Requirement.** By July 30 each year, a banking institution with more than $1,000,000,000 in assets must submit a completed climate risk disclosure survey to the commissioner. The commissioner must provide the form used to submit a climate risk disclosure survey.

Subd. 2. **Data.** Data submitted to the commissioner under this section are public, except that trade secret information is nonpublic under section 13.37.

Sec. 13. **[52.065] CLIMATE RISK DISCLOSURE SURVEY.**

Subdivision 1. **Requirement.** By July 30 each year, a credit union with more than $1,000,000,000 in assets must submit a completed climate risk disclosure survey to the commissioner. The commissioner must provide the form used to submit a climate risk disclosure survey.

Subd. 2. **Data.** Data submitted to the commissioner under this section are public, except that trade secret information is nonpublic under section 13.37.

Sec. 14. Minnesota Statutes 2022, section 53.04, subdivision 3a, is amended to read:

Subd. 3a. **Loans.** (a) The right to make loans, secured or unsecured, at the rates and on the terms and other conditions permitted under chapters 47 and 334. Loans made under this authority must be in amounts in compliance with section 53.05, clause (7). A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8. A licensee making a loan that is a consumer small loan, as defined in section 47.60, subdivision 1, paragraph (a), must comply with section 47.60. A licensee making a loan that is a consumer short-term loan, as defined in section 47.601, subdivision 1, paragraph (d), must comply with section 47.601.

(b) Loans made under this subdivision may be secured by real or personal property, or both. If the proceeds of a loan secured by a first lien on the borrower's primary residence are used to finance the purchase of the borrower's primary residence, the loan must comply with the provisions of section 47.20.

(c) An agency or instrumentality of the United States government or a corporation otherwise created by an act of the United States Congress or a lender approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified by the Federal Home Loan Mortgage Corporation, or approved or certified by the Federal National Mortgage Association, that engages in the business of purchasing or taking assignments of mortgage loans and undertakes direct collection of payments from or enforcement of rights against borrowers arising from mortgage loans, is not required to obtain a certificate of authorization under this chapter in order to purchase or take assignments of mortgage loans from persons holding a certificate of authorization under this chapter.

(d) This subdivision does not authorize an industrial loan and thrift company to make loans under an overdraft checking plan.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2023, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 15. **[53B.28] DEFINITIONS.**

Subdivision 1. **Terms.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Acting in concert.** "Acting in concert" means persons knowingly acting together with a common goal of jointly acquiring control of a licensee, whether or not pursuant to an express agreement.

Subd. 3. **Authorized delegate.** "Authorized delegate" means a person a licensee designates to engage in money transmission on behalf of the licensee.

Subd. 4. **Average daily money transmission liability.** "Average daily money transmission liability" means the amount of the licensee's outstanding money transmission obligations in Minnesota at the end of each day in a given period of time, added together, and divided by the total number of days in the given period of time. For purposes of calculating average daily money transmission liability under this chapter for any licensee required to do so, the given period of time shall be the quarters ending March 31, June 30, September 30, and December 31.

Subd. 5. **Bank Secrecy Act.** "Bank Secrecy Act" means the Bank Secrecy Act under United States Code, title 31, section 5311, et seq., and the Bank Secrecy Act's implementing regulations, as amended and recodified from time to time.

Subd. 6. **Closed loop stored value.** "Closed loop stored value" means stored value that is redeemable by the issuer only for a good or service provided by the issuer, the issuer's affiliate, the issuer's franchisees, or an affiliate of the issuer's franchisees, except to the extent required by applicable law to be redeemable in cash for the good or service's cash value.

Subd. 7. **Control.** "Control" means:

(1) the power to vote, directly or indirectly, at least 25 percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

(2) the power to elect or appoint a majority of key individuals or executive officers, managers, directors, trustees, or other persons exercising managerial authority of a person in control of a licensee; or

(3) the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

Subd. 8. **Eligible rating.** "Eligible rating" means a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher or the equivalent from any other eligible rating service. Short-term credit ratings are

deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

Subd. 9. **Eligible rating service.** "Eligible rating service" means any Nationally Recognized Statistical Rating Organization (NRSRO), as defined by the United States Securities and Exchange Commission and any other organization designated by the commissioner by rule or order.

Subd. 10. **Federally insured depository financial institution.** "Federally insured depository financial institution" means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company organized under the laws of the United States or any state of the United States, when the bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company has federally insured deposits.

Subd. 11. **In Minnesota.** "In Minnesota" means at a physical location within the state of Minnesota for a transaction requested in person. For a transaction requested electronically or by telephone, the provider of money transmission may determine if the person requesting the transaction is in Minnesota by relying on other information provided by the person regarding the location of the individual's residential address or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have that indicate the location, including but not limited to an address associated with an account.

Subd. 12. **Individual.** "Individual" means a natural person.

Subd. 13. **Key individual.** "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, including but not limited to as an executive officer, manager, director, or trustee.

Subd. 14. **Licensee.** "Licensee" means a person licensed under this chapter.

Subd. 15. **Material litigation.** "Material litigation" means litigation that, according to United States generally accepted accounting principles, is significant to a person's financial health and would be required to be disclosed in the person's annual audited financial statements, report to shareholders, or similar records.

Subd. 16. **Money.** "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. Money includes a monetary unit of account

established by an intergovernmental organization or by agreement between two or more governments.

Subd. 17. **Monetary value.** "Monetary value" means a medium of exchange, whether or not redeemable in money.

Subd. 18. **Money transmission.** (a) "Money transmission" means:

(1) selling or issuing payment instruments to a person located in this state;

(2) selling or issuing stored value to a person located in this state; or

(3) receiving money for transmission from a person located in this state.

(b) Money includes payroll processing services. Money does not include the provision solely of online or telecommunications services or network access.

Subd. 19. **Money services business accredited state or MSB accredited state.** "Money services businesses accredited state" or "MSB accredited state" means a state agency that is accredited by the Conference of State Bank Supervisors and Money Transmitter Regulators Association for money transmission licensing and supervision.

Subd. 20. **Multistate licensing process.** "Multistate licensing process" means any agreement entered into by and among state regulators relating to coordinated processing of applications for money transmission licenses, applications for the acquisition of control of a licensee, control determinations, or notice and information requirements for a change of key individuals.

Subd. 21. **NMLS.** "NMLS" means the Nationwide Multistate Licensing System and Registry developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries.

Subd. 22. **Outstanding money transmission obligations.** (a) "Outstanding money transmission obligations" must be established and extinguished in accordance with applicable state law and means:

(1) any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or

(2) any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender, or escheated in accordance with applicable abandoned property laws.

(b) For purposes of this subdivision, "in the United States" includes, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is located in a foreign country.

Subd. 23. **Passive investor.** "Passive investor" means a person that:

(1) does not have the power to elect a majority of key individuals or executive officers, managers, directors, trustees, or other persons exercising managerial authority of a person in control of a licensee;

(2) is not employed by and does not have any managerial duties of the licensee or person in control of a licensee;

(3) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and

(4) attests to clauses (1), (2), and (3), in a form and in a medium prescribed by the commissioner, or commits to the passivity characteristics under clauses (1), (2), and (3) in a written document.

Subd. 24. **Payment instrument.** (a) "Payment instrument" means a written or electronic check, draft, money order, traveler's check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable.

(b) Payment instrument does not include stored value or any instrument that is: (1) redeemable by the issuer only for goods or services provided by the issuer, the issuer's affiliate, the issuer's franchisees, or an affiliate of the issuer's franchisees, except to the extent required by applicable law to be redeemable in cash for its cash value; or (2) not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

Subd. 25. **Payroll processing services.** "Payroll processing services" means receiving money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans, or make distributions of other authorized deductions from wages or salaries. The term payroll processing services does not include an employer performing payroll processing services on the employer's own behalf or on behalf of the employer's

affiliate, or a professional employment organization subject to regulation under other applicable state law.

Subd. 26. **Person.** "Person" means any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation, or other corporate entity identified by the commissioner.

Subd. 27. **Receiving money for transmission or money received for transmission.** "Receiving money for transmission" or "money received for transmission" means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means.

Subd. 28. **Stored value.** (a) "Stored value" means monetary value representing a claim against the issuer evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services. Stored value includes but is not limited to prepaid access, as defined under Code of Federal Regulations, title 31, part 1010.100, as amended or recodified from time to time.

(b) Notwithstanding this subdivision, stored value does not include: (1) a payment instrument or closed loop stored value; or (2) stored value not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

Subd. 29. **Tangible net worth.** "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

Sec. 16. **[53B.29] EXEMPTIONS.**

This chapter does not apply to:

(1) an operator of a payment system, to the extent the operator of a payment system provides processing, clearing, or settlement services between or among persons exempted by this section or licensees in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers;

(2) a person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, provided that:

(i) there exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(ii) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(iii) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee;

(3) a person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity:

(i) is properly licensed or exempt from licensing requirements under this chapter;

(ii) provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(iii) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient;

(4) the United States; a department, agency, or instrumentality of the United States; or an agent of the United States;

(5) money transmission by the United States Postal Service or by an agent of the United States Postal Service;

(6) a state; county; city; any other governmental agency, governmental subdivision, or instrumentality of a state; or the state's agent;

(7) a federally insured depository financial institution; bank holding company; office of an international banking corporation; foreign bank that establishes a federal branch pursuant to the International Bank Act, United States Code, title 12, section 3102, as amended or recodified from time to time; corporation organized pursuant to the Bank Service Corporation Act, United States Code, title 12, sections 1861 to 1867, as amended or recodified from time to time; or corporation organized under the Edge Act, United States Code, title 12, sections 611 to 633, as amended or recodified from time to time;

(8) electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency,

or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or instrumentality thereof;

(9) a board of trade designated as a contract market under the federal Commodity Exchange Act, United States Code, title 7, sections 1 to 25, as amended or recodified from time to time; or a person that in the ordinary course of business provides clearance and settlement services for a board of trade to the extent of its operation as or for a board;

(10) a registered futures commission merchant under the federal commodities laws, to the extent of the registered futures commission merchant's operation as a merchant;

(11) a person registered as a securities broker-dealer under federal or state securities laws, to the extent of the person's operation as a securities broker-dealer;

(12) an individual employed by a licensee, authorized delegate, or any person exempted from the licensing requirements under this chapter when acting within the scope of employment and under the supervision of the licensee, authorized delegate, or exempted person as an employee and not as an independent contractor;

(13) a person expressly appointed as a third-party service provider to or agent of an entity exempt under clause (7), solely to the extent that:

(i) the service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(ii) the exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent; or

(14) a person exempt by regulation or order if the commissioner finds that (i) the exemption is in the public interest, and (ii) the regulation of the person is not necessary for the purposes of this chapter.

Sec. 17. **[53B.30] AUTHORITY TO REQUIRE DEMONSTRATION OF EXEMPTION.**

The commissioner may require any person that claims to be exempt from licensing under section 53B.29 to provide to the commissioner information and documentation that demonstrates the person qualifies for any claimed exemption.

Sec. 18. **[53B.31] IMPLEMENTATION.**

Subdivision 1. **General authority.** In order to carry out the purposes of this chapter, the commissioner may, subject to section 53B.32, paragraphs (a) and (b):

(1) enter into agreements or relationships with other government officials or federal and state regulatory agencies and regulatory associations in order to (i) improve efficiencies and reduce regulatory burden by standardizing methods or procedures, and (ii) share resources, records, or related information obtained under this chapter;

(2) use, hire, contract, or employ analytical systems, methods, or software to examine or investigate any person subject to this chapter;

(3) accept from other state or federal government agencies or officials any licensing, examination, or investigation reports made by the other state or federal government agencies or officials; and

(4) accept audit reports made by an independent certified public accountant or other qualified third-party auditor for an applicant or licensee and incorporate the audit report in any report of examination or investigation.

Subd. 2. **Administrative authority.** The commissioner is granted broad administrative authority to: (1) administer, interpret, and enforce this chapter; (2) adopt regulations to implement this chapter; and (3) recover the costs incurred to administer and enforce this chapter by imposing and collecting proportionate and equitable fees and costs associated with applications, examinations, investigations, and other actions required to achieve the purpose of this chapter.

Sec. 19. **[53B.32] CONFIDENTIALITY.**

(a) All information or reports obtained by the commissioner contained in or related to an examination that is prepared by, on behalf of, or for the use of the commissioner are confidential and are not subject to disclosure under section 46.07.

(b) The commissioner may disclose information not otherwise subject to disclosure under paragraph (a) to representatives of state or federal agencies pursuant to section 53B.31, subdivision 1.

(c) This section does not prohibit the commissioner from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

Sec. 20. **[53B.33] SUPERVISION.**

(a) The commissioner may conduct an examination or investigation of a licensee or authorized delegate or otherwise take independent action authorized by this chapter, or by a rule adopted or order issued under this chapter, as reasonably necessary or appropriate to administer and enforce this chapter, rules implementing this chapter, and other applicable law, including the Bank Secrecy Act and the USA PATRIOT Act, Public Law 107-56. The commissioner may:

(1) conduct an examination either on site or off site as the commissioner may reasonably require;

(2) conduct an examination in conjunction with an examination conducted by representatives of other state agencies or agencies of another state or of the federal government;

(3) accept the examination report of another state agency or an agency of another state or of the federal government, or a report prepared by an independent accounting firm, which on being accepted is considered for all purposes as an official report of the commissioner; and

(4) summon and examine under oath a key individual or employee of a licensee or authorized delegate and require the person to produce records regarding any matter related to the condition and business of the licensee or authorized delegate.

(b) A licensee or authorized delegate must provide, and the commissioner has full and complete access to, all records the commissioner may reasonably require to conduct a complete examination. The records must be provided at the location and in the format specified by the commissioner. The commissioner may use multistate record production standards and examination procedures when the standards reasonably achieve the requirements of this paragraph.

(c) Unless otherwise directed by the commissioner, a licensee must pay all costs reasonably incurred in connection with an examination of the licensee or the licensee's authorized delegates.

Sec. 21. **[53B.34] NETWORKED SUPERVISION.**

(a) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the commissioner is authorized to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, the Money Transmitter Regulators Association, and the affiliates and successors

of the Conference of State Bank Supervisors and the Money Transmitter Regulators Association for all licensees that hold licenses in this state and other states. As a participant in multistate supervision, the commissioner may:

(1) cooperate, coordinate, and share information with other state and federal regulators in accordance with section 53B.32;

(2) enter into written cooperation, coordination, or information-sharing contracts or agreements with organizations the membership of which is made up of state or federal governmental agencies; and

(3) cooperate, coordinate, and share information with organizations the membership of which is made up of state or federal governmental agencies, provided that the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with section 53B.32.

(b) The commissioner is prohibited from waiving, and nothing in this section constitutes a waiver of, the commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this chapter, or a rule adopted or order issued under this chapter, to enforce compliance with applicable state or federal law.

(c) A joint examination or investigation, or acceptance of an examination or investigation report, does not waive an examination fee provided for in this chapter.

Sec. 22. **[53B.35] RELATIONSHIP TO FEDERAL LAW.**

(a) In the event state money transmission jurisdiction is conditioned on a federal law, any inconsistencies between a provision of this chapter and the federal law governing money transmission is governed by the applicable federal law to the extent of the inconsistency.

(b) In the event of any inconsistencies between this chapter and a federal law that governs pursuant to paragraph (a), the commissioner may provide interpretive guidance that:

(1) identifies the inconsistency; and

(2) identifies the appropriate means of compliance with federal law.

Sec. 23. **[53B.36] LICENSE REQUIRED.**

(a) A person is prohibited from engaging in the business of money transmission, or advertising, soliciting, or representing that the person provides money transmission, unless the person is licensed under this chapter.

(b) Paragraph (a) does not apply to:

(1) a person that is an authorized delegate of a person licensed under this chapter acting within the scope of authority conferred by a written contract with the licensee; or

(2) a person that is exempt under section 53B.29 and does not engage in money transmission outside the scope of the exemption.

(c) A license issued under section 53B.40 is not transferable or assignable.

Sec. 24. **[53B.37] CONSISTENT STATE LICENSING.**

(a) To establish consistent licensing between Minnesota and other states, the commissioner is authorized to:

(1) implement all licensing provisions of this chapter in a manner that is consistent with (i) other states that have adopted substantially similar licensing requirements, or (ii) multistate licensing processes; and

(2) participate in nationwide protocols for licensing cooperation and coordination among state regulators, provided that the protocols are consistent with this chapter.

(b) In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with NMLS or other entities designated by NMLS to enable the commissioner to:

(1) collect and maintain records;

(2) coordinate multistate licensing processes and supervision processes;

(3) process fees; and

(4) facilitate communication between the commissioner and licensees or other persons subject to this chapter.

(c) The commissioner is authorized to use NMLS for all aspects of licensing in accordance with this chapter, including but not limited to license applications, applications for acquisitions of control, surety bonds, reporting, criminal history background checks, credit checks, fee processing, and examinations.

(d) The commissioner is authorized to use NMLS forms, processes, and functions in accordance with this chapter. If NMLS does not provide functionality, forms, or processes for a requirement under this chapter, the commissioner is authorized to implement the requirements in a manner that facilitates uniformity with respect to licensing, supervision, reporting, and regulation of licensees which are licensed in multiple jurisdictions.

(e) For the purpose of participating in the NMLS registry, the commissioner is authorized to, by rule or order: (1) waive or modify, in whole or in part, any or all of the requirements; and (2) establish new requirements as reasonably necessary to participate in the NMLS registry.

Sec. 25. **[53B.38] APPLICATION FOR LICENSE.**

(a) An applicant for a license must apply in a form and in a medium as prescribed by the commissioner. The application must state or contain, as applicable:

(1) the legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting business;

(2) a list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the ten-year period next preceding the submission of the application;

(3) a description of any money transmission previously provided by the applicant and the money transmission that the applicant seeks to provide in this state;

(4) a list of the applicant's proposed authorized delegates and the locations in this state where the applicant and the applicant's authorized delegates propose to engage in money transmission;

(5) a list of other states in which the applicant is licensed to engage in money transmission and any license revocations, suspensions, or other disciplinary action taken against the applicant in another state;

(6) information concerning any bankruptcy or receivership proceedings affecting the licensee or a person in control of a licensee;

(7) a sample form of contract for authorized delegates, if applicable;

(8) a sample form of payment instrument or stored value, as applicable;

(9) the name and address of any federally insured depository financial institution through which the applicant plans to conduct money transmission; and

(10) any other information the commissioner or NMLS reasonably requires with respect to the applicant.

(b) If an applicant is a corporation, limited liability company, partnership, or other legal entity, the applicant must also provide:

(1) the date of the applicant's incorporation or formation and state or country of incorporation or formation;

(2) if applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(3) a brief description of the structure or organization of the applicant, including any parents or subsidiaries of the applicant, and whether any parents or subsidiaries are publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential addresses, and the employment, as applicable, in the ten-year period next preceding the submission of the application of each key individual and person in control of the applicant;

(5) a list of any criminal convictions and material litigation in which a person in control of the applicant that is not an individual has been involved in the ten-year period preceding the submission of the application;

(6) a copy of audited financial statements of the applicant for the most recent fiscal year and for the two-year period next preceding the submission of the application or, if the commissioner deems acceptable, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the commissioner;

(7) a certified copy of unaudited financial statements of the applicant for the most recent fiscal quarter;

(8) if the applicant is a publicly traded corporation, a copy of the most recent report filed with the United States Securities and Exchange Commission under section 13 of the federal Securities Exchange Act of 1934, United States Code, title 15, section 78m, as amended or recodified from time to time;

(9) if the applicant is a wholly owned subsidiary of:

(i) a corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the Securities Exchange Act of 1934, United States Code, title 15, section 78m, as amended or recodified from time to time; or

(ii) a corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(10) the name and address of the applicant's registered agent in this state; and

(11) any other information the commissioner reasonably requires with respect to the applicant.

(c) A nonrefundable application fee of $4,000 must accompany an application for a license under this section.

(d) The commissioner may: (1) waive one or more requirements of paragraphs (a) and (b); or (2) permit an applicant to submit other information in lieu of the required information.

Sec. 26. **[53B.39] INFORMATION REQUIREMENTS; CERTAIN INDIVIDUALS.**

Subdivision 1. **Individuals with or seeking control.** Any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual must furnish to the commissioner through NMLS:

(1) the individual's fingerprints for submission to the Federal Bureau of Investigation and the commissioner for a national criminal history background check, unless the person currently resides outside of the United States and has resided outside of the United States for the last ten years; and

(2) personal history and business experience in a form and in a medium prescribed by the commissioner, to obtain:

(i) an independent credit report from a consumer reporting agency;

(ii) information related to any criminal convictions or pending charges; and

(iii) information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

Subd. 2. **Individuals having resided outside the United States.** (a) If an individual has resided outside of the United States at any time in the last ten years, the individual must also provide an investigative background report prepared by an independent search firm that meets the requirements of this subdivision.

(b) At a minimum, the search firm must:

(1) demonstrate that the search firm has sufficient knowledge, resources, and employs accepted and reasonable methodologies to conduct the research of the background report; and

(2) not be affiliated with or have an interest with the individual the search firm is researching.

(c) At a minimum, the investigative background report must be written in English and must contain:

(1) if available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to accomplish a credit report, including a search of the court data in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(2) criminal records information for the past ten years, including but not limited to felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(3) employment history;

(4) media history, including an electronic search of national and local publications, wire services, and business applications; and

(5) financial services-related regulatory history, including but not limited to money transmission, securities, banking, consumer finance, insurance, and mortgage-related industries.

Sec. 27. **[53B.40] LICENSE ISSUANCE.**

(a) When an application for an original license under this chapter includes all of the items and addresses all of the matters that are required, the application is complete and the commissioner must promptly notify the applicant in a record of the date on which the application is determined to be complete.

(b) The commissioner's determination that an application is complete and accepted for processing means only that the application, on the application's face, appears to include all of the items, including the criminal background check response from the Federal Bureau of Investigation, and address all of the matters that are required. The commissioner's determination that an application is complete is not an assessment of the substance of the application or of the sufficiency of the information provided.

(c) When an application is filed and considered complete under this section, the commissioner must investigate the applicant's financial condition and responsibility, financial

and business experience, character, and general fitness. The commissioner may conduct an investigation of the applicant, the reasonable cost of which the applicant must pay. The commissioner must issue a license to an applicant under this section if the commissioner finds:

(1) the applicant has complied with sections 53B.38 and 53B.39; and

(2) the financial condition and responsibility; financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the key individuals and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

(d) If an applicant avails itself of or is otherwise subject to a multistate licensing process:

(1) the commissioner is authorized to accept the investigation results of a lead investigative state for the purposes of paragraph (c); or

(2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate the applicant pursuant to paragraph (c) and the time frames established by agreement through the multistate licensing process, provided that the time frame complies with the application review period provided under paragraph (e).

(e) The commissioner must approve or deny the application within 120 days after the date the application is deemed complete. If the application is not approved or denied within 120 days after the completion date, the application is approved and the license takes effect on the first business day after the 120-day period expires.

(f) The commissioner must issue a formal written notice of the denial of a license application within 30 days of the date the decision to deny the application is made. The commissioner must set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the commissioner under this paragraph may appeal within 30 days of the date the written notice of the denial is received. The commissioner must set a hearing date that is not later than 60 days after service of the response, unless a later date is set with the consent of the denied applicant.

(g) The initial license term begins on the day the application is approved. The license expires on December 31 of the year in which the license term began, unless the initial license date is between November 1 and December 31, in which case the initial license term runs through December 31 of the following year. If a license is approved between November 1

and December 31, the applicant is subject to the renewal fee under section 53B.31, paragraph (a).

Sec. 28. **[53B.41] LICENSE RENEWAL.**

(a) A license under this chapter must be renewed annually. An annual renewal fee of $2,500 must be paid no more than 60 days before the license expires. The renewal term is a period of one year and begins on January 1 each year after the initial license term. The renewal term expires on December 31 of the year the renewal term begins.

(b) A licensee must submit a renewal report with the renewal fee, in a form and in a medium prescribed by the commissioner. The renewal report must state or contain a description of each material change in information submitted by the licensee in the licensee's original license application that has not been previously reported to the commissioner.

(c) The commissioner may grant an extension of the renewal date for good cause.

(d) The commissioner is authorized to use the NMLS to process license renewals, provided that the NMLS functionality is consistent with this section.

Sec. 29. **[53B.42] MAINTENANCE OF LICENSE.**

(a) If a licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license, the commissioner may suspend or revoke the licensee's license in accordance with the procedures established by this chapter or other applicable state law for license suspension or revocation.

(b) An applicant for a money transmission license must demonstrate that the applicant meets or will meet, and a money transmission licensee must at all times meet, the requirements in sections 53B.59 to 53B.61.

Sec. 30. **[53B.43] ACQUISITION OF CONTROL.**

(a) Any person, or group of persons acting in concert, seeking to acquire control of a licensee must obtain the commissioner's written approval before acquiring control. An individual is not deemed to acquire control of a licensee and is not subject to these acquisition of control provisions when that individual becomes a key individual in the ordinary course of business.

(b) For the purpose of this section, a person is presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least ten percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee.

A person presumed to exercise a controlling influence as defined by this subdivision can rebut the presumption of control if the person is a passive investor.

(c) For purposes of determining the percentage of a person controlled by any other person, the person's interest must be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, mothers- and fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person who shares the person's home.

(d) A person, or group of persons acting in concert, seeking to acquire control of a licensee must, in cooperation with the licensee:

(1) submit an application in a form and in a medium prescribed by the commissioner; and

(2) submit a nonrefundable fee of $4,000 with the request for approval.

(e) Upon request, the commissioner may permit a licensee or the person, or group of persons acting in concert, to submit some or all information required by the commissioner pursuant to paragraph (d), clause (1), without using NMLS.

(f) The application required by paragraph (d), clause (1), must include information required by section 53B.39 for any new key individuals that have not previously completed the requirements of section 53B.39 for a licensee.

(g) When an application for acquisition of control under this section appears to include all of the items and address all of the matters that are required, the application is considered complete and the commissioner must promptly notify the applicant in a record of the date on which the application was determined to be complete.

(h) The commissioner must approve or deny the application within 60 days after the completion date. If the application is not approved or denied within 60 days after the completion date, the application is approved and the person, or group of persons acting in concert, are not prohibited from acquiring control. The commissioner may extend the application period for good cause.

(i) The commissioner's determination that an application is complete and is accepted for processing means only that the application, on the application's face, appears to include all of the items and address all of the matters that are required. The commissioner's determination that an application is complete is not an assessment of the application's substance or of the sufficiency of the information provided.

(j) When an application is filed and considered complete under paragraph (g), the commissioner must investigate the financial condition and responsibility; the financial and business experience; character; and the general fitness of the person, or group of persons acting in concert, seeking to acquire control. The commissioner must approve an acquisition of control under this section if the commissioner finds:

(1) the requirements of paragraphs (d) and (f) have been met, as applicable; and

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control; and the competence, experience, character, and general fitness of the key individuals and persons that control the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person, or group of persons acting in concert, to control the licensee.

(k) If an applicant avails itself of or is otherwise subject to a multistate licensing process:

(1) the commissioner is authorized to accept the investigation results of a lead investigative state for the purposes of paragraph (j); or

(2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate the applicant under paragraph (j) and consistent with the time frames established by agreement through the multistate licensing process.

(l) The commissioner must issue a formal written notice of the denial of an application to acquire control. The commissioner must set forth in the notice of denial the specific reasons the application was denied. An applicant whose application is denied by the commissioner under this paragraph may appeal the denial within 30 days of the date the written notice of the denial is received. Chapter 14 applies to appeals under this paragraph.

(m) Paragraphs (a) and (d) do not apply to:

(1) a person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting shares or voting interests of a licensee or a person in control of a licensee;

(2) a person that acquires control of a licensee by devise or descent;

(3) a person that acquires control of a licensee as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law;

(4) a person that is exempt under section 53B.29, clause (7);

(5) a person that the commissioner determines is not subject to paragraph (a), based on the public interest;

(6) a public offering of securities of a licensee or a person in control of a licensee; or

(7) an internal reorganization of a person controlling the licensee, where the ultimate person controlling the licensee remains the same.

(n) A person identified in paragraph (m), clause (2), (3), (4), or (6), that is cooperating with the licensee must notify the commissioner within 15 days of the date the acquisition of control occurs.

(o) Paragraphs (a) and (d) do not apply to a person that has complied with and received approval to engage in money transmission under this chapter, or that was identified as a person in control in a prior application filed with and approved by the commissioner or by another state pursuant to a multistate licensing process, provided that:

(1) the person has not had a license revoked or suspended or controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee in the previous five years;

(2) if the person is a licensee, the person is well managed and has received at least a satisfactory rating for compliance at the person's most recent examination by an MSB-accredited state if a rating was given;

(3) the licensee to be acquired is projected to meet the requirements of sections 53B.59 to 53B.61 after the acquisition of control is completed, and if the person acquiring control is a licensee, the acquiring licensee is also projected to meet the requirements of sections 53B.59 to 53B.61 after the acquisition of control is completed;

(4) the licensee to be acquired does not implement any material changes to the acquired licensee's business plan as a result of the acquisition of control, and if the person acquiring control is a licensee, the acquiring licensee does not implement any material changes to the acquiring licensee's business plan as a result of the acquisition of control; and

(5) the person provides notice of the acquisition in cooperation with the licensee and attests to clauses (1), (2), (3), and (4) in a form and in a medium prescribed by the commissioner.

(p) If the notice under paragraph (o), clause (5), is not disapproved within 30 days after the date on which the notice was determined to be complete, the notice is deemed approved.

(q) Before filing an application for approval to acquire control of a licensee, a person may request in writing a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the proposed person and transaction is not subject to paragraphs (a) and (d).

(r) If a multistate licensing process includes a determination pursuant to paragraph (q) and an applicant avails itself or is otherwise subject to the multistate licensing process:

(1) the commissioner is authorized to accept the control determination of a lead investigative state with sufficient staffing, expertise, and minimum standards for the purposes of paragraph (q); or

(2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate the applicant under paragraph (q) and consistent with the time frames established by agreement through the multistate licensing process.

Sec. 31. **[53B.44] CHANGE OF KEY INDIVIDUALS; NOTICE AND INFORMATION REQUIREMENTS.**

(a) A licensee that adds or replaces any key individual must:

(1) provide notice, in a manner prescribed by the commissioner, within 15 days after the effective date of the key individual's appointment; and

(2) provide the information required under section 53B.39 within 45 days of the effective date of the key individual's appointment.

(b) Within 90 days of the date on which the notice provided under section 53B.44, paragraph (a), was determined to be complete, the commissioner may issue a notice of disapproval of a key individual if the commissioner finds that the competence, business experience, character, or integrity of the individual is not in the best interests of the public or the customers of the licensee.

(c) A notice of disapproval must contain a statement of the basis for disapproval and must be sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval pursuant to chapter 14 within 30 days of the date the notice of disapproval is received.

(d) If the notice provided under paragraph (a) is not disapproved within 90 days after the date on which the notice was determined to be complete, the key individual is deemed approved.

(e) If a multistate licensing process includes a key individual notice review and disapproval process under this section and the licensee avails itself of or is otherwise subject to the multistate licensing process:

(1) the commissioner is authorized to accept the determination of another state if the investigating state has sufficient staffing, expertise, and minimum standards for the purposes of this section; or

(2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate the applicant under paragraph (b) and the time frames established by agreement through the multistate licensing process.

Sec. 32. **[53B.45] REPORT OF CONDITION.**

(a) Each licensee must submit a report of condition within 45 days of the end of the calendar quarter, or within any extended time the commissioner prescribes.

(b) The report of condition must include:

(1) financial information at the licensee level;

(2) nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission;

(3) a permissible investments report;

(4) transaction destination country reporting for money received for transmission, if applicable; and

(5) any other information the commissioner reasonably requires with respect to the licensee.

(c) The commissioner is authorized to use NMLS to submit the report required under paragraph (a).

(d) The information required by paragraph (b), clause (4), must only be included in a report of condition submitted within 45 days of the end of the fourth calendar quarter.

Sec. 33. **[53B.46] AUDITED FINANCIAL STATEMENTS.**

(a) Each licensee must, within 90 days after the end of each fiscal year, or within any extended time the commissioner prescribes, file with the commissioner:

(1) an audited financial statement of the licensee for the fiscal year prepared in accordance with United States generally accepted accounting principles; and

(2) any other information the commissioner may reasonably require.

(b) The audited financial statements must be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the commissioner.

(c) The audited financial statements must include or be accompanied by a certificate of opinion prepared by the independent certified public accountant or independent public accountant that is satisfactory in form and content to the commissioner. If the certificate or opinion is qualified, the commissioner may order the licensee to take any action the commissioner finds necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification.

Sec. 34. **[53B.47] AUTHORIZED DELEGATE REPORTING.**

(a) Each licensee must submit a report of authorized delegates within 45 days of the end of the calendar quarter. The commissioner is authorized to use NMLS to submit the report required by this paragraph, provided that the functionality is consistent with the requirements of this section.

(b) The authorized delegate report must include, at a minimum, each authorized delegate's:

(1) company legal name;

(2) taxpayer employer identification number;

(3) principal provider identifier;

(4) physical address;

(5) mailing address;

(6) any business conducted in other states;

(7) any fictitious or trade name;

(8) contact person name, telephone number, and email;

(9) start date as the licensee's authorized delegate;

(10) end date acting as the licensee's authorized delegate, if applicable;

(11) court orders under section 53B.53; and

(12) any other information the commissioner reasonably requires with respect to the authorized delegate.

Sec. 35. **[53B.48] REPORTS OF CERTAIN EVENTS.**

(a) A licensee must file a report with the commissioner within ten business days after the licensee has reason to know any of the following events has occurred:

(1) a petition by or against the licensee under the United States Bankruptcy Code, United States Code, title 11, sections 101 to 110, as amended or recodified from time to time, for bankruptcy or reorganization has been filed;

(2) a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization, or the making of a general assignment for the benefit of the licensee's creditors has been filed; or

(3) a proceeding to revoke or suspend the licensee's license in a state or country in which the licensee engages in business or is licensed has been commenced.

(b) A licensee must file a report with the commissioner within ten business days after the licensee has reason to know any of the following events has occurred:

(1) the licensee or a key individual or person in control of the licensee is charged with or convicted of a felony related to money transmission activities; or

(2) an authorized delegate is charged with or convicted of a felony related to money transmission activities.

Sec. 36. **[53B.49] BANK SECRECY ACT REPORTS.**

A licensee and an authorized delegate must file all reports required by federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other federal and state laws pertaining to money laundering. A licensee and authorized delegate that timely files with the appropriate federal agency a complete and accurate report required under this section is deemed to comply with the requirements of this section.

Sec. 37. **[53B.50] RECORDS.**

(a) A licensee must maintain the following records, for purposes of determining the licensee's compliance with this chapter, for at least three years:

(1) a record of each outstanding money transmission obligation sold;

(2) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;

(3) bank statements and bank reconciliation records;

(4) records of outstanding money transmission obligations;

(5) records of each outstanding money transmission obligation paid within the three-year period;

(6) a list of the last known names and addresses of all of the licensee's authorized delegates; and

(7) any other records the commissioner reasonably requires by administrative rule.

(b) The items specified in paragraph (a) may be maintained in any form of record.

(c) The records specified in paragraph (a) may be maintained outside of Minnesota if the records are made accessible to the commissioner upon seven business-days' notice that is sent in a record.

(d) All records maintained by the licensee as required under paragraphs (a) to (c) are open to inspection by the commissioner under section 53B.33, paragraph (a).

Sec. 38. **[53B.51] RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED DELEGATE.**

(a) For purposes of this section, "remit" means to make direct payments of money to (1) a licensee, or (2) a licensee's representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

(b) Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee must:

(1) adopt, and update as necessary, written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;

(2) enter into a written contract that complies with paragraph (d); and

(3) conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law.

(c) An authorized delegate must operate in full compliance with this chapter.

(d) The written contract required by paragraph (b) must be signed by the licensee and the authorized delegate. The written contract must, at a minimum:

(1) appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee;

(2) set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of the parties;

(3) require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including this chapter and regulations implementing this chapter, relevant provisions of the Bank Secrecy Act and the USA PATRIOT Act, Public Law 107-56;

(4) require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate;

(5) impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee;

(6) require the authorized delegate to prepare and maintain records as required by this chapter or administrative rules implementing this chapter, or as reasonably requested by the commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the commissioner;

(8) state that the licensee is subject to regulation by the commissioner and that as part of that regulation the commissioner may (1) suspend or revoke an authorized delegate designation, or (2) require the licensee to terminate an authorized delegate designation; and

(9) acknowledge receipt of the written policies and procedures required under paragraph (b), clause (1).

(e) If the licensee's license is suspended, revoked, surrendered, or expired, within five business days the licensee must provide documentation to the commissioner that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the commissioner of the suspension, revocation, surrender, or expiration of a license. Upon suspension, revocation, surrender, or expiration of a license, applicable authorized delegates must immediately cease to provide money transmission as an authorized delegate of the licensee.

(f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If an authorized delegate commingles any funds received from money transmission with other funds or property owned or controlled by the authorized delegate, all commingled funds and other property are considered

held in trust in favor of the licensee in an amount equal to the amount of money net of fees received from money transmission.

(g) An authorized delegate is prohibited from using a subdelegate to conduct money transmission on behalf of a licensee.

Sec. 39. **[53B.52] UNAUTHORIZED ACTIVITIES.**

A person is prohibited from engaging in the business of money transmission on behalf of a person not licensed under this chapter or not exempt under sections 53B.29 and 53B.30. A person that engages in the business of money transmission on behalf of a person that is not licensed under this chapter or not exempt under sections 53B.29 and 53B.30 provides money transmission to the same extent as if the person were a licensee, and is jointly and severally liable with the unlicensed or nonexempt person.

Sec. 40. **[53B.53] PROHIBITED AUTHORIZED DELEGATES.**

(a) The district court in an action brought by a licensee has jurisdiction to grant appropriate equitable or legal relief, including without limitation prohibiting the authorized delegate from directly or indirectly acting as an authorized delegate for any licensee in Minnesota and the payment of restitution, damages, or other monetary relief, if the district court finds that an authorized delegate failed to remit money in accordance with the written contract required by section 53B.51, paragraph (b), or as otherwise directed by the licensee or required by law.

(b) If the district court issues an order prohibiting a person from acting as an authorized delegate for any licensee under paragraph (a), the licensee that brought the action must report the order to the commissioner within 30 days of the date of the order and must report the order through NMLS within 90 days of the date of the order.

Sec. 41. **[53B.54] TIMELY TRANSMISSION.**

(a) Every licensee must forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender, unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

(b) If a licensee fails to forward money received for transmission as provided under this section, the licensee must respond to inquiries by the sender with the reason for the failure, unless providing a response would violate a state or federal law, rule, or regulation.

Sec. 42. **[53B.55] REFUNDS.**

(a) This section does not apply to:

(1) money received for transmission that is subject to the federal remittance rule under Code of Federal Regulations, title 12, part 1005, subpart B, as amended or recodified from time to time; or

(2) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

(b) A licensee must refund to the sender within ten days of the date the licensee receives the sender's written request for a refund of any and all money received for transmission, unless:

(1) the money has been forwarded within ten days of the date on which the money was received for transmission;

(2) instructions have been given committing an equivalent amount of money to the person designated by the sender within ten days of the date on which the money was received for transmission;

(3) the agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond ten days of the date on which the money was received for transmission. If money has not been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee must issue a refund in accordance with the other provisions of this section; or

(4) the refund is requested for a transaction that the licensee has not completed based on 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.

(c) A refund request does not enable the licensee to identify:

(1) the sender's name and address or telephone number; or

(2) the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

Sec. 43. **[53B.56] RECEIPTS.**

Subdivision 1. **Definition.** For purposes of this section, "receipt" means a paper receipt, electronic record, or other written confirmation.

Subd. 2. **Exemption.** This section does not apply to:

(1) money received for transmission that is subject to the federal remittance rule under Code of Federal Regulations, title 12, part 1005, subpart B, as amended or recodified from time to time;

(2) money received for transmission that is not primarily for personal, family, or household purposes;

(3) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or

(4) payroll processing services.

Subd. 3. **Transaction types; receipts form.** For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by telephone, a receipt may be provided electronically. All electronic receipts must be provided in a retainable form.

Subd. 4. **Receipts required.** (a) Every licensee or the licensee's authorized delegate must provide the sender a receipt for money received for transmission.

(b) The receipt must contain, as applicable:

(1) the name of the sender;

(2) the name of the designated recipient;

(3) the date of the transaction;

(4) the unique transaction or identification number;

(5) the name of the licensee, NMLS Unique ID, the licensee's business address, and the licensee's customer service telephone number;

(6) the transaction amount, expressed in United States dollars;

(7) any fee the licensee charges the sender for the transaction; and

(8) any taxes the licensee collects from the sender for the transaction.

(c) The receipt required by this section must be provided in (1) English, and (2) the language principally used by the licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in writing, for a transaction conducted in person, electronically, or by telephone, if the language principally used is a language other than English.

Sec. 44. **[53B.57] NOTICE.**

Every licensee or authorized delegate must include on a receipt or disclose on the licensee's website or mobile application the name and telephone number of the department and a statement that the licensee's customers can contact the department with questions or complaints about the licensee's money transmission services.

Sec. 45. **[53B.58] PAYROLL PROCESSING SERVICES; DISCLOSURES.**

(a) A licensee that provides payroll processing services must:

(1) issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

(2) make available worker pay stubs or an equivalent statement to workers.

(b) Paragraph (a) does not apply to a licensee providing payroll processing services if the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures required by paragraph (a), clause (2).

Sec. 46. **[53B.59] NET WORTH.**

(a) A licensee under this chapter must maintain at all times a tangible net worth that is the greater of: (1) $100,000; or (2) three percent of total assets for the first $100,000,000; two percent of additional assets between $100,000,000 to $1,000,000,000; and one-half percent of additional assets over $1,000,000,000.

(b) Tangible net worth must be demonstrated in the initial application by the applicant's most recent audited or unaudited financial statements under section 53B.38, paragraph (b), clause (6).

(c) Notwithstanding paragraphs (a) and (b), the commissioner has the authority, for good cause shown, to exempt any applicant or licensee in-part or in whole from the requirements of this section.

Sec. 47. **[53B.60] SURETY BOND.**

(a) An applicant for a money transmission license must provide, and a licensee must at all times maintain (1) security consisting of a surety bond in a form satisfactory to the commissioner, or (2) with the commissioner's approval, a deposit instead of a bond in accordance with this section.

(b) The amount of the required security under this section is:

(1) the greater of (i) $100,000, or (ii) an amount equal to one hundred percent of the licensee's average daily money transmission liability in Minnesota, calculated for the most recently completed three-month period, up to a maximum of $500,000; or

(2) in the event that the licensee's tangible net worth exceeds ten percent of total assets, the licensee must maintain a surety bond of $100,000.

(c) A licensee that maintains a bond in the maximum amount provided for in paragraph (b), clause (1) or (2), as applicable, is not required to calculate the licensee's average daily money transmission liability in Minnesota for purposes of this section.

(d) A licensee may exceed the maximum required bond amount pursuant to section 53B.62, paragraph (a), clause (5).

(e) The security device remains effective 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.

(f) The security device must remain in place for no longer than five years after the licensee ceases money transmission operations in Minnesota. Notwithstanding this paragraph, 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 Minnesota 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 Minnesota.

Sec. 48. **[53B.61] MAINTENANCE OF PERMISSIBLE INVESTMENTS.**

(a) A licensee must maintain at all times permissible investments that have a market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of all of the licensee's outstanding money transmission obligations.

(b) Except for permissible investments enumerated in section 53B.62, paragraph (a), the commissioner may by administrative rule or order, with respect to any licensee, limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers not reflected in the market value of investments.

(c) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations in the event of insolvency; the filing of a petition by or against the licensee under the United States Bankruptcy Code, United States Code, title 11, sections 101 to 110, as amended or recodified from time to time, for bankruptcy or reorganization; the filing of a petition by or against the licensee for receivership; the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization; or in the event of an action by a creditor against the licensee who is not a beneficiary of this statutory trust. No permissible investments impressed with a trust pursuant to this paragraph are subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of the statutory trust.

(d) Upon the establishment of a statutory trust in accordance with paragraph (c), or when any funds are drawn on a letter of credit pursuant to section 53B.62, paragraph (a), clause (4), the commissioner must notify the applicable regulator of each state in which the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice is deemed satisfied if performed pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in Minnesota and other states, as defined by a substantially similar statute in the other state. Any statutory trust established under this section terminates upon extinguishment of all of the licensee's outstanding money transmission obligations.

(e) The commissioner may by rule or by order allow other types of investments that the commissioner determines are of sufficient liquidity and quality to be a permissible investment. The commissioner is authorized to participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

Sec. 49. **[53B.62] PERMISSIBLE INVESTMENTS.**

Subdivision 1. **Certain investments permissible.** The following investments are permissible under section 53B.61:

(1) cash, including demand deposits, savings deposits, and funds in accounts held for the benefit of the licensee's customers in a federally insured depository financial institution; and cash equivalents, including ACH items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card funded transmission receivables owed by any bank, or money market mutual funds rated AAA or the equivalent from any eligible rating service;

(2) certificates of deposit or senior debt obligations of an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, United States Code, title 12, section 1813, as amended or recodified from time to time, or as defined under the federal Credit Union Act, United States Code, title 12, section 1781, as amended or recodified from time to time;

(3) an obligation of the United States or a commission, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

(4) the full drawable amount of an irrevocable standby letter of credit, for which the stated beneficiary is the commissioner, that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present the sight draft to obtain funds up to the letter of credit amount within seven days of presentation of the items required by subdivision 2, paragraph (c); and

(5) one hundred percent of the surety bond or deposit provided for under section 53B.60 that exceeds the average daily money transmission liability in Minnesota.

Subd. 2. **Letter of credit; requirements.** (a) A letter of credit under subdivision 1, clause (4), must:

(1) be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank that is authorized under state law to maintain a branch in a state that: (i) bears an eligible rating or whose parent company bears an eligible rating; and (ii) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies;

(2) be irrevocable, unconditional, and indicate that it is not subject to any condition or qualifications outside of the letter of credit;

(3) not contain reference to any other agreements, documents, or entities, or otherwise provide for any security interest in the licensee; and

(4) contain an issue date and expiration date, and expressly provide for automatic extension without a written amendment, for an additional period of one year from the present or each future expiration date, unless the issuer of the letter of credit notifies the commissioner in writing by certified or registered mail or courier mail or other receipted means, at least 60 days before any expiration date, that the irrevocable letter of credit will not be extended.

(b) In the event of any notice of expiration or nonextension of a letter of credit issued under paragraph (a), clause (4), the licensee must demonstrate to the satisfaction of the commissioner, 15 days before the letter or credit's expiration, that the licensee maintains and will maintain permissible investments in accordance with section 53B.61, paragraph (a), upon the expiration of the letter of credit. If the licensee is not able to do so, the commissioner may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with section 53B.61, paragraph (a). Any draw under this paragraph must be offset against the licensee's outstanding money transmission obligations. The drawn funds must be held in trust by the commissioner or the commissioner's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

(c) The letter of credit must provide that the issuer of the letter of credit must honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or before the expiration date of the letter of credit:

(1) the original letter of credit, including any amendments; and

(2) a written statement from the beneficiary stating that any of the following events have occurred:

(i) the filing of a petition by or against the licensee under the United States Bankruptcy Code, United States Code, title 11, sections 101 to 110, as amended or recodified from time to time, for bankruptcy or reorganization;

(ii) the filing of a petition by or against the licensee for receivership, or the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization;

(iii) the seizure of assets of a licensee by a commissioner of any other state pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation, or condition that has caused or is likely to cause the insolvency of the licensee; or

(iv) the beneficiary has received notice of expiration or nonextension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with section 53B.61, paragraph (a), upon the expiration or nonextension of the letter of credit.

(d) The commissioner may designate an agent to serve on the commissioner's behalf as beneficiary to a letter of credit, provided the agent and letter of credit meet requirements the commissioner establishes. The commissioner's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of subdivision 1, clause (4), and this subdivision are assigned to the commissioner.

(e) The commissioner is authorized to participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including but not limited to services provided by the NMLS and State Regulatory Registry, LLC.

Subd. 3. **Other permissible investments.** Unless the commissioner by administrative rule or order otherwise permits an investment to exceed the limit set forth in this subdivision, the following investments are permissible under section 53B.61 to the extent specified:

(1) receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than seven days old, up to 50 percent of the aggregate value of the licensee's total permissible investments;

(2) of the receivables permissible under clause (1), receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed ten percent of the aggregate value of the licensee's total permissible investments;

(3) the following investments are permissible up to 20 percent per category and combined up to 50 percent of the aggregate value of the licensee's total permissible investments:

(i) a short-term investment of up to six months bearing an eligible rating;

(ii) commercial paper bearing an eligible rating;

(iii) a bill, note, bond, or debenture bearing an eligible rating;

(iv) United States tri-party repurchase agreements collateralized at 100 percent or more with United States government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(v) money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P, or the equivalent from any other eligible rating service; and

(vi) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subdivision 1, clauses (1) to (3); and

(4) cash, including demand deposits, savings deposits, and funds in accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to ten percent of the aggregate value of the licensee's total permissible investments, if the licensee has received a satisfactory rating in the licensee's most recent examination and the foreign depository institution:

(i) has an eligible rating;

(ii) is registered under the Foreign Account Tax Compliance Act, Public Law 111-147;

(iii) is not located in any country subject to sanctions from the Office of Foreign Asset Control; and

(iv) is not located in a high-risk or noncooperative jurisdiction, as designated by the Financial Action Task Force.

Sec. 50. **[53B.63] SUSPENSION; REVOCATION.**

(a) The commissioner may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:

(1) the licensee violates this chapter, or an administrative rule adopted or an order issued under this chapter;

(2) the licensee does not cooperate with an examination or investigation conducted by the commissioner;

(3) the licensee engages in fraud, intentional misrepresentation, or gross negligence;

(4) an authorized delegate is convicted of a violation of a state or federal statute prohibiting money laundering, or violates an administrative rule adopted or an order issued under this chapter, as a result of the licensee's willful misconduct or willful blindness;

(5) the competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, key individual, or responsible person of the

authorized delegate indicates that it is not in the public interest to permit the person to provide money transmission;

(6) the licensee engages in an unsafe or unsound practice;

(7) the licensee is insolvent, suspends payment of the licensee's obligations, or makes a general assignment for the benefit of the licensee's creditors; or

(8) the licensee does not remove an authorized delegate after the commissioner issues and serves upon the licensee a final order that includes a finding that the authorized delegate has violated this chapter.

(b) When determining whether a licensee is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this chapter, and the previous conduct of the person involved.

Sec. 51. **[53B.64] AUTHORIZED DELEGATES; SUSPENSION AND REVOCATION.**

(a) The commissioner may issue an order suspending or revoking the designation of an authorized delegate if the commissioner finds:

(1) the authorized delegate violated this chapter, or an administrative rule adopted or an order issued under this chapter;

(2) the authorized delegate did not cooperate with an examination or investigation conducted by the commissioner;

(3) the authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;

(4) the authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;

(5) the competence, experience, character, or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money transmission; or

(6) the authorized delegate is engaging in an unsafe or unsound practice.

(b) When determining whether an authorized delegate is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the authorized delegate's provision of money transmission, the magnitude of the loss, the gravity of the violation of

this chapter, or an administrative rule adopted or order issued under this chapter, and the previous conduct of the authorized delegate.

(c) An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate in the same manner as a licensee.

Sec. 52. **[53B.65] ENFORCEMENT.**

Section 45.027 applies to this chapter.

Sec. 53. **[53B.66] CRIMINAL PENALTIES.**

(a) A person who intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this chapter or that intentionally makes a false entry or omits a material entry in a record filed or required to be maintained under this chapter is guilty of a felony.

(b) A person who knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter, and who receives more than $1,000 in compensation within a 30-day period from the activity, is guilty of a felony.

(c) A person who knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter, and who receives more than $500 but less than $1,000 in compensation within a 30-day period from the activity, is guilty of a gross misdemeanor.

(d) A person who knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter, and who receives no more than $500 in compensation within a 30-day period from the activity, is guilty of a misdemeanor.

Sec. 54. **[53B.67] SEVERABILITY.**

If any provision of this chapter or the chapter's application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application.

Sec. 55. **[53B.68] TRANSITION PERIOD.**

(a) A person licensed in Minnesota to engage in the business of money transmission is not subject to the provisions of this chapter to the extent that this chapter's provisions conflict with current law or establish new requirements not imposed under current law until the

licensee renews the licensee's current license or for five months after the effective date of this chapter, whichever is later.

(b) Notwithstanding paragraph (a), a licensee is only required to amend the licensee's authorized delegate contracts for contracts entered into or amended after the effective date or the completion of any transition period contemplated under paragraph (a). Nothing in this section limits an authorized delegate's obligations to operate in full compliance with this chapter, as required under section 53B.51, paragraph (c).

Sec. 56. **[53B.69] DEFINITIONS.**

Subdivision 1. **Terms.** For purposes of sections 53B.70 to 53B.74, the following terms have the meaning given them.

Subd. 2. **Control of virtual currency.** "Control of virtual currency," when used in reference to a transaction or relationship involving virtual currency, means the power to execute unilaterally or prevent indefinitely a virtual currency transaction.

Subd. 3. **Exchange.** "Exchange," used as a verb, means to assume control of virtual currency from or on behalf of a person, at least momentarily, to sell, trade, or convert:

(1) virtual currency for money, bank credit, or one or more forms of virtual currency; or

(2) money or bank credit for one or more forms of virtual currency.

Subd. 4. **Transfer.** "Transfer" means to assume control of virtual currency from or on behalf of a person and to:

(1) credit the virtual currency to the account of another person;

(2) move the virtual currency from one account of a person to another account of the same person; or

(3) relinquish control of virtual currency to another person.

Subd. 5. **United States dollar equivalent of virtual currency.** "United States dollar equivalent of virtual currency" means the equivalent value of a particular virtual currency in United States dollars shown on a virtual-currency exchange based in the United States for a particular date or period specified in this chapter.

Subd. 6. **Virtual currency.** (a) "Virtual currency" means a digital representation of value that:

(1) is used as a medium of exchange, unit of account, or store of value; and

(2) is not money, whether or not denominated in money.

(b) Virtual currency does not include:

(1) a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for money, bank credit, or virtual currency; or

(2) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

Subd. 7. **Virtual-currency administration.** "Virtual-currency administration" means issuing virtual currency with the authority to redeem the currency for money, bank credit, or other virtual currency.

Subd. 8. **Virtual-currency business activity.** "Virtual-currency business activity" means:

(1) exchanging, transferring, or storing virtual currency or engaging in virtual-currency administration, whether directly or through an agreement with a virtual-currency control-services vendor;

(2) holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals; or

(3) exchanging one or more digital representations of value used within one or more online games, game platforms, or family of games for:

(i) virtual currency offered by or on behalf of the same publisher from which the original digital representation of value was received; or

(ii) money or bank credit outside the online game, game platform, or family of games offered by or on behalf of the same publisher from which the original digital representation of value was received.

Subd. 9. **Virtual-currency control-services vendor.** "Virtual-currency control-services vendor" means a person that has control of virtual currency solely under an agreement with a person that, on behalf of another person, assumes control of virtual currency.

Sec. 57. **[53B.70] SCOPE.**

(a) Sections 53B.71 to 53B.74 do not apply to the exchange, transfer, or storage of virtual currency or to virtual-currency administration to the extent the Electronic Fund Transfer

Act of 1978, United States Code, title 15, sections 1693 to 1693r, as amended or recodified from time to time; the Securities Exchange Act of 1934, United States Code, title 15, sections 78a to 78oo, as amended or recodified from time to time; the Commodities Exchange Act of 1936, United States Code, title 7, sections 1 to 27f, as amended or recodified from time to time; or chapter 80A govern the activity.

(b) Sections 53B.71 to 53B.74 do not apply to activity by:

(1) a person that:

(i) contributes only connectivity software or computing power to a decentralized virtual currency, or to a protocol governing transfer of the digital representation of value;

(ii) provides only data storage or security services for a business engaged in virtual-currency business activity and does not otherwise engage in virtual-currency business activity on behalf of another person; or

(iii) provides only to a person otherwise exempt from this chapter virtual currency as one or more enterprise solutions used solely among each other and has no agreement or relationship with a person that is an end-user of virtual currency;

(2) a person using virtual currency, including creating, investing, buying or selling, or obtaining virtual currency as payment for the purchase or sale of goods or services, solely:

(i) on the person's own behalf;

(ii) for personal, family, or household purposes; or

(iii) for academic purposes;

(3) a person whose virtual-currency business activity with or on behalf of persons is reasonably expected to be valued, in the aggregate, on an annual basis at $5,000 or less, measured by the United States dollar equivalent of virtual currency;

(4) an attorney to the extent of providing escrow services to a person;

(5) a title insurance company to the extent of providing escrow services to a person; or

(6) a securities intermediary, as defined under section 336.8-102(14), or a commodity intermediary, as defined under section 336.9-102(17), that:

(i) does not engage in the ordinary course of business in virtual-currency business activity with or on behalf of a person in addition to maintaining securities accounts or commodities accounts and is regulated as a securities intermediary or commodity intermediary under federal law, law of Minnesota other than this chapter, or law of another state; and

(ii) affords a person protections comparable to those set forth under section 53B.37.

(c) Sections 53B.71 to 53B.74 do not apply to a secured creditor, as defined under sections 336.9-101 to 336.9-809 or to a creditor with a judicial lien or lien arising by operation of law on collateral that is virtual currency, if the virtual-currency business activity of the creditor is limited to enforcement of the security interest in compliance with sections 336.9-101 to 336.9-809 or lien in compliance with the law applicable to the lien.

(d) Sections 53B.71 to 53B.74 do not apply to a virtual-currency control-services vendor.

(e) Sections 53B.71 to 53B.74 do not apply to a person that:

(1) does not receive compensation from a person to:

(i) provide virtual-currency products or services; or

(ii) conduct virtual-currency business activity; or

(2) is engaged in testing products or services with the person's own money.

(f) The commissioner may determine that a person or class of persons, given facts particular to the person or class, should be exempt from this chapter, whether the person or class is covered by requirements imposed under federal law on a money-service business.

Sec. 58. **[53B.71] VIRTUAL CURRENCY BUSINESS ACTIVITY; CONDITIONS PRECEDENT.**

(a) A person may not engage in virtual-currency business activity, or hold itself out as being able to engage in virtual-currency business activity, with or on behalf of another person unless the person is:

(1) licensed in Minnesota by the commissioner under section 53B.40; or

(2) exempt from licensing under section 53B.29.

(b) A person that is licensed to engage in virtual-currency business activity is engaged in the business of money transmission and is subject to the requirements of this chapter.

Sec. 59. **[53B.72] REQUIRED DISCLOSURES.**

(a) A licensee that engages in virtual currency business activity must provide to a person who uses the licensee's products or services the disclosures required by paragraph (b) and any additional disclosure the commissioner by administrative rule determines reasonably necessary to protect persons. The commissioner must determine by administrative rule the time and form required for disclosure. A disclosure required by this section must be made

separately from any other information provided by the licensee and in a clear and conspicuous manner in a record the person may keep. A licensee may propose for the commissioner's approval alternate disclosures as more appropriate for the licensee's virtual-currency business activity with or on behalf of persons.

(b) Before establishing a relationship with a person, a licensee must disclose, to the extent applicable to the virtual-currency business activity the licensee undertakes with the person:

(1) a schedule of fees and charges the licensee may assess, the manner by which fees and charges are calculated if the fees and charges are not set in advance and disclosed, and the timing of the fees and charges;

(2) whether the product or service provided by the licensee is covered by:

(i) a form of insurance or is otherwise guaranteed against loss by an agency of the United States:

(A) up to the full United States dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee as of the date of the placement or purchase, including the maximum amount provided by insurance under the Federal Deposit Insurance Corporation or otherwise available from the Securities Investor Protection Corporation; or

(B) if not provided at the full United States dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee, the maximum amount of coverage for each person expressed in the United States dollar equivalent of the virtual currency; or

(ii) private insurance against theft or loss, including cyber theft or theft by other means;

(3) the irrevocability of a transfer or exchange and any exception to irrevocability;

(4) a description of:

(i) liability for an unauthorized, mistaken, or accidental transfer or exchange;

(ii) the person's responsibility to provide notice to the licensee of the transfer or exchange;

(iii) the basis for any recovery by the person from the licensee;

(iv) general error-resolution rights applicable to the transfer or exchange; and

(v) the method for the person to update the person's contact information with the licensee;

(5) that the date or time when the transfer or exchange is made and the person's account is debited may differ from the date or time when the person initiates the instruction to make the transfer or exchange;

(6) whether the person has a right to stop a preauthorized payment or revoke authorization for a transfer, and the procedure to initiate a stop-payment order or revoke authorization for a subsequent transfer;

(7) the person's right to receive a receipt, trade ticket, or other evidence of the transfer or exchange;

(8) the person's right to at least 30 days' prior notice of a change in the licensee's fee schedule, other terms and conditions of operating the licensee's virtual-currency business activity with the person, and the policies applicable to the person's account; and

(9) that virtual currency is not money.

(c) Except as otherwise provided in paragraph (d), at the conclusion of a virtual-currency transaction with or on behalf of a person, a licensee must provide the person a confirmation in a record. The record must contain:

(1) the name and contact information of the licensee, including information the person may need to ask a question or file a complaint;

(2) the type, value, date, precise time, and amount of the transaction; and

(3) the fee charged for the transaction, including any charge for conversion of virtual currency to money, bank credit, or other virtual currency.

(d) If a licensee discloses that it provides a daily confirmation in the initial disclosure under paragraph (c), the licensee may elect to provide a single, daily confirmation for all transactions with or on behalf of a person on that day instead of a per-transaction confirmation.

Sec. 60. **[53B.73] PROPERTY INTERESTS AND ENTITLEMENTS TO VIRTUAL CURRENCY.**

(a) A licensee that has control of virtual currency for one or more persons must maintain control of virtual currency in each type of virtual currency sufficient to satisfy the aggregate entitlements of the persons to the type of virtual currency.

(b) If a licensee violates paragraph (a), the property interests of the persons in the virtual currency are pro rata property interests in the type of virtual currency to which the persons

are entitled, without regard to the time the persons became entitled to the virtual currency or the licensee obtained control of the virtual currency.

(c) The virtual currency referred to in this section is:

(1) held for the persons entitled to the virtual currency;

(2) not property of the licensee;

(3) not subject to the claims of creditors of the licensee; and

(4) a permissible investment under this chapter.

Sec. 61. **[53B.74] VIRTUAL CURRENCY BUSINESS ACTIVITIES; ADDITIONAL REQUIREMENTS.**

(a) A licensee engaged in virtual currency business activities may include virtual currency in the licensee's calculation of tangible net worth, by measuring the average value of the virtual currency in United States dollar equivalent over the prior six months, excluding control of virtual currency for a person entitled to the protections under section 53B.73.

(b) A licensee must maintain, for all virtual-currency business activity with or on behalf of a person five years after the date of the activity, a record of:

(1) each of the licensee's transactions with or on behalf of the person, or for the licensee's account in Minnesota, including:

(i) the identity of the person;

(ii) the form of the transaction;

(iii) the amount, date, and payment instructions given by the person; and

(iv) the account number, name, and United States Postal Service address of the person, and, to the extent feasible, other parties to the transaction;

(2) the aggregate number of transactions and aggregate value of transactions by the licensee with or on behalf of the person and for the licensee's account in this state, expressed in the United States dollar equivalent of the virtual currency for the previous 12 calendar months;

(3) each transaction in which the licensee exchanges one form of virtual currency for money or another form of virtual currency with or on behalf of the person;

(4) a general ledger posted at least monthly that lists all of the licensee's assets, liabilities, capital, income, and expenses;

(5) each business-call report the licensee is required to create or provide to the department or NMLS;

(6) bank statements and bank reconciliation records for the licensee and the name, account number, and United States Postal Service address of each bank the licensee uses to conduct virtual-currency business activity with or on behalf of the person;

(7) a report of any dispute with the person; and

(8) a report of any virtual-currency business activity transaction with or on behalf of a person which the licensee was unable to complete.

(c) A licensee must maintain records required by paragraph (b) in a form that enables the commissioner to determine whether the licensee is in compliance with this chapter, any court order, and law of Minnesota other than this chapter.

Sec. 62. Minnesota Statutes 2022, section 56.131, subdivision 1, is amended to read:

Subdivision 1. **Interest rates and charges.** (a) On any loan in a principal amount not exceeding $100,000 or 15 percent of a Minnesota corporate licensee's capital stock and surplus as defined in section 53.015, if greater, a licensee may contract for and receive interest, finance charges, and other charges as provided in section 47.59.

(b) A licensee making a loan that is a consumer small loan, as defined in section 47.60, subdivision 1, paragraph (a), must comply with section 47.60. A licensee making a loan that is a consumer short-term loan, as defined in section 47.601, subdivision 1, paragraph (d), must comply with section 47.601.

~~(b)~~ (c) With respect to a loan secured by an interest in real estate, and having a maturity of more than 60 months, the original schedule of installment payments must fully amortize the principal and interest on the loan. The original schedule of installment payments for any other loan secured by an interest in real estate must provide for payment amounts that are sufficient to pay all interest scheduled to be due on the loan.

~~(c)~~ (d) A licensee may contract for and collect a delinquency charge as provided for in section 47.59, subdivision 6, paragraph (a), clause (4).

~~(d)~~ (e) A licensee may grant extensions, deferments, or conversions to interest-bearing as provided in section 47.59, subdivision 5.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2023, and applies to consumer small loans and consumer short-term loans originated on or after that date.

Sec. 63. **[58.20] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of this section to section 58.23, the terms defined in this section have the meanings given.

Subd. 2. **Allowable assets for liquidity.** "Allowable assets for liquidity" means assets that may be used to satisfy the liquidity requirements under section 58.22, including:

(1) unrestricted cash and cash equivalents; and

(2) unencumbered investment grade assets held for sale or trade, including agency mortgage-backed securities, obligations of government-sponsored enterprises, and United States Treasury obligations.

Subd. 3. **Board of directors.** "Board of directors" means the formal body established by a covered institution that is responsible for corporate governance and compliance with sections 58.21 to 58.23.

Subd. 4. **Corporate governance.** "Corporate governance" means the structure of the covered institution and how the covered institution is managed, including the corporate rules, policies, processes, and practices used to oversee and manage the covered institution.

Subd. 5. **Covered institution.** "Covered institution" means a mortgage servicer that services or subservices for others at least 2,000 or more residential mortgage loans in the United States, excluding whole loans owned, and loans being interim serviced prior to sale as of the most recent calendar year end, reported on the NMLS mortgage call report.

Subd. 6. **External audit.** "External audit" means the formal report, prepared by an independent certified public accountant, expressing an opinion on whether the financial statements are:

(1) presented fairly, in all material aspects, in accordance with the applicable financial reporting framework; and

(2) inclusive of an evaluation of the adequacy of a company's internal control structure.

Subd. 7. **Government-sponsored enterprises.** "Government-sponsored enterprises" means the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

Subd. 8. **Interim serviced prior to sale.** "Interim serviced prior to sale" means the collection of a limited number of contractual mortgage payments immediately after origination on loans held for sale but no longer than a period of ninety days prior to the loans being sold into the secondary market.

Subd. 9. **Internal audit.** "Internal audit" means the internal activity of performing independent and objective assurance and consulting to evaluate and improve the effectiveness of company operations, risk management, internal controls, and governance processes.

Subd. 10. **Mortgage-backed security.** "Mortgage-backed security" means a financial instrument, often debt securities, collateralized by residential mortgages.

Subd. 11. **Mortgage call report.** "Mortgage call report" means the quarterly or annual report of residential real estate loan origination, servicing, and financial information completed by companies licensed in NMLS.

Subd. 12. **Mortgage servicing rights.** "Mortgage servicing rights" means the contractual right to service a residential mortgage loan on behalf of the owner of the associated mortgage in exchange for compensation specified in the servicing contract.

Subd. 13. **Mortgage servicing rights investor.** "Mortgage servicing rights investor" or "master servicer" means an entity that (1) invests in and owns mortgage servicing rights; and (2) relies on subservicers to administer the loans on the mortgage servicing rights investor's behalf.

Subd. 14. **Nationwide Multistate Licensing System.** "Nationwide Multistate Licensing System" or "NMLS" has the meaning given in section 58A.02, subdivision 8.

Subd. 15. **Operating liquidity.** "Operating liquidity" means the money necessary for an entity to perform normal business operations, including payment of rent, salaries, interest expenses, and other typical expenses associated with operating the entity.

Subd. 16. **Residential mortgage loans serviced.** "Residential mortgage loans serviced" means the specific portfolio or portfolios of residential mortgage loans for which a licensee is contractually responsible to the owner or owners of the mortgage loans for the defined servicing activities.

Subd. 17. **Reverse mortgage.** "Reverse mortgage" has the meaning given in section 47.58, subdivision 1, paragraph (a).

Subd. 18. **Risk management assessment.** "Risk management assessment" means the functional evaluations performed under the risk management program and the reports provided to the board of directors under the relevant governance protocol.

Subd. 19. **Risk management program.** "Risk management program" means the policies and procedures designed to identify, measure, monitor, and mitigate risk commensurate with the covered institution's size and complexity.

Subd. 20. **Servicer.** "Servicer" has the meaning given in section 58.02, subdivision 20.

Subd. 21. **Servicing liquidity.** "Servicing liquidity" or "liquidity" means the financial resources necessary to manage liquidity risk arising from servicing functions required in acquiring and financing mortgage servicing rights; hedging costs, including margin calls, associated with the mortgage servicing rights asset and financing facilities; and advances or costs of advance financing for principal, interest, taxes, insurance, and any other servicing related advances.

Subd. 22. **Subservicer.** "Subservicer" means the entity performing routine administration of residential mortgage loans as the agent of a servicer or mortgage servicing rights investor under the terms of a subservicing contract.

Subd. 23. **Subservicing for others.** "Subservicing for others" means the contractual activities performed by subservicers on behalf of a servicer or mortgage servicing rights investor.

Subd. 24. **Tangible net worth.** "Tangible net worth" means total equity less receivables due from related entities, less goodwill and other intangibles, less pledged assets.

Subd. 25. **Whole loans.** "Whole loans" means a loan where a mortgage and the underlying credit risk is owned and held on a balance sheet of the entity possessing all ownership rights.

Sec. 64. **[58.21] APPLICABILITY; EXCLUSIONS.**

Subdivision 1. **Applicability.** Sections 58.20 to 58.23 apply to covered institutions. For entities within a holding company or an affiliated group of companies, sections 58.20 to 58.23 apply at the covered institution level.

Subd. 2. **Exclusions.** (a) Sections 58.20 to 58.23 do not apply to (1) persons exempt from licensing under sections 58.04 and 58.05, and (2) an institution of the Farm Credit System established and authorized in accordance with the Farm Credit Act of 1971, as amended, United States Code, title 12, section 2001 et seq.

(b) Section 58.22 does not apply to (1) servicers that solely own or conduct reverse mortgage servicing, or (2) the reverse mortgage portfolio administered by a covered institution.

Sec. 65. **[58.22] FINANCIAL CONDITION.**

Subdivision 1. **Compliance required.** A covered institution must maintain capital and liquidity in compliance with this section.

Subd. 2. **Generally accepted accounting principles.** For the purposes of complying with the capital and liquidity requirements of this section, all financial data must be determined in accordance with generally accepted accounting principles.

Subd. 3. **Federal Housing Finance Agency eligibility requirements; policies and procedures.** (a) A covered institution that meets the Federal Housing Finance Agency eligibility requirements for enterprise single-family sellers and servicers with respect to capital, net worth ratio, and liquidity meets the requirements of subdivisions 1 and 2, regardless of whether the servicer is approved for government-sponsored enterprise servicing.

(b) A covered institution must maintain written policies and procedures that implement the capital and servicing liquidity requirements of this section. The policies and procedures implemented pursuant to this paragraph must include a sustainable written methodology to satisfy the requirements of paragraph (a) and must be made available to the commissioner upon request.

Subd. 4. **Operating liquidity.** (a) A covered institution must maintain sufficient allowable assets for liquidity, in addition to the amounts required for servicing liquidity, to cover normal business operations.

(b) Covered institutions must have sound cash management and business operating plans that (1) match the complexity of the institution; and (2) ensure normal business operations.

(c) Management must develop, establish, and implement plans, policies, and procedures to maintain operating liquidity sufficient for the ongoing needs of the covered institution. Plans, policies, and procedures implemented pursuant to this paragraph must contain sustainable, written methodologies to maintain sufficient operating liquidity and must be made available to the commissioner upon request.

Sec. 66. **[58.23] CORPORATE GOVERNANCE.**

Subdivision 1. **Board of directors required.** A covered institution must establish and maintain a board of directors that is responsible for oversight of the covered institution.

Subd. 2. **Board of directors; alternative.** If a covered institution has not received approval to service loans by a government-sponsored enterprise or the Government National Mortgage Association, or if a government-sponsored enterprise or the Government National Mortgage Association has granted approval for a board of directors alternative, the covered institution may establish a similar body constituted to exercise oversight and fulfill the responsibilities specified under subdivision 3.

Subd. 3. **Board of directors; responsibilities.** The board of directors must:

(1) establish a written corporate governance framework, including appropriate internal controls designed to monitor corporate governance and assess compliance with the corporate governance framework, and must make the corporate governance framework available to the commissioner upon request;

(2) monitor and ensure the covered institution complies with (i) the corporate governance framework; and (ii) sections 58.20 to this section; and

(3) perform accurate and timely regulatory reporting, including filing the mortgage call report.

Subd. 4. **Internal audit.** The board of directors must establish internal audit requirements that (1) are appropriate for the size, complexity, and risk profile of the servicer; and (2) ensure appropriate independence to provide a reliable evaluation of the servicer's internal control structure, risk management, and governance. The board-established internal audit requirements and the results of internal audits must be made available to the commissioner upon request.

Subd. 5. **External audit.** (a) A covered institution must receive an external audit, including audited financial statements and audit reports, that is conducted by an independent public accountant annually. The external audit must be made available to the commissioner upon request.

(b) The external audit must include, at a minimum:

(1) annual financial statements, including (i) a balance sheet; (ii) a statement of operations and income statement; and (iii) cash flows, including notes and supplemental schedules prepared in accordance with generally accepted accounting principles;

(2) an assessment of the internal control structure;

(3) a computation of tangible net worth;

(4) validation of mortgage servicing rights valuation and reserve methodology, if applicable;

(5) verification of adequate fidelity and errors and omissions insurance; and

(6) testing of controls related to risk management activities, including compliance and stress testing, if applicable.

Subd. 6. **Risk management.** (a) Under oversight by the board of directors, a covered institution must establish a risk management program that identifies, measures, monitors, and controls risk commensurate with the covered institution's size and complexity. The risk

management program must have appropriate processes and models in place to measure, monitor, and mitigate financial risks and changes to the servicer's risk profile and assets being serviced.

(b) The risk management program must be scaled to the size and complexity of the organization, including but not limited to:

(1) the potential that a borrower or counterparty fails to perform on an obligation;

(2) the potential that the servicer (i) is unable to meet the servicer's obligations as the obligations come due as a result of an inability to liquidate assets or obtain adequate funding; or (ii) cannot easily unwind or offset specific exposures;

(3) the risk resulting from (i) inadequate or failed internal processes, people, and systems; or (ii) external events;

(4) the risk to the servicer's condition resulting from adverse movements in market rates or prices;

(5) the risk of regulatory sanctions, fines, penalties, or losses resulting from the failure to comply with laws, rules, regulations, or other supervisory requirements that apply to the servicer;

(6) the potential that legal proceedings against the institution resulting in unenforceable contracts, lawsuits, legal sanctions, or adverse judgments can disrupt or otherwise negatively affect the servicer's operations or condition; and

(7) the risk to earnings and capital arising from negative publicity regarding the servicer's business practices.

Subd. 7. **Risk management assessment.** A covered institution must conduct a risk management assessment on an annual basis. The risk management assessment must conclude with a formal report to the board of directors and must be made available to the commissioner upon request. A covered institution must maintain evidence of risk management activities throughout the year and must include the evidence of risk management activities as part of the report. The risk management assessment must include issue findings and the response or action taken to address the issue findings.

Sec. 67. **[58B.011] STUDENT LOAN ADVOCATE.**

Subdivision 1. **Designation of a student loan advocate.** The commissioner of commerce must designate a student loan advocate within the Department of Commerce to provide timely assistance to borrowers and to effectuate this chapter.

Subd. 2. **Duties.** The student loan advocate has the following duties:

(1) receive, review, and attempt to resolve complaints from borrowers, including but not limited to attempts to resolve borrower complaints in collaboration with institutions of higher education, student loan servicers, and any other participants in student loan lending;

(2) compile and analyze data on borrower complaints received under clause (1);

(3) help borrowers understand the rights and responsibilities under the terms of student loans;

(4) provide information to the public, state agencies, legislators, and relevant stakeholders regarding the problems and concerns of borrowers;

(5) make recommendations to resolve the problems of borrowers;

(6) analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies relating to borrowers, and recommend any changes deemed necessary;

(7) review the complete student loan history for any borrower who has provided written consent to conduct the review;

(8) increase public awareness that the advocate is available to assist in resolving the student loan servicing concerns of potential and actual borrowers, institutions of higher education, student loan servicers, and any other participant in student loan lending; and

(9) take other actions as necessary to fulfill the duties of the advocate, as provided under this section.

Subd. 3. **Student loan education course.** The advocate must establish and maintain a borrower education course. The course must include educational presentations and materials regarding important topics in student loans, including but not limited to:

(1) the meaning of important terminology used in student lending;

(2) documentation requirements;

(3) monthly payment obligations;

(4) income-based repayment options;

(5) the availability of state and federal loan forgiveness programs; and

(6) disclosure requirements.

Subd. 4. **Reporting.** By January 15 of each odd-numbered year, the advocate must report to the legislative committees with primary jurisdiction over commerce and higher education. The report must describe the advocate's implementation of this section, the outcomes achieved by the advocate during the previous two years, and recommendations to improve the regulation of student loan servicers.

Sec. 68. Minnesota Statutes 2022, section 80A.50, is amended to read:

80A.50 SECTION 302; FEDERAL COVERED SECURITIES; SMALL CORPORATE OFFERING REGISTRATION.

(a) **Federal covered securities.**

(1) **Required filing of records.** With respect to a federal covered security, as defined in Section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(2)), that is not otherwise exempt under sections 80A.45 through 80A.47, a rule adopted or order issued under this chapter may require the filing of any or all of the following records:

(A) before the initial offer of a federal covered security in this state, all records that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933 and a consent to service of process complying with section 80A.88 signed by the issuer;

(B) after the initial offer of the federal covered security in this state, all records that are part of an amendment to a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933; and

(C) to the extent necessary or appropriate to compute fees, a report of the value of the federal covered securities sold or offered to persons present in this state, if the sales data are not included in records filed with the Securities and Exchange Commission.

(2) **Notice filing effectiveness and renewal.** A notice filing under subsection (a) is effective for one year commencing on the later of the notice filing or the effectiveness of the offering filed with the Securities and Exchange Commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under this chapter to be filed. A previously filed consent to service of process complying with section 80A.88 may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

(3) **Notice filings for federal covered securities under section 18(b)(4)(D).** With respect to a security that is a federal covered security under Section 18(b)(4)(D) of the

Securities Act of 1933 (15 U.S.C. Section 77r(b)(4)(D)), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with section 80A.88 signed by the issuer not later than 15 days after the first sale of the federal covered security in this state.

(4) **Stop orders.** Except with respect to a federal security under Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)), if the administrator finds that there is a failure to comply with a notice or fee requirement of this section, the administrator may issue a stop order suspending the offer and sale of a federal covered security in this state. If the deficiency is corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by the administrator.

(b) **Small corporation offering registration.**

(1) **Registration required.** A security meeting the conditions set forth in this section may be registered as set forth in this section.

(2) **Availability.** Registration under this section is available only to the issuer of securities and not to an affiliate of the issuer or to any other person for resale of the issuer's securities. The issuer must be organized under the laws of one of the states or possessions of the United States. The securities offered must be exempt from registration under the Securities Act of 1933 pursuant to Rule 504 of Regulation D (15 U.S.C. Section 77c).

(3) **Disqualification.** Registration under this section is not available to any of the following issuers:

(A) an issuer subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934;

(B) an investment company;

(C) a development stage company that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies or other entity or person;

(D) an issuer if the issuer or any of its predecessors, officers, directors, governors, partners, ten percent stock or equity holders, promoters, or any selling agents of the securities to be offered, or any officer, director, governor, or partner of the selling agent:

(i) has filed a registration statement that is the subject of a currently effective registration stop order entered under a federal or state securities law within five years before the filing of the small corporate offering registration application;

(ii) has been convicted within five years before the filing of the small corporate offering registration application of a felony or misdemeanor in connection with the offer, purchase, or sale of a security or a felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;

(iii) is currently subject to a state administrative enforcement order or judgment entered by a state securities administrator or the Securities and Exchange Commission within five years before the filing of the small corporate offering registration application, or is subject to a federal or state administrative enforcement order or judgment in which fraud or deceit, including, but not limited to, making untrue statements of material facts or omitting to state material facts, was found and the order or judgment was entered within five years before the filing of the small corporate offering registration application;

(iv) is currently subject to an order, judgment, or decree of a court of competent jurisdiction temporarily restraining or enjoining, or is subject to an order, judgment, or decree of a court of competent jurisdiction permanently restraining or enjoining the party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of a false filing with a state or with the Securities and Exchange Commission entered within five years before the filing of the small corporate offering registration application; or

(v) is subject to a state's administrative enforcement order, or judgment that prohibits, denies, or revokes the use of an exemption for registration in connection with the offer, purchase, or sale of securities,

(I) except that clauses (i) to (iv) do not apply if the person subject to the disqualification is duly licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against the person or if the dealer employing the party is licensed or registered in this state and the form BD filed in this state discloses the order, conviction, judgment, or decree relating to the person, and

(II) except that the disqualification under this subdivision is automatically waived if the state securities administrator or federal agency that created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances to deny the registration.

(4) **Filing and effectiveness of registration statement.** A small corporate offering registration statement must be filed with the administrator. If no stop order is in effect and no proceeding is pending under section 80A.54, such registration statement shall become

effective automatically at the close of business on the 20th day after filing of the registration statement or the last amendment of the registration statement or at such earlier time as the administrator may designate by rule or order. For the purposes of a nonissuer transaction, other than by an affiliate of the issuer, all outstanding securities of the same class identified in the small corporate offering registration statement as a security registered under this chapter are considered to be registered while the small corporate offering registration statement is effective. A small corporate offering registration statement is effective for one year after its effective date or for any longer period designated in an order under this chapter. A small corporate offering registration statement may be withdrawn only with the approval of the administrator.

(5) **Contents of registration statement.** A small corporate offering registration statement under this section shall be on Form U-7, including exhibits required by the instructions thereto, as adopted by the North American Securities Administrators Association, or such alternative form as may be designated by the administrator by rule or order and must include:

(A) a consent to service of process complying with section 80A.88;

(B) a statement of the type and amount of securities to be offered and the amount of securities to be offered in this state;

(C) a specimen or copy of the security being registered, unless the security is uncertificated, a copy of the issuer's articles of incorporation and bylaws or their substantial equivalents in effect, and a copy of any indenture or other instrument covering the security to be registered;

(D) a signed or conformed copy of an opinion of counsel concerning the legality of the securities being registered which states whether the securities, when sold, will be validly issued, fully paid, and nonassessable and, if debt securities, binding obligations of the issuer;

(E) the states (i) in which the securities are proposed to be offered; (ii) in which a registration statement or similar filing has been made in connection with the offering including information as to effectiveness of each such filing; and (iii) in which a stop order or similar proceeding has been entered or in which proceedings or actions seeking such an order are pending;

(F) a copy of the offering document proposed to be delivered to offerees; and

(G) a copy of any other pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering and any solicitation of interest used in compliance with section 80A.46(17)(B).

(6) **Copy to purchaser.** A copy of the offering document as filed with the administrator must be delivered to each person purchasing the securities prior to sale of the securities to such person.

(c) **Offering limit.** Offers and sales of securities under a small corporate offering registration as set forth in this section are allowed up to the limit prescribed by Code of Federal Regulations, title 17, part 230.504(b)(2), as amended.

Sec. 69. **[332.71] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 332.71 to 332.75, the definitions in this section have the meanings given them.

Subd. 2. **Coerced debt.** (a) "Coerced debt" means all or a portion of debt in a debtor's name that has been incurred as a result of:

(1) the use of the debtor's personal information without the debtor's knowledge, authorization, or consent;

(2) the use or threat of force, intimidation, undue influence, harassment, fraud, deception, coercion, or other similar means against the debtor; or

(3) economic abuse perpetrated against the debtor.

(b) Coerced debt does not include secured debt.

Subd. 3. **Creditor.** "Creditor" means a person, or the person's successor, assignee, or agent, claiming to own or have the right to collect a debt owed by the debtor.

Subd. 4. **Debtor.** "Debtor" means a person who (1) is a victim of domestic abuse, harassment, or sex or labor trafficking, and (2) owes coerced debt.

Subd. 5. **Documentation.** "Documentation" means a writing that identifies a debt or a portion of a debt as coerced debt, describes the circumstances under which the coerced debt was incurred, and takes the form of:

(1) a police report;

(2) a Federal Trade Commission identity theft report;

(3) an order in a dissolution proceeding under chapter 518 that declares that one or more debts are coerced; or

(4) a sworn written certification.

Subd. 6. **Domestic abuse.** "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.

Subd. 7. **Economic abuse.** "Economic abuse" means behavior in the context of a domestic relationship that controls, restrains, restricts, impairs, or interferes with the ability of a victim of domestic abuse, harassment, or sex or labor trafficking to acquire, use, or maintain economic resources, including but not limited to:

(1) withholding or restricting access to, or the acquisition of, money, assets, credit, or financial information;

(2) interfering with the victim's ability to work and earn wages; or

(3) exerting undue influence over a person's financial and economic behavior or decisions.

Subd. 8. **Harassment.** "Harassment" has the meaning given in section 609.748.

Subd. 9. **Labor trafficking.** "Labor trafficking" has the meaning given in section 609.281, subdivision 5.

Subd. 10. **Qualified third-party professional.** "Qualified third-party professional" means:

(1) a domestic abuse advocate, as defined under section 595.02, subdivision 1, paragraph (l);

(2) a sexual assault counselor, as defined under section 595.02, subdivision 1, paragraph (k);

(3) a licensed health care provider, mental health care provider, social worker, or marriage and family therapist; or

(4) a nonprofit organization in Minnesota that provides direct assistance to victims of domestic abuse, sexual assault, or sex or labor trafficking.

Subd. 11. **Sex trafficking.** "Sex trafficking" has the meaning given in section 609.321, subdivision 7a.

Subd. 12. **Sworn written certification.** "Sworn written certification" means a statement by a qualified third-party professional in the following form:

CERTIFICATION OF QUALIFIED THIRD-PARTY PROFESSIONAL

I, ... (name of qualified third-party professional), do hereby certify under penalty of perjury as follows:

1. I am a licensed health care provider, mental health care provider, social worker, marriage and family therapist, domestic abuse advocate, as that term is defined in Minnesota Statutes, section 595.02, subdivision 1, paragraph (l), or sexual assault counselor, as that term is defined in Minnesota Statutes, section 595.02, subdivision 1, paragraph (k), or a staff member of a nonprofit organization that provides direct assistance to victims of domestic abuse, sexual assault, or sex or labor trafficking, who has had in-person contact or face-to-face contact through an electronic medium with ..... (name of debtor).

2. Based on my professional interactions with the debtor and information presented to me in my professional capacity, I have a reasonable basis to believe ..... (name of debtor) is a victim of domestic abuse, harassment, sex trafficking or labor trafficking and has incurred all or a portion of debt that is coerced debt, as that term is defined in Minnesota Statutes, section 332.71, subdivision 2.

3. Based on my professional interactions with the debtor and on information presented to me, I have reason to believe that the circumstances under which the coerced debt was incurred are as follows:

4. The following debts or portions of the debts have been identified to me as coerced:

I attest that the foregoing is true and correct.

(Printed name of qualified third party)

(Signature of qualified third party)

(Business address and business telephone)

(Date)

EFFECTIVE DATE. This section is effective January 1, 2024, and applies to all debts incurred on or after that date.

Sec. 70. **[332.72] COERCED DEBT PROHIBITED.**

A person is prohibited from causing another person to incur coerced debt.

EFFECTIVE DATE. This section is effective January 1, 2024, and applies to all debts incurred on or after that date.

Sec. 71. **[332.73] NOTICE TO CREDITOR OF COERCED DEBT.**

Subdivision 1. **Notification.** (a) Before taking an affirmative action under section 332.74, a debtor must, by certified mail, notify a creditor that the debt or a portion of a debt on

which the creditor demands payment is coerced debt and request that the creditor cease all collection activity on the coerced debt. The notification and request must be in writing and include documentation. The creditor, within 30 days of the date the notification and request is received, must notify the debtor in writing of the creditor's decision to either immediately cease all collection activity or continue to pursue collection.

(b) If a creditor ceases collection but subsequently decides to resume collection activity, the creditor must notify the debtor ten days prior to the date the collection activity resumes.

(c) A debtor must not proceed with an action under section 332.74 until the 30-day period provided under paragraph (a) has expired.

Subd. 2. **Sale or assignment of coerced debt.** A creditor may sell or assign a debt for which the creditor has been notified is coerced debt to another party if the creditor selling or assigning the debt includes notification to the buyer or assignee that the debtor has asserted the debt is coerced debt.

Subd. 3. **No inference upon cessation of collection activity.** The fact that a creditor ceases collection activity under this section or section 332.74 does not create an inference or presumption regarding the validity or invalidity of a debt for which a debtor is liable or not liable. The exercise or nonexercise of rights under this section is not a waiver of any other debtor or creditor rights or defenses.

EFFECTIVE DATE. This section is effective January 1, 2024, and applies to all debts incurred on or after that date.

Sec. 72. **[332.74] DEBTOR REMEDIES.**

Subdivision 1. **Right to petition for declaration and injunction.** A debtor alleging violation of section 332.72 may petition for equitable relief in the district court in the county where the debtor lives or where the coerced debt was incurred. The petition must include:

(1) the notice to the creditor required under section 332.73, subdivision 1;

(2) consistent with Rule 11 of the Minnesota Rules of General Practice, information identifying (i) the account or accounts associated with the coerced debt, and (ii) the person in whose name the debt was incurred; and

(3) the identity and, if known, contact information of the person who caused the debtor to incur coerced debt, unless the debtor signs a sworn statement that disclosing the information is likely to result in domestic abuse or other harm to the debtor, the debtor's children, parents, other relatives, or a family pet.

Subd. 2. **Procedural safeguards.** The court must take appropriate steps necessary to prevent abuse of the debtor or to the debtor, the debtor's children, parents, other relatives, or a family pet. For purposes of this subdivision, appropriate steps include but are not limited to sealing the file, marking the file as confidential, redacting personally identifiable information about the debtor, and directing that any deposition or evidentiary hearing be conducted remotely.

Subd. 3. **Relief.** (a) If a debtor shows by a preponderance of the evidence that the debtor has been aggrieved by a violation of section 332.72 and the debtor has incurred coerced debt, the debtor is entitled to one or more of the following:

(1) a declaratory judgment that the debt or portion of a debt is coerced debt;

(2) an injunction prohibiting the creditor from (i) holding or attempting to hold the debtor liable for the debt or portion of a debt, or (ii) enforcing a judgment related to the coerced debt; and

(3) an order dismissing any cause of action brought by the creditor to enforce or collect the coerced debt from the debtor or, if only a portion of the debt is established as coerced debt, an order directing that the judgment, if any, in the action be amended to reflect only the portion of the debt that is not coerced debt.

(b) If the court orders relief for the debtor under paragraph (a), the court, after the creditor's motion has been served by United States mail to the last known address of the person who violated section 332.72, shall issue a judgment in favor of the creditor against the person in the amount of the debt or a portion thereof.

(c) This subdivision applies regardless of the judicial district in which the creditor's action or the debtor's petition was filed.

Subd. 4. **Affirmative defense.** In an action against a debtor to satisfy a debt, it is an affirmative defense that the debtor incurred coerced debt.

Subd. 5. **Burden.** In any affirmative action taken under subdivision 1 or any affirmative defense asserted in subdivision 4, the debtor bears the burden to show by a preponderance of the evidence that the debtor incurred coerced debt. There is a presumption that the debtor has incurred coerced debt if the person alleged to have caused the debtor to incur the coerced debt has been criminally convicted, entered a guilty plea, or entered an Alford plea under section 609.27, 609.282, 609.322, or 609.527.

Subd. 6. **Statute of limitations tolled.** (a) The statute of limitations under section 541.05 is tolled during the pendency of a proceeding instituted under this section.

(b) A creditor is prohibited from filing a collection action regarding a debt that is the subject of a proceeding instituted under this section while the proceeding is pending.

(c) If a debtor commences a proceeding under this section while a collection action is pending against the debtor regarding a debt that is subject to the proceeding, the court must immediately stay the collection action pending the disposition of the proceeding under this section.

EFFECTIVE DATE. This section is effective January 1, 2024, and applies to all debts incurred on or after that date.

Sec. 73. **[332.75] CREDITOR REMEDIES.**

Nothing in sections 332.71 to 332.74 diminishes the rights of a creditor to seek payment recovery for a coerced debt from the person who caused the debtor to incur the coerced debt.

EFFECTIVE DATE. This section is effective January 1, 2024, and applies to all debts incurred on or after that date.

Sec. 74. **UNAUDITED FINANCIAL STATEMENTS; RULEMAKING.**

The commissioner of commerce shall amend Minnesota Rules, part 2876.3021, subpart 2, to remove the prohibition on use of unaudited financial statements if the aggregate amount of all previous sales of securities by the applicant, exclusive of debt financing with banks and similar commercial lenders, exceeds $1,000,000. The commissioner of commerce may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend the rule under this section, and Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388.

Sec. 75. **MINNESOTA COUNCIL ON ECONOMIC EDUCATION; GRANTS.**

(a) The grants provided under article 1, section 3, to the Minnesota Council on Economic Education must be used by the council to:

(1) provide professional development to Minnesota teachers of courses or content related to personal finance or consumer protection for students in grades 9 through 12;

(2) support the direct-to-student ancillary personal finance programs that Minnesota teachers supervise and coach or that the Minnesota Council on Economic Education delivers directly to students; and

(3) provide support to geographically diverse affiliated higher education-based centers for economic education engaged in financial literacy education as it pertains to financial literacy education initiatives, including those based at Minnesota State University Mankato, St. Cloud State University, and St. Catherine University, as their work relates to activities in clauses (1) and (2).

(b) The Minnesota Council on Economic Education must prepare and submit reports to the commissioner of education in the form and manner prescribed by the commissioner that:

(1) describe the number and type of in-person and online teacher professional development opportunities provided by the Minnesota Council on Economic Education or its affiliated state centers;

(2) list the content, length, and location of the programs;

(3) identify the number of preservice and licensed teachers receiving professional development through each of these opportunities;

(4) summarize evaluations of professional opportunities for teachers; and

(5) list the number, types, and summary evaluations of the direct-to-student ancillary personal finance programs that are supported with funds from the grant.

(c) By February 15 of each year following the receipt of a grant, the Minnesota Council on Economic Education must provide a mid-year report to the commissioner of education and, on August 15 of each year following receipt of a grant, the Minnesota Council on Economic Education must prepare a year-end report according to the requirements of paragraph (b). The reports must be prepared and filed according to Minnesota Statutes, section 3.195. The commissioner may request additional information as necessary.

Sec. 76. **REPEALER.**

(a) Minnesota Statutes 2022, sections 53B.01; 53B.02; 53B.03; 53B.04; 53B.05; 53B.06; 53B.07; 53B.08; 53B.09; 53B.10; 53B.11; 53B.12; 53B.13; 53B.14; 53B.15; 53B.16; 53B.17; 53B.18; 53B.19; 53B.20; 53B.21; 53B.22; 53B.23; 53B.24; 53B.25; 53B.26; and 53B.27, subdivisions 1, 2, 5, 6, and 7, are repealed.

(b) Minnesota Statutes 2022, section 48.10, is repealed.

(c) Minnesota Rules, parts 2675.2610, subparts 1, 3, and 4; 2675.2620, subparts 1, 2, 3, 4, and 5; and 2675.2630, subpart 3, are repealed.

ARTICLE 4
COMMERCIAL REGULATION AND CONSUMER PROTECTION

Section 1. Minnesota Statutes 2022, section 53C.01, is amended by adding a subdivision to read:

Subd. 4a. **Global positioning system starter interrupt device.** "Global positioning system starter interrupt device" or "GPS starter interrupt device" means a device installed on a motor vehicle by a motor vehicle dealer that enables an individual who is not in possession of the motor vehicle to remotely disable the motor vehicle's ignition. GPS starter interrupt device includes a device commonly referred to as a fuel or ignition kill switch.

Sec. 2. Minnesota Statutes 2022, section 53C.01, subdivision 12c, is amended to read:

Subd. 12c. **Theft deterrent device.** "Theft deterrent device" means the following devices:

(1) a vehicle alarm system;

(2) a window etch product;

(3) a body part marking product;

(4) a steering lock; or

(5) a pedal or ignition lock~~; or~~

~~(6) a fuel or ignition kill switch~~.

Sec. 3. Minnesota Statutes 2022, section 53C.08, subdivision 1a, is amended to read:

Subd. 1a. **Disclosures required.** Prior to the execution of a retail installment contract, the seller shall provide to a buyer, and obtain the buyer's signature on, a written disclosure that sets forth the following information:

(1) a description and the total price of all items sold in the following categories if the contract includes a charge for the item:

(i) a service contract;

(ii) an insurance product;

(iii) a debt cancellation agreement;

(iv) a theft deterrent device; or

(v) a surface protection product;

(2) whether a GPS starter interrupt device is installed on the motor vehicle, regardless of whether the contract includes a charge for the GPS starter interrupt device;

(3) the amount that would be calculated under the contract as the regular installment payment if charges for the items referenced under clause (1) are not included in the contract;

~~(3)~~ (4) the amount that would be calculated under the contract as the regular installment payment if charges for the items referenced under clause (1) are included in the contract; and

~~(4)~~ (5) the disclosures required under this subdivision must be in at least ten-point type and must be contained in a single document that is separate from the retail installment contract and any other vehicle purchase documents.

Sec. 4. Minnesota Statutes 2022, section 80E.041, subdivision 4, is amended to read:

Subd. 4. **Retail rate for labor.** (a) Compensation for warranty labor must equal the dealer's effective nonwarranty labor rate multiplied by the time ~~allowances recognized by the manufacturer to compensate its dealers for warranty work~~ guide used by the dealer for nonwarranty customer-paid service repair orders. If no time guide exists for a warranty repair, compensation for warranty labor must equal the dealer's effective nonwarranty labor rate multiplied by the time actually spent to complete the repair order and must not be less than the time charged to retail customers for the same or similar work performed. The effective nonwarranty labor rate is determined by dividing the total customer labor charges for qualifying nonwarranty repairs in the repair orders submitted under subdivision 2 by the total number of labor hours that generated those sales. Compensation for warranty labor must include ~~reasonable~~ all diagnostic time for repairs performed under this section, including but not limited to all time spent communicating with the manufacturer's technical assistance or external manufacturer source in order to provide a warranty repair, and must not be less than the time charged to retail customers for the same or similar work performed.

(b) A manufacturer may disapprove a dealer's effective nonwarranty labor rate if:

(1) the disapproval is provided to the dealer in writing;

(2) the disapproval is sent to the dealer within 30 days of the submission of the effective nonwarranty labor rate by the dealer to the manufacturer;

(3) the disapproval includes a reasonable substantiation that the effective nonwarranty labor rate submission is inaccurate, incomplete, or unreasonable in light of a comparison to the retail rate charged by other similarly situated franchised motor vehicle dealers in a comparable geographic area in the state offering the same line-make vehicles; and

(4) the manufacturer proposes an adjustment of the effective nonwarranty labor rate.

(c) If a manufacturer fails to approve or disapprove the rate within this time period, the rate is approved. If a manufacturer disapproves a dealer's effective nonwarranty labor rate, and the dealer does not agree to the manufacturer's proposed adjustment, the parties shall use the manufacturer's internal dispute resolution procedure, if any, within a reasonable time after the dealer notifies the manufacturer of their failure to agree. If the manufacturer's internal dispute resolution procedure is unsuccessful, or if the procedure is not implemented within a reasonable time after the dealer notifies the manufacturer of their failure to agree, the dealer may use the civil remedies available under section 80E.17. A dealer must file a civil suit under section 80E.17, as permitted by this subdivision, within 60 days of receiving the manufacturer's proposed adjustment to the effective nonwarranty labor rate, or the conclusion of the manufacturer's internal dispute resolution procedure, whichever is later.

EFFECTIVE DATE. This section is effective October 1, 2023.

Sec. 5. Minnesota Statutes 2022, section 325D.01, subdivision 5, is amended to read:

Subd. 5. **Cost.** The term "cost," as applied to the wholesale or retail vendor, means:

(1) the actual current delivered invoice or replacement cost, whichever is lower, without deducting customary cash discounts, plus any excise or sales taxes imposed on such commodity, goods, wares or merchandise subsequent to the purchase thereof and prior to the resale thereof, plus the cost of doing business at that location by the vendor;

(2) where a manufacturer publishes a list price and discounts, in determining such "cost" the manufacturer's published list price then currently in effect, less the published trade discount but without deducting the customary cash discount, plus any excise or sales taxes imposed on such commodity, goods, wares or merchandise subsequent to the purchase thereof and prior to the resale thereof, plus the cost of doing business by the vendor shall be prima facie evidence of "cost"; and

(3) for purposes of gasoline offered for sale by way of posted price or indicating meter by a retailer, at a retail location where gasoline is dispensed into passenger automobiles and trucks by the consumer, "cost" means either:

(i) the average terminal price on the day, at the terminal from which the most recent supply of gasoline delivered to the retail location was acquired, plus all applicable state and federal excise taxes and fees; or

(ii) the actual current delivered invoice or replacement cost of the gasoline, whichever is lower, plus all applicable state and federal excise taxes and fees~~, plus the lesser of six percent or eight cents~~.

Sec. 6. Minnesota Statutes 2022, section 325D.44, subdivision 1, is amended to read:

Subdivision 1. **Acts constituting.** A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person:

(1) passes off goods or services as those of another;

(2) causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;

(3) causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;

(4) uses deceptive representations or designations of geographic origin in connection with goods or services;

(5) represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;

(6) represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand;

(7) represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(8) disparages the goods, services, or business of another by false or misleading representation of fact;

(9) advertises goods or services with intent not to sell them as advertised;

(10) advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(11) makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

(12) in attempting to collect delinquent accounts, implies or suggests that health care services will be withheld in an emergency situation; ~~or~~

(13) engages in (i) unfair methods of competition, or (ii) unfair or unconscionable acts or practices; or

~~(13)~~ (14) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

Sec. 7. Minnesota Statutes 2022, section 325D.44, subdivision 2, is amended to read:

Subd. 2. **Proof.** (a) In order to prevail in an action under sections 325D.43 to 325D.48, a complainant need not prove competition between the parties or actual confusion or misunderstanding.

(b) For purposes of subdivision 1, clause (13), the standard of proof provided under section 325F.69, subdivision 8, applies.

Sec. 8. Minnesota Statutes 2022, section 325D.71, is amended to read:

325D.71 UNLAWFUL GASOLINE SALES.

(a) Any offer for sale of gasoline by a retailer by way of posted price or indicating meter that is below cost, as defined by section 325D.01, subdivision 5, clause (3), is a violation of section 325D.04, except that the criminal penalties in section 325D.071 do not apply. In addition to the penalties for violations and the remedies provided for injured parties set forth elsewhere in this chapter, the commissioner of commerce may use the authority under section 45.027 for the purpose of preventing violations of this section. A retailer who sells gasoline at the same or higher legally posted price of a competitor in the same market area, on the same day, is not in violation of this section.

(b) A retailer who offers gasoline for sale at a price below cost as part of a promotion at an individual location for no more than three days in any calendar quarter is not in violation of this section.

(c) A retailer who offers gasoline for sale at a price below cost through the use of coupons, loyalty programs, membership-based pricing programs, or promotions or programs of similar import is not in violation of this section.

Sec. 9. Minnesota Statutes 2022, section 325E.31, is amended to read:

325E.31 REMEDIES.

(a) A person who is found to have violated sections 325E.27 to 325E.30 is subject to the penalties and remedies, including a private right of action to recover damages, as provided in section 8.31.

(b) In addition to the penalties and remedies under paragraph (a), the attorney general is entitled to sue for and recover on behalf of the state a civil penalty from a person found

to have violated sections 325E.27 to 325E.30. The court must determine the civil penalty amount, which must not exceed $50,000.

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

Sec. 10. **[325E.67] POST-LOSS ASSIGNMENT OF BENEFITS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given.

(b) "Residential contractor" means a residential roofer, as defined in section 326B.802, subdivision 14; a residential building contractor, as defined in section 326B.802, subdivision 11; or a residential remodeler, as defined in section 326B.802, subdivision 12.

(c) "Residential real estate" means a new or existing building, including appurtenant structures, constructed for habitation by at least one family but no more than four families.

Subd. 2. **Post-loss assignment.** A post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate must comply with the following:

(1) the assignment must only authorize a residential contractor to be named as a copayee for the payment of benefits under a property and casualty insurance policy covering residential real estate;

(2) the assignment must include all of the following:

(i) an itemized description of the work to be performed;

(ii) an itemized description of materials, labor, and fees for the work to be performed; and

(iii) a total itemized amount to be paid for the work to be performed;

(3) the assignment must include a statement that the residential contractor has made no assurances that the claimed loss is fully covered by an insurance contract and must include the following notice in capitalized 14-point type:

"YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY. THE ITEMIZED DESCRIPTION OF THE WORK PERFORMED, AS SET FORTH IN THIS ASSIGNMENT FORM, HAS NOT BEEN AGREED TO BY THE INSURER. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING. THE INSURER MAY ONLY PAY FOR THE

REASONABLE COST TO REPAIR OR REPLACE DAMAGED PROPERTY CAUSED BY A COVERED PERIL, SUBJECT TO THE TERMS OF THE POLICY.";

(4) the named insured has the right to cancel the assignment within ten business days after receipt of the scope of work by the insurance company. The cancellation must be made in writing or a comparable digital format. Within ten business days of the date of the written cancellation, the residential contractor must tender to the named insured, the landowner, or the possessor of the real estate any payments, partial payments, or deposits that have been made by that person;

(5) the assignment must include the following notice in capitalized 14-point type, located in the immediate proximity of the space reserved in the assignment for the signature of the named insured:

"YOU MAY CANCEL THIS ASSIGNMENT WITHOUT PENALTY WITHIN TEN (10) BUSINESS DAYS FROM THE LATER OF THE DATE THE ASSIGNMENT IS EXECUTED OR THE DATE ON WHICH YOU RECEIVE A COPY OF THE EXECUTED ASSIGNMENT. YOU MUST CANCEL THE ASSIGNMENT IN WRITING AND THE CANCELLATION MUST BE DELIVERED TO [insert the name and address of residential contractor as provided by the residential contractor]. IF MAILED, THE CANCELLATION MUST BE POSTMARKED ON OR BEFORE THE TEN (10) BUSINESS DAY DEADLINE. IF YOU CANCEL THIS ASSIGNMENT, THE RESIDENTIAL CONTRACTOR HAS UP TO TEN (10) BUSINESS DAYS TO RETURN ANY PAYMENTS OR DEPOSITS YOU HAVE MADE.";

(6) the assignment must not impair the interests of a mortgagee or other parties with any legal interests listed on the declarations page of the property and casualty insurance policy that is the subject of the assignment; and

(7) the assignment must not prevent or inhibit an insurer from communicating with the named insured or mortgagee listed on the declarations page of the property and casualty insurance policy that is the subject of the assignment.

Subd. 3. **Other requirements.** A residential contractor receiving the assignment described in subdivision 2 must:

(1) deliver a copy of the assignment to the insurer of the residential real estate within five business days of the date the assignment is executed;

(2) cooperate with the insurer of the residential real estate in an investigation into the claim by providing documents and records requested by the insurer and complying with the post-loss duties under the insurance policy; and

(3) comply with section 325E.66.

Subd. 4. **Certain assignments void.** A post-loss assignment of benefits entered into with a residential contractor that violates any provision of the federal Insured Homeowner's Protection Act of 1998, Public Law 105-216, as amended, is void.

Sec. 11. **[325E.72] DIGITAL FAIR REPAIR.**

Subdivision 1. **Short title.** This act may be cited as the "Digital Fair Repair Act."

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

(b) "Authorized repair provider" means an individual or business who is unaffiliated with an original equipment manufacturer and who has: (1) an arrangement with the original equipment manufacturer, for a definite or indefinite period, under which the original equipment manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier to offer diagnostic, maintenance, or repair services for digital electronic equipment under the name of the original equipment manufacturer; or (2) an arrangement with the original equipment manufacturer to offer diagnostic, maintenance, or repair services for digital electronic equipment on behalf of the original equipment manufacturer. An original equipment manufacturer that offers diagnostic, maintenance, or repair services for the original equipment manufacturer's digital electronic equipment is considered an authorized repair provider with respect to the digital electronic equipment if the original equipment manufacturer does not have an arrangement described in this paragraph with an unaffiliated individual or business.

(c) "Contractor" has the meaning given in section 326B.31, subdivision 14.

(d) "Cybersecurity" means the practice of protecting networks, devices, and data from unauthorized access or criminal use and the practice of ensuring the confidentiality, integrity, and availability of information.

(e) "Digital electronic equipment" or "equipment" means any hardware product that depends, in whole or in part, on digital electronics embedded in or attached to the product in order for the product to function, for which the original equipment manufacturer makes available tools, parts, or documentation to authorized repair providers.

(f) "Documentation" means a manual, diagram, reporting output, service code description, schematic diagram, or similar information made available by an original equipment manufacturer to an authorized repair provider to facilitate diagnostic, maintenance, or repair services for digital electronic equipment.

(g) "Embedded software" means any programmable instructions provided on firmware delivered with digital electronic equipment, or with a part for the equipment, in order to operate the equipment. Embedded software includes all relevant patches and fixes made by the manufacturer of the equipment or part in order to operate the equipment.

(h) "Fair and reasonable terms" means, with respect to:

(1) parts for digital electronic equipment offered by an original equipment manufacturer:

(i) costs that are fair to both parties; and

(ii) terms under which an original equipment manufacturer offers the part to an authorized repair provider and which:

(A) is not conditioned on or imposing a substantial obligation to use or restrict the use of the part to diagnose, maintain, or repair digital electronic equipment sold, leased, or otherwise supplied by the original equipment manufacturer, including a condition that the owner or independent repair provider become an authorized repair provider of the original equipment manufacturer; or

(B) a requirement that a part be registered, paired with, or approved by the original equipment manufacturer or an authorized repair provider before the part is operational or prohibit an original equipment manufacturer from imposing any additional cost or burden that is not reasonably necessary or is designed to be an impediment on the owner or independent repair provider;

(2) tools, software, and documentation for digital electronic equipment offered by an original equipment manufacturer:

(i) costs that are equivalent to the lowest actual cost for which the original equipment manufacturer offers the tool, software, or documentation to an authorized repair provider, including any discount, rebate, or other financial incentive offered to an authorized repair provider; and

(ii) terms that are equivalent to the most favorable terms under which an original equipment manufacturer offers the tool, software, or documentation to an authorized repair provider, including the methods and timeliness of delivery of the tool, software, or documentation, do not impose on an owner or an independent repair provider:

(A) a substantial obligation to use or restrict the use of the tool, software, or documentation to diagnose, maintain, or repair digital electronic equipment sold, leased, or otherwise supplied by the original equipment manufacturer, including a condition that the owner or independent repair provider become an authorized repair provider of the original equipment manufacturer; or

(B) a requirement that a tool be registered, paired with, or approved by the original equipment manufacturer or an authorized repair provider before the part or tool is operational; and

(3) documentation offered by an original equipment manufacturer: that the documentation is made available by the original equipment manufacturer at no charge, except that when the documentation is requested in physical printed form, a charge may be included for the reasonable actual costs of preparing and sending the copy.

(i) "Independent repair provider" means an individual or business operating in Minnesota that: (1) does not have an arrangement described in paragraph (b) with an original equipment manufacturer; (2) is not affiliated with any individual or business that has an arrangement described in paragraph (b); and (3) is engaged in providing diagnostic, maintenance, or repair services for digital electronic equipment. An original equipment manufacturer or, with respect to the original equipment manufacturer, an individual or business that has an arrangement with the original equipment manufacturer or is affiliated with an individual or business that has an arrangement with that original equipment manufacturer, is considered an independent repair provider for purposes of the instances the original equipment manufacturer engages in diagnostic, maintenance, or repair services for digital electronic equipment that is not manufactured by or sold under the name of the original equipment manufacturer.

(j) "Manufacturer of motor vehicle equipment" means a business engaged in the business of manufacturing or supplying components used to manufacture, maintain, or repair a motor vehicle.

(k) "Motor vehicle" means a vehicle that is: (1) designed to transport persons or property on a street or highway; and (2) certified by the manufacturer under (i) all applicable federal safety and emissions standards, and (ii) all requirements for distribution and sale in the United States. Motor vehicle does not include a recreational vehicle or an auto home equipped for habitation.

(l) "Motor vehicle dealer" means an individual or business that, in the ordinary course of business: (1) is engaged in the business of selling or leasing new motor vehicles to an

individual or business pursuant to a franchise agreement; (2) has obtained a license under section 168.27; and (3) is engaged in providing diagnostic, maintenance, or repair services for motor vehicles or motor vehicle engines pursuant to a franchise agreement.

(m) "Motor vehicle manufacturer" means a business engaged in the business of manufacturing or assembling new motor vehicles.

(n) "Original equipment manufacturer" means any individual or business that, in the normal course of business, is engaged in the business of selling or leasing to any individual or business new digital electronic equipment manufactured by or on behalf of the original equipment manufacturer.

(o) "Owner" means an individual or business that owns or leases digital electronic equipment purchased or used in Minnesota.

(p) "Part" means any replacement part or assembly of parts, either new or used, made available by an original equipment manufacturer to authorized repair providers to facilitate the maintenance or repair of digital electronic equipment manufactured or sold by the original equipment manufacturer.

(q) "Personally identifiable information" means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

(r) "Tool" means any software program, hardware implement, or other apparatus used for diagnosis, maintenance, or repair of digital electronic equipment, including software or other mechanisms that provide, program, pair a part, calibrate functionality, or perform any other function required to repair the original equipment or part back to fully functional condition, including updates.

(s) "Trade secret" has the meaning given in section 325C.01, subdivision 5.

(t) "Video game console" means a computing device, such as a console machine, a handheld console device, or another device or system, and its components and peripherals, that is primarily used by consumers for playing video games but which is neither a general nor an all-purpose computer. A general or all-purpose computer includes but is not limited to a desktop computer, laptop, tablet, or cell phone.

Subd. 3. **Requirements.** (a) For digital electronic equipment and parts for the equipment sold or used in Minnesota, an original equipment manufacturer must make available to any independent repair provider or to the owner of digital electronic equipment manufactured by or on behalf of, or sold by, the original equipment manufacturer, on fair and reasonable

terms, documentation, parts, and tools, inclusive of any updates to information or embedded software, for diagnostic, maintenance, or repair purposes. Nothing in this section requires an original equipment manufacturer to make available a part, tools, or documentation if it is no longer available to the original equipment manufacturer.

(b) Such parts, tools, and documentation shall be made available within 60 days after the first sale of the digital electronic equipment in Minnesota.

Subd. 4. **Enforcement by attorney general.** A violation of this section is an unlawful practice under section 325D.44. All remedies, penalties, and authority granted to the attorney general under section 8.31 are available to the attorney general to enforce this section.

Subd. 5. **Limitations.** (a) Nothing in this section requires an original equipment manufacturer to divulge a trade secret or license any intellectual property to an owner or an independent service provider, except as necessary to provide documentation, parts, and tools on fair and reasonable terms.

(b) Nothing in this section alters the terms of any arrangement described in subdivision 2, paragraph (b), including but not limited to the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer pursuant to the arrangement, in force between an authorized repair provider and an original equipment manufacturer. A provision in the terms of an arrangement described in subdivision 2, paragraph (b), that purports to waive, avoid, restrict, or limit the original equipment manufacturer's obligations to comply with this section is void and unenforceable.

(c) Nothing in this section requires an original equipment manufacturer or an authorized repair provider to provide to an owner or independent repair provider access to information, other than documentation, that is provided by the original equipment manufacturer to an authorized repair provider pursuant to the terms of an arrangement described in subdivision 2, paragraph (b).

(d) Nothing in this section requires an original equipment manufacturer or authorized repair provider to make available any parts, tools, or documentation for the purpose of making modifications to any digital electronic equipment.

(e) Nothing in this section shall be construed to require the original equipment manufacturer to sell service parts if the service parts are no longer provided by the original equipment manufacturer or made available to authorized repair providers of the original equipment manufacturer.

(f) Nothing in this section shall require an original manufacturer to make available special documentation, tools, and parts that would disable or override antitheft security measures set by the owner of the equipment without the owner's authorization.

(g) Nothing in this section shall apply if the original equipment manufacturer provides equivalent or better, readily available replacement equipment at no charge to the customer.

(h) Nothing in this section requires the original manufacturer to provide access to parts, tools, or documentation for work that is required to be done or supervised by an individual or contractor licensed under chapter 326B or with any individual or contractor who does not possess the relevant license required for that work.

Subd. 6. **Exclusions.** (a) Nothing in this section applies to: (1) a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity; or (2) any product or service of a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity.

(b) Nothing in this section applies to manufacturers or distributors of a medical device as defined in the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301 et seq., or a digital electronic product or software manufactured for use in a medical setting including diagnostic, monitoring, or control equipment or any product or service that the manufacturer or distributor of a medical device offers.

(c) Nothing in this section applies to manufacturers, distributors, importers, or dealers of any off-road or nonroad equipment, including without limitation farm and utility tractors; farm implements; farm machinery; forestry equipment; industrial equipment; utility equipment; construction equipment; compact construction equipment; road-building equipment; electronic vehicle charging infrastructure equipment; mining equipment; turf, yard, and garden equipment; outdoor power equipment; portable generators; marine, all-terrain sports, and recreational vehicles, including without limitation racing vehicles; stand-alone or integrated stationary or mobile internal combustion engines; generator sets and fuel cell power; power tools; and any tools, technology, attachments, accessories, components, and repair parts for any of the foregoing.

(d) Nothing in this section shall be construed to require any original equipment manufacturer or authorized repair provider to make available any parts, tools, or documentation required for the diagnosis, maintenance, or repair of a video game console and its components and peripherals.

(e) Nothing in this section applies to an energy storage system, as defined in section 216B.2422, subdivision 1, paragraph (f).

(f) Nothing in this section requires an original equipment manufacturer to make available parts, documentation, or tools related to cybersecurity, except as necessary for the repair or maintenance of equipment. Notwithstanding anything in this section to the contrary, an original equipment manufacturer is not required to make available parts, documentation, or tools related to cybersecurity which: (1) could reasonably give a recipient or third-party access to trade secret or personally identifiable information owned or possessed by an original equipment manufacturer for itself or on behalf of another person; (2) is protected from disclosure under other laws of this state; or (3) could reasonably be used to compromise cybersecurity or cybersecurity equipment.

(g) Nothing in this section applies to information technology equipment that is intended for use in critical infrastructure, as defined in United States Code, title 42, section 5195c(e).

Subd. 7. **Liability, defenses, and warranties.** No original equipment manufacturer or authorized repair provider shall be liable for any damage or injury caused to any digital electronic equipment, person, or property that occurs as a result of repair, diagnosis, maintenance, or modification performed by an independent repair provider or owner, including but not limited to any indirect, incidental, special, or consequential damages; any loss of data, privacy, or profits; or an inability to use, or reduced functionality of, the digital electronic equipment.

Subd. 8. **Applicability.** This section applies to equipment sold on or after July 1, 2021.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 12. **[325E.80] ABNORMAL MARKET DISRUPTIONS; UNCONSCIONABLY EXCESSIVE PRICES.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given.

(b) "Essential consumer good or service" means a good or service that is vital and necessary for the health, safety, and welfare of the public, including without limitation: food; water; fuel; gasoline; shelter; construction materials; transportation; health care services; pharmaceuticals; and medical, personal hygiene, sanitation, and cleaning supplies.

(c) "Seller" means a manufacturer, supplier, wholesaler, distributor, or retail seller of goods and services.

(d) "Unconscionably excessive price" means a price that represents a gross disparity compared to the seller's average price of an essential good or service, offered for sale or sold in the usual course of business, in the 60-day period before an abnormal market

disruption is declared under subdivision 2. None of the following is an unconscionably excessive price:

(1) a price that is substantially related to an increase in the cost of manufacturing, obtaining, replacing, providing, or selling a good or service;

(2) a price that is no more than 25 percent above the seller's average price during the 60-day period before an abnormal market disruption is declared under subdivision 2;

(3) a price that is consistent with the fluctuations in applicable commodity markets or seasonal fluctuations; or

(4) a contract price, or the results of a price formula, that was established before an abnormal market disruption is declared under subdivision 2.

Subd. 2. **Abnormal market disruption.** (a) The governor may by executive order declare an abnormal market disruption if, in the governor's sole determination, there has been or is likely to be a substantial and atypical change in the market for an essential consumer good or service caused by an event or circumstances that result in a declaration of a state of emergency by the governor. The governor may specify an effective period for a declaration under this section that is shorter than the effective period for the state of emergency declaration.

(b) The governor's abnormal market disruption declaration must state that the declaration is activating this section and must specify the geographic area of Minnesota to which the declaration applies.

(c) Unless an earlier date is specified by the governor, an abnormal market disruption declaration under this subdivision terminates 30 days after the date that the state of emergency for which it was activated ends.

Subd. 3. **Notice.** Upon the implementation, renewal, limitation, or termination of an abnormal market disruption declaration made under subdivision 2: (1) the governor must immediately post notice on applicable government websites and provide notice to the media; and (2) the commissioner of commerce must provide notice directly to sellers by any practical means.

Subd. 4. **Prohibition.** If the governor declares an abnormal market disruption, a person is prohibited from selling or offering to sell an essential consumer good or service for an amount that represents an unconscionably excessive price during the period in which the abnormal market disruption declaration is effective.

Subd. 5. **Prices and rates.** Upon the occurrence of a weather event classified as a severe thunderstorm pursuant to the criteria established by the National Oceanic and Atmospheric Administration, a residential building contractor operating within the geographic region impacted by the weather event and repairing damage caused by the weather event shall not:

(1) charge an unconscionably excessive price for labor in comparison to the market price charged for comparable services in the geographic region impacted by the weather event; or

(2) charge an insurance company a rate that exceeds what the residential building contractor otherwise charges members of the general public.

Subd. 6. **Civil penalty.** A person who is found to have violated this section is subject to a civil penalty of not more than $1,000 per sale or transaction, with a maximum penalty of $25,000 per day. No other penalties may be imposed for the same conduct regulated under this section.

Subd. 7. **Enforcement authority.** (a) The attorney general may investigate and bring an action against a seller or residential building contractor for an alleged violation of this section.

(b) Nothing in this section creates a private cause of action in favor of a person injured by a violation of this section.

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

Sec. 13. Minnesota Statutes 2022, section 325F.662, subdivision 2, is amended to read:

Subd. 2. **Written warranty required.** (a) Every used motor vehicle sold by a dealer is covered by an express warranty which the dealer shall provide to the consumer in writing. At a minimum, the express warranty applies for the following terms:

(1) if the used motor vehicle has less than 36,000 miles, the warranty must remain in effect for at least 60 days or 2,500 miles, whichever comes first;

(2) if the used motor vehicle has 36,000 miles or more, but less than 75,000 miles, the warranty must remain in effect for at least 30 days or 1,000 miles, whichever comes first; and

(3) unless the vehicle is sold by a new motor vehicle dealer, as defined in section 168.27, subdivision 2, if the used motor vehicle has 75,000 miles or more, but less than 200,000 miles, the warranty must remain in effect for at least 15 days or 500 miles, whichever comes first.

(b) The express warranty must require the dealer, in the event of a malfunction, defect, or failure in a covered part, to repair or replace the covered part, or at the dealer's election, to accept return of the used motor vehicle from the consumer and provide a refund to the consumer.

(c) For used motor vehicles with less than 36,000 miles, the dealer's express warranty shall cover, at minimum, the following parts:

(1) with respect to the engine, all lubricated parts, intake manifolds, engine block, cylinder head, rotary engine housings, and ring gear;

(2) with respect to the transmission, the automatic transmission case, internal parts, and the torque converter; or, the manual transmission case, and the internal parts;

(3) with respect to the drive axle, the axle housings and internal parts, axle shafts, drive shafts and output shafts, and universal joints; but excluding the secondary drive axle on vehicles, other than passenger vans, mounted on a truck chassis;

(4) with respect to the brakes, the master cylinder, vacuum assist booster, wheel cylinders, hydraulic lines and fittings, and disc brakes calipers;

(5) with respect to the steering, the steering gear housing and all internal parts, power steering pump, valve body, piston, and rack;

(6) the water pump;

(7) the externally mounted mechanical fuel pump;

(8) the radiator;

(9) the alternator, generator, and starter.

(d) For used motor vehicles with 36,000 miles or more, but less than ~~75,000~~ 200,000 miles, the dealer's express warranty shall cover, at minimum, the following parts:

(1) with respect to the engine, all lubricated parts, intake manifolds, engine block, cylinder head, rotary engine housings, and ring gear;

(2) with respect to the transmission, the automatic transmission case, internal parts, and the torque converter; or, the manual transmission case, and internal parts;

(3) with respect to the drive axle, the axle housings and internal parts, axle shafts, drive shafts and output shafts, and universal joints; but excluding the secondary drive axle on vehicles, other than passenger vans, mounted on a truck chassis;

(4) with respect to the brakes, the master cylinder, vacuum assist booster, wheel cylinders, hydraulic lines and fittings, and disc brake calipers;

(5) with respect to the steering, the steering gear housing and all internal parts, power steering pump, valve body, and piston;

(6) the water pump;

(7) the externally mounted mechanical fuel pump.

(e)(1) A dealer's obligations under the express warranty remain in effect notwithstanding the fact that the warranty period has expired, if the consumer promptly notified the dealer of the malfunction, defect, or failure in the covered part within the specified warranty period and, within a reasonable time after notification, brings the vehicle or arranges with the dealer to have the vehicle brought to the dealer for inspection and repair.

(2) If a dealer does not have a repair facility, the dealer shall designate where the vehicle must be taken for inspection and repair.

(3) In the event the malfunction, defect, or failure in the covered part occurs at a location which makes it impossible or unreasonable to return the vehicle to the selling dealer, the consumer may have the repairs completed elsewhere with the consent of the selling dealer, which consent may not be unreasonably withheld.

(4) Notwithstanding the provisions of this paragraph, a consumer may have nonwarranty maintenance and nonwarranty repairs performed other than by the selling dealer and without the selling dealer's consent.

(f) Nothing in this section diminishes the obligations of a manufacturer under an express warranty issued by the manufacturer. The express warranties created by this section do not require a dealer to repair or replace a covered part if the repair or replacement is covered by a manufacturer's new car warranty, or the manufacturer otherwise agrees to repair or replace the part.

(g) The express warranties created by this section do not cover defects or repair problems which result from collision, abuse, negligence, or lack of adequate maintenance following sale to the consumer.

(h) The terms of the express warranty, including the duration of the warranty and the parts covered, must be fully, accurately, and conspicuously disclosed by the dealer on the front of the Buyers Guide.

Sec. 14. Minnesota Statutes 2022, section 325F.662, subdivision 3, is amended to read:

Subd. 3. **Exclusions.** Notwithstanding the provisions of subdivision 2, a dealer is not required to provide an express warranty for a used motor vehicle:

(1) except for a used motor vehicle described in subdivision 2, paragraph (a), clause (3), sold for a total cash sale price of less than $3,000, including the trade-in value of any vehicle traded in by the consumer, but excluding tax, license fees, registration fees, and finance charges;

(2) with an engine designed to use diesel fuel;

(3) with a gross weight, as defined in section 168.002, subdivision 13, in excess of 9,000 pounds;

(4) that has been custom-built or modified for show or for racing;

(5) except for a used motor vehicle described in subdivision 2, paragraph (a), clause (3), that is eight years of age or older, as calculated from the first day in January of the designated model year of the vehicle;

(6) that has been produced by a manufacturer which has never manufactured more than 10,000 motor vehicles in any one year;

(7) that has ~~75,000~~ 200,000 miles or more at time of sale;

(8) that has not been manufactured in compliance with applicable federal emission standards in force at the time of manufacture as provided by the Clean Air Act, United States Code, title 42, sections 7401 through 7642, and regulations adopted pursuant thereto, and safety standards as provided by the National Traffic and Motor Safety Act, United States Code, title 15, sections 1381 through 1431, and regulations adopted pursuant thereto; or

(9) that has been issued a certificate of title that bears a "salvage" brand or stamp under section 168A.151.

Sec. 15. Minnesota Statutes 2022, section 325F.6641, subdivision 2, is amended to read:

Subd. 2. **Disclosure requirements.** (a) If a motor vehicle dealer licensed under section 168.27 offers a vehicle for sale in the course of a sales presentation to any prospective buyer the dealer must provide a written disclosure~~,~~ and ~~an oral disclosure~~, except for sales performed online, an oral disclosure of:

(1) prior vehicle damage as required under subdivision 1;

(2) the existence or requirement of any title brand under section 168A.05, subdivision 3, 168A.151, 325F.6642, or 325F.665, subdivision 14, if the dealer has actual knowledge of the brand; and

(3) if a motor vehicle, which is part of a licensed motor vehicle dealer's inventory, has been submerged or flooded above the bottom dashboard while parked on the dealer's lot.

(b) If a person receives a flood disclosure as described in paragraph (a), clause (3), whether from a motor vehicle dealer or another seller, and subsequently offers that vehicle for sale, the person must provide the same disclosure to any prospective subsequent buyer.

(c) Written disclosure under this subdivision must be signed by the buyer and maintained in the motor vehicle dealer's sales file in the manner prescribed by the registrar of motor vehicles.

(d) The disclosure required in subdivision 1 must be made in substantially the following form: "To the best of my knowledge, this vehicle has ..... has not ..... sustained damage in excess of 80 percent actual cash value."

Sec. 16. Minnesota Statutes 2022, section 325F.69, subdivision 1, is amended to read:

Subdivision 1. **Fraud, misrepresentation, deceptive or unfair practices.** The act, use, or employment by any person of any fraud, unfair or unconscionable practice, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoinable as provided in section 325F.70.

Sec. 17. Minnesota Statutes 2022, section 325F.69, is amended by adding a subdivision to read:

Subd. 8. **Unfair or unconscionable acts or practices; standard of proof.** For purposes of this section, an unfair method of competition or an unfair or unconscionable act or practice is any method of competition, act, or practice that: (1) offends public policy as established by the statutes, rules, or common law of Minnesota; (2) is unethical, oppressive, or unscrupulous; or (3) is substantially injurious to consumers.

Sec. 18. **[325F.995] GENETIC INFORMATION PRIVACY ACT.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Biological sample" means any material part of a human, discharge from a material part of a human, or derivative from a material part of a human, including but not limited to tissue, blood, urine, or saliva, that is known to contain deoxyribonucleic acid (DNA).

(c) "Consumer" means an individual who is a Minnesota resident.

(d) "Deidentified data" means data that cannot reasonably be used to infer information about, or otherwise be linked to, an identifiable consumer and that is subject to:

(1) administrative and technical measures to ensure the data cannot be associated with a particular consumer;

(2) public commitment by the company to (i) maintain and use data in deidentified form, and (ii) not attempt to reidentify the data; and

(3) legally enforceable contractual obligations that prohibit any recipients of the data from attempting to reidentify the data.

(e) "Direct-to-consumer genetic testing company" or "company" means an entity that: (1) offers consumer genetic testing products or services directly to consumers; or (2) collects, uses, or analyzes genetic data that was (i) collected via a direct-to-consumer genetic testing product or service, and (ii) provided to the company by a consumer. Direct-to-consumer genetic testing company does not include an entity that collects, uses, or analyzes genetic data or biological samples only in the context of research, as defined in Code of Federal Regulations, title 45, section 164.501, that is conducted in a manner that complies with the federal policy for the protection of human research subjects under Code of Federal Regulations, title 45, part 46; the Good Clinical Practice Guideline issued by the International Council for Harmonisation; or the United States Food and Drug Administration Policy for the Protection of Human Subjects under Code of Federal Regulations, title 21, parts 50 and 56.

(f) "Express consent" means a consumer's affirmative written response to a clear, meaningful, and prominent written notice regarding the collection, use, or disclosure of genetic data for a specific purpose. Written notices and responses may be presented and captured electronically.

(g) "Genetic data" means any data, regardless of the data's format, that concerns a consumer's genetic characteristics. Genetic data includes but is not limited to:

(1) raw sequence data that results from sequencing a consumer's complete extracted DNA or a portion of the extracted DNA;

(2) genotypic and phenotypic information that results from analyzing the raw sequence data; and

(3) self-reported health information that a consumer submits to a company regarding the consumer's health conditions and that is (i) used for scientific research or product development, and (ii) analyzed in connection with the consumer's raw sequence data.

Genetic data does not include deidentified data.

(h) "Genetic testing" means any laboratory test of a consumer's complete DNA, regions of a consumer's DNA, chromosomes, genes, or gene products to determine the presence of genetic characteristics.

(i) "Person" means an individual, partnership, corporation, association, business, business trust, sole proprietorship, other entity, or representative of an organization.

(j) "Service provider" means a person that is involved in the collection, transportation, analysis of, or any other service in connection with a consumer's biological sample, extracted genetic material, or genetic data on behalf of the direct-to-consumer genetic testing company, or on behalf of any other person that collects, uses, maintains, or discloses biological samples, extracted genetic material, or genetic data collected or derived from a direct-to-consumer genetic testing product or service, or is directly provided by a consumer, or the delivery of the results of the analysis of the biological sample, extracted genetic material, or genetic data.

Subd. 2. **Disclosure and consent requirements.** (a) To safeguard the privacy, confidentiality, security, and integrity of a consumer's genetic data, a direct-to-consumer genetic testing company must:

(1) provide easily accessible, clear, and complete information regarding the company's policies and procedures governing the collection, use, maintenance, and disclosure of genetic data by making available to a consumer all of the following written in plain language:

(i) a high-level privacy policy overview that includes basic, essential information about the company's collection, use, or disclosure of genetic data;

(ii) a prominent, publicly available privacy notice that includes at a minimum information about the company's data collection, consent, use, access, disclosure, maintenance, transfer, security, retention, and deletion practices of genetic data; and

(iii) information that clearly describes how to file a complaint alleging a violation of this section, pursuant to section 45.027;

(2) obtain a consumer's express consent to collect, use, and disclose the consumer's genetic data, including at a minimum:

(i) initial express consent that clearly (A) describes the uses of the genetic data collected through the genetic testing product service, and (B) specifies who has access to the test results and how the genetic data may be shared;

(ii) separate express consent, which must include the name of the person receiving the information, for each transfer or disclosure of the consumer's genetic data or biological sample to any person other than the company's vendors and service providers;

(iii) separate express consent for each use of genetic data or the biological sample that is beyond the primary purpose of the genetic testing product or service and inherent contextual uses;

(iv) separate express consent to retain any biological sample provided by the consumer following completion of the initial testing service requested by the consumer;

(v) informed consent in compliance with federal policy for the protection of human research subjects under Code of Federal Regulations, title 45, part 46, to transfer or disclose the consumer's genetic data to a third-party person for research purposes or research conducted under the control of the company for publication or generalizable knowledge purposes; and

(vi) express consent for marketing by (A) the direct-to-consumer genetic testing company to a consumer based on the consumer's genetic data, or (B) a third party to a consumer based on the consumer having ordered or purchased a genetic testing product or service. For purposes of this clause, "marketing" does not include customized content or offers provided on the websites or through the applications or services provided by the direct-to-consumer genetic testing company with the first-party relationship to the customer;

(3) not disclose genetic data to law enforcement or any other governmental agency without a consumer's express written consent, unless the disclosure is made pursuant to a valid search warrant or court order;

(4) develop, implement, and maintain a comprehensive security program and measures to protect a consumer's genetic data against unauthorized access, use, or disclosure; and

(5) provide a process for a consumer to:

(i) access the consumer's genetic data;

(ii) delete the consumer's account and genetic data; and

(iii) request and obtain the destruction of the consumer's biological sample.

(b) Notwithstanding any other provisions in this section, a direct-to-consumer genetic testing company is prohibited from disclosing a consumer's genetic data without the consumer's written consent to: (1) any entity offering health insurance, life insurance, disability insurance, or long-term care insurance; or (2) any employer of the consumer. Any consent under this paragraph must clearly identify the recipient of the consumer's genetic data proposed to be disclosed.

(c) A company that is subject to the requirements described in paragraph (a), clause (2), shall provide effective mechanisms, without any unnecessary steps, for a consumer to revoke any consent of the consumer or all of the consumer's consents after a consent is given, including at least one mechanism which utilizes the primary medium through which the company communicates to the consumer. If a consumer revokes consent provided pursuant to paragraph (a), clause (2), the company shall honor the consumer's consent revocation as soon as practicable, but not later than 30 days after the consumer revokes consent. The company shall destroy a consumer's biological sample within 30 days of receipt of revocation of consent to store the sample.

(d) A direct-to-consumer genetic testing company must provide a clear and complete notice to a consumer that the consumer's deidentified data may be shared with or disclosed to third parties for research purposes in accordance with Code of Federal Regulations, title 45, part 46.

Subd. 3. **Service provider agreements.** (a) A contract between the company and a service provider must prohibit the service provider from retaining, using, or disclosing any biological sample, extracted genetic material, genetic data, or information regarding the identity of the consumer, including whether that consumer has solicited or received genetic testing, as applicable, for any purpose other than for the specific purpose of performing the services specified in the service contract. The mandatory prohibition set forth in this subdivision requires a service contract to include, at minimum, the following provisions:

(1) a provision prohibiting the service provider from retaining, using, or disclosing the biological sample, extracted genetic material, genetic data, or any information regarding the identity of the consumer, including whether the consumer has solicited or received genetic testing, as applicable, for any purpose other than providing the services specified in the service contract; and

(2) a provision prohibiting the service provider from associating or combining the biological sample, extracted genetic material, genetic data, or any information regarding

the identity of the consumer, including whether that consumer has solicited or received genetic testing, as applicable, with information the service provider has received from or on behalf of another person or persons, or has collected from the service provider's own interaction with consumers or as required by law.

(b) A service provider subject to this subdivision is subject to the same confidentiality obligations as a direct-to-consumer genetic testing company with respect to all biological samples, extracted genetic materials, and genetic material, or any information regarding the identity of any consumer in the service provider's possession.

Subd. 4. **Enforcement.** The commissioner of commerce may enforce this section under section 45.027.

Subd. 5. **Limitations.** This section does not apply to:

(1) protected health information that is collected by a covered entity or business associate, as those terms are defined in Code of Federal Regulations, title 45, parts 160 and 164;

(2) a public or private institution of higher education; or

(3) an entity owned or operated by a public or private institution of higher education.

Subd. 6. **Construction.** This section does not supersede the requirements and rights described in section 13.386 or the remedies available under chapter 13 for violations of section 13.386.

Sec. 19. Minnesota Statutes 2022, section 325G.051, subdivision 1, is amended to read:

Subdivision 1. **Limitation; prohibition.** (a) A seller or lessor of goods or services doing business in Minnesota may impose a surcharge on transactions in Minnesota with a ~~purchaser~~ customer who elects to use a credit or charge card in lieu of payment by cash, check, or similar means, provided:

(1) if the sale or lease of goods or services is processed in person, the seller or lessor informs the ~~purchaser~~ customer of the surcharge both orally at the time of sale and by a sign conspicuously posted on the seller's or lessor's premises~~,~~;

(2) if the sale or lease of goods or services is processed through a website or mobile device, the seller or lessor informs the customer of the surcharge by conspicuously posting a surcharge notice during the sale, at the point of sale, on the customer order summary, or on the checkout page of the website;

(3) if the sale or lease of services is processed over the telephone, the seller or lessor informs the customer of the surcharge orally; and

~~(2)~~ (4) the surcharge does not exceed five percent of the purchase price.

(b) A seller or lessor of goods or services that establishes and is responsible for ~~its~~ the seller or lessor's own customer credit or charge card may not impose a surcharge on a ~~purchaser~~ customer who elects to use that credit or charge card in lieu of payment by cash, check, or similar means.

(c) For purposes of this section "surcharge" means a fee or charge imposed by a seller or lessor upon a ~~buyer~~ customer that increases the price of goods or services to the ~~buyer~~ customer because the ~~buyer~~ customer uses a credit or charge card to purchase or lease the goods or services. The term does not include a discount offered by a seller or lessor to a ~~buyer~~ customer who makes payment for goods or services by cash, check, or similar means not involving a credit or charge card if the discount is offered to all prospective ~~buyers~~ customers and its availability is clearly and conspicuously disclosed to all prospective ~~buyers~~ customers.

(d) This subdivision applies to an agent of a seller or lessor.

ARTICLE 5
MISCELLANEOUS COMMERCE POLICY

Section 1. Minnesota Statutes 2022, section 103G.291, subdivision 4, is amended to read:

Subd. 4. **Demand reduction measures.** (a) For the purposes of this section, "demand reduction measures" means measures that reduce water demand, water losses, peak water demands, and nonessential water uses. Demand reduction measures must include a conservation rate structure, or a uniform rate structure with a conservation program that achieves demand reduction. A "conservation rate structure" means a rate structure that encourages conservation and may include increasing block rates, seasonal rates, time of use rates, individualized goal rates, or excess use rates. If a conservation rate is applied to multifamily dwellings or a manufactured home park, as defined in section 327C.015, subdivision 8, the rate structure must consider each residential unit as an individual user.

(b) To encourage conservation, a public water supplier serving more than 1,000 people must implement demand reduction measures by January 1, 2015.

EFFECTIVE DATE. This section is effective August 1, 2024, and applies to a billing period that begins on or after that date.

Sec. 2. Minnesota Statutes 2022, section 237.066, is amended to read:

237.066 STATE GOVERNMENT PRICING PLANS.

Subdivision 1. **Purpose.** A state government or Tribal government telecommunications pricing plan is authorized and found to be in the public interest as it will:

(1) provide and ensure availability of high-quality, technologically advanced telecommunications services at a reasonable cost to the state or Tribal government; and

(2) further the state telecommunications goals as set forth in section 237.011.

Subd. 2. **Program participation.** A state government or Tribal government telecommunications pricing plan may be available to serve individually or collectively: state agencies; Tribal governments; educational institutions, including public schools and Tribal schools complying with section 120A.05, subdivision 9, 11, 13, or 17, and nonpublic schools complying with sections 120A.22, 120A.24, and 120A.41; private colleges; public corporations; and political subdivisions of the state or a Tribal Nation. Plans shall be available to carry out the commissioner of administration's duties under sections 16E.17 and 16E.18 and shall also be available to those entities not using the commissioner for contracting for telecommunications services.

Subd. 3. **Rates.** Notwithstanding section 237.09, 237.14, 237.60, subdivision 3, or 237.74, a telephone company or a telecommunications carrier may, individually or in cooperation with other telephone companies or telecommunications carriers, develop and offer basic or advanced telecommunications services at discounted or reduced rates as a state government or Tribal government telecommunications pricing plan. Any telecommunications services provided under any state government or Tribal government telecommunications pricing plan shall be used exclusively by ~~those~~ the entities described in subdivision 2 subject to the plan solely for ~~their~~ the entities' own use and shall not be made available to any other entities by resale, sublease, or in any other way.

Subd. 4. **Applicability to other customers.** A telephone company or telecommunications carrier providing telecommunications services under a state government or Tribal government telecommunications pricing plan is not required to provide any other person or entity those services at the rates made available to the state or Tribal government.

Subd. 5. **Commission review.** (a) The terms and conditions of any state government or Tribal government telecommunications pricing plan must be submitted to the commission for ~~its~~ review and approval within 90 days before implementation to:

(1) ensure that the terms and conditions benefit the state or Tribal Nation and not any private entity;

(2) ensure that the rates for any telecommunications service in any state government or Tribal government telecommunications pricing plan are at or below any applicable tariffed rates; and

(3) ensure that the state telecommunications or Tribal government pricing plan meets the requirements of this section and is in the public interest.

(b) The commission shall reject any state government or Tribal government telecommunications pricing plan that does not meet ~~these~~ the criteria in paragraph (a).

Sec. 3. Minnesota Statutes 2022, section 239.791, subdivision 8, is amended to read:

Subd. 8. **Disclosure; reporting.** (a) A refinery or terminal, shall provide, at the time gasoline is sold or transferred from the refinery or terminal, a bill of lading or shipping manifest to the person who receives the gasoline. For oxygenated gasoline, the bill of lading or shipping manifest must include the identity and the volume percentage or gallons of oxygenate included in the gasoline, and it must state: "This fuel contains an oxygenate. Do not blend this fuel with ethanol or with any other oxygenate." For nonoxygenated gasoline ~~sold or transferred after September 30, 1997~~, the bill or manifest must state: "This fuel is not oxygenated. It must not be sold at retail in Minnesota." This subdivision does not apply to sales or transfers of gasoline between refineries, between terminals, or between a refinery and a terminal.

(b) A delivery ticket required under section 239.092 for biofuel blended with gasoline must state the volume percentage of biofuel blended into gasoline delivered through a meter into a storage tank used for dispensing by persons not exempt under subdivisions 10 to 14 and 16.

(c) On or before the 23rd day of each month, a person responsible for the product must report to the department, in the form prescribed by the commissioner, the gross number of gallons of intermediate blends sold at retail by the person during the preceding calendar month. The report must identify the number of gallons by blend type. For purposes of this subdivision, "intermediate blends" means blends of gasoline and biofuel in which the biofuel content, exclusive of denaturants and other permitted components, is greater than ten percent and no more than 50 percent by volume. This paragraph only applies to a person who is responsible for selling intermediate blends at retail at more than ten locations. A person

responsible for the product at fewer than ten locations is not precluded from reporting the gross number of intermediate blends if a report is available.

(d) All reports provided pursuant to paragraph (c) are nonpublic data, as defined in section 13.02, subdivision 9.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 4. Minnesota Statutes 2022, section 327C.015, is amended by adding a subdivision to read:

Subd. 3a. **Commodity rate.** "Commodity rate" means the per unit price for utility service that varies directly with the volume of a resident's consumption of utility service and that is established or approved by the Minnesota Public Utilities Commission or a municipal public utilities commission, an electric cooperative association, or a municipality and charged to a user of the service.

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

Sec. 5. Minnesota Statutes 2022, section 327C.015, is amended by adding a subdivision to read:

Subd. 11a. **Public utility.** "Public utility" has the meaning given in section 216B.02, subdivision 4.

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

Sec. 6. Minnesota Statutes 2022, section 327C.015, subdivision 17, is amended to read:

Subd. 17. **Substantial modification.** "Substantial modification" means any change in a rule which: (a) significantly diminishes or eliminates any material obligation of the park owner; (b) significantly diminishes or eliminates any material right, privilege or freedom of action of a resident; or (c) involves a significant new expense for a resident. The installation of water and sewer meters and the subsequent metering of and billing for water and sewer service is not a substantial modification of the lease, provided the park owner complies with section 327C.04, subdivision 6.

EFFECTIVE DATE. This section is effective for meter installations initiated on or after August 1, 2023.

Sec. 7. Minnesota Statutes 2022, section 327C.015, is amended by adding a subdivision to read:

Subd. 17a. **Utility provider.** "Utility provider" means a public utility, an electric cooperative association, or a municipal utility.

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

Sec. 8. Minnesota Statutes 2022, section 327C.04, subdivision 1, is amended to read:

Subdivision 1. **Billing permitted.** A park owner who either provides utility service directly to residents or who redistributes to residents utility service provided to the park owner by a utility provider may charge the residents for that service, only if the charges comply with this section.

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

Sec. 9. Minnesota Statutes 2022, section 327C.04, subdivision 2, is amended to read:

Subd. 2. **Metering required.** A park owner who charges residents for a utility service must charge each household the same amount, unless the park owner has installed measuring devices which accurately meter each household's use of the utility. Utility measuring devices installed by the park owner must be installed or repaired only by a licensed plumber, licensed electrician, or licensed manufactured home installer.

EFFECTIVE DATE. This section is effective August 1, 2023, and applies to meters installed or repaired on or after that date.

Sec. 10. Minnesota Statutes 2022, section 327C.04, is amended by adding a subdivision to read:

Subd. 5. **Utility charge for metered service.** (a) A park owner who redistributes utility service may not charge a resident a commodity rate that exceeds the commodity rate at which the park owner purchases utility service from a utility provider. Before billing residents for redistributed utility service, a park owner must deduct utility service used exclusively or primarily for the park owner's purposes.

(b) If a utility bill that a park owner receives from a utility provider separates from variable consumption charges a fixed service or meter charge or fee, taxes, surcharges, or other miscellaneous charges, the park owner must deduct the park owner's pro rata share of these separately itemized charges and apportion the remaining fixed portion of the bill equally among residents based on the total number of occupied units in the park.

(c) A park owner may not charge to or collect from residents any administrative, capital, or other expenses associated with the distribution of utility services, including but not limited to disconnection, reconnection, and late payment fees.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 11. Minnesota Statutes 2022, section 327C.04, is amended by adding a subdivision to read:

Subd. 6. **Rent increases following the installation of water meters.** A park owner may not increase lot rents for 13 months following the commencement of utility bills for a resident whose lease included water and sewer service. In each of the three months prior to commencement of utility billing, a park owner must provide the resident with a sample bill for water and sewer service.

EFFECTIVE DATE. This section is effective August 1, 2023, and applies to meter installations initiated on or after that date.

Sec. 12. Minnesota Statutes 2022, section 515B.3-102, is amended to read:

515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.

(a) Except as provided in subsections (b), (c), (d), ~~and~~ (e), and (f) and subject to the provisions of the declaration or bylaws, the association shall have the power to:

(1) adopt, amend and revoke rules and regulations not inconsistent with the articles of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common elements; (ii) regulating the use of the units, and conduct of unit occupants, which may jeopardize the health, safety or welfare of other occupants, which involves noise or other disturbing activity, or which may damage the common elements or other units; (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the common elements and conduct which may damage the common interest community; (v) regulating the exterior appearance of the common interest community, including, for example, balconies and patios, window treatments, and signs and other displays, regardless of whether inside a unit; (vi) implementing the articles of incorporation, declaration and bylaws, and exercising the powers granted by this section; and (vii) otherwise facilitating the operation of the common interest community;

(2) adopt and amend budgets for revenues, expenditures and reserves, and levy and collect assessments for common expenses from unit owners;

(3) hire and discharge managing agents and other employees, agents, and independent contractors;

(4) institute, defend, or intervene in litigation or administrative proceedings (i) in its own name on behalf of itself or two or more unit owners on matters affecting the common elements or other matters affecting the common interest community or, (ii) with the consent of the owners of the affected units on matters affecting only those units;

(5) make contracts and incur liabilities;

(6) regulate the use, maintenance, repair, replacement, and modification of the common elements and the units;

(7) cause improvements to be made as a part of the common elements, and, in the case of a cooperative, the units;

(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but (i) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 515B.3-112;

(9) grant or amend easements for public utilities, public rights-of-way or other public purposes, and cable television or other communications, through, over or under the common elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized by the declaration; and, subject to approval by a vote of unit owners other than declarant or its affiliates, grant or amend other easements, leases, and licenses through, over or under the common elements;

(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements, and for services provided to unit owners;

(11) impose interest and late charges for late payment of assessments and, after notice and an opportunity to be heard before the board or a committee appointed by it, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association, provided that attorney fees and costs must not be charged or collected from a unit owner who disputes a fine or assessment and, if after the homeowner requests a hearing and a hearing is held by the board or a committee of the board, the board does not adopt a resolution levying the fine or upholding the assessment against the unit owner or owner's unit;

(12) impose reasonable charges for the review, preparation and recordation of amendments to the declaration, resale certificates required by section 515B.4-107, statements of unpaid assessments, or furnishing copies of association records;

(13) provide for the indemnification of its officers and directors, and maintain directors' and officers' liability insurance;

(14) provide for reasonable procedures governing the conduct of meetings and election of directors;

(15) exercise any other powers conferred by law, or by the declaration, articles of incorporation or bylaws; and

(16) exercise any other powers necessary and proper for the governance and operation of the association.

(b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

(c) An association that levies a fine pursuant to subsection (a)(11), or an assessment pursuant to section 515B.3-115(g), or 515B.3-1151(g), must provide a dated, written notice to a unit owner that:

(1) states the amount and reason for the fine or assessment;

(2) for fines levied under section 515B.3-102(a)(11), specifies: (i) the violation for which a fine is being levied and the date of the levy; and (ii) the specific section of the declaration, bylaws, rules, or regulations allegedly violated;

(3) for assessments levied under section 515B.3-115(g) or 515B.3-1151(g), identifies: (i) the damage caused; and (ii) the act or omission alleged to have caused the damage;

(4) states that all unpaid fines and assessments are liens which, if not satisfied, could lead to foreclosure of the lien against the owner's unit;

(5) describes the unit owner's right to be heard by the board or a committee appointed by the board;

(6) states that if the assessment, fine, late fees, and other allowable charges are not paid, the amount may increase as a result of the imposition of attorney fees and other collection costs; and

(7) informs the unit owner that homeownership assistance is available from the Minnesota Homeownership Center.

~~(c)~~ (d) Notwithstanding subsection (a), powers exercised under this section must comply with section 500.215.

~~(d)~~ (e) Notwithstanding subsection (a)(4) or any other provision of this chapter, the association, before instituting litigation or arbitration involving construction defect claims against a development party, shall:

(1) mail or deliver written notice of the anticipated commencement of the action to each unit owner at the addresses, if any, established for notices to owners in the declaration and, if the declaration does not state how notices are to be given to owners, to the owner's last known address. The notice shall specify the nature of the construction defect claims to be alleged, the relief sought, and the manner in which the association proposes to fund the cost of pursuing the construction defect claims; and

(2) obtain the approval of owners of units to which a majority of the total votes in the association are allocated. Votes allocated to units owned by the declarant, an affiliate of the declarant, or a mortgagee who obtained ownership of the unit through a foreclosure sale are excluded. The association may obtain the required approval by a vote at an annual or special meeting of the members or, if authorized by the statute under which the association is created and taken in compliance with that statute, by a vote of the members taken by electronic means or mailed ballots. If the association holds a meeting and voting by electronic means or mailed ballots is authorized by that statute, the association shall also provide for voting by those methods. Section 515B.3-110(c) applies to votes taken by electronic means or mailed ballots, except that the votes must be used in combination with the vote taken at a meeting and are not in lieu of holding a meeting, if a meeting is held, and are considered for purposes of determining whether a quorum was present. Proxies may not be used for a vote taken under this paragraph unless the unit owner executes the proxy after receipt of the notice required under subsection ~~(d)(1)~~ (e)(1) and the proxy expressly references this notice.

~~(e)~~ (f) The association may intervene in a litigation or arbitration involving a construction defect claim or assert a construction defect claim as a counterclaim, crossclaim, or third-party claim before complying with subsections ~~(d)(1)~~ (e)(1) and ~~(d)(2)~~ (e)(2) but the association's complaint in an intervention, counterclaim, crossclaim, or third-party claim shall be dismissed without prejudice unless the association has complied with the requirements of subsection ~~(d)~~ (e) within 90 days of the association's commencement of the complaint in an intervention or the assertion of the counterclaim, crossclaim, or third-party claim.

EFFECTIVE DATE. This section is effective January 1, 2024, for fines and assessments levied on or after that date.

Sec. 13. Minnesota Statutes 2022, section 515B.3-115, is amended to read:

515B.3-115 ASSESSMENTS FOR COMMON EXPENSES; CIC CREATED BEFORE AUGUST 1, 2010.

(a) The obligation of a unit owner to pay common expense assessments shall be as follows:

(1) If a common expense assessment has not been levied, the declarant shall pay all operating expenses of the common interest community, and shall fund the replacement reserve component of the common expenses as required by subsection (b).

(2) If a common expense assessment has been levied, all unit owners, including the declarant, shall pay the assessments allocated to their units, subject to the following:

(i) If the declaration so provides, a declarant's liability, and the assessment lien, for the common expense assessments, exclusive of replacement reserves, on any unit owned by the declarant may be limited to 25 percent or more of any assessment, exclusive of replacement reserves, until the unit or any building located in the unit is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.

(ii) If the declaration provides for a reduced assessment pursuant to paragraph (2)(i), the declarant shall be obligated, within 60 days following the termination of the period of declarant control, to make up any operating deficit incurred by the association during the period of declarant control. The existence and amount, if any, of the operating deficit shall be determined using the accrual basis of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.

(b) The replacement reserve component of the common expenses shall be funded for each unit in accordance with the projected annual budget required by section 515B.4-102(a)(23) provided that the funding of replacement reserves with respect to a unit shall commence no later than the date that the unit or any building located within the unit boundaries is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.

(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon a budget approved at least annually by the association.

(d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.

(e) Unless otherwise required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;

(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;

(4) subject to section 515B.3-102(a)(11), reasonable ~~attorneys~~ attorney fees and costs incurred by the association in connection with (i) the collection of assessments against a unit owner, and~~,~~ (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations~~,~~ against a unit owner, may be assessed against the unit owner's unit subject to section 515B.3-116(h); and

(5) fees, charges, late charges, fines and interest may be assessed as provided in section 515B.3-116(a).

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full, except that any portion of the assessment that represents installments that are not due and payable without acceleration as of the date of reinstatement must not be included in the amount that a unit owner must pay to reinstate under section 580.30 or chapter 581.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

(k) This section applies only to common interest communities created before August 1, 2010.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 14. Minnesota Statutes 2022, section 515B.3-1151, is amended to read:

515B.3-1151 ASSESSMENTS FOR COMMON EXPENSES; CIC CREATED ON OR AFTER AUGUST 1, 2010.

(a) The association shall approve an annual budget of common expenses at or prior to the conveyance of the first unit in the common interest community to a purchaser and annually thereafter. The annual budget shall include all customary and necessary operating expenses and replacement reserves for the common interest community, consistent with this section and section 515B.3-114. For purposes of replacement reserves under subsection (b), until an annual budget has been approved, the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. The obligation of a unit owner to pay common expenses shall be as follows:

(1) If a common expense assessment has not been levied by the association, the declarant shall pay all common expenses of the common interest community, including the payment of the replacement reserve component of the common expenses for all units in compliance with subsection (b).

(2) If a common expense assessment has been levied by the association, all unit owners, including the declarant, shall pay the assessments levied against their units, except as follows:

(i) The declaration may provide for an alternate common expense plan whereby the declarant's common expense liability, and the corresponding assessment lien against the units owned by the declarant, is limited to: (A) paying when due, in compliance with subsection (b), an amount equal to the full share of the replacement reserves allocated to units owned by the declarant, as set forth in the association's annual budget approved as provided in this subsection; and (B) paying when due all accrued expenses of the common interest community in excess of the aggregate assessments payable with respect to units owned by persons other than a declarant; provided, that the alternate common expense plan

shall not affect a declarant's obligation to make up any operating deficit pursuant to item (iv), and shall terminate upon the termination of any period of declarant control unless terminated earlier pursuant to item (iii).

(ii) The alternate common expense plan may be authorized only by including in the declaration and the disclosure statement required by section 515B.4-102 provisions authorizing and disclosing the alternate common expense plan as described in item (i), and including in the disclosure statement either (A) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget contained in the disclosure statement, or (B) a statement describing how the services or amenities may be affected.

(iii) A declarant shall give notice to the association of its intent to utilize the alternate common expense plan and a commencement date after the date the notice is given. The alternate common expense plan shall be valid only for periods after the notice is given. A declarant may terminate its right to utilize the alternate common expense plan prior to the termination of the period of declarant control only by giving notice to the association and the unit owners at least 30 days prior to a selected termination date set forth in the notice.

(iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause to be prepared and delivered to the association, at the declarant's expense, within 90 days after the termination of the period of declarant control, an audited balance sheet and profit and loss statement certified to the association and prepared by an accountant having the qualifications set forth in section 515B.3-121(b). The audit shall be binding on the declarant and the association.

(v) If the audited profit and loss statement shows an accumulated operating deficit, the declarant shall be obligated to make up the deficit within 15 days after delivery of the audit to the association, and the association shall have a claim against the declarant for an amount equal to the deficit until paid. A declarant who does not utilize an alternate common expense plan is not liable to make up any operating deficit. If more than one declarant utilizes an alternate common expense plan, all declarants who utilize the plan are jointly and severally liable to the association for any operating deficit.

(vi) The existence and amount, if any, of the operating deficit shall be determined using the accrual method of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.

(vii) Unless approved by a vote of the unit owners other than the declarant and its affiliates, the operating deficit shall not be made up, prior to the election by the unit owners of a board of directors pursuant to section 515B.3-103(d), through the use of a special assessment described in subsection (c) or by assessments described in subsections (e), (f), and (g).

(viii) The use by a declarant of an alternate common expense plan shall not affect the obligations of the declarant or the association as provided in the declaration, the bylaws, or this chapter, or as represented in the disclosure statement required by section 515B.4-102, except as to matters authorized by this chapter.

(b) The replacement reserves required by section 515B.3-114 shall be paid to the association by each unit owner for each unit owned by that unit owner in accordance with the association's annual budget approved pursuant to subsection (a), regardless of whether an annual assessment has been levied or whether the declarant has utilized an alternate common expense plan under subsection (a)(2). Replacement reserves shall be paid with respect to a unit commencing as of the later of (1) the date of creation of the common interest community or (2) the date that the structure and exterior of the building containing the unit, or the structure and exterior of any building located within the unit boundaries, but excluding the interior finishing of the structure itself, are substantially completed. If the association has not approved an annual budget as of the commencement date for the payment of replacement reserves, then the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102.

(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon an annual budget approved by the association. In addition to and not in lieu of annual assessments, an association may, if so provided in the declaration, levy special assessments against all units in the common interest community based upon the same formula required by the declaration for levying annual assessments. Special assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures or operating expenses, or (4) to replace certain components of the common interest community described in section 515B.3-114(a), if such alternative method of funding is approved under section 515B.3-114(a)(5). The association may also levy assessments against fewer than all units as provided in subsections (e), (f), and (g). An assessment under subsection (e)(2) for replacement reserves is subject to the requirements of section 515B.3-1141(a)(5).

(d) Except as modified by subsections (a), clauses (1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.

(e) Unless otherwise required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;

(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;

(4) subject to section 515B.3-102(a)(11), reasonable attorney fees and costs incurred by the association in connection with (i) the collection of assessments, and (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit, subject to section 515B.3-116(h); and

(5) fees, charges, late charges, fines, and interest may be assessed as provided in section 515B.3-116(a).

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full, except that any portion of the assessment that represents installments that are not due and payable without acceleration as of the date of reinstatement must not be included in the amount that a unit owner must pay to reinstate under section 580.30 or chapter 581.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

(k) This section applies only to common interest communities created on or after August 1, 2010.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 15. Minnesota Statutes 2022, section 515B.3-116, is amended to read:

515B.3-116 LIEN FOR ASSESSMENTS.

(a) The association has a lien on a unit for any assessment levied against that unit from the time the assessment becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charges pursuant to section 515B.3-102(a)(10), (11) and (12) are liens, and are enforceable as assessments, under this section. Recording of the declaration constitutes record notice and perfection of any assessment lien under this section, and no further recording of any notice of or claim for the lien is required.

(b) Subject to subsection (c), a lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to, (ii) any first mortgage encumbering the fee simple interest in the unit, or, in a cooperative, any first security interest encumbering only the unit owner's interest in the unit, (iii) liens for real estate taxes and other governmental assessments or charges against the unit, and (iv) a master association lien under section 515B.2-121(h). This subsection shall not affect the priority of mechanic's liens.

(c) If a first mortgage on a unit is foreclosed, the first mortgage was recorded after June 1, 1994, and no owner or person who acquires the owner's interest in the unit redeems pursuant to chapter 580, 581, or 582, the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage or any person who acquires title to the unit by redemption as a junior creditor shall take title to the unit subject to a lien in favor of the association for unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due, without acceleration, during the six months immediately

preceding the end of the owner's period of redemption. The common expenses shall be based upon the association's then current annual budget, notwithstanding the use of an alternate common expense plan under section 515B.3-115(a)(2). If a first security interest encumbering a unit owner's interest in a cooperative unit which is personal property is foreclosed, the secured party or the purchaser at the sale shall take title to the unit subject to unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due, without acceleration, during the six months immediately preceding the first day following either the disposition date pursuant to section 336.9-610 or the date on which the obligation of the unit owner is discharged pursuant to section 336.9-622.

(d) Proceedings to enforce an assessment lien shall be instituted within three years after the last installment of the assessment becomes payable, or shall be barred.

(e) The unit owner of a unit at the time an assessment is due shall be personally liable to the association for payment of the assessment levied against the unit. If there are multiple owners of the unit, they shall be jointly and severally liable.

(f) This section does not prohibit actions to recover sums for which subsection (a) creates a lien nor prohibit an association from taking a deed in lieu of foreclosure.

(g) The association shall furnish to a unit owner or the owner's authorized agent upon written request of the unit owner or the authorized agent a statement setting forth the amount of unpaid assessments currently levied against the owner's unit. If the unit owner's interest is real estate, the statement shall be in recordable form. The statement shall be furnished within ten business days after receipt of the request and is binding on the association and every unit owner.

(h) The association's lien may be foreclosed as provided in this subsection.

(1) In a condominium or planned community, the association's lien may be foreclosed in a like manner as a mortgage containing a power of sale pursuant to chapter 580, or by action pursuant to chapter 581. The association shall have a power of sale to foreclose the lien pursuant to chapter 580<u>, except that any portion of the assessment that represents attorney fees or costs shall not be included in the amount a unit owner must pay to reinstate under section 580.30 or chapter 581</u>.

(2) In a cooperative whose unit owners' interests are real estate, the association's lien shall be foreclosed in a like manner as a mortgage on real estate as provided in paragraph (1).

(3) In a cooperative whose unit owners' interests in the units are personal property, the association's lien shall be foreclosed in a like manner as a security interest under article 9 of chapter 336. In any disposition pursuant to section 336.9-610 or retention pursuant to sections 336.9-620 to 336.9-622, the rights of the parties shall be the same as those provided by law, except (i) notice of sale, disposition, or retention shall be served on the unit owner 90 days prior to sale, disposition, or retention, (ii) the association shall be entitled to its reasonable costs and attorney fees not exceeding the amount provided by section 582.01, subdivision 1a, (iii) the amount of the association's lien shall be deemed to be adequate consideration for the unit subject to disposition or retention, notwithstanding the value of the unit, and (iv) the notice of sale, disposition, or retention shall contain the following statement in capital letters with the name of the association or secured party filled in:

"THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of association or secured party) HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST IN YOUR UNIT FOR THE REASON SPECIFIED IN THIS NOTICE. YOUR INTEREST IN YOUR UNIT WILL TERMINATE 90 DAYS AFTER SERVICE OF THIS NOTICE ON YOU UNLESS BEFORE THEN:

(a) THE PERSON AUTHORIZED BY (fill in the name of association or secured party) AND DESCRIBED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU:

(1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

(2) THE COSTS INCURRED TO SERVE THIS NOTICE ON YOU; PLUS

(3) $500 TO APPLY TO ~~ATTORNEYS~~ ATTORNEY FEES ACTUALLY EXPENDED OR INCURRED; PLUS

(4) ANY ADDITIONAL AMOUNTS FOR YOUR UNIT BECOMING DUE TO (fill in name of association or secured party) AFTER THE DATE OF THIS NOTICE; OR

(b) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE FORECLOSURE OF YOUR RIGHTS TO YOUR UNIT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR OWNERSHIP RIGHTS IN

YOUR UNIT WILL TERMINATE AT THE END OF THE PERIOD, YOU WILL LOSE ALL THE MONEY YOU HAVE PAID FOR YOUR UNIT, YOU WILL LOSE YOUR RIGHT TO POSSESSION OF YOUR UNIT, YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE, AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

(4) In any foreclosure pursuant to chapter 580, 581, or 582, the rights of the parties shall be the same as those provided by law, except (i) the period of redemption for unit owners shall be six months from the date of sale or a lesser period authorized by law, (ii) in a foreclosure by advertisement under chapter 580, the foreclosing party shall be entitled to costs and disbursements of foreclosure and ~~attorneys~~ attorney fees authorized by the declaration or bylaws, notwithstanding the provisions of section 582.01, subdivisions 1 and 1a, (iii) in a foreclosure by action under chapter 581, the foreclosing party shall be entitled to costs and disbursements of foreclosure and ~~attorneys~~ attorney fees as the court shall determine, and (iv) the amount of the association's lien shall be deemed to be adequate consideration for the unit subject to foreclosure, notwithstanding the value of the unit.

(i) If a holder of a sheriff's certificate of sale, prior to the expiration of the period of redemption, pays any past due or current assessments, or any other charges lienable as assessments, with respect to the unit described in the sheriff's certificate, then the amount paid shall be a part of the sum required to be paid to redeem under section 582.03.

(j) In a cooperative, if the unit owner fails to redeem before the expiration of the redemption period in a foreclosure of the association's assessment lien, the association may bring an action for eviction against the unit owner and any persons in possession of the unit, and in that case section 504B.291 shall not apply.

(k) An association may assign its lien rights in the same manner as any other secured party.

EFFECTIVE DATE. This section is effective August 1, 2023, and applies to foreclosures initiated on or after that date.

Sec. 16. Laws 2023, chapter 24, section 3, is amended to read:

Sec. 3. ~~**APPROPRIATION**~~ **TRANSFER.**

(a) $115,000,000 in fiscal year 2023 is ~~appropriated~~ transferred from the general fund to the ~~commissioner of commerce for the purposes of~~ state competitiveness fund account

under Minnesota Statutes, section 216C.391. This is a onetime ~~appropriation~~ transfer. Of this amount:

(1) $100,000,000 is for grant awards made under Minnesota Statutes, section 216C.391, subdivision 3, of which at least $75,000,000 is for grant awards of less than $1,000,000;

(2) $6,000,000 is for grant awards made under Minnesota Statutes, section 216C.391, subdivision 4;

(3) $750,000 is for the reports and audits under Minnesota Statutes, section 216C.391, subdivision 7;

(4) $1,500,000 is for information system development improvements necessary to carry out Minnesota Statutes, section 216C.391, and to improve digital access and reporting;

(5) $6,750,000 is for technical assistance to applicants and administration of Minnesota Statutes, section 216C.391, by the Department of Commerce; and

(6) the commissioner may transfer money from clause (2) to clause (1) if less than 75 percent of the money in clause (2) has been awarded by June 30, 2028.

(b) To the extent that federal funds for energy projects under the Infrastructure Investment and Jobs Act, Public Law 117-58, or the Inflation Reduction Act of 2022, Public Law 117-169, become permanently unavailable to be matched with funds appropriated under this section, the commissioner of management and budget must certify the proportional amount of unencumbered funds remaining in the account established under Minnesota Statutes, section 216C.391, and those unencumbered funds cancel to the general fund.

EFFECTIVE DATE. This section is effective retroactively from April 19, 2023.

Sec. 17. **REPEALER.**

Minnesota Statutes 2022, section 327C.04, subdivision 4, is repealed.

EFFECTIVE DATE. This section is effective July 1, 2023."

Delete the title and insert:

"A bill for an act

relating to commerce; establishing a biennial budget for Department of Commerce and related activities; adding and modifying various provisions governing health, property, life, homeowner's, and automobile insurance; regulating financial institutions; modifying provisions governing financial institutions; providing for certain consumer protections and privacy; modifying provisions governing commerce; making technical changes; establishing civil and criminal penalties; authorizing administrative rulemaking; requiring reports; appropriating and transferring money; amending Minnesota Statutes 2022, sections 46.131, subdivision 11; 47.0153, subdivision 1; 47.59, subdivision 2; 47.60, subdivisions

1, 2, by adding a subdivision; 47.601, subdivisions 1, 2, 6, by adding a subdivision; 53.04, subdivision 3a; 53C.01, subdivision 12c, by adding a subdivision; 53C.08, subdivision 1a; 56.131, subdivision 1; 60A.08, subdivision 15; 60A.14, subdivision 1; 61A.031; 61A.60, subdivision 3; 62A.152, subdivision 3; 62A.3099, by adding a subdivision; 62A.31, subdivisions 1, 1f, 1h, 1p, 1u, 4, by adding a subdivision; 62A.44, subdivision 2; 62D.02, by adding a subdivision; 62D.095, subdivisions 2, 3, 5; 62J.26, subdivisions 1, 2; 62K.10, subdivision 4; 62Q.096; 62Q.19, subdivision 1; 62Q.46, subdivisions 1, 3; 62Q.47; 62Q.735, subdivisions 1, 5; 62Q.76, by adding a subdivision; 62Q.78, by adding subdivisions; 62Q.81, subdivision 4, by adding a subdivision; 65B.49, by adding a subdivision; 80A.50; 80E.041, subdivision 4; 103G.291, subdivision 4; 151.071, subdivisions 1, 2; 237.066; 239.791, subdivision 8; 256B.0631, subdivision 1; 256B.69, subdivision 5a; 256L.03, subdivision 5; 325D.01, subdivision 5; 325D.44, subdivisions 1, 2; 325D.71; 325E.31; 325F.662, subdivisions 2, 3; 325F.6641, subdivision 2; 325F.69, subdivision 1, by adding a subdivision; 325G.051, subdivision 1; 327C.015, subdivision 17, by adding subdivisions; 327C.04, subdivisions 1, 2, by adding subdivisions; 515B.3-102; 515B.3-115; 515B.3-1151; 515B.3-116; Laws 2022, chapter 93, article 1, section 2, subdivision 5; Laws 2023, chapter 24, section 3; proposing coding for new law in Minnesota Statutes, chapters 47; 48; 52; 53B; 58; 58B; 60A; 62J; 62Q; 62W; 65A; 325E; 325F; 332; repealing Minnesota Statutes 2022, sections 48.10; 53B.01; 53B.02; 53B.03; 53B.04; 53B.05; 53B.06; 53B.07; 53B.08; 53B.09; 53B.10; 53B.11; 53B.12; 53B.13; 53B.14; 53B.15; 53B.16; 53B.17; 53B.18; 53B.19; 53B.20; 53B.21; 53B.22; 53B.23; 53B.24; 53B.25; 53B.26; 53B.27, subdivisions 1, 2, 5, 6, 7; 62A.31, subdivisions 1b, 1i; 327C.04, subdivision 4; Minnesota Rules, parts 2675.2610, subparts 1, 3, 4; 2675.2620, subparts 1, 2, 3, 4, 5; 2675.2630, subpart 3."

We request the adoption of this report and repassage of the bill.

Senate Conferees:

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Matt Klein	Judy Seeberger

.....

Jordan Rasmusson

House Conferees:

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Zack Stephenson	Carlie Kotyza-Witthuhn

.....

Tim O'Driscoll