SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 2744

(SENATE AUTHORS: KLEIN and Frentz)

DATE	D-PG	OFFICIAL STATUS
03/08/2023	1437	Introduction and first reading
		Referred to Commerce and Consumer Protection
04/11/2023	3650a	Comm report: To pass as amended and re-refer to Finance
04/13/2023	4959a	Comm report: To pass as amended
	4964	Second reading
04/14/2023	5052a	Special Order: Amended
	5061	Third reading Passed
04/27/2023	6577	Returned from House with amendment
		Senate not concur, conference committee of 3 requested
	6578	Senate conferees Klein; Seeberger; Rasmusson
04/28/2023	6612	House conferees Stephenson; Kotyza-Witthuhn; O'Driscoll
05/16/2023	8449c	Conference committee report, delete everything
	8616	Senate adopted CC report and repassed bill
	8617	Third reading
	8617	Laid on table
	8618	Taken from table
	8618	Third reading Passed

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.

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

ARTICLE 1
APPROPRIATIONS

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** $	**33,899,000** $	**34,802,000**

Appropriations by Fund

	2024	2025
General	31,018,000	31,894,000
Special Revenue	2,093,000	2,093,000
Workers' Compensation Fund	788,000	815,000

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

Subd. 2. **Financial Institutions**	2,569,000	2,689,000

(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. Any unencumbered balance remaining at the end of the first year does not cancel but is available in the second year.

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

(c) $197,000 each year is to administer the requirements of Minnesota Statutes, section 58B.011.

Subd. 3. **Administrative Services**	10,088,000	10,114,000

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

(b) $586,000 in the first year and $608,000 in the second year are for additional operations of the unclaimed property program.

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

(d) $568,000 the first year and $537,000 the second year are for the duties under Minnesota Statutes, sections 62J.841 to 64J.845. The base for this appropriation is $500,000 in fiscal year 2026 and each year thereafter.

(e) $150,000 each year are for a grant to Exodus Lending to expand program and operational capacity to help individuals reach financial stability through small dollar consumer loans, including through resolution of consumer short-term loans carrying interest rates grater than 36 percent. This is a onetime appropriation and is available until June 30, 2027.

(f) $200,000 in fiscal year 2024 is appropriated to the commissioner of commerce for a grant to Exodus Lending to assist the development of a character-based small dollar loan lending program. Character-based lending is the practice of issuing loans based on the borrower's involvement in and ties to community-based organizations that provide

client services, such as financial coaching. This is a onetime appropriation and is available until June 30, 2027.

Loans issued under the program must be (1) interest- and fee-free, and (2) made to Minnesotans facing significant barriers, including banking history, credit history and credit score requirements, scarcity of bank branches in lower-income communities and communities of color, and low or irregular income flows, to mainstream financial products. Mainstream financial products are products provided most commonly by regulated financial institutions, including credit cards and installment loans. 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.

(g) No later than July 15, 2024, and annually thereafter until fiscal year 2027, Exodus Lending must submit a report to the commissioner of commerce on the activities required of Exodus Lending under paragraphs (e) and (f). The report must detail, at minimum, each of the following 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 and 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 described under paragraph (f);

(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.

No later than August 15, 2024, and annually thereafter until fiscal year 2027, 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 (f).

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

Subd. 4. **Enforcement**	7,185,000	7,473,000

Appropriations by Fund		
General	6,977,000	7,258,000
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) $283,000 each year is for the law enforcement salary increases authorized under Laws 2021, First Special Session chapter 4, article 9, section 1.

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

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

(f) $100,000 in the second year is to create and operate the Mental Health Parity and Substance Abuse Accountability Office under Minnesota Statutes, section 62Q.465. The base for this appropriation is $175,000 in fiscal year 2026 and each year thereafter.

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**	9,305,000	9,709,000

Appropriations by Fund		
General	8,583,000	8,967,000
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. This is a onetime appropriation.

(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.

(g) $25,000 each year is to pay the costs incurred to evaluate existing statutory health benefit mandates under article 2, section 39.

Subd. 7. **Weights and Measures Division**		1,531,000		1,556,000
Sec. 3. **ATTORNEY GENERAL**	**$**	**549,000**	**$**	**549,000**

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

Sec. 4. **DEPARTMENT OF HEALTH**	**$**	**74,000**	**$**	**56,000**

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

(b) $5,000 each year is for consultation with the commissioner of commerce to evaluate existing statutory health benefits under article 2, section 39.

Sec. 5. **DEPARTMENT OF EDUCATION**	**$**	**100,000**	**$**	**-0-**

(a) $100,000 the first year is for a grant to the Minnesota Council on Economic Education. The money 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. This is a onetime appropriation. Any balance in the first year does not cancel and is available in the second year.

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.

ARTICLE 2
INSURANCE POLICY

Section 1. 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. 2. 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.

Sec. 3. 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. 4. 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. 5. 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. 6. Minnesota Statutes 2022, section 62D.095, subdivision 4, is amended to read:

Subd. 4. **Annual out-of-pocket maximums.** A health maintenance contract ~~may~~ must not impose an annual out-of-pocket maximum ~~consistent with the provisions of the Affordable Care Act as defined under section 62A.011, subdivision 1a~~ for services rendered that are not listed under section 62D.02, subdivision 17, or for preventive items and services.

Sec. 7. 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. 8. **[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 provided in section 151.01, subdivision 14a, but does not include an entity required 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. 9. **[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. 10. **[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. 11. **[62J.844] ENFORCEMENT.**

Subdivision 1. **Notification.** (a) The commissioner of health shall notify the manufacturer of a generic or off-patent drug, the attorney general, and the Board of Pharmacy 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, the attorney general, and the Board of Pharmacy 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. 12. **[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 Board of Pharmacy and 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. 13. **[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. 14. **[62J.85] CITATION.**

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

Sec. 15. **[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. 16. **[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. 17. **[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. 18. **[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. 19. **[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 that have been on the market for at least seven years, are not designated by the United States Food and Drug Administration under United States Code, title 21, section 360bb, as a drug solely for the treatment of a rare disease or condition, and meet the following criteria:

(1) brand name drugs or biologics for which the WAC increases by $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:

(i) the price increase, adjusted for inflation using the Consumer Price Index, as defined in section 62J.841, subdivision 2, exceeds:

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

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

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

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

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

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. 20. **[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. 21. **[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.

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

(d) 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. 22. **[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. 23. **[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. 24. **[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. 25. Minnesota Statutes 2022, section 62K.10, subdivision 4, is amended to read:

Subd. 4. **Network adequacy.** 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.

Sec. 26. 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 and licensed by the commissioner of health.

(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.

Sec. 27. 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. 28. 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. 29. **[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. 30. 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: (i) managed care plans or county-based purchasing plans when the plan provides coverage to public health care program enrollees under chapter 256B or 256L; or (ii) health care coverage offered by the state employee group insurance program.

(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.

Sec. 31. **[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, 2024, and applies to health plans offered, issued, or renewed on or after that date.

Sec. 32. 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. 33. 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 enrolled in the plan. A health plan company discontinuing a plan under this paragraph must only discontinue the health plan that has fewer than 75 enrollees and:

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

(2) offer on a guaranteed issue basis to each individual enrolled 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 must be automatically enrolled in the individual health plan closest in actuarial value to the enrollee's current plan; and

(3) act uniformly without regard to any health status-related factor of enrolled individuals or dependents of enrolled individuals 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. 34. **[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 dispense or 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. 35. 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, <u>except that a civil penalty not exceeding $25,000 may be imposed for each separate violation of section 62J.842,</u> 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. 36. 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. 37. 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. 38. 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. 39. **EVALUATION OF EXISTING STATUTORY HEALTH BENEFIT MANDATES.**

(a) The commissioner of commerce must evaluate existing Minnesota statutory provisions that would constitute a state-required benefit included in Minnesota's EHB-benchmark plan, as defined in Code of Federal Regulations, title 45, section 156.20, if the statutory provision was offered as a legislative proposal on the date of enactment of this act.

(b) The commissioner must conduct the evaluation using the process established under Minnesota Statutes, section 62J.26, subdivision 2.

(c) The commissioner may prioritize and determine the order in which statutory provisions are evaluated under this section, provided that at least one statutory provision is evaluated each year.

(d) This section expires January 1, 2034.

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

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. **[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. 3. **[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. 4. **[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. 5. **[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. 6. **[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. 7. **[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. 8. **[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. 9. **[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. 10. **[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. 11. **[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. 12. **[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. 13. **[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. 14. **[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. 15. **[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. 16. **[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. 17. **[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. 18. **[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. 19. **[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. 20. **[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. 21. **[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. 22. **[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. 23. **[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. 24. **[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. 25. **[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. 26. **[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. 27. **[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. 28. **[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. 29. **[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. 30. **[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. 31. **[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. 32. **[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. 33. **[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. 34. **[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. 35. **[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. 36. **[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. 37. **[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. 38. **[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. 39. **[53B.65] ENFORCEMENT.**

Section 45.027 applies to this chapter.

Sec. 40. **[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. 41. **[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. 42. **[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. 43. **[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. 44. **[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. 45. **[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. 46. **[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. 47. **[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. 48. **[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. 49. **[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 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. 50. **REPEALER.**

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.

ARTICLE 4
WEIGHTS AND MEASURES

Section 1. 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.

ARTICLE 5
MISCELLANEOUS

Section 1. **FINANCIAL REVIEW OF GRANT AND BUSINESS SUBSIDY RECIPIENTS.**

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Grant" means a grant or business subsidy funded by an appropriation in this act.

(c) "Grantee" means a business entity, as defined in Minnesota Statutes, section 5.001.

Subd. 2. **Financial information required; determination of ability to perform.** Before an agency awards a competitive, legislatively named, single source, or sole source grant, the agency must assess the risk that a grantee cannot or would not perform the required duties. In making this assessment, the agency must review the following information:

(1) the grantee's history of performing duties similar to those required by the grant, whether the size of the grant requires the grantee to perform services at a significantly increased scale, and whether the size of the grant will require significant changes to the operation of the grantee's organization;

(2) for a grantee that is a nonprofit organization, the grantee's Form 990 or Form 990-EZ filed with the Internal Revenue Service in each of the prior three years. If the grantee has not been in existence long enough or is not required to file Form 990 or Form 990-EZ, the grantee must demonstrate to the grantor's satisfaction that the grantee is exempt and must instead submit the grantee's most recent board-reviewed financial statements and documentation of internal controls;

(3) for a for-profit business, three years of federal and state tax returns, current financial statements, certification that the business is not under bankruptcy proceedings, and disclosure of any liens on its assets. If a business has not been in business long enough to have three years of tax returns, the grantee must demonstrate to the grantor's satisfaction that the grantee has appropriate internal financial controls;

(4) evidence of registration and good standing with the secretary of state under Minnesota Statutes, chapter 317A, or other applicable law;

(5) if the grantee's total annual revenue exceeds $750,000, the grantee's most recent financial audit performed by an independent third party in accordance with generally accepted accounting principles; and

(6) certification, provided by the grantee, that none of its principals have been convicted of a financial crime.

Subd. 3. **Additional measures for some grantees.** The agency may require additional information and must provide enhanced oversight for grants that have not previously received state or federal grants for similar amounts or similar duties and so have not yet demonstrated the ability to perform the duties required under the grant on the scale required.

Subd. 4. **Assistance from administration.** An agency without adequate resources or experience to perform obligations under this section may contract with the commissioner of administration to perform the agency's duties under this section.

Subd. 5. **Agency authority to not award grant.** If an agency determines that there is an appreciable risk that a grantee receiving a competitive, single source, or sole source grant cannot or would not perform the required duties under the grant agreement, the agency must notify the grantee and the commissioner of administration and give the grantee an opportunity to respond to the agency's concerns. If the grantee does not satisfy the agency's concerns within 45 days, the agency must not award the grant.

Subd. 6. **Legislatively named grantees.** If an agency determines that there is an appreciable risk that a grantee receiving a legislatively named grant cannot or would not perform the required duties under the grant agreement, the agency must notify the grantee, the commissioner of administration, and the chair and ranking minority member of the Ways and Means Committee in the house of representatives, the chair and ranking minority member of the Finance Committee in the senate, and the chairs and ranking minority members of the committees in the house of representatives and the senate with primary jurisdiction over the bill in which the money for the grant was appropriated. The agency must give the grantee an opportunity to respond to the agency's concerns. If the grantee does not satisfy the agency's concerns within 45 days, the agency must delay award of the grant until adjournment of the next regular or special legislative session.

Subd. 7. **Subgrants.** If a grantee will disburse the money received from the grant to other organizations to perform duties required under the grant agreement, the agency must be a party to agreements between the grantee and a subgrantee. Before entering agreements for subgrants, the agency must perform the financial review required under this section with respect to the subgrantees.

Subd. 8. **Effect.** The requirements of this section are in addition to other requirements imposed by law, the commissioner of administration under Minnesota Statutes, sections 16B.97 to 16B.98, or agency grant policy.

53B.01 CITATION.

This chapter may be cited as the "Minnesota Money Transmitters Act."

53B.02 LICENSE REQUIRED.

On or after January 1, 2002, no person except those exempt pursuant to section 53B.04 shall engage in the business of money transmission without a license as provided in this chapter. A licensee may conduct business in this state at one or more locations, directly or indirectly owned, or through one or more authorized delegates, or both, under a single license granted to the licensee.

53B.03 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of this chapter, the definitions in this section apply unless the context requires otherwise.

Subd. 2. **Applicant.** "Applicant" means a person filing an application for a license under this chapter.

Subd. 3. **Authorized delegate.** "Authorized delegate" means an entity designated by the licensee under this chapter, or by an exempt entity, to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5. **Control.** "Control" means ownership of, or the power to vote, ten percent or more of the outstanding voting securities of a licensee or controlling person. For purposes of determining the percentage of a licensee controlled by any person, the person's interest must be aggregated with the interest of any other person controlled by the person or by any spouse, parent, or child of the person.

Subd. 6. **Controlling person.** "Controlling person" means any person in control of a licensee.

Subd. 7. **Electronic instrument.** "Electronic instrument" means a card or other tangible object for the transmission or payment of money that contains a microprocessor chip, magnetic stripe, or other means for the storage of information, that is prefunded and for which the value is decreased upon each use. The term does not include a prepaid telephone card, electronic benefits transfer card, or any other card or other tangible object that is redeemable by the issuer in the issuer's goods or services.

Subd. 8. **Executive officer.** "Executive officer" means the licensee's president, chair of the executive committee, senior officer responsible for the licensee's business, chief financial officer, and any other person who performs similar functions.

Subd. 9. **Exempt entity.** "Exempt entity" means a person to which this chapter does not apply under section 53B.04.

Subd. 10. **Key shareholder.** "Key shareholder" means any person, or group of persons acting in concert, who is the owner of ten percent or more of any voting class of an applicant's stock.

Subd. 11. **Licensee.** "Licensee" means a person licensed under this chapter.

Subd. 12. **Material litigation.** "Material litigation" means any litigation in which an applicant or a licensee has been a defendant or been named in a civil judgment involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

Subd. 13. **Money transmission.** "Money transmission" means selling or issuing payment instruments or engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile, or electronic transfer.

Subd. 14. **Outstanding payment instrument.** "Outstanding payment instrument" means any payment instrument issued by the licensee that has been sold in the United States directly by the licensee or any payment instrument issued by the licensee that has been sold by an authorized delegate of the licensee in the United States, and that has not yet been paid by or for the licensee.

Subd. 15. **Payment instrument.** "Payment instrument" means any electronic or written check, draft, money order, travelers check, or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not the

instrument is negotiable. The term does not include any credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

Subd. 16. **Permissible investments.** "Permissible investments" means:

(1) cash;

(2) certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;

(3) bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, that are eligible for purchase by member banks of the Federal Reserve System;

(4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates these securities;

(5) investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any obligations of any state, municipality, or any political subdivision of a state or municipality;

(6) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures, or a fund composed of one or more permissible investments;

(7) any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;

(8) receivables that are due to a licensee from its authorized delegates under a contract described in section 53B.20, that are not past due or doubtful of collection; or

(9) any other investments or security device approved by the commissioner.

Subd. 17. **Person.** "Person" means any individual, corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.

Subd. 18. **Remit.** "Remit" means either to make direct payment of the funds to the licensee or its representatives authorized to receive those funds or to deposit the funds in a bank, credit union, savings association, or other similar financial institution in an account specified by the licensee.

53B.04 EXEMPTIONS.

Authorized delegates of a licensee or of an exempt entity, acting within the scope of authority conferred by a written contract as described in section 53B.20, are not required to obtain a license under this chapter. This chapter does not apply to:

(1) the United States or any department, agency, or instrumentality of the United States;

(2) the United States Postal Service;

(3) the state or any political subdivision of the state;

(4) banks, credit unions, savings associations, savings banks, mutual banks organized under the laws of any state or the United States, or bank holding companies which have a banking subsidiary located in Minnesota and whose debt securities have an investment grade rating by a national rating agency, provided that if they issue or sell payment instruments through authorized delegates who are not banks, bank holding companies, credit unions, savings associations, savings banks, or mutual banks, those authorized delegates must comply with all requirements imposed upon authorized delegates under this chapter; and

(5) the provision of electronic transfer of government benefits for any federal, state, or county governmental agency as defined in Federal Reserve Board Regulation E, by a contractor for and on behalf of the United States or any department, agency, or instrumentality of the United States, or any state or any political subdivision of the state.

53B.05 LICENSE QUALIFICATIONS.

Subdivision 1. **Net worth.** Each licensee engaging in money transmission in three or fewer locations in the state, either directly or through authorized delegates, must have a net worth of at least $25,000. Each licensee engaging in money transmission at more than three locations in the state, but fewer than seven locations, either directly or through authorized delegates, must have a net worth of at least $50,000. Each licensee engaging in money transmission at more than six locations in the state, either directly or through authorized delegates, shall have a net worth of

$100,000 and an additional net worth of $50,000 for each location or authorized delegate located in the state in excess of seven, to a maximum of $500,000. Net worth shall be calculated in accordance with generally accepted accounting principles.

Subd. 2. **Corporate applicant; good standing.** Every corporate applicant, at the time of the filing of an application for a license under this chapter and at all times after a license is issued, must be in good standing in the state of its incorporation. All noncorporate applicants shall, at the time of the filing of an application for a license under this chapter and at all times after a license is issued, be registered or qualified to do business in the state.

53B.06 PERMISSIBLE INVESTMENTS AND STATUTORY TRUST.

(a) Each licensee under this chapter must at all times possess permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments sold by the licensee or reported as sold by an authorized delegate in the United States. This requirement may be waived by the commissioner if the dollar volume of a licensee's outstanding payment instruments does not exceed the bond or other security devices posted by the licensee under section 53B.08.

(b) Permissible investments, even if commingled with other assets of the licensee, are considered to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of the bankruptcy of the licensee.

53B.07 LICENSE APPLICATION.

Subdivision 1. **Requirements.** An application for a license under this chapter must be made in writing, under oath, and in a form prescribed by the commissioner.

Subd. 2. **General contents.** An application must contain:

(1) the exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of its business, and the location of the applicant's business records;

(2) the history of the applicant's or any controlling person's material litigation during the preceding ten years and criminal convictions;

(3) a description of the activities conducted by the applicant and a history of operations;

(4) a description of the business activities in which the applicant seeks to be engaged in the state;

(5) a list identifying the applicant's proposed authorized delegates in the state, if any, at the time of the filing of the license application;

(6) a sample authorized delegate contract, if applicable;

(7) a sample form of payment instrument, if applicable;

(8) the location or locations at which the applicant and its authorized delegates, if any, propose to conduct the licensed activities in the state; and

(9) the name, address, and account numbers for the clearing bank or banks on which the applicant's payment instruments will be drawn or through which these payment instruments will be payable.

Subd. 3. **Additional information from corporations.** If the applicant is a corporation, the applicant must also provide:

(1) the date of the applicant's incorporation and state of incorporation;

(2) a certificate of good standing from the state in which the applicant was incorporated;

(3) a description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange;

(4) the name, business and residence address, and employment history for the past five years of the applicant's executive officers and the officers or managers who will be in charge of the applicant's activities to be licensed under this chapter;

(5) the name, business and residence address, and employment history for the period five years prior to the date of the application of any key shareholder of the applicant;

(6) the history of material litigation during the preceding ten years and criminal convictions of every executive officer or key shareholder of the applicant;

(7) a copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity, and statement of changes in financial position, and, if available, the applicant's audited financial statements for the immediately preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this provision; and

(8) copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing the application.

Subd. 4. **Additional information from noncorporate applicants.** If the applicant is not a corporation, the applicant must also provide:

(1) the name, business and residence address, personal financial statement, and employment history for the past five years, of each principal of the applicant and the name, business and residence address, and employment history for the past five years of any other person or persons who will be in charge of the applicant's activities to be licensed under this chapter;

(2) the place and date of the applicant's registration or qualification to do business in this state;

(3) the history of material litigation during the preceding ten years and criminal convictions for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility with respect to the applicant's activities; and

(4) copies of the applicant's audited financial statements, including balance sheet, statement of income or loss, and statement of changes in financial position, for the current year and, if available, for the immediately preceding two-year period.

Subd. 5. **Waiver.** The commissioner may, for good cause shown, waive any requirement of this section with respect to any license application or to permit a license applicant to submit substituted information in its license application in lieu of the information required by this section.

53B.08 BOND OR OTHER SECURITY DEVICE.

Subdivision 1. **Requirement.** Each application must be accompanied by a surety bond, irrevocable letter of credit, or other similar security device acceptable to the commissioner in the amount of $25,000. If the applicant proposes to engage in business under this chapter at more than three locations, but less than seven locations, through authorized delegates or otherwise, then the amount of the security device must be increased to $50,000. If the applicant proposes to engage in business under this chapter at more than six locations, through authorized delegates or otherwise, then the amount of the security device must be increased by $50,000 for each location over six, up to a maximum of $250,000. The security device must be in a form satisfactory to the commissioner and must run to the state for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money in connection with the sale and issuance of payment instruments or transmission of money. In the case of a bond, the aggregate liability of the surety in no event shall exceed the principal sum of the bond. Claimants against the licensee may themselves bring suit directly on the security device or the commissioner may bring suit on behalf of these claimants, either in one action or in successive actions.

Subd. 2. **Acceptable alternatives.** In lieu of a security device under subdivision 1 or of any portion of the principal of the security device, as required by subdivision 1, the licensee may deposit with the commissioner, or with banks in this state that the licensee designates and the commissioner approves, cash, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality of the United States, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this

state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the security device or portion of the security device. The securities or cash must be deposited and held to secure the same obligations as would the security device. The depositor shall receive all interest and dividends. The depositor may, with the approval of the commissioner, substitute other securities for those deposited, and is required to do so on written order of the commissioner made for good cause shown.

Subd. 3. **Cancellation.** The security device remains in effect until cancellation, which may occur only after 30 days' written notice to the commissioner. Cancellation does not affect the rights of any claimant for any liability incurred or accrued during the period for which the bond was in force.

Subd. 4. **Duration.** The security device must remain in place for no longer than five years after the licensee ceases money transmission operations in the state. However, notwithstanding this provision, the commissioner may permit the security device to be reduced or eliminated before that time to the extent that the amount of the licensee's payment instruments outstanding in this state are reduced. The commissioner may also permit a licensee to substitute a letter of credit or other form of security device acceptable to the commissioner for the security device in place at the time the licensee ceases money transmission operations in the state.

53B.09 APPLICATION FEE.

Each application must be accompanied by a nonrefundable application fee in the amount of $4,000.

53B.10 ISSUANCE OF LICENSE.

Subdivision 1. **Investigation.** Upon the filing of a complete application, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which must be borne by the applicant. If the commissioner finds that the requirements imposed by this chapter have been met and that the required license fee has been paid, the commissioner shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in this state for a term of one year. If these requirements have not been met, the commissioner shall deny the application in writing, setting forth the reasons for the denial.

Subd. 2. **Denial hearing.** Any applicant aggrieved by a denial issued by the commissioner under this section may at any time within 30 days from the date of receipt of written notice of the denial contest the denial by serving a response on the commissioner. The commissioner shall set a date for a hearing not later than 60 days after service of the response, unless a later date is set with the consent of the denied applicant.

53B.11 RENEWAL OF LICENSE AND ANNUAL REPORT.

Subdivision 1. **Fee.** The annual fee for renewal of a license under this chapter is $2,500.

Subd. 2. **Report.** The renewal fee must be accompanied by a report, in a form prescribed by the commissioner. The form must be sent by the commissioner to each licensee no later than three months immediately preceding the date established by the commissioner for license renewal. The licensee must include in this annual renewal report:

(1) a copy of its most recent audited consolidated annual financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder's equity, and statement of changes in financial position, or, in the case of a licensee that is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited annual financial statement;

(2) for the most recent quarter for which data are available prior to the date of the filing of the renewal application, but in no event more than 120 days prior to the renewal date, the licensee must provide the number of payment instruments sold by the licensee in the state, the dollar amount of those instruments, and the dollar amount of those instruments currently outstanding;

(3) any material changes to any of the information submitted by the licensee on its original application that have not previously been reported to the commissioner on any other report required to be filed under this chapter;

(4) a list of the licensee's permissible investments; and

(5) a list of the locations within this state at which business regulated by this chapter is being conducted by either the licensee or its authorized delegate.

Subd. 3. **License display.** A copy of the license issued by the commissioner to the licensee shall be prominently displayed in each location where money transmission services are offered.

53B.12 EXTRAORDINARY REPORTING REQUIREMENTS.

Within 15 days of the occurrence of any one of the events listed below, a licensee shall file a written report with the commissioner describing the event and its expected impact on the licensee's activities in the state:

(1) the filing for bankruptcy or reorganization by the licensee;

(2) the institution of revocation or suspension proceedings against the licensee by any state or governmental authority with regard to the licensee's money transmission activities;

(3) any felony indictment of the licensee or any of its key officers or directors related to money transmission activities; or

(4) any felony conviction of the licensee or any of its key officers or directors related to money transmission activities.

53B.13 CHANGES IN CONTROL OF A LICENSEE.

Any purchaser of ten percent or more of an ownership interest in a licensee must notify the commissioner at least 30 days in advance of the purchase and submit a completed license application form. The commissioner may revoke the license if the new ownership would have resulted in a denial of the initial license under this chapter. The commissioner may waive this notification requirement if, in the commissioner's discretion, the change in control does not pose any risk to the interests of the public.

53B.14 EXAMINATIONS.

The commissioner has under this chapter the same powers with respect to financial examinations that the commissioner has under section 46.04.

53B.15 MAINTENANCE OF RECORDS.

Subdivision 1. **Requirement.** Each licensee shall make, keep, and preserve the following books, accounts, and other records for a period of three years:

(1) a record or records of each payment instrument sold;

(2) a general ledger containing all assets, liability, capital, income, and expense accounts, which must be posted at least monthly;

(3) bank statements and bank reconciliation records;

(4) records of outstanding payment instruments;

(5) records of each payment instrument paid within the three-year period; and

(6) a list of the names and addresses of all of the licensee's authorized delegates.

Subd. 2. **Compliance.** (a) Any licensee selling money orders shall maintain a record of the date, amount, serial number, and the location of the sale for each money order sold in this state.

(b) Any licensee engaged in the business of receiving money for transmission or transmitting money shall maintain a record of the identity of the remitter, identity of the recipient, amount of the transmission, date of the transaction, date funds were transmitted, and the location from which the funds were remitted for each transaction initiated in this state.

(c) Maintenance of the documents required by this section in a photographic, electronic, or other similar form constitutes compliance with this section.

Subd. 3. **Location.** Records may be maintained at a location other than within this state if they are made accessible to the commissioner on seven days' written notice.

53B.16 CONFIDENTIALITY OF DATA SUBMITTED TO THE COMMISSIONER.

Data or other information obtained by the commissioner under this chapter, whether as a result of the license application or renewal process or examinations, is subject to chapter 13.

53B.17 SOLVENCY REQUIRED.

If the commissioner determines that a licensee is insolvent, that its capital is impaired, or that its condition is such as to render the continuance of its business hazardous to the public or to those having funds in its custody, the commissioner may apply to the district court for the county in which the main office is located, or for Ramsey County if the licensee does not have a main office in Minnesota, for appointment of a receiver to receive the assets of the licensee for the purpose of liquidating or rehabilitating its business and for such other relief as the interest of the public may require. The reasonable and necessary expenses of the receivership have priority over all other claims on the bond required by this chapter.

53B.18 PROHIBITED PRACTICES.

No licensee shall:

(1) fail to comply with chapter 345 as it relates to unclaimed property requirements;

(2) refuse to indemnify an instrument holder for any misappropriation of money caused by any of its authorized delegates in conducting activities on behalf of the licensee for whom it acts as an authorized delegate;

(3) fail to transmit all money received for wire transmission in accordance with the purchaser's instructions within five days; or

(4) fail to comply with section 53B.27.

53B.19 SUSPENSION OR REVOCATION OF LICENSES.

After notice and hearing, the commissioner may suspend or revoke a licensee's license if the commissioner finds that:

(1) any fact or condition exists that, if it had existed at the time when the licensee applied for its license, would have been grounds for denying the application;

(2) the licensee's net worth becomes inadequate and the licensee, after ten days' written notice from the commissioner, fails to take steps the commissioner considers necessary to remedy the deficiency;

(3) the licensee violates any material provision of this chapter or any rule or order validly adopted by the commissioner under authority of this chapter;

(4) the licensee is conducting its business in an unsafe or unsound manner;

(5) the licensee is insolvent;

(6) the licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;

(7) the licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy;

(8) the licensee refuses to permit the commissioner to make any examination authorized by this chapter; or

(9) the licensee fails to make any report required by this chapter.

53B.20 AUTHORIZED DELEGATE CONTRACTS.

Subdivision 1. **Contents of contract.** Licensees that conduct licensed activities through authorized delegates shall authorize each delegate to operate under an express written contract that, for contracts entered into after August 1, 2001, provide the following:

(1) that the licensee appoint the person as its delegate with authority to engage in money transmission on behalf of the licensee;

(2) that neither a licensee nor an authorized delegate authorize subdelegates without the written consent of the commissioner; and

(3) that licensees are subject to supervision and regulation by the commissioner and that as a part of that supervision and regulation, the commissioner may require the licensee to cancel an authorized delegate contract as a result of a violation of section 53B.21.

Subd. 2. **Termination of authorized delegate contract.** Upon termination of any authorized delegate contract, the licensee must notify the commissioner within a reasonable amount of time of the termination.

Subd. 3. **Exempt entities.** For purposes of this section, "licensee" includes exempt entities.

53B.21 AUTHORIZED DELEGATE CONDUCT.

(a) An authorized delegate shall not make any fraudulent or false statement or misrepresentation to a licensee or to the commissioner.

(b) An authorized delegate shall conduct its money transmission activities in a safe and sound manner.

(c) An authorized delegate shall cooperate with an investigation conducted by the commissioner under this chapter by providing any relevant information in its possession that the commissioner cannot reasonably obtain from another source.

(d) An authorized delegate is under a duty to act only as authorized under the contract with the licensee and any authorized delegate who exceeds its authority is subject to cancellation of its contract.

(e) All funds, less fees, received by an authorized delegate of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized delegate for transmission, constitute trust funds owned by and belonging to the licensee from the time the funds are received by the authorized delegate until the time when the funds or an equivalent amount are remitted by the authorized delegate to the licensee. If an authorized delegate commingles any funds with other funds or property owned or controlled by the authorized delegate, all commingled proceeds and other property must be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

(f) For purposes of this section, "licensee" includes exempt entities.

53B.22 LICENSEE LIABILITY.

A licensee's responsibility to any person for a money transmission conducted on that person's behalf by the licensee or the licensee's authorized delegate is limited to the amount of money tendered or the face amount of the payment instrument purchased.

53B.23 HEARINGS; PROCEDURES.

The provisions of the Minnesota Administrative Procedure Act, chapter 14, apply to any hearing under this chapter.

53B.24 ENFORCEMENT.

Section 45.027 applies to this chapter.

53B.25 RULE NOTICES.

At the time the commissioner files a notice of proposed adoption, amendment, or repeal of a rule adopted under this chapter, a copy of the notice must be sent by regular United States mail, postage prepaid, to all then-current licensees and applicants for licenses under this chapter.

53B.26 APPOINTMENT OF COMMISSIONER AS AGENT FOR SERVICE OF PROCESS.

Subdivision 1. **Consent and appointment.** Any licensee, authorized delegate, or other person who knowingly engages in business activities that are regulated under this chapter, with or without filing an application, is considered to have done both of the following:

(1) consented to the jurisdiction of the courts of this state for all actions arising under this chapter; and

(2) appointed the commissioner as the lawful agent for the purpose of accepting service of process in any action, suit, or proceeding that may arise under this chapter.

Subd. 2. **Service of process.** Service of process must be made in accordance with section 45.028, subdivision 2.

53B.27 MONEY TRANSMITTERS; COOPERATION REQUIRED IN COMBATTING FRAUD.

Subdivision 1. **Fraud prevention measures required.** Each money transmitter shall:

(1) provide a clear, concise, and conspicuous consumer fraud warning on all transmittal forms used by consumers to send money to an individual;

(2) provide consumer fraud prevention training for agents involved with transmittals;

(3) monitor agent activity relating to consumer transmittals; and

(4) establish a toll-free number for consumers to call to report fraud or suspected fraud.

Subd. 2. **Voluntary disqualification by customer.** A money transmitter that originates money transfers in this state must allow an individual to voluntarily disqualify the individual from sending or receiving money transfers. The disqualification lasts for one year, unless the individual requests that it be in effect for a period longer than one year. The individual may terminate the disqualification at any time upon written notice to the money transmitter.

Subd. 5. **High incidence of schemes to defraud.** The commissioner, after consulting with licensed money transmitters, may recommend a maximum transaction amount for money transmissions to countries associated with high incidence of schemes to defraud.

Subd. 6. **Notification of attempted receipt of money transfer at unexpected location.** Upon request of a sender of a money transmission, a money transmitter shall promptly notify the sender if the money transmitter receives notice that a person has attempted to receive the transfer at a physical location in a state or country other than the state or country specified by the sender. The money transmitter shall not authorize receipt of the transfer at any physical location not specified in writing by the sender at the time of the transmission unless the money transmitter has received authorization from the sender.

Subd. 7. **Verification of name and location of receipt of money transfer.** Upon request of a sender or the authorized delegate of a money transmission, a money transmitter shall provide the sender verification of the location where the transfer was received and the name of the person receiving the transfer. This subdivision only applies to transmissions received at a physical location.