

**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		Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act

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

1.3 modifying various provisions governing insurance; regulating virtual currency

1.4 activities; providing for reports relating to retail sales of intermediate blends of

1.5 gasoline and biofuel; prohibiting excessive price increases by pharmaceutical

1.6 manufacturers; establishing a Prescription Drug Affordability Board; establishing

1.7 a student loan advocate position; regulating money transmitters; making technical

1.8 changes; establishing penalties; authorizing administrative rulemaking; requiring

1.9 reports; appropriating money; transferring money; amending Minnesota Statutes

1.10 2022, sections 46.131, subdivision 11; 60A.14, subdivision 1; 62A.152, subdivision

1.11 3; 62D.02, by adding a subdivision; 62D.095, subdivisions 2, 3, 4, 5; 62K.10,

1.12 subdivision 4; 62Q.19, subdivision 1; 62Q.46, subdivisions 1, 3; 62Q.47; 62Q.81,

1.13 subdivision 4, by adding a subdivision; 151.071, subdivisions 1, 2; 239.791,

1.14 subdivision 8; 256B.0631, subdivision 1; 256L.03, subdivision 5; Laws 2022,

1.15 chapter 93, article 1, section 2, subdivision 5; proposing coding for new law in

1.16 Minnesota Statutes, chapters 53B; 58B; 62J; 62Q; 62W; repealing Minnesota

1.17 Statutes 2022, sections 53B.01; 53B.02; 53B.03; 53B.04; 53B.05; 53B.06; 53B.07;

1.18 53B.08; 53B.09; 53B.10; 53B.11; 53B.12; 53B.13; 53B.14; 53B.15; 53B.16;

1.19 53B.17; 53B.18; 53B.19; 53B.20; 53B.21; 53B.22; 53B.23; 53B.24; 53B.25;

1.20 53B.26; 53B.27, subdivisions 1, 2, 5, 6, 7.

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

1.22 **ARTICLE 1**

1.23 **APPROPRIATIONS**

1.24 Section 1. **APPROPRIATIONS.**

1.25 The sums shown in the columns marked "Appropriations" are appropriated to the agencies

1.26 and for the purposes specified in this article. The appropriations are from the general fund,

1.27 or another named fund, and are available for the fiscal years indicated for each purpose.

1.28 The figures "2024" and "2025" used in this article mean that the appropriations listed under

1.29 them are available for the fiscal year ending June 30, 2024, or June 30, 2025, respectively.

1.30 "The first year" is fiscal year 2024. "The second year" is fiscal year 2025. "The biennium"

2.1 is fiscal years 2024 and 2025. If an appropriation in this act is enacted more than once in
 2.2 the 2023 legislative session, the appropriation must be given effect only once.

2.3 **APPROPRIATIONS**
 2.4 **Available for the Year**
 2.5 **Ending June 30**
 2.6 **2024 2025**

2.7 **Sec. 2. DEPARTMENT OF COMMERCE**

2.8 **Subdivision 1. Total Appropriation** \$ **33,757,000** \$ **34,660,000**

2.9 **Appropriations by Fund**

	<u>2024</u>	<u>2025</u>
2.10 <u>General</u>	<u>30,876,000</u>	<u>31,752,000</u>
2.11 <u>Special Revenue</u>	<u>2,093,000</u>	<u>2,093,000</u>
2.12 <u>Workers'</u>		
2.13 <u>Compensation Fund</u>	<u>788,000</u>	<u>815,000</u>

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

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

2.19 (a) \$400,000 each year is for a grant to Prepare
 2.20 and Prosper to develop, market, evaluate, and
 2.21 distribute a financial services inclusion
 2.22 program that (1) assists low-income and
 2.23 financially underserved populations to build
 2.24 savings and strengthen credit, and (2) provides
 2.25 services to assist low-income and financially
 2.26 underserved populations to become more
 2.27 financially stable and secure. Money
 2.28 remaining after the first year is available for
 2.29 the second year.

2.30 (b) \$254,000 each year is to administer the
 2.31 requirements of Minnesota Statutes, chapter
 2.32 58B.

2.33 (c) \$197,000 each year is to administer the
 2.34 requirements of Minnesota Statutes, section
 2.35 58B.011.

- 3.1 Subd. 3. **Administrative Services** 10,088,000 10,114,000
- 3.2 (a) \$353,000 each year is for system
- 3.3 modernization and cybersecurity upgrades for
- 3.4 the unclaimed property program.
- 3.5 (b) \$586,000 in the first year and \$608,000 in
- 3.6 the second year are for additional operations
- 3.7 of the unclaimed property program.
- 3.8 (c) \$249,000 each year is for the senior safe
- 3.9 fraud prevention program.
- 3.10 (d) \$568,000 the first year and \$537,000 the
- 3.11 second year are for the duties under Minnesota
- 3.12 Statutes, sections 62J.841 to 64J.845. The base
- 3.13 for this appropriation beginning in fiscal year
- 3.14 2026 is \$500,000.
- 3.15 (e) \$150,000 each year are for a grant to
- 3.16 Exodus Lending to expand program and
- 3.17 operational capacity to help individuals reach
- 3.18 financial stability through small dollar
- 3.19 consumer loans, including through resolution
- 3.20 of consumer short-term loans carrying interest
- 3.21 rates greater than 36 percent. The
- 3.22 appropriations in this paragraph are available
- 3.23 until June 30, 2027.
- 3.24 (f) \$200,000 in fiscal year 2024 is appropriated
- 3.25 to the commissioner of commerce for a grant
- 3.26 to Exodus Lending to assist the development
- 3.27 of a character-based small dollar loan lending
- 3.28 program. Character-based lending is the
- 3.29 practice of issuing loans based on the
- 3.30 borrower's involvement in and ties to
- 3.31 community-based organizations that provide
- 3.32 client services, such as financial coaching.
- 3.33 This is a onetime appropriation and is
- 3.34 available until June 30, 2027.

4.1 Loans issued under the program must be (1)
4.2 interest- and fee-free, and (2) made to
4.3 Minnesotans facing significant barriers,
4.4 including banking history, credit history and
4.5 credit score requirements, scarcity of bank
4.6 branches in lower-income communities and
4.7 communities of color, and low or irregular
4.8 income flows, to mainstream financial
4.9 products. Mainstream financial products are
4.10 products provided most commonly by
4.11 regulated financial institutions, including
4.12 credit cards and installment loans. Program
4.13 participants must be recruited through a
4.14 statewide network of trusted community-based
4.15 partners. Loan payments by borrowers must
4.16 be reported to the credit bureaus.

4.17 (g) No later than July 15, 2024, and annually
4.18 thereafter until fiscal year 2027, Exodus
4.19 Lending must submit a report to the
4.20 commissioner of commerce on the activities
4.21 required of Exodus Lending under paragraphs
4.22 (e) and (f). The report must detail, at
4.23 minimum, each of the following for the prior
4.24 calendar year:

4.25 (1) the total number of loans granted;
4.26 (2) the total number of participants granted
4.27 loans;

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

4.30 (4) the average loan amount;
4.31 (5) the total loan amounts paid back by
4.32 participants;

4.33 (6) a list of the trusted community-based
4.34 partners described under paragraph (f);

5.1 (7) the final criteria developed for
 5.2 character-based small dollar loan program
 5.3 determinations under paragraph (f); and
 5.4 (8) summary data on the significant barriers
 5.5 to mainstream financial products faced by
 5.6 participants.

5.7 No later than August 15, 2024, and annually
 5.8 thereafter until fiscal year 2027, the
 5.9 commissioner of commerce must submit a
 5.10 report to the chairs and ranking minority
 5.11 members of the legislative committees with
 5.12 primary jurisdiction over commerce and
 5.13 consumer protection. The report must detail
 5.14 the information collected by the commissioner
 5.15 of commerce under paragraph (f).

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

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

	<u>Appropriations by Fund</u>	
5.22 <u>General</u>	<u>6,977,000</u>	<u>7,258,000</u>
5.23 <u>Workers'</u>		
5.24 <u>Compensation</u>	<u>208,000</u>	<u>215,000</u>

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

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

5.33 (c) \$283,000 each year is for the law
 5.34 enforcement salary increases authorized under

6.1 Laws 2021, First Special Session chapter 4,
 6.2 article 9, section 1.

6.3 (d) \$41,000 in fiscal year 2024 and \$21,000
 6.4 in fiscal year 2025 are for body cameras worn
 6.5 by Commerce Fraud Bureau agents.

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

6.9 (f) \$100,000 in the second year is to create
 6.10 and operate the Mental Health Parity and
 6.11 Substance Abuse Accountability Office under
 6.12 Minnesota Statutes, section 62Q.465. The base
 6.13 for fiscal year 2026 and beyond is \$175,000.

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

	<u>Appropriations by Fund</u>	
6.15		
6.16	<u>General</u>	<u>1,128,000</u>
		<u>1,168,000</u>
6.17	<u>Special Revenue</u>	<u>2,093,000</u>
		<u>2,093,000</u>

6.18 \$2,093,000 each year is from the
 6.19 telecommunications access Minnesota fund
 6.20 account in the special revenue fund for the
 6.21 following transfers:

6.22 (1) \$1,620,000 each year is to the
 6.23 commissioner of human services to
 6.24 supplement the ongoing operational expenses
 6.25 of the Commission of Deaf, DeafBlind, and
 6.26 Hard-of-Hearing Minnesotans. This transfer
 6.27 is subject to Minnesota Statutes, section
 6.28 16A.281;

6.29 (2) \$290,000 each year is to the chief
 6.30 information officer to coordinate technology
 6.31 accessibility and usability;

6.32 (3) \$133,000 each year is to the Legislative
 6.33 Coordinating Commission for captioning

7.1 legislative coverage. This transfer is subject
 7.2 to Minnesota Statutes, section 16A.281; and
 7.3 (4) \$50,000 each year is to the Office of
 7.4 MN.IT Services for a consolidated access fund
 7.5 to provide grants or services to other state
 7.6 agencies related to accessibility of web-based
 7.7 services.

7.8 **Subd. 6. Insurance** 9,163,000 9,567,000

	<u>Appropriations by Fund</u>	
7.9 <u>General</u>	<u>8,583,000</u>	<u>8,967,000</u>
7.10 <u>Workers'</u>		
7.11 <u>Compensation</u>	<u>580,000</u>	<u>600,000</u>

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

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

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

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

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

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

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

8.1	<u>Subd. 7. Weights and Measures Division</u>		<u>1,531,000</u>		<u>1,556,000</u>
8.2	Sec. 3. <u>ATTORNEY GENERAL</u>	<u>\$</u>	<u>549,000</u>	<u>\$</u>	<u>549,000</u>
8.3	<u>\$549,000 each year is for the duties under</u>				
8.4	<u>Minnesota Statutes, sections 62J.841 to</u>				
8.5	<u>64J.845.</u>				
8.6	Sec. 4. <u>DEPARTMENT OF HEALTH</u>	<u>\$</u>	<u>74,000</u>	<u>\$</u>	<u>56,000</u>
8.7	<u>\$69,000 the first year and \$51,000 the second</u>				
8.8	<u>year are for the duties under Minnesota</u>				
8.9	<u>Statutes, sections 62J.841 to 64J.845.</u>				
8.10	<u>\$5,000 each year is for consultation with the</u>				
8.11	<u>commissioner of commerce to evaluate</u>				
8.12	<u>existing statutory health benefits under article</u>				
8.13	<u>2, section 39.</u>				
8.14	Sec. 5. <u>DEPARTMENT OF EDUCATION</u>	<u>\$</u>	<u>100,000</u>	<u>\$</u>	<u>-0-</u>
8.15	<u>(a) \$100,000 in fiscal year 2024 is for a grant</u>				
8.16	<u>to the Minnesota Council on Economic</u>				
8.17	<u>Education. The money must be used by the</u>				
8.18	<u>council to:</u>				
8.19	<u>(1) provide professional development to</u>				
8.20	<u>Minnesota teachers of courses or content</u>				
8.21	<u>related to personal finance or consumer</u>				
8.22	<u>protection for students in grades 9 through 12;</u>				
8.23	<u>(2) support the direct-to-student ancillary</u>				
8.24	<u>personal finance programs that Minnesota</u>				
8.25	<u>teachers supervise and coach or that the</u>				
8.26	<u>Minnesota Council on Economic Education</u>				
8.27	<u>delivers directly to students; and</u>				
8.28	<u>(3) provide support to geographically diverse</u>				
8.29	<u>affiliated higher education-based centers for</u>				
8.30	<u>economic education engaged in financial</u>				
8.31	<u>literacy education as it pertains to financial</u>				
8.32	<u>literacy education initiatives, including those</u>				
8.33	<u>based at Minnesota State University Mankato,</u>				

9.1 St. Cloud State University, and St. Catherine
9.2 University, as their work relates to activities
9.3 in clauses (1) and (2).

9.4 (b) The Minnesota Council on Economic
9.5 Education must prepare and submit reports to
9.6 the commissioner of education in the form and
9.7 manner prescribed by the commissioner that:

9.8 (1) describe the number and type of in-person
9.9 and online teacher professional development
9.10 opportunities provided by the Minnesota
9.11 Council on Economic Education or its
9.12 affiliated state centers;

9.13 (2) list the content, length, and location of the
9.14 programs;

9.15 (3) identify the number of preservice and
9.16 licensed teachers receiving professional
9.17 development through each of these
9.18 opportunities;

9.19 (4) summarize evaluations of professional
9.20 opportunities for teachers; and

9.21 (5) list the number, types, and summary
9.22 evaluations of the direct-to-student ancillary
9.23 personal finance programs that are supported
9.24 with funds from the grant.

9.25 (c) By February 15 of each year following the
9.26 receipt of a grant, the Minnesota Council on
9.27 Economic Education must provide a mid-year
9.28 report to the commissioner of education and,
9.29 on August 15 of each year following receipt
9.30 of a grant, the Minnesota Council on
9.31 Economic Education must prepare a year-end
9.32 report according to the requirements of
9.33 paragraph (b). The reports must be prepared
9.34 and filed according to Minnesota Statutes,

10.1 section 3.195. The commissioner may request
 10.2 additional information as necessary. This is a
 10.3 onetime appropriation. Any balance in the first
 10.4 year does not cancel and is available in the
 10.5 second year.

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

10.7 \$275,775,000 in fiscal year 2026 is transferred from the premium security plan account
 10.8 under Minnesota Statutes, section 62E.25, subdivision 1, to the general fund. This is a
 10.9 onetime transfer.

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

10.11 \$100,000 in fiscal year 2024 is transferred from the consumer education account in the
 10.12 special revenue fund to the general fund.

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

10.14	Subd. 5. Enforcement and Examinations	-0-	522,000
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10.15 \$522,000 in fiscal year 2023 is for the auto
 10.16 theft prevention library under Minnesota
 10.17 Statutes, section 65B.84, subdivision 1,
 10.18 paragraph (d). This is a onetime appropriation
 10.19 and is available until June 30, 2024.

10.20 ARTICLE 2

10.21 INSURANCE POLICY

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

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

10.26 (a) by township mutual fire insurance companies:

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

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

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

- 11.1 (4) for filing bylaws \$25 and amendments thereto, \$10;
- 11.2 (b) by other domestic and foreign companies including fraternal and reciprocal
11.3 exchanges:
- 11.4 (1) for filing an application for an initial certification of authority to be admitted to
11.5 transact business in this state, \$1,500;
- 11.6 (2) for filing certified copy of certificate of articles of incorporation, \$100;
- 11.7 (3) for filing annual statement, ~~\$225~~ \$300;
- 11.8 (4) for filing certified copy of amendment to certificate or articles of incorporation, \$100;
- 11.9 (5) for filing bylaws, \$75 or amendments thereto, \$75;
- 11.10 (6) for each company's certificate of authority, ~~\$575~~ \$750, annually;
- 11.11 (c) the following general fees apply:
- 11.12 (1) for each certificate, including certified copy of certificate of authority, renewal,
11.13 valuation of life policies, corporate condition or qualification, \$25;
- 11.14 (2) for each copy of paper on file in the commissioner's office 50 cents per page, and
11.15 \$2.50 for certifying the same;
- 11.16 (3) for license to procure insurance in unadmitted foreign companies, \$575;
- 11.17 (4) for valuing the policies of life insurance companies, ~~one cent~~ two cents per \$1,000
11.18 of insurance so valued, provided that the fee shall not exceed ~~\$13,000~~ \$26,000 per year for
11.19 any company. The commissioner may, in lieu of a valuation of the policies of any foreign
11.20 life insurance company admitted, or applying for admission, to do business in this state,
11.21 accept a certificate of valuation from the company's own actuary or from the commissioner
11.22 of insurance of the state or territory in which the company is domiciled;
- 11.23 (5) for receiving and filing certificates of policies by the company's actuary, or by the
11.24 commissioner of insurance of any other state or territory, \$50;
- 11.25 (6) for each appointment of an agent filed with the commissioner, \$30;
- 11.26 (7) for filing forms, rates, and compliance certifications under section 60A.315, \$140
11.27 per filing, or \$125 per filing when submitted via electronic filing system. Filing fees may
11.28 be paid on a quarterly basis in response to an invoice. Billing and payment may be made
11.29 electronically;
- 11.30 (8) for annual renewal of surplus lines insurer license, ~~\$300~~ \$400.

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

12.2 Sec. 2. Minnesota Statutes 2022, section 62A.152, subdivision 3, is amended to read:

12.3 Subd. 3. **Provider discrimination prohibited.** All group policies and group subscriber
 12.4 contracts that provide benefits for mental or nervous disorder treatments in a hospital must
 12.5 provide direct reimbursement for those services at a hospital or psychiatric residential
 12.6 treatment facility if performed by a mental health professional qualified according to section
 12.7 245I.04, subdivision 2, to the extent that the services and treatment are within the scope of
 12.8 mental health professional licensure.

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

12.13 Sec. 3. Minnesota Statutes 2022, section 62D.02, is amended by adding a subdivision to
 12.14 read:

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

12.17 Sec. 4. Minnesota Statutes 2022, section 62D.095, subdivision 2, is amended to read:

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

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

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

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

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

13.1 Sec. 7. Minnesota Statutes 2022, section 62D.095, subdivision 5, is amended to read:

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

13.5 Sec. 8. **[62J.841] DEFINITIONS.**

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

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

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

13.19 Subd. 4. **Manufacturer.** "Manufacturer" has the meaning provided in section 151.01,
 13.20 subdivision 14a, but does not include an entity required solely because the entity repackages
 13.21 or relabels drugs.

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

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

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

13.28 Sec. 9. **[62J.842] EXCESSIVE PRICE INCREASES PROHIBITED.**

13.29 Subdivision 1. **Prohibition.** No manufacturer shall impose, or cause to be imposed, an
 13.30 excessive price increase, whether directly or through a wholesale distributor, pharmacy, or

14.1 similar intermediary, on the sale of any generic or off-patent drug sold, dispensed, or
 14.2 delivered to any consumer in the state.

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

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

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

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

14.10 (2) the price increase, adjusted for inflation utilizing the Consumer Price Index, exceeds
 14.11 \$30 for:

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

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

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

14.18 Sec. 10. **[62J.843] REGISTERED AGENT AND OFFICE WITHIN THE STATE.**

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

14.21 Sec. 11. **[62J.844] ENFORCEMENT.**

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

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

15.1 Subd. 2. **Submission of drug cost statement and other information by manufacturer;**
15.2 **investigation by attorney general.** (a) Within 45 days of receiving a notice under subdivision
15.3 1, the manufacturer of the generic or off-patent drug shall submit a drug cost statement to
15.4 the attorney general. The statement must:

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

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

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

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

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

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

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

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

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

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

15.23 (4) requiring the manufacturer to repay to all Minnesota consumers, including any
15.24 third-party payers, any money acquired as a result of a price increase that violates section
15.25 62J.842;

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

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

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

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

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

16.8 Subd. 4. **Private right of action.** Any action brought pursuant to section 8.31, subdivision
 16.9 3a, by a person injured by a violation of section 62J.842 is for the benefit of the public.

16.10 Sec. 12. **[62J.845] PROHIBITION ON WITHDRAWAL OF GENERIC OR**
 16.11 **OFF-PATENT DRUGS FOR SALE.**

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

16.15 Subd. 2. **Notice to board and attorney general.** Any manufacturer that intends to
 16.16 withdraw a generic or off-patent drug from sale or distribution within the state shall provide
 16.17 a written notice of withdrawal to the Board of Pharmacy and the attorney general at least
 16.18 90 days prior to the withdrawal.

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

16.22 Sec. 13. **[62J.846] SEVERABILITY.**

16.23 If any provision of sections 62J.841 to 62J.845 or the application thereof to any person
 16.24 or circumstance is held invalid for any reason in a court of competent jurisdiction, the
 16.25 invalidity does not affect other provisions or any other application of sections 62J.841 to
 16.26 62J.845 that can be given effect without the invalid provision or application.

16.27 Sec. 14. **[62J.85] CITATION.**

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

17.1 Sec. 15. **62J.86** DEFINITIONS.

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

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

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

17.9 Subd. 4. **Biosimilar.** "Biosimilar" has the meaning provided in section 62J.84, subdivision
17.10 2, paragraph (b).

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

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

17.15 (1) a new drug application approved under United States Code, title 21, section 355(c),
17.16 except for a generic drug as defined under Code of Federal Regulations, title 42, section
17.17 447.502; or

17.18 (2) a biologics license application approved under United States Code, title 45, section
17.19 262(a)(c).

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

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

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

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

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

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

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

18.5 Sec. 16. **[62J.87] PRESCRIPTION DRUG AFFORDABILITY BOARD.**

18.6 Subdivision 1. **Establishment.** The commissioner of commerce shall establish the
 18.7 Prescription Drug Affordability Board, which shall be governed as a board under section
 18.8 15.012, paragraph (a), to protect consumers, state and local governments, health plan
 18.9 companies, providers, pharmacies, and other health care system stakeholders from
 18.10 unaffordable costs of certain prescription drugs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19.23 Sec. 17. **[62J.88] PRESCRIPTION DRUG AFFORDABILITY ADVISORY**
 19.24 **COUNCIL.**

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

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

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

- 20.1 (2) two members representing health care providers;
- 20.2 (3) one member representing health plan companies;
- 20.3 (4) two members representing employers, with one member representing large employers
- 20.4 and one member representing small employers;
- 20.5 (5) one member representing government employee benefit plans;
- 20.6 (6) one member representing pharmaceutical manufacturers;
- 20.7 (7) one member who is a health services clinical researcher;
- 20.8 (8) one member who is a pharmacologist;
- 20.9 (9) one member representing the commissioner of health with expertise in health
- 20.10 economics;
- 20.11 (10) one member representing pharmaceutical wholesalers;
- 20.12 (11) one member representing pharmacy benefit managers;
- 20.13 (12) one member from the Rare Disease Advisory Council;
- 20.14 (13) one member representing generic drug manufacturers;
- 20.15 (14) one member representing pharmaceutical distributors; and
- 20.16 (15) one member who is an oncologist who is not employed by, under contract with, or
- 20.17 otherwise affiliated with a hospital.

20.18 Subd. 3. **Terms.** (a) The initial appointments to the advisory council must be made by

20.19 January 1, 2024. The initial appointed advisory council members shall serve staggered terms

20.20 of two, three, or four years, determined by lot by the secretary of state. Following the initial

20.21 appointments, the advisory council members shall serve four-year terms.

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

20.23 15.059.

20.24 Subd. 4. **Compensation.** Advisory council members may be compensated according to

20.25 section 15.059, except that those advisory council members designated in subdivision 2,

20.26 clauses (10) to (15), must not be compensated.

20.27 Subd. 5. **Meetings.** Meetings of the advisory council are subject to chapter 13D. The

20.28 advisory council shall meet publicly at least every three months to advise the board on drug

20.29 cost issues related to the prescription drug product information submitted to the board under

20.30 section 62J.90.

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

21.3 Sec. 18. **[62J.89] CONFLICTS OF INTEREST.**

21.4 Subdivision 1. **Definition.** For purposes of this section, "conflict of interest" means a
21.5 financial or personal association that has the potential to bias or have the appearance of
21.6 biasing a person's decisions in matters related to the board, the advisory council, or in the
21.7 conduct of the board's or council's activities. A conflict of interest includes any instance in
21.8 which a person, a person's immediate family member, including a spouse, parent, child, or
21.9 other legal dependent, or an in-law of any of the preceding individuals, has received or
21.10 could receive a direct or indirect financial benefit of any amount deriving from the result
21.11 or findings of a decision or determination of the board. For purposes of this section, a
21.12 financial benefit includes honoraria, fees, stock, the value of the member's, immediate family
21.13 member's, or in-law's stock holdings, and any direct financial benefit deriving from the
21.14 finding of a review conducted under sections 62J.85 to 62J.95. Ownership of securities is
21.15 not a conflict of interest if the securities are: (1) part of a diversified mutual or exchange
21.16 traded fund; or (2) in a tax-deferred or tax-exempt retirement account that is administered
21.17 by an independent trustee.

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

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

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

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

22.1 Sec. 19. [62J.90] PRESCRIPTION DRUG PRICE INFORMATION; DECISION
22.2 TO CONDUCT COST REVIEW.

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

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

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

22.13 (1) brand name drugs or biologics for which the WAC increases by \$3,000 during any
22.14 12-month period or course of treatment if less than 12 months, after adjusting for changes
22.15 in the consumer price index (CPI);

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

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

22.20 (4) generic drugs for which:

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

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

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

22.27 (ii) the price increase, adjusted for inflation utilizing the Consumer Price Index, exceeds
22.28 \$30 for:

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

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

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

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

23.7 (c) The board shall make available to the public the names and related price information
 23.8 of the prescription drug products identified under this subdivision, with the exception of
 23.9 information determined by the board to be proprietary under the standards developed by
 23.10 the board under section 62J.91, subdivision 3, and information provided by the commissioner
 23.11 of health classified as not public data under section 13.02, subdivision 8a, or as trade secret
 23.12 information under section 13.37, subdivision 1, paragraph (b), or as trade secret information
 23.13 under the Defend Trade Secrets Act of 2016, United States Code, title 18, section 1836, as
 23.14 amended.

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

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

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

23.22 **Sec. 20. [62J.91] PRESCRIPTION DRUG PRODUCT REVIEWS.**

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

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

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

- 24.1 (2) manufacturer monetary price concessions, discounts, or rebates, and drug-specific
24.2 patient assistance;
- 24.3 (3) the price of therapeutic alternatives;
- 24.4 (4) the cost to group purchasers based on patient access consistent with the FDA-labeled
24.5 indications and standard medical practice;
- 24.6 (5) measures of patient access, including cost-sharing and other metrics;
- 24.7 (6) the extent to which the attorney general or a court has determined that a price increase
24.8 for a generic or off-patent prescription drug product was excessive under sections 62J.842
24.9 and 62J.844;
- 24.10 (7) any information a manufacturer chooses to provide; and
- 24.11 (8) any other factors as determined by the board.

24.12 Subd. 3. **Public data; proprietary information.** (a) Any submission made to the board
24.13 related to a drug cost review must be made available to the public with the exception of
24.14 information determined by the board to be proprietary and information provided by the
24.15 commissioner of health classified as not public data under section 13.02, subdivision 8a, or
24.16 as trade secret information under section 13.37, subdivision 1, paragraph (b), or as trade
24.17 secret information under the Defend Trade Secrets Act of 2016, United States Code, title
24.18 18, section 1836, as amended.

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

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

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

24.27 Sec. 21. **[62J.92] DETERMINATIONS; COMPLIANCE; REMEDIES.**

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

- 25.1 (1) extraordinary supply costs, if applicable;
- 25.2 (2) the range of prices at which the drug is sold in the United States according to one or
25.3 more pricing files accessed under section 62J.90, subdivision 1, and the range at which
25.4 pharmacies are reimbursed in Canada; and
- 25.5 (3) any other relevant pricing and administrative cost information for the drug.
- 25.6 (b) An upper payment limit applies to all purchases of, and payer reimbursements for,
25.7 a prescription drug that is dispensed or administered to individuals in the state in person,
25.8 by mail, or by other means, and for which an upper payment limit has been established.
- 25.9 Subd. 2. **Implementation and administration of the upper payment limit.** (a) An
25.10 upper payment limit may take effect no sooner than 120 days following the date of its public
25.11 release by the board.
- 25.12 (b) When setting an upper payment limit for a drug subject to the Medicare maximum
25.13 fair price under United States Code, title 42, section 1191(c), the board shall set the upper
25.14 payment limit at the Medicare maximum fair price.
- 25.15 (c) Pharmacy dispensing fees must not be counted toward or subject to any upper payment
25.16 limit. State-licensed independent pharmacies must not be reimbursed by health carriers and
25.17 pharmacy benefit managers at amounts that are less than the upper payment limit.
- 25.18 (d) Health plan companies and pharmacy benefit managers shall report annually to the
25.19 board, in the form and manner specified by the board, on how cost savings resulting from
25.20 the establishment of an upper payment limit have been used by the health plan company or
25.21 pharmacy benefit manager to benefit enrollees, including but not limited to reducing enrollee
25.22 cost-sharing.
- 25.23 Subd. 3. **Noncompliance.** (a) The board shall, and other persons may, notify the Office
25.24 of the Attorney General of a potential failure by an entity subject to an upper payment limit
25.25 to comply with that limit.
- 25.26 (b) If the Office of the Attorney General finds that an entity was noncompliant with the
25.27 upper payment limit requirements, the attorney general may pursue remedies consistent
25.28 with chapter 8 or appropriate criminal charges if there is evidence of intentional profiteering.
- 25.29 (c) An entity who obtains price concessions from a drug manufacturer that result in a
25.30 lower net cost to the stakeholder than the upper payment limit established by the board is
25.31 not considered noncompliant.

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

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

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

26.7 **Sec. 22. [62J.93] REPORTS.**

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

26.13 **Sec. 23. [62J.94] ERISA PLANS AND MEDICARE DRUG PLANS.**

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

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

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

26.27 **Sec. 24. [62J.95] SEVERABILITY.**

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

27.1 Sec. 25. Minnesota Statutes 2022, section 62K.10, subdivision 4, is amended to read:

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

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

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

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

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

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

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

27.22 Sec. 26. Minnesota Statutes 2022, section 62Q.19, subdivision 1, is amended to read:

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

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

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

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

28.1 (ii) has tax-exempt status in accordance with the Internal Revenue Service Code, section
28.2 501(c)(3);

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

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

28.6 (3) status as a local government unit as defined in section 62D.02, subdivision 11, a
28.7 hospital district created or reorganized under sections 447.31 to 447.37, an Indian tribal
28.8 government, an Indian health service unit, or a community health board as defined in chapter
28.9 145A;

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

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

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

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

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

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

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

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

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

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

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

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

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

29.10 Sec. 27. Minnesota Statutes 2022, section 62Q.46, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

30.18 Sec. 28. Minnesota Statutes 2022, section 62Q.46, subdivision 3, is amended to read:

30.19 Subd. 3. **Additional services not prohibited.** Nothing in this section prohibits a health
 30.20 plan company from providing coverage for preventive items and services in addition to
 30.21 those specified ~~in the Affordable Care Act~~ under subdivision 1, paragraph (a), or from
 30.22 denying coverage for preventive items and services that are not recommended as preventive
 30.23 items and services specified under the Affordable Care Act subdivision 1, paragraph (a). A
 30.24 health plan company may impose cost-sharing requirements for a treatment not described
 30.25 ~~in the Affordable Care Act~~ under subdivision 1, paragraph (a), even if the treatment results
 30.26 from a preventive item or service described ~~in the Affordable Care Act~~ under subdivision
 30.27 1, paragraph (a).

30.28 Sec. 29. **[62Q.465] MENTAL HEALTH PARITY AND SUBSTANCE ABUSE**
 30.29 **ACCOUNTABILITY OFFICE.**

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

- 31.1 (1) section 62Q.47;
 31.2 (2) the federal Mental Health Parity Act of 1996, Public Law 104-204;
 31.3 (3) the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction
 31.4 Equity Act of 2008, Public Law 110-343, division C, sections 511 and 512;
 31.5 (4) the Affordable Care Act, as defined under section 62A.011, subdivision 1a; and
 31.6 (5) amendments made to, and federal guidance or regulations issued or adopted under,
 31.7 the acts listed under clauses (2) to (4).

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

31.11 Sec. 30. Minnesota Statutes 2022, section 62Q.47, is amended to read:

31.12 **62Q.47 ALCOHOLISM, MENTAL HEALTH, AND CHEMICAL DEPENDENCY**
 31.13 **SERVICES.**

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

31.17 (b) Cost-sharing requirements and benefit or service limitations for outpatient mental
 31.18 health and outpatient chemical dependency and alcoholism services, except for persons
 31.19 placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to
 31.20 9530.6655, must not place a greater financial burden on the insured or enrollee, or be more
 31.21 restrictive than those requirements and limitations for outpatient medical services.

31.22 (c) Cost-sharing requirements and benefit or service limitations for inpatient hospital
 31.23 mental health services, psychiatric residential treatment facility services, and inpatient
 31.24 hospital and residential chemical dependency and alcoholism services, except for persons
 31.25 placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to
 31.26 9530.6655, must not place a greater financial burden on the insured or enrollee, or be more
 31.27 restrictive than those requirements and limitations for inpatient hospital medical services.

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

32.1 strategies, evidentiary standards, or other factors used in applying the NQTL with respect
32.2 to medical and surgical benefits in the same classification.

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

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

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

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

32.23 (1) 99492;

32.24 (2) 99493;

32.25 (3) 99494;

32.26 (4) G2214; and

32.27 (5) G0512.

32.28 This paragraph does not apply to: (i) managed care plans or county-based purchasing plans
32.29 when the plan provides coverage to public health care program enrollees under chapter
32.30 256B or 256L; or (ii) health care coverage offered by the state employee group insurance
32.31 program.

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

33.4 (j) "Psychiatric Collaborative Care Model" means the evidence-based, integrated
 33.5 behavioral health service delivery method described at Federal Register, volume 81, page
 33.6 80230, which includes a formal collaborative arrangement among a primary care team
 33.7 consisting of a primary care provider, a care manager, and a psychiatric consultant, and
 33.8 includes but is not limited to the following elements:

33.9 (1) care directed by the primary care team;

33.10 (2) structured care management;

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

33.12 (4) modification of treatment as appropriate.

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

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

33.20 (2) identify any enforcement actions taken by either commissioner during the preceding
 33.21 12-month period regarding compliance with parity for mental health and substance use
 33.22 disorders benefits under state and federal law, summarizing the results of any market conduct
 33.23 examinations. The summary must include: (i) the number of formal enforcement actions
 33.24 taken; (ii) the benefit classifications examined in each enforcement action; and (iii) the
 33.25 subject matter of each enforcement action, including quantitative and nonquantitative
 33.26 treatment limitations;

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

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

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

34.5 Sec. 31. **[62Q.481] COST-SHARING FOR PRESCRIPTION DRUGS AND RELATED**
 34.6 **MEDICAL SUPPLIES TO TREAT CHRONIC DISEASE.**

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

34.14 (b) If application of this section before an enrollee has met the enrollee's plan deductible
 34.15 results in: (1) health savings account ineligibility under United States Code, title 26, section
 34.16 223; or (2) catastrophic health plan ineligibility under United States Code, title 42, section
 34.17 18022(e), this section applies to the specific prescription drug or related medical supply
 34.18 only after the enrollee has met the enrollee's plan deductible.

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

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

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

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

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

34.29 Sec. 32. Minnesota Statutes 2022, section 62Q.81, subdivision 4, is amended to read:

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

- 35.1 (1) ambulatory patient services;
- 35.2 (2) emergency services;
- 35.3 (3) hospitalization;
- 35.4 (4) laboratory services;
- 35.5 (5) maternity and newborn care;
- 35.6 (6) mental health and substance use disorder services, including behavioral health
- 35.7 treatment;
- 35.8 (7) pediatric services, including oral and vision care;
- 35.9 (8) prescription drugs;
- 35.10 (9) preventive and wellness services and chronic disease management;
- 35.11 (10) rehabilitative and habilitative services and devices; and
- 35.12 (11) additional essential health benefits included in the EHB-benchmark plan, as defined
- 35.13 under the Affordable Care Act, and preventive items and services, as defined under section
- 35.14 62Q.46, subdivision 1, paragraph (a).

35.15 Sec. 33. Minnesota Statutes 2022, section 62Q.81, is amended by adding a subdivision to

35.16 read:

35.17 Subd. 7. **Standard plans.** (a) A health plan company that offers individual health plans

35.18 must ensure that no less than one individual health plan at each level of coverage described

35.19 in subdivision 1, paragraph (b), clause (3), that the health plan company offers in each

35.20 geographic rating area the health plan company serves, conforms to the standard plan

35.21 parameters determined by the commissioner under paragraph (e).

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

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

35.24 process;

35.25 (2) marketed as standard plans and in the same manner as other individual health plans

35.26 offered by the health plan company; and

35.27 (3) offered for purchase to any individual.

35.28 (c) This subdivision does not apply to catastrophic plans, grandfathered plans, small

35.29 group health plans, large group health plans, health savings accounts, qualified high

36.1 deductible health benefit plans, limited health benefit plans, or short-term limited-duration
 36.2 health insurance policies.

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

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

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

36.10 Sec. 34. **[62W.15] CLINICIAN-ADMINISTERED DRUGS.**

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

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

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

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

36.20 (2) is typically administered:

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

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

36.24 Subd. 2. **Prohibition on requiring coverage as a pharmacy benefit.** A pharmacy
 36.25 benefit manager or health carrier shall not require that a clinician-administered drug or the
 36.26 administration of a clinician-administered drug be covered as a pharmacy benefit.

36.27 Subd. 3. **Enrollee choice.** A pharmacy benefit manager or health carrier:

36.28 (1) shall permit an enrollee to obtain a clinician-administered drug from a health care
 36.29 provider authorized to administer the drug, or a pharmacy;

37.1 (2) shall not interfere with the enrollee's right to obtain a clinician-administered drug
 37.2 from their provider or pharmacy of choice, and shall not offer financial or other incentives
 37.3 to influence the enrollee's choice of a provider or pharmacy;

37.4 (3) shall not require clinician-administered drugs to be dispensed by a pharmacy selected
 37.5 by the pharmacy benefit manager or health carrier; and

37.6 (4) shall not limit or exclude coverage for a clinician-administered drug when it is not
 37.7 dispensed by a pharmacy selected by the pharmacy benefit manager or health carrier, if the
 37.8 drug would otherwise be covered.

37.9 Subd. 4. **Cost-sharing and reimbursement.** A pharmacy benefit manager or health
 37.10 carrier:

37.11 (1) may impose coverage or benefit limitations on an enrollee who obtains a
 37.12 clinician-administered drug from a health care provider authorized to administer the drug
 37.13 or a pharmacy, but only if the limitations would also be imposed if the drug was obtained
 37.14 from an affiliated pharmacy or a pharmacy selected by the pharmacy benefit manager or
 37.15 health carrier;

37.16 (2) may impose cost-sharing requirements on an enrollee who obtains a
 37.17 clinician-administered drug from a health care provider authorized to administer the drug
 37.18 or a pharmacy, but only if the requirements would also be imposed if the drug was obtained
 37.19 from an affiliated pharmacy or a pharmacy selected by the pharmacy benefit manager or
 37.20 health carrier; and

37.21 (3) shall not reimburse a health care provider or pharmacy for clinician-administered
 37.22 drugs and the drugs' administration at an amount that is lower than would be applied to an
 37.23 affiliated pharmacy or pharmacy selected by the pharmacy benefit manager or health carrier.

37.24 Subd. 5. **Other requirements.** A pharmacy benefit manager or health carrier:

37.25 (1) shall not require or encourage the dispensing of a clinician-administered drug to an
 37.26 enrollee in a manner that is inconsistent with the supply chain security controls and chain
 37.27 of distribution set by the federal Drug Supply Chain Security Act, United States Code, title
 37.28 21, section 360eee, et seq.;

37.29 (2) shall not require a specialty pharmacy to dispense a clinician-administered drug
 37.30 directly to a patient with the intention that the patient transport the drug to a health care
 37.31 provider for administration; and

37.32 (3) may offer, but shall not require:

38.1 (i) the use of a home infusion pharmacy to dispense or administer clinician-administered
38.2 drugs to enrollees; and

38.3 (ii) the use of an infusion site external to the enrollee's provider office or clinic.

38.4 Subd. 6. **Exclusion.** This section does not apply to health plans offered under chapter
38.5 256B or 256L.

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

38.7 Sec. 35. Minnesota Statutes 2022, section 151.071, subdivision 1, is amended to read:

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

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

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

38.13 (3) revoke the license or registration;

38.14 (4) suspend the license or registration;

38.15 (5) impose limitations, conditions, or both on the license or registration, including but
38.16 not limited to: the limitation of practice to designated settings; the limitation of the scope
38.17 of practice within designated settings; the imposition of retraining or rehabilitation
38.18 requirements; the requirement of practice under supervision; the requirement of participation
38.19 in a diversion program such as that established pursuant to section 214.31 or the conditioning
38.20 of continued practice on demonstration of knowledge or skills by appropriate examination
38.21 or other review of skill and competence;

38.22 (6) impose a civil penalty not exceeding \$10,000 for each separate violation, except that
38.23 a civil penalty not exceeding \$25,000 may be imposed for each separate violation of section
38.24 62J.842, the amount of the civil penalty to be fixed so as to deprive a licensee or registrant
38.25 of any economic advantage gained by reason of the violation, to discourage similar violations
38.26 by the licensee or registrant or any other licensee or registrant, or to reimburse the board
38.27 for the cost of the investigation and proceeding, including but not limited to, fees paid for
38.28 services provided by the Office of Administrative Hearings, legal and investigative services
38.29 provided by the Office of the Attorney General, court reporters, witnesses, reproduction of
38.30 records, board members' per diem compensation, board staff time, and travel costs and
38.31 expenses incurred by board staff and board members; and

38.32 (7) reprimand the licensee or registrant.

39.1 Sec. 36. Minnesota Statutes 2022, section 151.071, subdivision 2, is amended to read:

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

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

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

39.18 (3) for a pharmacist, pharmacy technician, pharmacist intern, applicant for a pharmacist
39.19 or pharmacy license, or applicant for a pharmacy technician or pharmacist intern registration,
39.20 conviction of a felony reasonably related to the practice of pharmacy. Conviction as used
39.21 in this subdivision includes a conviction of an offense that if committed in this state would
39.22 be deemed a felony without regard to its designation elsewhere, or a criminal proceeding
39.23 where a finding or verdict of guilt is made or returned but the adjudication of guilt is either
39.24 withheld or not entered thereon. The board may delay the issuance of a new license or
39.25 registration if the applicant has been charged with a felony until the matter has been
39.26 adjudicated;

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

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

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

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

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

40.18 (7) for a pharmacist, pharmacy, pharmacy technician, or pharmacist intern, violation of
40.19 any order of the board, of any of the provisions of this chapter or any rules of the board or
40.20 violation of any federal, state, or local law or rule reasonably pertaining to the practice of
40.21 pharmacy;

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

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

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

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

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

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

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

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

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

41.29 (17) fee splitting, including without limitation:

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

41.32 (ii) referring a patient to any health care provider as defined in sections 144.291 to
41.33 144.298 in which the licensee or registrant has a financial or economic interest as defined

42.1 in section 144.6521, subdivision 3, unless the licensee or registrant has disclosed the
42.2 licensee's or registrant's financial or economic interest in accordance with section 144.6521;
42.3 and

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

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

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

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

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

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

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

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

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

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

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

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

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

43.13 Sec. 37. Minnesota Statutes 2022, section 256B.0631, subdivision 1, is amended to read:

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

43.17 (1) \$3 per nonpreventive visit, except as provided in paragraph (b). For purposes of this
 43.18 subdivision, a visit means an episode of service which is required because of a recipient's
 43.19 symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting
 43.20 by a physician or physician assistant, chiropractor, podiatrist, nurse midwife, advanced
 43.21 practice nurse, audiologist, optician, or optometrist;

43.22 (2) \$3.50 for nonemergency visits to a hospital-based emergency room, except that this
 43.23 co-payment shall be increased to \$20 upon federal approval;

43.24 (3) \$3 per brand-name drug prescription, \$1 per generic drug prescription, and \$1 per
 43.25 prescription for a brand-name multisource drug listed in preferred status on the preferred
 43.26 drug list, subject to a \$12 per month maximum for prescription drug co-payments. No
 43.27 co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness;

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

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

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

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

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

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

44.19 (e) Notwithstanding paragraph (b), the commissioner, through the contracting process
44.20 under section 256B.0756 shall allow the pilot program in Hennepin County to waive
44.21 co-payments. The value of the co-payments shall not be included in the capitation payment
44.22 amount to the integrated health care delivery networks under the pilot program.

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

44.24 Sec. 38. Minnesota Statutes 2022, section 256L.03, subdivision 5, is amended to read:

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

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

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

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

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

45.7 **Sec. 39. EVALUATION OF EXISTING STATUTORY HEALTH BENEFIT**
 45.8 **MANDATES.**

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

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

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

45.18 (d) This section expires January 1, 2034.

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

45.20 **ARTICLE 3**

45.21 **FINANCIAL INSTITUTIONS**

45.22 Section 1. Minnesota Statutes 2022, section 46.131, subdivision 11, is amended to read:

45.23 **Subd. 11. Financial institutions account; appropriation.** (a) The financial institutions
 45.24 account is created as a separate account in the special revenue fund. Earnings, including
 45.25 interest, dividends, and any other earnings arising from account assets, must be credited to
 45.26 the account.

45.27 (b) The account consists of funds received from assessments under subdivision 7,
 45.28 examination fees under subdivision 8, and funds received pursuant to subdivision 10 and
 45.29 the following provisions: sections 46.04; 46.041; 46.048, subdivision 1; 47.101; 47.54,
 45.30 subdivision 1; 47.60, subdivision 3; 47.62, subdivision 4; 48.61, subdivision 7, paragraph
 45.31 (b); 49.36, subdivision 1; 52.203; ~~53B.09; 53B.11, subdivision 1;~~ 53B.38; 53B.41; 53B.43;

46.1 53C.02; 56.02; 58.10; 58A.045, subdivision 2; 59A.03; 216C.437, subdivision 12; 332A.04;
46.2 and 332B.04.

46.3 (c) Funds in the account are annually appropriated to the commissioner of commerce
46.4 for activities under this section.

46.5 Sec. 2. **[53B.28] DEFINITIONS.**

46.6 Subdivision 1. **Terms.** For the purposes of this chapter, the terms defined in this section
46.7 have the meanings given them.

46.8 Subd. 2. **Acting in concert.** "Acting in concert" means persons knowingly acting together
46.9 with a common goal of jointly acquiring control of a licensee, whether or not pursuant to
46.10 an express agreement.

46.11 Subd. 3. **Authorized delegate.** "Authorized delegate" means a person a licensee
46.12 designates to engage in money transmission on behalf of the licensee.

46.13 Subd. 4. **Average daily money transmission liability.** "Average daily money
46.14 transmission liability" means the amount of the licensee's outstanding money transmission
46.15 obligations in Minnesota at the end of each day in a given period of time, added together,
46.16 and divided by the total number of days in the given period of time. For purposes of
46.17 calculating average daily money transmission liability under this chapter for any licensee
46.18 required to do so, the given period of time shall be the quarters ending March 31, June 30,
46.19 September 30, and December 31.

46.20 Subd. 5. **Bank Secrecy Act.** "Bank Secrecy Act" means the Bank Secrecy Act under
46.21 United States Code, title 31, section 5311, et seq., and the Bank Secrecy Act's implementing
46.22 regulations, as amended and recodified from time to time.

46.23 Subd. 6. **Closed loop stored value.** "Closed loop stored value" means stored value that
46.24 is redeemable by the issuer only for a good or service provided by the issuer, the issuer's
46.25 affiliate, the issuer's franchisees, or an affiliate of the issuer's franchisees, except to the
46.26 extent required by applicable law to be redeemable in cash for the good or service's cash
46.27 value.

46.28 Subd. 7. **Control.** "Control" means:

46.29 (1) the power to vote, directly or indirectly, at least 25 percent of the outstanding voting
46.30 shares or voting interests of a licensee or person in control of a licensee;

47.1 (2) the power to elect or appoint a majority of key individuals or executive officers,
47.2 managers, directors, trustees, or other persons exercising managerial authority of a person
47.3 in control of a licensee; or

47.4 (3) the power to exercise, directly or indirectly, a controlling influence over the
47.5 management or policies of a licensee or person in control of a licensee.

47.6 Subd. 8. **Eligible rating.** "Eligible rating" means a credit rating of any of the three highest
47.7 rating categories provided by an eligible rating service, whereby each category may include
47.8 rating category modifiers such as "plus" or "minus" or the equivalent for any other eligible
47.9 rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or
47.10 higher or the equivalent from any other eligible rating service. Short-term credit ratings are
47.11 deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent
47.12 from any other eligible rating service. In the event that ratings differ among eligible rating
47.13 services, the highest rating shall apply when determining whether a security bears an eligible
47.14 rating.

47.15 Subd. 9. **Eligible rating service.** "Eligible rating service" means any Nationally
47.16 Recognized Statistical Rating Organization (NRSRO), as defined by the United States
47.17 Securities and Exchange Commission and any other organization designated by the
47.18 commissioner by rule or order.

47.19 Subd. 10. **Federally insured depository financial institution.** "Federally insured
47.20 depository financial institution" means a bank, credit union, savings and loan association,
47.21 trust company, savings association, savings bank, industrial bank, or industrial loan company
47.22 organized under the laws of the United States or any state of the United States, when the
47.23 bank, credit union, savings and loan association, trust company, savings association, savings
47.24 bank, industrial bank, or industrial loan company has federally insured deposits.

47.25 Subd. 11. **In Minnesota.** "In Minnesota" means at a physical location within the state
47.26 of Minnesota for a transaction requested in person. For a transaction requested electronically
47.27 or by telephone, the provider of money transmission may determine if the person requesting
47.28 the transaction is in Minnesota by relying on other information provided by the person
47.29 regarding the location of the individual's residential address or a business entity's principal
47.30 place of business or other physical address location, and any records associated with the
47.31 person that the provider of money transmission may have that indicate the location, including
47.32 but not limited to an address associated with an account.

47.33 Subd. 12. **Individual.** "Individual" means a natural person.

48.1 Subd. 13. **Key individual.** "Key individual" means any individual ultimately responsible
48.2 for establishing or directing policies and procedures of the licensee, including but not limited
48.3 to as an executive officer, manager, director, or trustee.

48.4 Subd. 14. **Licensee.** "Licensee" means a person licensed under this chapter.

48.5 Subd. 15. **Material litigation.** "Material litigation" means litigation that, according to
48.6 United States generally accepted accounting principles, is significant to a person's financial
48.7 health and would be required to be disclosed in the person's annual audited financial
48.8 statements, report to shareholders, or similar records.

48.9 Subd. 16. **Money.** "Money" means a medium of exchange that is authorized or adopted
48.10 by the United States or a foreign government. Money includes a monetary unit of account
48.11 established by an intergovernmental organization or by agreement between two or more
48.12 governments.

48.13 Subd. 17. **Monetary value.** "Monetary value" means a medium of exchange, whether
48.14 or not redeemable in money.

48.15 Subd. 18. **Money transmission.** (a) "Money transmission" means:

48.16 (1) selling or issuing payment instruments to a person located in this state;

48.17 (2) selling or issuing stored value to a person located in this state; or

48.18 (3) receiving money for transmission from a person located in this state.

48.19 (b) Money includes payroll processing services. Money does not include the provision
48.20 solely of online or telecommunications services or network access.

48.21 Subd. 19. **Money services business accredited state or MSB accredited state.** "Money
48.22 services businesses accredited state" or "MSB accredited state" means a state agency that
48.23 is accredited by the Conference of State Bank Supervisors and Money Transmitter Regulators
48.24 Association for money transmission licensing and supervision.

48.25 Subd. 20. **Multistate licensing process.** "Multistate licensing process" means any
48.26 agreement entered into by and among state regulators relating to coordinated processing of
48.27 applications for money transmission licenses, applications for the acquisition of control of
48.28 a licensee, control determinations, or notice and information requirements for a change of
48.29 key individuals.

48.30 Subd. 21. **NMLS.** "NMLS" means the Nationwide Multistate Licensing System and
48.31 Registry developed by the Conference of State Bank Supervisors and the American
48.32 Association of Residential Mortgage Regulators and owned and operated by the State

49.1 Regulatory Registry, LLC, or any successor or affiliated entity, for the licensing and
49.2 registration of persons in financial services industries.

49.3 Subd. 22. **Outstanding money transmission obligations.** (a) "Outstanding money
49.4 transmission obligations" must be established and extinguished in accordance with applicable
49.5 state law and means:

49.6 (1) any payment instrument or stored value issued or sold by the licensee to a person
49.7 located in the United States or reported as sold by an authorized delegate of the licensee to
49.8 a person that is located in the United States that has not yet been paid or refunded by or for
49.9 the licensee, or escheated in accordance with applicable abandoned property laws; or

49.10 (2) any money received for transmission by the licensee or an authorized delegate in the
49.11 United States from a person located in the United States that has not been received by the
49.12 payee or refunded to the sender, or escheated in accordance with applicable abandoned
49.13 property laws.

49.14 (b) For purposes of this subdivision, "in the United States" includes, to the extent
49.15 applicable, a person in any state, territory, or possession of the United States; the District
49.16 of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is
49.17 located in a foreign country.

49.18 Subd. 23. **Passive investor.** "Passive investor" means a person that:

49.19 (1) does not have the power to elect a majority of key individuals or executive officers,
49.20 managers, directors, trustees, or other persons exercising managerial authority of a person
49.21 in control of a licensee;

49.22 (2) is not employed by and does not have any managerial duties of the licensee or person
49.23 in control of a licensee;

49.24 (3) does not have the power to exercise, directly or indirectly, a controlling influence
49.25 over the management or policies of a licensee or person in control of a licensee; and

49.26 (4) attests to clauses (1), (2), and (3), in a form and in a medium prescribed by the
49.27 commissioner, or commits to the passivity characteristics under clauses (1), (2), and (3) in
49.28 a written document.

49.29 Subd. 24. **Payment instrument.** (a) "Payment instrument" means a written or electronic
49.30 check, draft, money order, traveler's check, or other written or electronic instrument for the
49.31 transmission or payment of money or monetary value, whether or not negotiable.

50.1 (b) Payment instrument does not include stored value or any instrument that is: (1)
50.2 redeemable by the issuer only for goods or services provided by the issuer, the issuer's
50.3 affiliate, the issuer's franchisees, or an affiliate of the issuer's franchisees, except to the
50.4 extent required by applicable law to be redeemable in cash for its cash value; or (2) not sold
50.5 to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

50.6 Subd. 25. **Payroll processing services.** "Payroll processing services" means receiving
50.7 money for transmission pursuant to a contract with a person to deliver wages or salaries,
50.8 make payment of payroll taxes to state and federal agencies, make payments relating to
50.9 employee benefit plans, or make distributions of other authorized deductions from wages
50.10 or salaries. The term payroll processing services does not include an employer performing
50.11 payroll processing services on the employer's own behalf or on behalf of the employer's
50.12 affiliate, or a professional employment organization subject to regulation under other
50.13 applicable state law.

50.14 Subd. 26. **Person.** "Person" means any individual, general partnership, limited partnership,
50.15 limited liability company, corporation, trust, association, joint stock corporation, or other
50.16 corporate entity identified by the commissioner.

50.17 Subd. 27. **Receiving money for transmission or money received for**
50.18 **transmission.** "Receiving money for transmission" or "money received for transmission"
50.19 means receiving money or monetary value in the United States for transmission within or
50.20 outside the United States by electronic or other means.

50.21 Subd. 28. **Stored value.** (a) "Stored value" means monetary value representing a claim
50.22 against the issuer evidenced by an electronic or digital record, and that is intended and
50.23 accepted for use as a means of redemption for money or monetary value, or payment for
50.24 goods or services. Stored value includes but is not limited to prepaid access, as defined
50.25 under Code of Federal Regulations, title 31, part 1010.100, as amended or recodified from
50.26 time to time.

50.27 (b) Notwithstanding this subdivision, stored value does not include: (1) a payment
50.28 instrument or closed loop stored value; or (2) stored value not sold to the public but issued
50.29 and distributed as part of a loyalty, rewards, or promotional program.

50.30 Subd. 29. **Tangible net worth.** "Tangible net worth" means the aggregate assets of a
50.31 licensee excluding all intangible assets, less liabilities, as determined in accordance with
50.32 United States generally accepted accounting principles.

51.1 Sec. 3. [53B.29] EXEMPTIONS.

51.2 This chapter does not apply to:

51.3 (1) an operator of a payment system, to the extent the operator of a payment system
51.4 provides processing, clearing, or settlement services between or among persons exempted
51.5 by this section or licensees in connection with wire transfers, credit card transactions, debit
51.6 card transactions, stored-value transactions, automated clearing house transfers, or similar
51.7 funds transfers;

51.8 (2) a person appointed as an agent of a payee to collect and process a payment from a
51.9 payor to the payee for goods or services, other than money transmission itself, provided to
51.10 the payor by the payee, provided that:

51.11 (i) there exists a written agreement between the payee and the agent directing the agent
51.12 to collect and process payments from payors on the payee's behalf;

51.13 (ii) the payee holds the agent out to the public as accepting payments for goods or services
51.14 on the payee's behalf; and

51.15 (iii) payment for the goods and services is treated as received by the payee upon receipt
51.16 by the agent so that the payor's obligation is extinguished and there is no risk of loss to the
51.17 payor if the agent fails to remit the funds to the payee;

51.18 (3) a person that acts as an intermediary by processing payments between an entity that
51.19 has directly incurred an outstanding money transmission obligation to a sender, and the
51.20 sender's designated recipient, provided that the entity:

51.21 (i) is properly licensed or exempt from licensing requirements under this chapter;

51.22 (ii) provides a receipt, electronic record, or other written confirmation to the sender
51.23 identifying the entity as the provider of money transmission in the transaction; and

51.24 (iii) bears sole responsibility to satisfy the outstanding money transmission obligation
51.25 to the sender, including the obligation to make the sender whole in connection with any
51.26 failure to transmit the funds to the sender's designated recipient;

51.27 (4) the United States; a department, agency, or instrumentality of the United States; or
51.28 an agent of the United States;

51.29 (5) money transmission by the United States Postal Service or by an agent of the United
51.30 States Postal Service;

51.31 (6) a state; county; city; any other governmental agency, governmental subdivision, or
51.32 instrumentality of a state; or the state's agent;

52.1 (7) a federally insured depository financial institution; bank holding company; office of
52.2 an international banking corporation; foreign bank that establishes a federal branch pursuant
52.3 to the International Bank Act, United States Code, title 12, section 3102, as amended or
52.4 recodified from time to time; corporation organized pursuant to the Bank Service Corporation
52.5 Act, United States Code, title 12, sections 1861 to 1867, as amended or recodified from
52.6 time to time; or corporation organized under the Edge Act, United States Code, title 12,
52.7 sections 611 to 633, as amended or recodified from time to time;

52.8 (8) electronic funds transfer of governmental benefits for a federal, state, county, or
52.9 governmental agency by a contractor on behalf of the United States or a department, agency,
52.10 or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or
52.11 instrumentality thereof;

52.12 (9) a board of trade designated as a contract market under the federal Commodity
52.13 Exchange Act, United States Code, title 7, sections 1 to 25, as amended or recodified from
52.14 time to time; or a person that in the ordinary course of business provides clearance and
52.15 settlement services for a board of trade to the extent of its operation as or for a board;

52.16 (10) a registered futures commission merchant under the federal commodities laws, to
52.17 the extent of the registered futures commission merchant's operation as a merchant;

52.18 (11) a person registered as a securities broker-dealer under federal or state securities
52.19 laws, to the extent of the person's operation as a securities broker-dealer;

52.20 (12) an individual employed by a licensee, authorized delegate, or any person exempted
52.21 from the licensing requirements under this chapter when acting within the scope of
52.22 employment and under the supervision of the licensee, authorized delegate, or exempted
52.23 person as an employee and not as an independent contractor;

52.24 (13) a person expressly appointed as a third-party service provider to or agent of an
52.25 entity exempt under clause (7), solely to the extent that:

52.26 (i) the service provider or agent is engaging in money transmission on behalf of and
52.27 pursuant to a written agreement with the exempt entity that sets forth the specific functions
52.28 that the service provider or agent is to perform; and

52.29 (ii) the exempt entity assumes all risk of loss and all legal responsibility for satisfying
52.30 the outstanding money transmission obligations owed to purchasers and holders of the
52.31 outstanding money transmission obligations upon receipt of the purchaser's or holder's
52.32 money or monetary value by the service provider or agent; or

53.1 (14) a person exempt by regulation or order if the commissioner finds that (i) the
 53.2 exemption is in the public interest, and (ii) the regulation of the person is not necessary for
 53.3 the purposes of this chapter.

53.4 Sec. 4. **[53B.30] AUTHORITY TO REQUIRE DEMONSTRATION OF**
 53.5 **EXEMPTION.**

53.6 The commissioner may require any person that claims to be exempt from licensing under
 53.7 section 53B.29 to provide to the commissioner information and documentation that
 53.8 demonstrates the person qualifies for any claimed exemption.

53.9 Sec. 5. **[53B.31] IMPLEMENTATION.**

53.10 Subdivision 1. **General authority.** In order to carry out the purposes of this chapter, the
 53.11 commissioner may, subject to section 53B.32, paragraphs (a) and (b):

53.12 (1) enter into agreements or relationships with other government officials or federal and
 53.13 state regulatory agencies and regulatory associations in order to (i) improve efficiencies
 53.14 and reduce regulatory burden by standardizing methods or procedures, and (ii) share
 53.15 resources, records, or related information obtained under this chapter;

53.16 (2) use, hire, contract, or employ analytical systems, methods, or software to examine
 53.17 or investigate any person subject to this chapter;

53.18 (3) accept from other state or federal government agencies or officials any licensing,
 53.19 examination, or investigation reports made by the other state or federal government agencies
 53.20 or officials; and

53.21 (4) accept audit reports made by an independent certified public accountant or other
 53.22 qualified third-party auditor for an applicant or licensee and incorporate the audit report in
 53.23 any report of examination or investigation.

53.24 Subd. 2. **Administrative authority.** The commissioner is granted broad administrative
 53.25 authority to: (1) administer, interpret, and enforce this chapter; (2) adopt regulations to
 53.26 implement this chapter; and (3) recover the costs incurred to administer and enforce this
 53.27 chapter by imposing and collecting proportionate and equitable fees and costs associated
 53.28 with applications, examinations, investigations, and other actions required to achieve the
 53.29 purpose of this chapter.

54.1 Sec. 6. **[53B.32] CONFIDENTIALITY.**

54.2 (a) All information or reports obtained by the commissioner contained in or related to
54.3 an examination that is prepared by, on behalf of, or for the use of the commissioner are
54.4 confidential and are not subject to disclosure under section 46.07.

54.5 (b) The commissioner may disclose information not otherwise subject to disclosure
54.6 under paragraph (a) to representatives of state or federal agencies pursuant to section 53B.31,
54.7 subdivision 1.

54.8 (c) This section does not prohibit the commissioner from disclosing to the public a list
54.9 of all licensees or the aggregated financial or transactional data concerning those licensees.

54.10 Sec. 7. **[53B.33] SUPERVISION.**

54.11 (a) The commissioner may conduct an examination or investigation of a licensee or
54.12 authorized delegate or otherwise take independent action authorized by this chapter, or by
54.13 a rule adopted or order issued under this chapter, as reasonably necessary or appropriate to
54.14 administer and enforce this chapter, rules implementing this chapter, and other applicable
54.15 law, including the Bank Secrecy Act and the USA PATRIOT Act, Public Law 107-56. The
54.16 commissioner may:

54.17 (1) conduct an examination either on site or off site as the commissioner may reasonably
54.18 require;

54.19 (2) conduct an examination in conjunction with an examination conducted by
54.20 representatives of other state agencies or agencies of another state or of the federal
54.21 government;

54.22 (3) accept the examination report of another state agency or an agency of another state
54.23 or of the federal government, or a report prepared by an independent accounting firm, which
54.24 on being accepted is considered for all purposes as an official report of the commissioner;
54.25 and

54.26 (4) summon and examine under oath a key individual or employee of a licensee or
54.27 authorized delegate and require the person to produce records regarding any matter related
54.28 to the condition and business of the licensee or authorized delegate.

54.29 (b) A licensee or authorized delegate must provide, and the commissioner has full and
54.30 complete access to, all records the commissioner may reasonably require to conduct a
54.31 complete examination. The records must be provided at the location and in the format
54.32 specified by the commissioner. The commissioner may use multistate record production

55.1 standards and examination procedures when the standards reasonably achieve the
55.2 requirements of this paragraph.

55.3 (c) Unless otherwise directed by the commissioner, a licensee must pay all costs
55.4 reasonably incurred in connection with an examination of the licensee or the licensee's
55.5 authorized delegates.

55.6 **Sec. 8. [53B.34] NETWORKED SUPERVISION.**

55.7 (a) To efficiently and effectively administer and enforce this chapter and to minimize
55.8 regulatory burden, the commissioner is authorized to participate in multistate supervisory
55.9 processes established between states and coordinated through the Conference of State Bank
55.10 Supervisors, the Money Transmitter Regulators Association, and the affiliates and successors
55.11 of the Conference of State Bank Supervisors and the Money Transmitter Regulators
55.12 Association for all licensees that hold licenses in this state and other states. As a participant
55.13 in multistate supervision, the commissioner may:

55.14 (1) cooperate, coordinate, and share information with other state and federal regulators
55.15 in accordance with section 53B.32;

55.16 (2) enter into written cooperation, coordination, or information-sharing contracts or
55.17 agreements with organizations the membership of which is made up of state or federal
55.18 governmental agencies; and

55.19 (3) cooperate, coordinate, and share information with organizations the membership of
55.20 which is made up of state or federal governmental agencies, provided that the organizations
55.21 agree in writing to maintain the confidentiality and security of the shared information in
55.22 accordance with section 53B.32.

55.23 (b) The commissioner is prohibited from waiving, and nothing in this section constitutes
55.24 a waiver of, the commissioner's authority to conduct an examination or investigation or
55.25 otherwise take independent action authorized by this chapter, or a rule adopted or order
55.26 issued under this chapter, to enforce compliance with applicable state or federal law.

55.27 (c) A joint examination or investigation, or acceptance of an examination or investigation
55.28 report, does not waive an examination fee provided for in this chapter.

55.29 **Sec. 9. [53B.35] RELATIONSHIP TO FEDERAL LAW.**

55.30 (a) In the event state money transmission jurisdiction is conditioned on a federal law,
55.31 any inconsistencies between a provision of this chapter and the federal law governing money
55.32 transmission is governed by the applicable federal law to the extent of the inconsistency.

56.1 (b) In the event of any inconsistencies between this chapter and a federal law that governs
56.2 pursuant to paragraph (a), the commissioner may provide interpretive guidance that:

56.3 (1) identifies the inconsistency; and

56.4 (2) identifies the appropriate means of compliance with federal law.

56.5 **Sec. 10. [53B.36] LICENSE REQUIRED.**

56.6 (a) A person is prohibited from engaging in the business of money transmission, or
56.7 advertising, soliciting, or representing that the person provides money transmission, unless
56.8 the person is licensed under this chapter.

56.9 (b) Paragraph (a) does not apply to:

56.10 (1) a person that is an authorized delegate of a person licensed under this chapter acting
56.11 within the scope of authority conferred by a written contract with the licensee; or

56.12 (2) a person that is exempt under section 53B.29 and does not engage in money
56.13 transmission outside the scope of the exemption.

56.14 (c) A license issued under section 53B.40 is not transferable or assignable.

56.15 **Sec. 11. [53B.37] CONSISTENT STATE LICENSING.**

56.16 (a) To establish consistent licensing between Minnesota and other states, the
56.17 commissioner is authorized to:

56.18 (1) implement all licensing provisions of this chapter in a manner that is consistent with
56.19 (i) other states that have adopted substantially similar licensing requirements, or (ii) multistate
56.20 licensing processes; and

56.21 (2) participate in nationwide protocols for licensing cooperation and coordination among
56.22 state regulators, provided that the protocols are consistent with this chapter.

56.23 (b) In order to fulfill the purposes of this chapter, the commissioner is authorized to
56.24 establish relationships or contracts with NMLS or other entities designated by NMLS to
56.25 enable the commissioner to:

56.26 (1) collect and maintain records;

56.27 (2) coordinate multistate licensing processes and supervision processes;

56.28 (3) process fees; and

57.1 (4) facilitate communication between the commissioner and licensees or other persons
 57.2 subject to this chapter.

57.3 (c) The commissioner is authorized to use NMLS for all aspects of licensing in accordance
 57.4 with this chapter, including but not limited to license applications, applications for
 57.5 acquisitions of control, surety bonds, reporting, criminal history background checks, credit
 57.6 checks, fee processing, and examinations.

57.7 (d) The commissioner is authorized to use NMLS forms, processes, and functions in
 57.8 accordance with this chapter. If NMLS does not provide functionality, forms, or processes
 57.9 for a requirement under this chapter, the commissioner is authorized to implement the
 57.10 requirements in a manner that facilitates uniformity with respect to licensing, supervision,
 57.11 reporting, and regulation of licensees which are licensed in multiple jurisdictions.

57.12 (e) For the purpose of participating in the NMLS registry, the commissioner is authorized
 57.13 to, by rule or order: (1) waive or modify, in whole or in part, any or all of the requirements;
 57.14 and (2) establish new requirements as reasonably necessary to participate in the NMLS
 57.15 registry.

57.16 Sec. 12. **[53B.38] APPLICATION FOR LICENSE.**

57.17 (a) An applicant for a license must apply in a form and in a medium as prescribed by
 57.18 the commissioner. The application must state or contain, as applicable:

57.19 (1) the legal name and residential and business addresses of the applicant and any
 57.20 fictitious or trade name used by the applicant in conducting business;

57.21 (2) a list of any criminal convictions of the applicant and any material litigation in which
 57.22 the applicant has been involved in the ten-year period next preceding the submission of the
 57.23 application;

57.24 (3) a description of any money transmission previously provided by the applicant and
 57.25 the money transmission that the applicant seeks to provide in this state;

57.26 (4) a list of the applicant's proposed authorized delegates and the locations in this state
 57.27 where the applicant and the applicant's authorized delegates propose to engage in money
 57.28 transmission;

57.29 (5) a list of other states in which the applicant is licensed to engage in money transmission
 57.30 and any license revocations, suspensions, or other disciplinary action taken against the
 57.31 applicant in another state;

- 58.1 (6) information concerning any bankruptcy or receivership proceedings affecting the
58.2 licensee or a person in control of a licensee;
- 58.3 (7) a sample form of contract for authorized delegates, if applicable;
- 58.4 (8) a sample form of payment instrument or stored value, as applicable;
- 58.5 (9) the name and address of any federally insured depository financial institution through
58.6 which the applicant plans to conduct money transmission; and
- 58.7 (10) any other information the commissioner or NMLS reasonably requires with respect
58.8 to the applicant.
- 58.9 (b) If an applicant is a corporation, limited liability company, partnership, or other legal
58.10 entity, the applicant must also provide:
- 58.11 (1) the date of the applicant's incorporation or formation and state or country of
58.12 incorporation or formation;
- 58.13 (2) if applicable, a certificate of good standing from the state or country in which the
58.14 applicant is incorporated or formed;
- 58.15 (3) a brief description of the structure or organization of the applicant, including any
58.16 parents or subsidiaries of the applicant, and whether any parents or subsidiaries are publicly
58.17 traded;
- 58.18 (4) the legal name, any fictitious or trade name, all business and residential addresses,
58.19 and the employment, as applicable, in the ten-year period next preceding the submission of
58.20 the application of each key individual and person in control of the applicant;
- 58.21 (5) a list of any criminal convictions and material litigation in which a person in control
58.22 of the applicant that is not an individual has been involved in the ten-year period preceding
58.23 the submission of the application;
- 58.24 (6) a copy of audited financial statements of the applicant for the most recent fiscal year
58.25 and for the two-year period next preceding the submission of the application or, if the
58.26 commissioner deems acceptable, certified unaudited financial statements for the most recent
58.27 fiscal year or other period acceptable to the commissioner;
- 58.28 (7) a certified copy of unaudited financial statements of the applicant for the most recent
58.29 fiscal quarter;
- 58.30 (8) if the applicant is a publicly traded corporation, a copy of the most recent report filed
58.31 with the United States Securities and Exchange Commission under section 13 of the federal

59.1 Securities Exchange Act of 1934, United States Code, title 15, section 78m, as amended or
 59.2 recodified from time to time;

59.3 (9) if the applicant is a wholly owned subsidiary of:

59.4 (i) a corporation publicly traded in the United States, a copy of audited financial
 59.5 statements for the parent corporation for the most recent fiscal year or a copy of the parent
 59.6 corporation's most recent report filed under section 13 of the Securities Exchange Act of
 59.7 1934, United States Code, title 15, section 78m, as amended or recodified from time to time;

59.8 or

59.9 (ii) a corporation publicly traded outside the United States, a copy of similar
 59.10 documentation filed with the regulator of the parent corporation's domicile outside the
 59.11 United States;

59.12 (10) the name and address of the applicant's registered agent in this state; and

59.13 (11) any other information the commissioner reasonably requires with respect to the
 59.14 applicant.

59.15 (c) A nonrefundable application fee of \$4,000 must accompany an application for a
 59.16 license under this section.

59.17 (d) The commissioner may: (1) waive one or more requirements of paragraphs (a) and
 59.18 (b); or (2) permit an applicant to submit other information in lieu of the required information.

59.19 **Sec. 13. [53B.39] INFORMATION REQUIREMENTS; CERTAIN INDIVIDUALS.**

59.20 Subdivision 1. **Individuals with or seeking control.** Any individual in control of a
 59.21 licensee or applicant, any individual that seeks to acquire control of a licensee, and each
 59.22 key individual must furnish to the commissioner through NMLS:

59.23 (1) the individual's fingerprints for submission to the Federal Bureau of Investigation
 59.24 and the commissioner for a national criminal history background check, unless the person
 59.25 currently resides outside of the United States and has resided outside of the United States
 59.26 for the last ten years; and

59.27 (2) personal history and business experience in a form and in a medium prescribed by
 59.28 the commissioner, to obtain:

59.29 (i) an independent credit report from a consumer reporting agency;

59.30 (ii) information related to any criminal convictions or pending charges; and

60.1 (iii) information related to any regulatory or administrative action and any civil litigation
60.2 involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach
60.3 of fiduciary duty, or breach of contract.

60.4 Subd. 2. **Individuals having resided outside the United States.** (a) If an individual
60.5 has resided outside of the United States at any time in the last ten years, the individual must
60.6 also provide an investigative background report prepared by an independent search firm
60.7 that meets the requirements of this subdivision.

60.8 (b) At a minimum, the search firm must:

60.9 (1) demonstrate that the search firm has sufficient knowledge, resources, and employs
60.10 accepted and reasonable methodologies to conduct the research of the background report;
60.11 and

60.12 (2) not be affiliated with or have an interest with the individual the search firm is
60.13 researching.

60.14 (c) At a minimum, the investigative background report must be written in English and
60.15 must contain:

60.16 (1) if available in the individual's current jurisdiction of residency, a comprehensive
60.17 credit report, or any equivalent information obtained or generated by the independent search
60.18 firm to accomplish a credit report, including a search of the court data in the countries,
60.19 provinces, states, cities, towns, and contiguous areas where the individual resided and
60.20 worked;

60.21 (2) criminal records information for the past ten years, including but not limited to
60.22 felonies, misdemeanors, or similar convictions for violations of law in the countries,
60.23 provinces, states, cities, towns, and contiguous areas where the individual resided and
60.24 worked;

60.25 (3) employment history;

60.26 (4) media history, including an electronic search of national and local publications, wire
60.27 services, and business applications; and

60.28 (5) financial services-related regulatory history, including but not limited to money
60.29 transmission, securities, banking, consumer finance, insurance, and mortgage-related
60.30 industries.

61.1 Sec. 14. [53B.40] LICENSE ISSUANCE.

61.2 (a) When an application for an original license under this chapter includes all of the
61.3 items and addresses all of the matters that are required, the application is complete and the
61.4 commissioner must promptly notify the applicant in a record of the date on which the
61.5 application is determined to be complete.

61.6 (b) The commissioner's determination that an application is complete and accepted for
61.7 processing means only that the application, on the application's face, appears to include all
61.8 of the items, including the criminal background check response from the Federal Bureau
61.9 of Investigation, and address all of the matters that are required. The commissioner's
61.10 determination that an application is complete is not an assessment of the substance of the
61.11 application or of the sufficiency of the information provided.

61.12 (c) When an application is filed and considered complete under this section, the
61.13 commissioner must investigate the applicant's financial condition and responsibility, financial
61.14 and business experience, character, and general fitness. The commissioner may conduct an
61.15 investigation of the applicant, the reasonable cost of which the applicant must pay. The
61.16 commissioner must issue a license to an applicant under this section if the commissioner
61.17 finds:

61.18 (1) the applicant has complied with sections 53B.38 and 53B.39; and

61.19 (2) the financial condition and responsibility; financial and business experience,
61.20 competence, character, and general fitness of the applicant; and the competence, experience,
61.21 character, and general fitness of the key individuals and persons in control of the applicant
61.22 indicate that it is in the interest of the public to permit the applicant to engage in money
61.23 transmission.

61.24 (d) If an applicant avails itself of or is otherwise subject to a multistate licensing process:

61.25 (1) the commissioner is authorized to accept the investigation results of a lead
61.26 investigative state for the purposes of paragraph (c); or

61.27 (2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate
61.28 the applicant pursuant to paragraph (c) and the time frames established by agreement through
61.29 the multistate licensing process, provided that the time frame complies with the application
61.30 review period provided under paragraph (e).

61.31 (e) The commissioner must approve or deny the application within 120 days after the
61.32 date the application is deemed complete. If the application is not approved or denied within

62.1 120 days after the completion date, the application is approved and the license takes effect
 62.2 on the first business day after the 120-day period expires.

62.3 (f) The commissioner must issue a formal written notice of the denial of a license
 62.4 application within 30 days of the date the decision to deny the application is made. The
 62.5 commissioner must set forth in the notice of denial the specific reasons for the denial of the
 62.6 application. An applicant whose application is denied by the commissioner under this
 62.7 paragraph may appeal within 30 days of the date the written notice of the denial is received.
 62.8 The commissioner must set a hearing date that is not later than 60 days after service of the
 62.9 response, unless a later date is set with the consent of the denied applicant.

62.10 (g) The initial license term begins on the day the application is approved. The license
 62.11 expires on December 31 of the year in which the license term began, unless the initial license
 62.12 date is between November 1 and December 31, in which case the initial license term runs
 62.13 through December 31 of the following year. If a license is approved between November 1
 62.14 and December 31, the applicant is subject to the renewal fee under section 53B.31, paragraph
 62.15 (a).

62.16 **Sec. 15. [53B.41] LICENSE RENEWAL.**

62.17 (a) A license under this chapter must be renewed annually. An annual renewal fee of
 62.18 \$2,500 must be paid no more than 60 days before the license expires. The renewal term is
 62.19 a period of one year and begins on January 1 each year after the initial license term. The
 62.20 renewal term expires on December 31 of the year the renewal term begins.

62.21 (b) A licensee must submit a renewal report with the renewal fee, in a form and in a
 62.22 medium prescribed by the commissioner. The renewal report must state or contain a
 62.23 description of each material change in information submitted by the licensee in the licensee's
 62.24 original license application that has not been previously reported to the commissioner.

62.25 (c) The commissioner may grant an extension of the renewal date for good cause.

62.26 (d) The commissioner is authorized to use the NMLS to process license renewals,
 62.27 provided that the NMLS functionality is consistent with this section.

62.28 **Sec. 16. [53B.42] MAINTENANCE OF LICENSE.**

62.29 (a) If a licensee does not continue to meet the qualifications or satisfy the requirements
 62.30 that apply to an applicant for a new money transmission license, the commissioner may
 62.31 suspend or revoke the licensee's license in accordance with the procedures established by
 62.32 this chapter or other applicable state law for license suspension or revocation.

63.1 (b) An applicant for a money transmission license must demonstrate that the applicant
63.2 meets or will meet, and a money transmission licensee must at all times meet, the
63.3 requirements in sections 53B.59 to 53B.61.

63.4 Sec. 17. [53B.43] ACQUISITION OF CONTROL.

63.5 (a) Any person, or group of persons acting in concert, seeking to acquire control of a
63.6 licensee must obtain the commissioner's written approval before acquiring control. An
63.7 individual is not deemed to acquire control of a licensee and is not subject to these acquisition
63.8 of control provisions when that individual becomes a key individual in the ordinary course
63.9 of business.

63.10 (b) For the purpose of this section, a person is presumed to exercise a controlling influence
63.11 when the person holds the power to vote, directly or indirectly, at least ten percent of the
63.12 outstanding voting shares or voting interests of a licensee or person in control of a licensee.
63.13 A person presumed to exercise a controlling influence as defined by this subdivision can
63.14 rebut the presumption of control if the person is a passive investor.

63.15 (c) For purposes of determining the percentage of a person controlled by any other
63.16 person, the person's interest must be aggregated with the interest of any other immediate
63.17 family member, including the person's spouse, parents, children, siblings, mothers- and
63.18 fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person
63.19 who shares the person's home.

63.20 (d) A person, or group of persons acting in concert, seeking to acquire control of a
63.21 licensee must, in cooperation with the licensee:

63.22 (1) submit an application in a form and in a medium prescribed by the commissioner;
63.23 and

63.24 (2) submit a nonrefundable fee of \$4,000 with the request for approval.

63.25 (e) Upon request, the commissioner may permit a licensee or the person, or group of
63.26 persons acting in concert, to submit some or all information required by the commissioner
63.27 pursuant to paragraph (d), clause (1), without using NMLS.

63.28 (f) The application required by paragraph (d), clause (1), must include information
63.29 required by section 53B.39 for any new key individuals that have not previously completed
63.30 the requirements of section 53B.39 for a licensee.

63.31 (g) When an application for acquisition of control under this section appears to include
63.32 all of the items and address all of the matters that are required, the application is considered

64.1 complete and the commissioner must promptly notify the applicant in a record of the date
64.2 on which the application was determined to be complete.

64.3 (h) The commissioner must approve or deny the application within 60 days after the
64.4 completion date. If the application is not approved or denied within 60 days after the
64.5 completion date, the application is approved and the person, or group of persons acting in
64.6 concert, are not prohibited from acquiring control. The commissioner may extend the
64.7 application period for good cause.

64.8 (i) The commissioner's determination that an application is complete and is accepted for
64.9 processing means only that the application, on the application's face, appears to include all
64.10 of the items and address all of the matters that are required. The commissioner's determination
64.11 that an application is complete is not an assessment of the application's substance or of the
64.12 sufficiency of the information provided.

64.13 (j) When an application is filed and considered complete under paragraph (g), the
64.14 commissioner must investigate the financial condition and responsibility; the financial and
64.15 business experience; character; and the general fitness of the person, or group of persons
64.16 acting in concert, seeking to acquire control. The commissioner must approve an acquisition
64.17 of control under this section if the commissioner finds:

64.18 (1) the requirements of paragraphs (d) and (f) have been met, as applicable; and

64.19 (2) the financial condition and responsibility, financial and business experience,
64.20 competence, character, and general fitness of the person, or group of persons acting in
64.21 concert, seeking to acquire control; and the competence, experience, character, and general
64.22 fitness of the key individuals and persons that control the licensee after the acquisition of
64.23 control indicate that it is in the interest of the public to permit the person, or group of persons
64.24 acting in concert, to control the licensee.

64.25 (k) If an applicant avails itself of or is otherwise subject to a multistate licensing process:

64.26 (1) the commissioner is authorized to accept the investigation results of a lead
64.27 investigative state for the purposes of paragraph (j); or

64.28 (2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate
64.29 the applicant under paragraph (j) and consistent with the time frames established by
64.30 agreement through the multistate licensing process.

64.31 (l) The commissioner must issue a formal written notice of the denial of an application
64.32 to acquire control. The commissioner must set forth in the notice of denial the specific
64.33 reasons the application was denied. An applicant whose application is denied by the

65.1 commissioner under this paragraph may appeal the denial within 30 days of the date the
65.2 written notice of the denial is received. Chapter 14 applies to appeals under this paragraph.

65.3 (m) Paragraphs (a) and (d) do not apply to:

65.4 (1) a person that acts as a proxy for the sole purpose of voting at a designated meeting
65.5 of the shareholders or holders of voting shares or voting interests of a licensee or a person
65.6 in control of a licensee;

65.7 (2) a person that acquires control of a licensee by devise or descent;

65.8 (3) a person that acquires control of a licensee as a personal representative, custodian,
65.9 guardian, conservator, or trustee, or as an officer appointed by a court of competent
65.10 jurisdiction or by operation of law;

65.11 (4) a person that is exempt under section 53B.29, clause (7);

65.12 (5) a person that the commissioner determines is not subject to paragraph (a), based on
65.13 the public interest;

65.14 (6) a public offering of securities of a licensee or a person in control of a licensee; or

65.15 (7) an internal reorganization of a person controlling the licensee, where the ultimate
65.16 person controlling the licensee remains the same.

65.17 (n) A person identified in paragraph (m), clause (2), (3), (4), or (6), that is cooperating
65.18 with the licensee must notify the commissioner within 15 days of the date the acquisition
65.19 of control occurs.

65.20 (o) Paragraphs (a) and (d) do not apply to a person that has complied with and received
65.21 approval to engage in money transmission under this chapter, or that was identified as a
65.22 person in control in a prior application filed with and approved by the commissioner or by
65.23 another state pursuant to a multistate licensing process, provided that:

65.24 (1) the person has not had a license revoked or suspended or controlled a licensee that
65.25 has had a license revoked or suspended while the person was in control of the licensee in
65.26 the previous five years;

65.27 (2) if the person is a licensee, the person is well managed and has received at least a
65.28 satisfactory rating for compliance at the person's most recent examination by an
65.29 MSB-accredited state if a rating was given;

65.30 (3) the licensee to be acquired is projected to meet the requirements of sections 53B.59
65.31 to 53B.61 after the acquisition of control is completed, and if the person acquiring control

66.1 is a licensee, the acquiring licensee is also projected to meet the requirements of sections
 66.2 53B.59 to 53B.61 after the acquisition of control is completed;

66.3 (4) the licensee to be acquired does not implement any material changes to the acquired
 66.4 licensee's business plan as a result of the acquisition of control, and if the person acquiring
 66.5 control is a licensee, the acquiring licensee does not implement any material changes to the
 66.6 acquiring licensee's business plan as a result of the acquisition of control; and

66.7 (5) the person provides notice of the acquisition in cooperation with the licensee and
 66.8 attests to clauses (1), (2), (3), and (4) in a form and in a medium prescribed by the
 66.9 commissioner.

66.10 (p) If the notice under paragraph (o), clause (5), is not disapproved within 30 days after
 66.11 the date on which the notice was determined to be complete, the notice is deemed approved.

66.12 (q) Before filing an application for approval to acquire control of a licensee, a person
 66.13 may request in writing a determination from the commissioner as to whether the person
 66.14 would be considered a person in control of a licensee upon consummation of a proposed
 66.15 transaction. If the commissioner determines that the person would not be a person in control
 66.16 of a licensee, the proposed person and transaction is not subject to paragraphs (a) and (d).

66.17 (r) If a multistate licensing process includes a determination pursuant to paragraph (q)
 66.18 and an applicant avails itself or is otherwise subject to the multistate licensing process:

66.19 (1) the commissioner is authorized to accept the control determination of a lead
 66.20 investigative state with sufficient staffing, expertise, and minimum standards for the purposes
 66.21 of paragraph (q); or

66.22 (2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate
 66.23 the applicant under paragraph (q) and consistent with the time frames established by
 66.24 agreement through the multistate licensing process.

66.25 **Sec. 18. [53B.44] CHANGE OF KEY INDIVIDUALS; NOTICE AND**
 66.26 **INFORMATION REQUIREMENTS.**

66.27 (a) A licensee that adds or replaces any key individual must:

66.28 (1) provide notice, in a manner prescribed by the commissioner, within 15 days after
 66.29 the effective date of the key individual's appointment; and

66.30 (2) provide the information required under section 53B.39 within 45 days of the effective
 66.31 date of the key individual's appointment.

67.1 (b) Within 90 days of the date on which the notice provided under section 53B.44,
67.2 paragraph (a), was determined to be complete, the commissioner may issue a notice of
67.3 disapproval of a key individual if the commissioner finds that the competence, business
67.4 experience, character, or integrity of the individual is not in the best interests of the public
67.5 or the customers of the licensee.

67.6 (c) A notice of disapproval must contain a statement of the basis for disapproval and
67.7 must be sent to the licensee and the disapproved individual. A licensee may appeal a notice
67.8 of disapproval pursuant to chapter 14 within 30 days of the date the notice of disapproval
67.9 is received.

67.10 (d) If the notice provided under paragraph (a) is not disapproved within 90 days after
67.11 the date on which the notice was determined to be complete, the key individual is deemed
67.12 approved.

67.13 (e) If a multistate licensing process includes a key individual notice review and
67.14 disapproval process under this section and the licensee avails itself of or is otherwise subject
67.15 to the multistate licensing process:

67.16 (1) the commissioner is authorized to accept the determination of another state if the
67.17 investigating state has sufficient staffing, expertise, and minimum standards for the purposes
67.18 of this section; or

67.19 (2) if Minnesota is a lead investigative state, the commissioner is authorized to investigate
67.20 the applicant under paragraph (b) and the time frames established by agreement through
67.21 the multistate licensing process.

67.22 **Sec. 19. [53B.45] REPORT OF CONDITION.**

67.23 (a) Each licensee must submit a report of condition within 45 days of the end of the
67.24 calendar quarter, or within any extended time the commissioner prescribes.

67.25 (b) The report of condition must include:

67.26 (1) financial information at the licensee level;

67.27 (2) nationwide and state-specific money transmission transaction information in every
67.28 jurisdiction in the United States where the licensee is licensed to engage in money
67.29 transmission;

67.30 (3) a permissible investments report;

67.31 (4) transaction destination country reporting for money received for transmission, if
67.32 applicable; and

68.1 (5) any other information the commissioner reasonably requires with respect to the
68.2 licensee.

68.3 (c) The commissioner is authorized to use NMLS to submit the report required under
68.4 paragraph (a).

68.5 (d) The information required by paragraph (b), clause (4), must only be included in a
68.6 report of condition submitted within 45 days of the end of the fourth calendar quarter.

68.7 **Sec. 20. [53B.46] AUDITED FINANCIAL STATEMENTS.**

68.8 (a) Each licensee must, within 90 days after the end of each fiscal year, or within any
68.9 extended time the commissioner prescribes, file with the commissioner:

68.10 (1) an audited financial statement of the licensee for the fiscal year prepared in accordance
68.11 with United States generally accepted accounting principles; and

68.12 (2) any other information the commissioner may reasonably require.

68.13 (b) The audited financial statements must be prepared by an independent certified public
68.14 accountant or independent public accountant who is satisfactory to the commissioner.

68.15 (c) The audited financial statements must include or be accompanied by a certificate of
68.16 opinion prepared by the independent certified public accountant or independent public
68.17 accountant that is satisfactory in form and content to the commissioner. If the certificate or
68.18 opinion is qualified, the commissioner may order the licensee to take any action the
68.19 commissioner finds necessary to enable the independent or certified public accountant or
68.20 independent public accountant to remove the qualification.

68.21 **Sec. 21. [53B.47] AUTHORIZED DELEGATE REPORTING.**

68.22 (a) Each licensee must submit a report of authorized delegates within 45 days of the end
68.23 of the calendar quarter. The commissioner is authorized to use NMLS to submit the report
68.24 required by this paragraph, provided that the functionality is consistent with the requirements
68.25 of this section.

68.26 (b) The authorized delegate report must include, at a minimum, each authorized delegate's:

68.27 (1) company legal name;

68.28 (2) taxpayer employer identification number;

68.29 (3) principal provider identifier;

68.30 (4) physical address;

- 69.1 (5) mailing address;
- 69.2 (6) any business conducted in other states;
- 69.3 (7) any fictitious or trade name;
- 69.4 (8) contact person name, telephone number, and email;
- 69.5 (9) start date as the licensee's authorized delegate;
- 69.6 (10) end date acting as the licensee's authorized delegate, if applicable;
- 69.7 (11) court orders under section 53B.53; and
- 69.8 (12) any other information the commissioner reasonably requires with respect to the
- 69.9 authorized delegate.

69.10 **Sec. 22. [53B.48] REPORTS OF CERTAIN EVENTS.**

69.11 (a) A licensee must file a report with the commissioner within ten business days after

69.12 the licensee has reason to know any of the following events has occurred:

69.13 (1) a petition by or against the licensee under the United States Bankruptcy Code, United

69.14 States Code, title 11, sections 101 to 110, as amended or recodified from time to time, for

69.15 bankruptcy or reorganization has been filed;

69.16 (2) a petition by or against the licensee for receivership, the commencement of any other

69.17 judicial or administrative proceeding for the licensee's dissolution or reorganization, or the

69.18 making of a general assignment for the benefit of the licensee's creditors has been filed; or

69.19 (3) a proceeding to revoke or suspend the licensee's license in a state or country in which

69.20 the licensee engages in business or is licensed has been commenced.

69.21 (b) A licensee must file a report with the commissioner within ten business days after

69.22 the licensee has reason to know any of the following events has occurred:

69.23 (1) the licensee or a key individual or person in control of the licensee is charged with

69.24 or convicted of a felony related to money transmission activities; or

69.25 (2) an authorized delegate is charged with or convicted of a felony related to money

69.26 transmission activities.

69.27 **Sec. 23. [53B.49] BANK SECRECY ACT REPORTS.**

69.28 A licensee and an authorized delegate must file all reports required by federal currency

69.29 reporting, record keeping, and suspicious activity reporting requirements as set forth in the

70.1 Bank Secrecy Act and other federal and state laws pertaining to money laundering. A licensee
 70.2 and authorized delegate that timely files with the appropriate federal agency a complete and
 70.3 accurate report required under this section is deemed to comply with the requirements of
 70.4 this section.

70.5 Sec. 24. **[53B.50] RECORDS.**

70.6 (a) A licensee must maintain the following records, for purposes of determining the
 70.7 licensee's compliance with this chapter, for at least three years:

70.8 (1) a record of each outstanding money transmission obligation sold;

70.9 (2) a general ledger posted at least monthly containing all asset, liability, capital, income,
 70.10 and expense accounts;

70.11 (3) bank statements and bank reconciliation records;

70.12 (4) records of outstanding money transmission obligations;

70.13 (5) records of each outstanding money transmission obligation paid within the three-year
 70.14 period;

70.15 (6) a list of the last known names and addresses of all of the licensee's authorized
 70.16 delegates; and

70.17 (7) any other records the commissioner reasonably requires by administrative rule.

70.18 (b) The items specified in paragraph (a) may be maintained in any form of record.

70.19 (c) The records specified in paragraph (a) may be maintained outside of Minnesota if
 70.20 the records are made accessible to the commissioner upon seven business-days' notice that
 70.21 is sent in a record.

70.22 (d) All records maintained by the licensee as required under paragraphs (a) to (c) are
 70.23 open to inspection by the commissioner under section 53B.33, paragraph (a).

70.24 Sec. 25. **[53B.51] RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED**
 70.25 **DELEGATE.**

70.26 (a) For purposes of this section, "remit" means to make direct payments of money to (1)
 70.27 a licensee, or (2) a licensee's representative authorized to receive money or to deposit money
 70.28 in a bank in an account specified by the licensee.

70.29 (b) Before a licensee is authorized to conduct business through an authorized delegate
 70.30 or allows a person to act as the licensee's authorized delegate, the licensee must:

71.1 (1) adopt, and update as necessary, written policies and procedures reasonably designed
71.2 to ensure that the licensee's authorized delegates comply with applicable state and federal
71.3 law;

71.4 (2) enter into a written contract that complies with paragraph (d); and

71.5 (3) conduct a reasonable risk-based background investigation sufficient for the licensee
71.6 to determine whether the authorized delegate has complied and will likely comply with
71.7 applicable state and federal law.

71.8 (c) An authorized delegate must operate in full compliance with this chapter.

71.9 (d) The written contract required by paragraph (b) must be signed by the licensee and
71.10 the authorized delegate. The written contract must, at a minimum:

71.11 (1) appoint the person signing the contract as the licensee's authorized delegate with the
71.12 authority to conduct money transmission on behalf of the licensee;

71.13 (2) set forth the nature and scope of the relationship between the licensee and the
71.14 authorized delegate and the respective rights and responsibilities of the parties;

71.15 (3) require the authorized delegate to agree to fully comply with all applicable state and
71.16 federal laws, rules, and regulations pertaining to money transmission, including this chapter
71.17 and regulations implementing this chapter, relevant provisions of the Bank Secrecy Act and
71.18 the USA PATRIOT Act, Public Law 107-56;

71.19 (4) require the authorized delegate to remit and handle money and monetary value in
71.20 accordance with the terms of the contract between the licensee and the authorized delegate;

71.21 (5) impose a trust on money and monetary value net of fees received for money
71.22 transmission for the benefit of the licensee;

71.23 (6) require the authorized delegate to prepare and maintain records as required by this
71.24 chapter or administrative rules implementing this chapter, or as reasonably requested by
71.25 the commissioner;

71.26 (7) acknowledge that the authorized delegate consents to examination or investigation
71.27 by the commissioner;

71.28 (8) state that the licensee is subject to regulation by the commissioner and that as part
71.29 of that regulation the commissioner may (1) suspend or revoke an authorized delegate
71.30 designation, or (2) require the licensee to terminate an authorized delegate designation; and

71.31 (9) acknowledge receipt of the written policies and procedures required under paragraph
71.32 (b), clause (1).

72.1 (e) If the licensee's license is suspended, revoked, surrendered, or expired, within five
 72.2 business days the licensee must provide documentation to the commissioner that the licensee
 72.3 has notified all applicable authorized delegates of the licensee whose names are in a record
 72.4 filed with the commissioner of the suspension, revocation, surrender, or expiration of a
 72.5 license. Upon suspension, revocation, surrender, or expiration of a license, applicable
 72.6 authorized delegates must immediately cease to provide money transmission as an authorized
 72.7 delegate of the licensee.

72.8 (f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all
 72.9 money net of fees received from money transmission. If an authorized delegate commingles
 72.10 any funds received from money transmission with other funds or property owned or
 72.11 controlled by the authorized delegate, all commingled funds and other property are considered
 72.12 held in trust in favor of the licensee in an amount equal to the amount of money net of fees
 72.13 received from money transmission.

72.14 (g) An authorized delegate is prohibited from using a subdelegate to conduct money
 72.15 transmission on behalf of a licensee.

72.16 **Sec. 26. [53B.52] UNAUTHORIZED ACTIVITIES.**

72.17 A person is prohibited from engaging in the business of money transmission on behalf
 72.18 of a person not licensed under this chapter or not exempt under sections 53B.29 and 53B.30.
 72.19 A person that engages in the business of money transmission on behalf of a person that is
 72.20 not licensed under this chapter or not exempt under sections 53B.29 and 53B.30 provides
 72.21 money transmission to the same extent as if the person were a licensee, and is jointly and
 72.22 severally liable with the unlicensed or nonexempt person.

72.23 **Sec. 27. [53B.53] PROHIBITED AUTHORIZED DELEGATES.**

72.24 (a) The district court in an action brought by a licensee has jurisdiction to grant
 72.25 appropriate equitable or legal relief, including without limitation prohibiting the authorized
 72.26 delegate from directly or indirectly acting as an authorized delegate for any licensee in
 72.27 Minnesota and the payment of restitution, damages, or other monetary relief, if the district
 72.28 court finds that an authorized delegate failed to remit money in accordance with the written
 72.29 contract required by section 53B.51, paragraph (b), or as otherwise directed by the licensee
 72.30 or required by law.

72.31 (b) If the district court issues an order prohibiting a person from acting as an authorized
 72.32 delegate for any licensee under paragraph (a), the licensee that brought the action must

73.1 report the order to the commissioner within 30 days of the date of the order and must report
73.2 the order through NMLS within 90 days of the date of the order.

73.3 Sec. 28. **[53B.54] TIMELY TRANSMISSION.**

73.4 (a) Every licensee must forward all money received for transmission in accordance with
73.5 the terms of the agreement between the licensee and the sender, unless the licensee has a
73.6 reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud
73.7 or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may
73.8 occur.

73.9 (b) If a licensee fails to forward money received for transmission as provided under this
73.10 section, the licensee must respond to inquiries by the sender with the reason for the failure,
73.11 unless providing a response would violate a state or federal law, rule, or regulation.

73.12 Sec. 29. **[53B.55] REFUNDS.**

73.13 (a) This section does not apply to:

73.14 (1) money received for transmission that is subject to the federal remittance rule under
73.15 Code of Federal Regulations, title 12, part 1005, subpart B, as amended or recodified from
73.16 time to time; or

73.17 (2) money received for transmission pursuant to a written agreement between the licensee
73.18 and payee to process payments for goods or services provided by the payee.

73.19 (b) A licensee must refund to the sender within ten days of the date the licensee receives
73.20 the sender's written request for a refund of any and all money received for transmission,
73.21 unless:

73.22 (1) the money has been forwarded within ten days of the date on which the money was
73.23 received for transmission;

73.24 (2) instructions have been given committing an equivalent amount of money to the
73.25 person designated by the sender within ten days of the date on which the money was received
73.26 for transmission;

73.27 (3) the agreement between the licensee and the sender instructs the licensee to forward
73.28 the money at a time that is beyond ten days of the date on which the money was received
73.29 for transmission. If money has not been forwarded in accordance with the terms of the
73.30 agreement between the licensee and the sender, the licensee must issue a refund in accordance
73.31 with the other provisions of this section; or

74.1 (4) the refund is requested for a transaction that the licensee has not completed based
 74.2 on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule,
 74.3 or regulation has occurred, is occurring, or may occur.

74.4 (c) A refund request does not enable the licensee to identify:

74.5 (1) the sender's name and address or telephone number; or

74.6 (2) the particular transaction to be refunded in the event the sender has multiple
 74.7 transactions outstanding.

74.8 Sec. 30. **[53B.56] RECEIPTS.**

74.9 Subdivision 1. **Definition.** For purposes of this section, "receipt" means a paper receipt,
 74.10 electronic record, or other written confirmation.

74.11 Subd. 2. **Exemption.** This section does not apply to:

74.12 (1) money received for transmission that is subject to the federal remittance rule under
 74.13 Code of Federal Regulations, title 12, part 1005, subpart B, as amended or recodified from
 74.14 time to time;

74.15 (2) money received for transmission that is not primarily for personal, family, or
 74.16 household purposes;

74.17 (3) money received for transmission pursuant to a written agreement between the licensee
 74.18 and payee to process payments for goods or services provided by the payee; or

74.19 (4) payroll processing services.

74.20 Subd. 3. **Transaction types; receipts form.** For a transaction conducted in person, the
 74.21 receipt may be provided electronically if the sender requests or agrees to receive an electronic
 74.22 receipt. For a transaction conducted electronically or by telephone, a receipt may be provided
 74.23 electronically. All electronic receipts must be provided in a retainable form.

74.24 Subd. 4. **Receipts required.** (a) Every licensee or the licensee's authorized delegate
 74.25 must provide the sender a receipt for money received for transmission.

74.26 (b) The receipt must contain, as applicable:

74.27 (1) the name of the sender;

74.28 (2) the name of the designated recipient;

74.29 (3) the date of the transaction;

74.30 (4) the unique transaction or identification number;

75.1 (5) the name of the licensee, NMLS Unique ID, the licensee's business address, and the
75.2 licensee's customer service telephone number;

75.3 (6) the transaction amount, expressed in United States dollars;

75.4 (7) any fee the licensee charges the sender for the transaction; and

75.5 (8) any taxes the licensee collects from the sender for the transaction.

75.6 (c) The receipt required by this section must be provided in (1) English, and (2) the
75.7 language principally used by the licensee or authorized delegate to advertise, solicit, or
75.8 negotiate, either orally or in writing, for a transaction conducted in person, electronically,
75.9 or by telephone, if the language principally used is a language other than English.

75.10 **Sec. 31. [53B.57] NOTICE.**

75.11 Every licensee or authorized delegate must include on a receipt or disclose on the
75.12 licensee's website or mobile application the name and telephone number of the department
75.13 and a statement that the licensee's customers can contact the department with questions or
75.14 complaints about the licensee's money transmission services.

75.15 **Sec. 32. [53B.58] PAYROLL PROCESSING SERVICES; DISCLOSURES.**

75.16 (a) A licensee that provides payroll processing services must:

75.17 (1) issue reports to clients detailing client payroll obligations in advance of the payroll
75.18 funds being deducted from an account; and

75.19 (2) make available worker pay stubs or an equivalent statement to workers.

75.20 (b) Paragraph (a) does not apply to a licensee providing payroll processing services if
75.21 the licensee's client designates the intended recipients to the licensee and is responsible for
75.22 providing the disclosures required by paragraph (a), clause (2).

75.23 **Sec. 33. [53B.59] NET WORTH.**

75.24 (a) A licensee under this chapter must maintain at all times a tangible net worth that is
75.25 the greater of: (1) \$100,000; or (2) three percent of total assets for the first \$100,000,000;
75.26 two percent of additional assets between \$100,000,000 to \$1,000,000,000; and one-half
75.27 percent of additional assets over \$1,000,000,000.

75.28 (b) Tangible net worth must be demonstrated in the initial application by the applicant's
75.29 most recent audited or unaudited financial statements under section 53B.38, paragraph (b),
75.30 clause (6).

76.1 (c) Notwithstanding paragraphs (a) and (b), the commissioner has the authority, for good
76.2 cause shown, to exempt any applicant or licensee in-part or in whole from the requirements
76.3 of this section.

76.4 Sec. 34. **[53B.60] SURETY BOND.**

76.5 (a) An applicant for a money transmission license must provide, and a licensee must at
76.6 all times maintain (1) security consisting of a surety bond in a form satisfactory to the
76.7 commissioner, or (2) with the commissioner's approval, a deposit instead of a bond in
76.8 accordance with this section.

76.9 (b) The amount of the required security under this section is:

76.10 (1) the greater of (i) \$100,000, or (ii) an amount equal to one hundred percent of the
76.11 licensee's average daily money transmission liability in Minnesota, calculated for the most
76.12 recently completed three-month period, up to a maximum of \$500,000; or

76.13 (2) in the event that the licensee's tangible net worth exceeds ten percent of total assets,
76.14 the licensee must maintain a surety bond of \$100,000.

76.15 (c) A licensee that maintains a bond in the maximum amount provided for in paragraph
76.16 (b), clause (1) or (2), as applicable, is not required to calculate the licensee's average daily
76.17 money transmission liability in Minnesota for purposes of this section.

76.18 (d) A licensee may exceed the maximum required bond amount pursuant to section
76.19 53B.62, paragraph (a), clause (5).

76.20 (e) The security device remains effective until cancellation, which may occur only after
76.21 30 days' written notice to the commissioner. Cancellation does not affect the rights of any
76.22 claimant for any liability incurred or accrued during the period for which the bond was in
76.23 force.

76.24 (f) The security device must remain in place for no longer than five years after the
76.25 licensee ceases money transmission operations in Minnesota. Notwithstanding this paragraph,
76.26 the commissioner may permit the security device to be reduced or eliminated before that
76.27 time to the extent that the amount of the licensee's payment instruments outstanding in
76.28 Minnesota are reduced. The commissioner may also permit a licensee to substitute a letter
76.29 of credit or other form of security device acceptable to the commissioner for the security
76.30 device in place at the time the licensee ceases money transmission operations in Minnesota.

77.1 Sec. 35. 53B.61] MAINTENANCE OF PERMISSIBLE INVESTMENTS.

77.2 (a) A licensee must maintain at all times permissible investments that have a market
77.3 value computed in accordance with United States generally accepted accounting principles
77.4 of not less than the aggregate amount of all of the licensee's outstanding money transmission
77.5 obligations.

77.6 (b) Except for permissible investments enumerated in section 53B.62, paragraph (a),
77.7 the commissioner may by administrative rule or order, with respect to any licensee, limit
77.8 the extent to which a specific investment maintained by a licensee within a class of
77.9 permissible investments may be considered a permissible investment, if the specific
77.10 investment represents undue risk to customers not reflected in the market value of
77.11 investments.

77.12 (c) Permissible investments, even if commingled with other assets of the licensee, are
77.13 held in trust for the benefit of the purchasers and holders of the licensee's outstanding money
77.14 transmission obligations in the event of insolvency; the filing of a petition by or against the
77.15 licensee under the United States Bankruptcy Code, United States Code, title 11, sections
77.16 101 to 110, as amended or recodified from time to time, for bankruptcy or reorganization;
77.17 the filing of a petition by or against the licensee for receivership; the commencement of any
77.18 other judicial or administrative proceeding for the licensee's dissolution or reorganization;
77.19 or in the event of an action by a creditor against the licensee who is not a beneficiary of this
77.20 statutory trust. No permissible investments impressed with a trust pursuant to this paragraph
77.21 are subject to attachment, levy of execution, or sequestration by order of any court, except
77.22 for a beneficiary of the statutory trust.

77.23 (d) Upon the establishment of a statutory trust in accordance with paragraph (c), or when
77.24 any funds are drawn on a letter of credit pursuant to section 53B.62, paragraph (a), clause
77.25 (4), the commissioner must notify the applicable regulator of each state in which the licensee
77.26 is licensed to engage in money transmission, if any, of the establishment of the trust or the
77.27 funds drawn on the letter of credit, as applicable. Notice is deemed satisfied if performed
77.28 pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and
77.29 any other permissible investments held in trust for the benefit of the purchasers and holders
77.30 of the licensee's outstanding money transmission obligations, are deemed held in trust for
77.31 the benefit of the purchasers and holders of the licensee's outstanding money transmission
77.32 obligations on a pro rata and equitable basis in accordance with statutes pursuant to which
77.33 permissible investments are required to be held in Minnesota and other states, as defined
77.34 by a substantially similar statute in the other state. Any statutory trust established under this

78.1 section terminates upon extinguishment of all of the licensee's outstanding money
78.2 transmission obligations.

78.3 (e) The commissioner may by rule or by order allow other types of investments that the
78.4 commissioner determines are of sufficient liquidity and quality to be a permissible
78.5 investment. The commissioner is authorized to participate in efforts with other state regulators
78.6 to determine that other types of investments are of sufficient liquidity and quality to be a
78.7 permissible investment.

78.8 **Sec. 36. [53B.62] PERMISSIBLE INVESTMENTS.**

78.9 Subdivision 1. Certain investments permissible. The following investments are
78.10 permissible under section 53B.61:

78.11 (1) cash, including demand deposits, savings deposits, and funds in accounts held for
78.12 the benefit of the licensee's customers in a federally insured depository financial institution;
78.13 and cash equivalents, including ACH items in transit to the licensee and ACH items or
78.14 international wires in transit to a payee, cash in transit via armored car, cash in smart safes,
78.15 cash in licensee-owned locations, debit card or credit card funded transmission receivables
78.16 owed by any bank, or money market mutual funds rated AAA or the equivalent from any
78.17 eligible rating service;

78.18 (2) certificates of deposit or senior debt obligations of an insured depository institution,
78.19 as defined in section 3 of the Federal Deposit Insurance Act, United States Code, title 12,
78.20 section 1813, as amended or recodified from time to time, or as defined under the federal
78.21 Credit Union Act, United States Code, title 12, section 1781, as amended or recodified from
78.22 time to time;

78.23 (3) an obligation of the United States or a commission, agency, or instrumentality thereof;
78.24 an obligation that is guaranteed fully as to principal and interest by the United States; or an
78.25 obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

78.26 (4) the full drawable amount of an irrevocable standby letter of credit, for which the
78.27 stated beneficiary is the commissioner, that stipulates that the beneficiary need only draw
78.28 a sight draft under the letter of credit and present the sight draft to obtain funds up to the
78.29 letter of credit amount within seven days of presentation of the items required by subdivision
78.30 2, paragraph (c); and

78.31 (5) one hundred percent of the surety bond or deposit provided for under section 53B.60
78.32 that exceeds the average daily money transmission liability in Minnesota.

79.1 Subd. 2. Letter of credit; requirements. (a) A letter of credit under subdivision 1,
79.2 clause (4), must:

79.3 (1) be issued by a federally insured depository financial institution, a foreign bank that
79.4 is authorized under federal law to maintain a federal agency or federal branch office in a
79.5 state or states, or a foreign bank that is authorized under state law to maintain a branch in
79.6 a state that: (i) bears an eligible rating or whose parent company bears an eligible rating;
79.7 and (ii) is regulated, supervised, and examined by United States federal or state authorities
79.8 having regulatory authority over banks, credit unions, and trust companies;

79.9 (2) be irrevocable, unconditional, and indicate that it is not subject to any condition or
79.10 qualifications outside of the letter of credit;

79.11 (3) not contain reference to any other agreements, documents, or entities, or otherwise
79.12 provide for any security interest in the licensee; and

79.13 (4) contain an issue date and expiration date, and expressly provide for automatic
79.14 extension without a written amendment, for an additional period of one year from the present
79.15 or each future expiration date, unless the issuer of the letter of credit notifies the
79.16 commissioner in writing by certified or registered mail or courier mail or other receipted
79.17 means, at least 60 days before any expiration date, that the irrevocable letter of credit will
79.18 not be extended.

79.19 (b) In the event of any notice of expiration or nonextension of a letter of credit issued
79.20 under paragraph (a), clause (4), the licensee must demonstrate to the satisfaction of the
79.21 commissioner, 15 days before the letter or credit's expiration, that the licensee maintains
79.22 and will maintain permissible investments in accordance with section 53B.61, paragraph
79.23 (a), upon the expiration of the letter of credit. If the licensee is not able to do so, the
79.24 commissioner may draw on the letter of credit in an amount up to the amount necessary to
79.25 meet the licensee's requirements to maintain permissible investments in accordance with
79.26 section 53B.61, paragraph (a). Any draw under this paragraph must be offset against the
79.27 licensee's outstanding money transmission obligations. The drawn funds must be held in
79.28 trust by the commissioner or the commissioner's designated agent, to the extent authorized
79.29 by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding
79.30 money transmission obligations.

79.31 (c) The letter of credit must provide that the issuer of the letter of credit must honor, at
79.32 sight, a presentation made by the beneficiary to the issuer of the following documents on
79.33 or before the expiration date of the letter of credit:

79.34 (1) the original letter of credit, including any amendments; and

80.1 (2) a written statement from the beneficiary stating that any of the following events have
80.2 occurred:

80.3 (i) the filing of a petition by or against the licensee under the United States Bankruptcy
80.4 Code, United States Code, title 11, sections 101 to 110, as amended or recodified from time
80.5 to time, for bankruptcy or reorganization;

80.6 (ii) the filing of a petition by or against the licensee for receivership, or the
80.7 commencement of any other judicial or administrative proceeding for the licensee's
80.8 dissolution or reorganization;

80.9 (iii) the seizure of assets of a licensee by a commissioner of any other state pursuant to
80.10 an emergency order issued in accordance with applicable law, on the basis of an action,
80.11 violation, or condition that has caused or is likely to cause the insolvency of the licensee;
80.12 or

80.13 (iv) the beneficiary has received notice of expiration or nonextension of a letter of credit
80.14 and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee
80.15 will maintain permissible investments in accordance with section 53B.61, paragraph (a),
80.16 upon the expiration or nonextension of the letter of credit.

80.17 (d) The commissioner may designate an agent to serve on the commissioner's behalf as
80.18 beneficiary to a letter of credit, provided the agent and letter of credit meet requirements
80.19 the commissioner establishes. The commissioner's agent may serve as agent for multiple
80.20 licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable
80.21 amount for the purposes of subdivision 1, clause (4), and this subdivision are assigned to
80.22 the commissioner.

80.23 (e) The commissioner is authorized to participate in multistate processes designed to
80.24 facilitate the issuance and administration of letters of credit, including but not limited to
80.25 services provided by the NMLS and State Regulatory Registry, LLC.

80.26 Subd. 3. **Other permissible investments.** Unless the commissioner by administrative
80.27 rule or order otherwise permits an investment to exceed the limit set forth in this subdivision,
80.28 the following investments are permissible under section 53B.61 to the extent specified:

80.29 (1) receivables that are payable to a licensee from its authorized delegates in the ordinary
80.30 course of business that are less than seven days old, up to 50 percent of the aggregate value
80.31 of the licensee's total permissible investments;

81.1 (2) of the receivables permissible under clause (1), receivables that are payable to a
 81.2 licensee from a single authorized delegate in the ordinary course of business may not exceed
 81.3 ten percent of the aggregate value of the licensee's total permissible investments;

81.4 (3) the following investments are permissible up to 20 percent per category and combined
 81.5 up to 50 percent of the aggregate value of the licensee's total permissible investments:

81.6 (i) a short-term investment of up to six months bearing an eligible rating;

81.7 (ii) commercial paper bearing an eligible rating;

81.8 (iii) a bill, note, bond, or debenture bearing an eligible rating;

81.9 (iv) United States tri-party repurchase agreements collateralized at 100 percent or more
 81.10 with United States government or agency securities, municipal bonds, or other securities
 81.11 bearing an eligible rating;

81.12 (v) money market mutual funds rated less than "AAA" and equal to or higher than "A-"
 81.13 by S&P, or the equivalent from any other eligible rating service; and

81.14 (vi) a mutual fund or other investment fund composed solely and exclusively of one or
 81.15 more permissible investments listed in subdivision 1, clauses (1) to (3); and

81.16 (4) cash, including demand deposits, savings deposits, and funds in accounts held for
 81.17 the benefit of the licensee's customers, at foreign depository institutions are permissible up
 81.18 to ten percent of the aggregate value of the licensee's total permissible investments, if the
 81.19 licensee has received a satisfactory rating in the licensee's most recent examination and the
 81.20 foreign depository institution:

81.21 (i) has an eligible rating;

81.22 (ii) is registered under the Foreign Account Tax Compliance Act, Public Law 111-147;

81.23 (iii) is not located in any country subject to sanctions from the Office of Foreign Asset
 81.24 Control; and

81.25 (iv) is not located in a high-risk or noncooperative jurisdiction, as designated by the
 81.26 Financial Action Task Force.

81.27 **Sec. 37. [53B.63] SUSPENSION; REVOCATION.**

81.28 (a) The commissioner may suspend or revoke a license or order a licensee to revoke the
 81.29 designation of an authorized delegate if:

81.30 (1) the licensee violates this chapter, or an administrative rule adopted or an order issued
 81.31 under this chapter;

82.1 (2) the licensee does not cooperate with an examination or investigation conducted by
 82.2 the commissioner;

82.3 (3) the licensee engages in fraud, intentional misrepresentation, or gross negligence;

82.4 (4) an authorized delegate is convicted of a violation of a state or federal statute
 82.5 prohibiting money laundering, or violates an administrative rule adopted or an order issued
 82.6 under this chapter, as a result of the licensee's willful misconduct or willful blindness;

82.7 (5) the competence, experience, character, or general fitness of the licensee, authorized
 82.8 delegate, person in control of a licensee, key individual, or responsible person of the
 82.9 authorized delegate indicates that it is not in the public interest to permit the person to
 82.10 provide money transmission;

82.11 (6) the licensee engages in an unsafe or unsound practice;

82.12 (7) the licensee is insolvent, suspends payment of the licensee's obligations, or makes a
 82.13 general assignment for the benefit of the licensee's creditors; or

82.14 (8) the licensee does not remove an authorized delegate after the commissioner issues
 82.15 and serves upon the licensee a final order that includes a finding that the authorized delegate
 82.16 has violated this chapter.

82.17 (b) When determining whether a licensee is engaging in an unsafe or unsound practice,
 82.18 the commissioner may consider the size and condition of the licensee's money transmission,
 82.19 the magnitude of the loss, the gravity of the violation of this chapter, and the previous
 82.20 conduct of the person involved.

82.21 **Sec. 38. [53B.64] AUTHORIZED DELEGATES; SUSPENSION AND**
 82.22 **REVOCAION.**

82.23 (a) The commissioner may issue an order suspending or revoking the designation of an
 82.24 authorized delegate if the commissioner finds:

82.25 (1) the authorized delegate violated this chapter, or an administrative rule adopted or an
 82.26 order issued under this chapter;

82.27 (2) the authorized delegate did not cooperate with an examination or investigation
 82.28 conducted by the commissioner;

82.29 (3) the authorized delegate engaged in fraud, intentional misrepresentation, or gross
 82.30 negligence;

83.1 (4) the authorized delegate is convicted of a violation of a state or federal anti-money
83.2 laundering statute;

83.3 (5) the competence, experience, character, or general fitness of the authorized delegate
83.4 or a person in control of the authorized delegate indicates that it is not in the public interest
83.5 to permit the authorized delegate to provide money transmission; or

83.6 (6) the authorized delegate is engaging in an unsafe or unsound practice.

83.7 (b) When determining whether an authorized delegate is engaging in an unsafe or unsound
83.8 practice, the commissioner may consider the size and condition of the authorized delegate's
83.9 provision of money transmission, the magnitude of the loss, the gravity of the violation of
83.10 this chapter, or an administrative rule adopted or order issued under this chapter, and the
83.11 previous conduct of the authorized delegate.

83.12 (c) An authorized delegate may apply for relief from a suspension or revocation of
83.13 designation as an authorized delegate in the same manner as a licensee.

83.14 Sec. 39. **[53B.65] ENFORCEMENT.**

83.15 Section 45.027 applies to this chapter.

83.16 Sec. 40. **[53B.66] CRIMINAL PENALTIES.**

83.17 (a) A person who intentionally makes a false statement, misrepresentation, or false
83.18 certification in a record filed or required to be maintained under this chapter or that
83.19 intentionally makes a false entry or omits a material entry in a record filed or required to
83.20 be maintained under this chapter is guilty of a felony.

83.21 (b) A person who knowingly engages in an activity for which a license is required under
83.22 this chapter without being licensed under this chapter, and who receives more than \$1,000
83.23 in compensation within a 30-day period from the activity, is guilty of a felony.

83.24 (c) A person who knowingly engages in an activity for which a license is required under
83.25 this chapter without being licensed under this chapter, and who receives more than \$500
83.26 but less than \$1,000 in compensation within a 30-day period from the activity, is guilty of
83.27 a gross misdemeanor.

83.28 (d) A person who knowingly engages in an activity for which a license is required under
83.29 this chapter without being licensed under this chapter, and who receives no more than \$500
83.30 in compensation within a 30-day period from the activity, is guilty of a misdemeanor.

84.1 Sec. 41. **[53B.67] SEVERABILITY.**

84.2 If any provision of this chapter or the chapter's application to any person or circumstance
 84.3 is held invalid, the invalidity does not affect other provisions or applications of this chapter
 84.4 that can be given effect without the invalid provision or application.

84.5 Sec. 42. **[53B.68] TRANSITION PERIOD.**

84.6 (a) A person licensed in Minnesota to engage in the business of money transmission is
 84.7 not subject to the provisions of this chapter to the extent that this chapter's provisions conflict
 84.8 with current law or establish new requirements not imposed under current law until the
 84.9 licensee renews the licensee's current license or for five months after the effective date of
 84.10 this chapter, whichever is later.

84.11 (b) Notwithstanding paragraph (a), a licensee is only required to amend the licensee's
 84.12 authorized delegate contracts for contracts entered into or amended after the effective date
 84.13 or the completion of any transition period contemplated under paragraph (a). Nothing in
 84.14 this section limits an authorized delegate's obligations to operate in full compliance with
 84.15 this chapter, as required under section 53B.51, paragraph (c).

84.16 Sec. 43. **[53B.69] DEFINITIONS.**

84.17 Subdivision 1. **Terms.** For purposes of sections 53B.70 to 53B.74, the following terms
 84.18 have the meaning given them.

84.19 Subd. 2. **Control of virtual currency.** "Control of virtual currency," when used in
 84.20 reference to a transaction or relationship involving virtual currency, means the power to
 84.21 execute unilaterally or prevent indefinitely a virtual currency transaction.

84.22 Subd. 3. **Exchange.** "Exchange," used as a verb, means to assume control of virtual
 84.23 currency from or on behalf of a person, at least momentarily, to sell, trade, or convert:

84.24 (1) virtual currency for money, bank credit, or one or more forms of virtual currency;
 84.25 or

84.26 (2) money or bank credit for one or more forms of virtual currency.

84.27 Subd. 4. **Transfer.** "Transfer" means to assume control of virtual currency from or on
 84.28 behalf of a person and to:

84.29 (1) credit the virtual currency to the account of another person;

84.30 (2) move the virtual currency from one account of a person to another account of the
 84.31 same person; or

85.1 (3) relinquish control of virtual currency to another person.

85.2 **Subd. 5. United States dollar equivalent of virtual currency.** "United States dollar
85.3 equivalent of virtual currency" means the equivalent value of a particular virtual currency
85.4 in United States dollars shown on a virtual-currency exchange based in the United States
85.5 for a particular date or period specified in this chapter.

85.6 **Subd. 6. Virtual currency.** (a) "Virtual currency" means a digital representation of value
85.7 that:

85.8 (1) is used as a medium of exchange, unit of account, or store of value; and

85.9 (2) is not money, whether or not denominated in money.

85.10 (b) Virtual currency does not include:

85.11 (1) a transaction in which a merchant grants, as part of an affinity or rewards program,
85.12 value that cannot be taken from or exchanged with the merchant for money, bank credit, or
85.13 virtual currency; or

85.14 (2) a digital representation of value issued by or on behalf of a publisher and used solely
85.15 within an online game, game platform, or family of games sold by the same publisher or
85.16 offered on the same game platform.

85.17 **Subd. 7. Virtual-currency administration.** "Virtual-currency administration" means
85.18 issuing virtual currency with the authority to redeem the currency for money, bank credit,
85.19 or other virtual currency.

85.20 **Subd. 8. Virtual-currency business activity.** "Virtual-currency business activity" means:

85.21 (1) exchanging, transferring, or storing virtual currency or engaging in virtual-currency
85.22 administration, whether directly or through an agreement with a virtual-currency
85.23 control-services vendor;

85.24 (2) holding electronic precious metals or electronic certificates representing interests in
85.25 precious metals on behalf of another person or issuing shares or electronic certificates
85.26 representing interests in precious metals; or

85.27 (3) exchanging one or more digital representations of value used within one or more
85.28 online games, game platforms, or family of games for:

85.29 (i) virtual currency offered by or on behalf of the same publisher from which the original
85.30 digital representation of value was received; or

86.1 (ii) money or bank credit outside the online game, game platform, or family of games
86.2 offered by or on behalf of the same publisher from which the original digital representation
86.3 of value was received.

86.4 Subd. 9. **Virtual-currency control-services vendor.** "Virtual-currency control-services
86.5 vendor" means a person that has control of virtual currency solely under an agreement with
86.6 a person that, on behalf of another person, assumes control of virtual currency.

86.7 Sec. 44. **[53B.70] SCOPE.**

86.8 (a) Sections 53B.71 to 53B.74 do not apply to the exchange, transfer, or storage of virtual
86.9 currency or to virtual-currency administration to the extent the Electronic Fund Transfer
86.10 Act of 1978, United States Code, title 15, sections 1693 to 1693r, as amended or recodified
86.11 from time to time; the Securities Exchange Act of 1934, United States Code, title 15, sections
86.12 78a to 78oo, as amended or recodified from time to time; the Commodities Exchange Act
86.13 of 1936, United States Code, title 7, sections 1 to 27f, as amended or recodified from time
86.14 to time; or chapter 80A govern the activity.

86.15 (b) Sections 53B.71 to 53B.74 do not apply to activity by:

86.16 (1) a person that:

86.17 (i) contributes only connectivity software or computing power to a decentralized virtual
86.18 currency, or to a protocol governing transfer of the digital representation of value;

86.19 (ii) provides only data storage or security services for a business engaged in
86.20 virtual-currency business activity and does not otherwise engage in virtual-currency business
86.21 activity on behalf of another person; or

86.22 (iii) provides only to a person otherwise exempt from this chapter virtual currency as
86.23 one or more enterprise solutions used solely among each other and has no agreement or
86.24 relationship with a person that is an end-user of virtual currency;

86.25 (2) a person using virtual currency, including creating, investing, buying or selling, or
86.26 obtaining virtual currency as payment for the purchase or sale of goods or services, solely:

86.27 (i) on the person's own behalf;

86.28 (ii) for personal, family, or household purposes; or

86.29 (iii) for academic purposes;

87.1 (3) a person whose virtual-currency business activity with or on behalf of persons is
 87.2 reasonably expected to be valued, in the aggregate, on an annual basis at \$5,000 or less,
 87.3 measured by the United States dollar equivalent of virtual currency;

87.4 (4) an attorney to the extent of providing escrow services to a person;

87.5 (5) a title insurance company to the extent of providing escrow services to a person; or

87.6 (6) a securities intermediary, as defined under section 336.8-102(14), or a commodity
 87.7 intermediary, as defined under section 336.9-102(17), that:

87.8 (i) does not engage in the ordinary course of business in virtual-currency business activity
 87.9 with or on behalf of a person in addition to maintaining securities accounts or commodities
 87.10 accounts and is regulated as a securities intermediary or commodity intermediary under
 87.11 federal law, law of Minnesota other than this chapter, or law of another state; and

87.12 (ii) affords a person protections comparable to those set forth under section 53B.37.

87.13 (c) Sections 53B.71 to 53B.74 do not apply to a secured creditor, as defined under
 87.14 sections 336.9-101 to 336.9-809 or to a creditor with a judicial lien or lien arising by
 87.15 operation of law on collateral that is virtual currency, if the virtual-currency business activity
 87.16 of the creditor is limited to enforcement of the security interest in compliance with sections
 87.17 336.9-101 to 336.9-809 or lien in compliance with the law applicable to the lien.

87.18 (d) Sections 53B.71 to 53B.74 do not apply to a virtual-currency control-services vendor.

87.19 (e) Sections 53B.71 to 53B.74 do not apply to a person that:

87.20 (1) does not receive compensation from a person to:

87.21 (i) provide virtual-currency products or services; or

87.22 (ii) conduct virtual-currency business activity; or

87.23 (2) is engaged in testing products or services with the person's own money.

87.24 (f) The commissioner may determine that a person or class of persons, given facts
 87.25 particular to the person or class, should be exempt from this chapter, whether the person or
 87.26 class is covered by requirements imposed under federal law on a money-service business.

87.27 **Sec. 45. [53B.71] VIRTUAL CURRENCY BUSINESS ACTIVITY; CONDITIONS**
 87.28 **PRECEDENT.**

87.29 (a) A person may not engage in virtual-currency business activity, or hold itself out as
 87.30 being able to engage in virtual-currency business activity, with or on behalf of another
 87.31 person unless the person is:

88.1 (1) licensed in Minnesota by the commissioner under section 53B.40; or

88.2 (2) exempt from licensing under section 53B.29.

88.3 (b) A person that is licensed to engage in virtual-currency business activity is engaged
88.4 in the business of money transmission and is subject to the requirements of this chapter.

88.5 Sec. 46. **[53B.72] REQUIRED DISCLOSURES.**

88.6 (a) A licensee that engages in virtual currency business activity must provide to a person
88.7 who uses the licensee's products or services the disclosures required by paragraph (b) and
88.8 any additional disclosure the commissioner by administrative rule determines reasonably
88.9 necessary to protect persons. The commissioner must determine by administrative rule the
88.10 time and form required for disclosure. A disclosure required by this section must be made
88.11 separately from any other information provided by the licensee and in a clear and conspicuous
88.12 manner in a record the person may keep. A licensee may propose for the commissioner's
88.13 approval alternate disclosures as more appropriate for the licensee's virtual-currency business
88.14 activity with or on behalf of persons.

88.15 (b) Before establishing a relationship with a person, a licensee must disclose, to the
88.16 extent applicable to the virtual-currency business activity the licensee undertakes with the
88.17 person:

88.18 (1) a schedule of fees and charges the licensee may assess, the manner by which fees
88.19 and charges are calculated if the fees and charges are not set in advance and disclosed, and
88.20 the timing of the fees and charges;

88.21 (2) whether the product or service provided by the licensee is covered by:

88.22 (i) a form of insurance or is otherwise guaranteed against loss by an agency of the United
88.23 States:

88.24 (A) up to the full United States dollar equivalent of virtual currency purchased from the
88.25 licensee or for control of virtual currency by the licensee as of the date of the placement or
88.26 purchase, including the maximum amount provided by insurance under the Federal Deposit
88.27 Insurance Corporation or otherwise available from the Securities Investor Protection
88.28 Corporation; or

88.29 (B) if not provided at the full United States dollar equivalent of virtual currency purchased
88.30 from the licensee or for control of virtual currency by the licensee, the maximum amount
88.31 of coverage for each person expressed in the United States dollar equivalent of the virtual
88.32 currency; or

- 89.1 (ii) private insurance against theft or loss, including cyber theft or theft by other means;
- 89.2 (3) the irrevocability of a transfer or exchange and any exception to irrevocability;
- 89.3 (4) a description of:
- 89.4 (i) liability for an unauthorized, mistaken, or accidental transfer or exchange;
- 89.5 (ii) the person's responsibility to provide notice to the licensee of the transfer or exchange;
- 89.6 (iii) the basis for any recovery by the person from the licensee;
- 89.7 (iv) general error-resolution rights applicable to the transfer or exchange; and
- 89.8 (v) the method for the person to update the person's contact information with the licensee;
- 89.9 (5) that the date or time when the transfer or exchange is made and the person's account
- 89.10 is debited may differ from the date or time when the person initiates the instruction to make
- 89.11 the transfer or exchange;
- 89.12 (6) whether the person has a right to stop a preauthorized payment or revoke authorization
- 89.13 for a transfer, and the procedure to initiate a stop-payment order or revoke authorization
- 89.14 for a subsequent transfer;
- 89.15 (7) the person's right to receive a receipt, trade ticket, or other evidence of the transfer
- 89.16 or exchange;
- 89.17 (8) the person's right to at least 30 days' prior notice of a change in the licensee's fee
- 89.18 schedule, other terms and conditions of operating the licensee's virtual-currency business
- 89.19 activity with the person, and the policies applicable to the person's account; and
- 89.20 (9) that virtual currency is not money.
- 89.21 (c) Except as otherwise provided in paragraph (d), at the conclusion of a virtual-currency
- 89.22 transaction with or on behalf of a person, a licensee must provide the person a confirmation
- 89.23 in a record. The record must contain:
- 89.24 (1) the name and contact information of the licensee, including information the person
- 89.25 may need to ask a question or file a complaint;
- 89.26 (2) the type, value, date, precise time, and amount of the transaction; and
- 89.27 (3) the fee charged for the transaction, including any charge for conversion of virtual
- 89.28 currency to money, bank credit, or other virtual currency.
- 89.29 (d) If a licensee discloses that it provides a daily confirmation in the initial disclosure
- 89.30 under paragraph (c), the licensee may elect to provide a single, daily confirmation for all

90.1 transactions with or on behalf of a person on that day instead of a per-transaction
 90.2 confirmation.

90.3 Sec. 47. **[53B.73] PROPERTY INTERESTS AND ENTITLEMENTS TO VIRTUAL**
 90.4 **CURRENCY.**

90.5 (a) A licensee that has control of virtual currency for one or more persons must maintain
 90.6 control of virtual currency in each type of virtual currency sufficient to satisfy the aggregate
 90.7 entitlements of the persons to the type of virtual currency.

90.8 (b) If a licensee violates paragraph (a), the property interests of the persons in the virtual
 90.9 currency are pro rata property interests in the type of virtual currency to which the persons
 90.10 are entitled, without regard to the time the persons became entitled to the virtual currency
 90.11 or the licensee obtained control of the virtual currency.

90.12 (c) The virtual currency referred to in this section is:

90.13 (1) held for the persons entitled to the virtual currency;

90.14 (2) not property of the licensee;

90.15 (3) not subject to the claims of creditors of the licensee; and

90.16 (4) a permissible investment under this chapter.

90.17 Sec. 48. **[53B.74] VIRTUAL CURRENCY BUSINESS ACTIVITIES; ADDITIONAL**
 90.18 **REQUIREMENTS.**

90.19 (a) A licensee engaged in virtual currency business activities may include virtual currency
 90.20 in the licensee's calculation of tangible net worth, by measuring the average value of the
 90.21 virtual currency in United States dollar equivalent over the prior six months, excluding
 90.22 control of virtual currency for a person entitled to the protections under section 53B.73.

90.23 (b) A licensee must maintain, for all virtual-currency business activity with or on behalf
 90.24 of a person five years after the date of the activity, a record of:

90.25 (1) each of the licensee's transactions with or on behalf of the person, or for the licensee's
 90.26 account in Minnesota, including:

90.27 (i) the identity of the person;

90.28 (ii) the form of the transaction;

90.29 (iii) the amount, date, and payment instructions given by the person; and

91.1 (iv) the account number, name, and United States Postal Service address of the person,
 91.2 and, to the extent feasible, other parties to the transaction;

91.3 (2) the aggregate number of transactions and aggregate value of transactions by the
 91.4 licensee with or on behalf of the person and for the licensee's account in this state, expressed
 91.5 in the United States dollar equivalent of the virtual currency for the previous 12 calendar
 91.6 months;

91.7 (3) each transaction in which the licensee exchanges one form of virtual currency for
 91.8 money or another form of virtual currency with or on behalf of the person;

91.9 (4) a general ledger posted at least monthly that lists all of the licensee's assets, liabilities,
 91.10 capital, income, and expenses;

91.11 (5) each business-call report the licensee is required to create or provide to the department
 91.12 or NMLS;

91.13 (6) bank statements and bank reconciliation records for the licensee and the name,
 91.14 account number, and United States Postal Service address of each bank the licensee uses
 91.15 to conduct virtual-currency business activity with or on behalf of the person;

91.16 (7) a report of any dispute with the person; and

91.17 (8) a report of any virtual-currency business activity transaction with or on behalf of a
 91.18 person which the licensee was unable to complete.

91.19 (c) A licensee must maintain records required by paragraph (b) in a form that enables
 91.20 the commissioner to determine whether the licensee is in compliance with this chapter, any
 91.21 court order, and law of Minnesota other than this chapter.

91.22 **Sec. 49. [58B.011] STUDENT LOAN ADVOCATE.**

91.23 Subdivision 1. **Designation of a student loan advocate.** The commissioner of commerce
 91.24 must designate a student loan advocate within the Department of Commerce to provide
 91.25 timely assistance to borrowers and to effectuate this chapter.

91.26 Subd. 2. **Duties.** The student loan advocate has the following duties:

91.27 (1) receive, review, and attempt to resolve complaints from borrowers, including but
 91.28 not limited to attempts to resolve borrower complaints in collaboration with institutions of
 91.29 higher education, student loan servicers, and any other participants in student loan lending;

91.30 (2) compile and analyze data on borrower complaints received under clause (1);

92.1 (3) help borrowers understand the rights and responsibilities under the terms of student
92.2 loans;

92.3 (4) provide information to the public, state agencies, legislators, and relevant stakeholders
92.4 regarding the problems and concerns of borrowers;

92.5 (5) make recommendations to resolve the problems of borrowers;

92.6 (6) analyze and monitor the development and implementation of federal, state, and local
92.7 laws, regulations, and policies relating to borrowers, and recommend any changes deemed
92.8 necessary;

92.9 (7) review the complete student loan history for any borrower who has provided written
92.10 consent to conduct the review;

92.11 (8) increase public awareness that the advocate is available to assist in resolving the
92.12 student loan servicing concerns of potential and actual borrowers, institutions of higher
92.13 education, student loan servicers, and any other participant in student loan lending; and

92.14 (9) take other actions as necessary to fulfill the duties of the advocate, as provided under
92.15 this section.

92.16 Subd. 3. **Student loan education course.** The advocate must establish and maintain a
92.17 borrower education course. The course must include educational presentations and materials
92.18 regarding important topics in student loans, including but not limited to:

92.19 (1) the meaning of important terminology used in student lending;

92.20 (2) documentation requirements;

92.21 (3) monthly payment obligations;

92.22 (4) income-based repayment options;

92.23 (5) the availability of state and federal loan forgiveness programs; and

92.24 (6) disclosure requirements.

92.25 Subd. 4. **Reporting.** By January 15 of each odd-numbered year, the advocate must report
92.26 to the legislative committees with jurisdiction over commerce and higher education. The
92.27 report must describe the advocate's implementation of this section, the outcomes achieved
92.28 by the advocate during the previous two years, and recommendations to improve the
92.29 regulation of student loan servicers.

93.1 Sec. 50. **REPEALER.**

93.2 Minnesota Statutes 2022, sections 53B.01; 53B.02; 53B.03; 53B.04; 53B.05; 53B.06;
 93.3 53B.07; 53B.08; 53B.09; 53B.10; 53B.11; 53B.12; 53B.13; 53B.14; 53B.15; 53B.16;
 93.4 53B.17; 53B.18; 53B.19; 53B.20; 53B.21; 53B.22; 53B.23; 53B.24; 53B.25; 53B.26; and
 93.5 53B.27, subdivisions 1, 2, 5, 6, and 7, are repealed.

93.6 **ARTICLE 4**93.7 **WEIGHTS AND MEASURES**

93.8 Section 1. Minnesota Statutes 2022, section 239.791, subdivision 8, is amended to read:

93.9 Subd. 8. **Disclosure; reporting.** (a) A refinery or terminal, shall provide, at the time
 93.10 gasoline is sold or transferred from the refinery or terminal, a bill of lading or shipping
 93.11 manifest to the person who receives the gasoline. For oxygenated gasoline, the bill of lading
 93.12 or shipping manifest must include the identity and the volume percentage or gallons of
 93.13 oxygenate included in the gasoline, and it must state: "This fuel contains an oxygenate. Do
 93.14 not blend this fuel with ethanol or with any other oxygenate." For nonoxygenated gasoline
 93.15 ~~sold or transferred after September 30, 1997,~~ the bill or manifest must state: "This fuel is
 93.16 not oxygenated. It must not be sold at retail in Minnesota." This subdivision does not apply
 93.17 to sales or transfers of gasoline between refineries, between terminals, or between a refinery
 93.18 and a terminal.

93.19 (b) A delivery ticket required under section 239.092 for biofuel blended with gasoline
 93.20 must state the volume percentage of biofuel blended into gasoline delivered through a meter
 93.21 into a storage tank used for dispensing by persons not exempt under subdivisions 10 to 14
 93.22 and 16.

93.23 (c) On or before the 23rd day of each month, a person responsible for the product must
 93.24 report to the department, in the form prescribed by the commissioner, the gross number of
 93.25 gallons of intermediate blends sold at retail by the person during the preceding calendar
 93.26 month. The report must identify the number of gallons by blend type. For purposes of this
 93.27 subdivision, "intermediate blends" means blends of gasoline and biofuel in which the biofuel
 93.28 content, exclusive of denaturants and other permitted components, is greater than ten percent
 93.29 and no more than 50 percent by volume. This paragraph only applies to a person who is
 93.30 responsible for selling intermediate blends at retail at more than ten locations. A person
 93.31 responsible for the product at fewer than ten locations is not precluded from reporting the
 93.32 gross number of intermediate blends if a report is available.

- 94.1 (d) All reports provided pursuant to paragraph (c) are nonpublic data as defined in section
- 94.2 13.02, subdivision 9.
- 94.3 **EFFECTIVE DATE.** This section is effective July 1, 2023.

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

APPENDIX
Repealed Minnesota Statutes: S2744-1

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

APPENDIX
Repealed Minnesota Statutes: S2744-1

\$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;

APPENDIX
Repealed Minnesota Statutes: S2744-1

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

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

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

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

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

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

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

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

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

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

Subd. 6. **Records and fees; maintenance and processing.** Section 58A.04, subdivisions 2 and 3, apply to this section.

53B.08 BOND OR OTHER SECURITY DEVICE.

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

APPENDIX
Repealed Minnesota Statutes: S2744-1

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

APPENDIX
Repealed Minnesota Statutes: S2744-1

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

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

53B.12 EXTRAORDINARY REPORTING REQUIREMENTS.

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

- (1) the filing for bankruptcy or reorganization by the licensee;
- (2) the institution of revocation or suspension proceedings against the licensee by any state or governmental authority with regard to the licensee's money transmission activities;
- (3) any felony indictment of the licensee or any of its key officers or directors related to money transmission activities; or
- (4) any felony conviction of the licensee or any of its key officers or directors related to money transmission activities.

53B.13 CHANGES IN CONTROL OF A LICENSEE.

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

53B.14 EXAMINATIONS.

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

53B.15 MAINTENANCE OF RECORDS.

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

- (1) a record or records of each payment instrument sold;
- (2) a general ledger containing all assets, liability, capital, income, and expense accounts, which must be posted at least monthly;
- (3) bank statements and bank reconciliation records;
- (4) records of outstanding payment instruments;
- (5) records of each payment instrument paid within the three-year period; and
- (6) a list of the names and addresses of all of the licensee's authorized delegates.

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

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

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

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

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

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

53B.17 SOLVENCY REQUIRED.

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

53B.18 PROHIBITED PRACTICES.

(a) No licensee shall:

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

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

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

(b) A licensee must transmit all money received for transmission in accordance with the sender's instructions within five business days of the date the licensee receives the money from the sender unless:

(1) otherwise ordered by the sender;

(2) the licensee or its authorized delegate has a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur as a result of transmission; or

(3) the transmission is payment for goods or services.

(c) A licensee must conspicuously state in an agreement with a merchant to transmit money from a sender for goods or services:

(1) that the licensee has the authority to place a hold on or delay the transmission of a sender's money for more than five business days; and

(2) the general circumstances under which a transmittal may be subject to a hold or delay.

(d) A licensee that receives money from a sender for transmission to a merchant to pay for goods or services must transmit the money to the merchant within the time frame agreed upon in the merchant's agreement with the licensee.

(e) If a licensee fails to transmit money received for transmission in accordance with this section, the licensee must respond to inquiries by the sender or recipient with the reason for the failure unless the response violates state or federal law.

(f) A licensee or its authorized delegate must refund to the customer all money received for transmittal within ten days of receipt of a request for a refund unless any of the following has occurred:

(1) the money has been transmitted and delivered to the person designated by the customer prior to receipt of the written request for a refund;

(2) instructions have been given committing an equivalent amount of money to the person designated by the customer prior to the receipt of a request for a refund; or

(3) the licensee is otherwise barred by law from making a refund.

53B.19 SUSPENSION OR REVOCATION OF LICENSES.

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

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

APPENDIX
Repealed Minnesota Statutes: S2744-1

(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

APPENDIX
Repealed Minnesota Statutes: S2744-1

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.