

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 5020

(SENATE AUTHORS: CARLSON)

DATE	D-PG	OFFICIAL STATUS
03/18/2024	12406	Introduction and first reading Referred to State and Local Government and Veterans

1.1A bill for an act

1.2relating to state government; updating state personnel management provisions;

1.3amending Minnesota Statutes 2022, sections 43A.01, subdivision 3; 43A.02,

1.4subdivision 14; 43A.04, subdivision 1; 43A.05, subdivisions 3, 5; 43A.07,

1.5subdivision 2; 43A.08, subdivision 4; 43A.10, subdivision 2c; 43A.11, subdivisions

1.67, 9; 43A.121; 43A.15, subdivisions 2, 3, 4, 7, 12; 43A.17, subdivisions 3, 5;

1.743A.18, subdivisions 2, 3, 9; 43A.181, subdivision 1; 43A.1815; 43A.23,

1.8subdivisions 1, 2; 43A.24, subdivisions 1a, 2; 43A.27, subdivisions 2, 4; 43A.346,

1.9subdivisions 2, 6; Minnesota Statutes 2023 Supplement, sections 43A.01,

1.10subdivision 2; 43A.04, subdivision 4; 43A.08, subdivision 1a; 43A.15, subdivision

1.1114; 43A.19, subdivision 1; repealing Minnesota Statutes 2022, sections 43A.05,

1.12subdivision 6; 43A.315; 43A.317, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 12; 43A.318,

1.13subdivisions 1, 2, 4, 5.

1.14BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.15Section 1. Minnesota Statutes 2023 Supplement, section 43A.01, subdivision 2, is amended

1.16to read:

1.17Subd. 2. **Precedence of merit principles and nondiscrimination.** It is the policy of

1.18this state to provide for equal employment opportunity consistent with chapter 363A by

1.19ensuring that all personnel actions be based on the ability to perform the duties and

1.20responsibilities assigned to the position without regard to age, race, creed or religion, color,

1.21disability, sex, sexual orientation, gender, identity, national origin, marital status, familial

1.22status, status with regard to public assistance, or political affiliation. It is the policy of this

1.23state to take affirmative action to eliminate the underutilization of qualified members of

1.24protected groups in the civil service, where such action is not in conflict with other provisions

1.25of this chapter or chapter 179, in order to correct imbalances and eliminate the effects of

1.26discrimination and support full and equal participation in the social and economic life in

1.27the state. Heads of departments and agencies must provide training to managers and

supervisors that are responsible for hiring and evaluating employee performance regarding bias that can be present in the hiring and performance evaluation processes.

No contract executed pursuant to chapter 179A shall modify, waive or abridge this section and sections 43A.07 to 43A.121, 43A.15, and 43A.17 to 43A.21, except to the extent expressly permitted in those sections.

Sec. 2. Minnesota Statutes 2022, section 43A.01, subdivision 3, is amended to read:

Subd. 3. **Equitable compensation relationships.** It is the policy of this state to attempt to establish equitable compensation relationships between female-dominated, male-dominated, and balanced classes of employees in the executive branch, and among classes with higher than average representation of employees of color and classes with higher than average representation of employees with disabilities. Compensation relationships are equitable within the meaning of this subdivision when the primary consideration in negotiating, establishing, recommending, and approving total compensation is comparability of the value of the work in relationship to other ~~positions~~ classifications in the executive branch.

Sec. 3. Minnesota Statutes 2022, section 43A.02, subdivision 14, is amended to read:

Subd. 14. ~~Commissioner's plan~~ **Nonrepresented employees compensation plan.** ~~"Commissioner's plan"~~ "Nonrepresented employees compensation plan" means the plan required by section 3.855 regarding total compensation and terms and conditions of employment, including grievance administration, for employees of the executive branch who are not otherwise provided for in this chapter or other law.

Sec. 4. Minnesota Statutes 2022, section 43A.04, subdivision 1, is amended to read:

Subdivision 1. **Statewide leadership.** (a) The commissioner is the chief personnel and labor relations manager of the civil service in the executive branch.

Whenever any power or responsibility is given to the commissioner by any provision of this chapter, unless otherwise expressly provided, the power or authority applies to all employees of agencies in the executive branch and to employees in classified positions in the Office of the Legislative Auditor, the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teacher's Retirement Association. Unless otherwise provided by law, the power or authority does not apply to unclassified employees in the legislative and judicial branches.

(b) The commissioner shall operate an information system from which personnel data, as defined in section 13.43, concerning employees and applicants for positions in the classified service can be retrieved.

The commissioner has access to all public and private personnel data kept by appointing authorities that will aid in the discharge of the commissioner's duties.

(c) The commissioner may consider and investigate any matters concerned with the administration of provisions of this chapter, and may order any remedial actions consistent with law. The commissioner, at the request of an agency, shall provide assistance in employee misconduct investigations. The commissioner shall have the right to assess from the requesting agency, any costs incurred while assisting the agency in the employee misconduct investigation. Money received by the commissioner under this paragraph is appropriated to the commissioner for purposes of this paragraph.

(d) The commissioner may assess or establish and collect premiums from all state entities to cover the costs of programs under ~~sections~~ section 15.46 and ~~176.603~~.

Sec. 5. Minnesota Statutes 2023 Supplement, section 43A.04, subdivision 4, is amended to read:

Subd. 4. **Administrative procedures.** The commissioner shall develop administrative procedures, which are not subject to the rulemaking provisions of the Administrative Procedure Act, to effect provisions of chapter 43A which do not directly affect the rights of or processes available to the general public. The commissioner may also adopt administrative procedures, not subject to the Administrative Procedure Act, which concern topics affecting the general public if those procedures concern only the internal management of the department or other agencies and if those elements of the topics which affect the general public are the subject of department rules.

Administrative procedures shall be reproduced and made available for comment in accessible digital formats under section 16E.03 to agencies, employees, and appropriate exclusive representatives certified pursuant to sections 179A.01 to 179A.25, for at least 15 days prior to implementation and shall include but are not limited to:

(1) maintenance and administration of a plan of classification for all positions in the classified service and for comparisons of unclassified positions with positions in the classified service;

(2) procedures for administration of collective bargaining agreements and plans established pursuant to section 43A.18 concerning total compensation and the terms and conditions of employment for employees;

(3) procedures for effecting all personnel actions internal to the state service such as processes and requirements for agencies to publicize job openings and consider applicants who ~~are referred or nominate themselves~~ apply, conduct of selection procedures limited to employees, noncompetitive and qualifying appointments of employees and leaves of absence;

(4) maintenance and administration of employee performance appraisal, training and other programs; and

(5) procedures for pilots of the reengineered employee selection process. Employment provisions of this chapter, associated personnel rules adopted under subdivision 3, and administrative procedures established under clauses (1) and (3) may be waived for the purposes of these pilots. The pilots may affect the rights of and processes available to members of the general public seeking employment in the classified service. The commissioner will provide public notice of any pilot directly affecting the rights of and processes available to the general public and make the administrative procedures available for comment to the general public, agencies, employees, and appropriate exclusive representatives certified pursuant to sections 179A.01 to 179A.25 for at least 30 days prior to implementation. The commissioner must publish the public notice in an accessible digital format under section 16E.03. The commissioner must provide a comment process that allows the public to submit comments through multiple formats to ensure accessibility. These formats must include telephone, digital content, and email.

Sec. 6. Minnesota Statutes 2022, section 43A.05, subdivision 3, is amended to read:

Subd. 3. ~~Commissioner's plan~~ **Nonrepresented employees compensation plan**. The commissioner shall periodically develop and establish pursuant to this chapter a ~~commissioner's plan~~ **Nonrepresented employees compensation plan**. The commissioner shall submit the plan, before becoming effective, to the Legislative Coordinating Commission for approval.

Sec. 7. Minnesota Statutes 2022, section 43A.05, subdivision 5, is amended to read:

Subd. 5. **Comparability adjustments**. The commissioner shall compile, ~~subject to availability of funds and personnel,~~ and submit to the Legislative Coordinating Commission by January 1 of each odd-numbered year a list showing, by bargaining unit, and by plan for executive branch employees covered by a plan established under section 43A.18, ~~those~~

~~female-dominated classes and those male-dominated classes in state civil service according to classification evaluations in section 43A.01, subdivision 3, for which a compensation inequity exists based on comparability of the value of the work. The commissioner shall also submit to the Legislative Coordinating Commission, along with the list, an estimate of the appropriation necessary for providing comparability adjustments for classes on the list. The commission shall review and approve, disapprove, or modify the list and proposed appropriation. The commission's action must be submitted to the full legislature. The full legislature may approve, reject, or modify the commission's action. The commission shall show the distribution of the proposed appropriation among the bargaining units and among the plans established under 43A.18. each bargaining unit and each plan must be allocated that proportion of the total proposed appropriation that equals the cost of providing adjustments for the positions in the unit or plan approved by the commission for comparability adjustments divided by the total cost of providing adjustments for all positions on the list approved by the commission for comparability adjustments. Distribution of any appropriated funds within each bargaining unit or plan must be determined by collective bargaining agreements or by plans.~~

Sec. 8. Minnesota Statutes 2022, section 43A.07, subdivision 2, is amended to read:

Subd. 2. **Job classes and titles.** An appointing authority shall notify the commissioner when a new position is to be established in the classified service. The commissioner shall allocate the position to an appropriate class in the classification plan or if the position cannot be allocated to an existing class, establish a new class. The commissioner shall assign an appropriate salary rate or range to the class. If the class is in a bargaining unit under the provisions of section 179A.10, and there is an applicable provision in the collective bargaining agreement the commissioner shall establish the salary rate or range pursuant to the agreement.

The commissioner may independently conduct classification studies or, ~~upon request of a permanent employee,~~ may investigate the duties of a classified position. ~~If a request is denied, the employee must be given a written explanation. The commissioner shall investigate the duties of a classified position upon request of an appointing authority.~~ The commissioner may reclassify the position, change the title of the position or establish a new class. The commissioner shall assign an appropriate salary rate or range to the class. If the class is in a collective bargaining unit under the provisions of section 179A.10, and there is an applicable provision in the collective bargaining agreement, the commissioner shall establish the salary rate or range pursuant to the agreement.

Sec. 9. Minnesota Statutes 2023 Supplement, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the Departments of Administration; Agriculture; Children, Youth, and Families; Commerce; Corrections; Direct Care and Treatment; Education; Employment and Economic Development; Explore Minnesota Tourism; Management and Budget; Health; Human Rights; Human Services; Labor and Industry; Natural Resources; Public Safety; Revenue; Transportation; and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the State Lottery; the State Board of Investment; the Office of Administrative Hearings; the Department of Information Technology Services; an agency, including the Offices of the Attorney General, Secretary of State, and State Auditor; the Minnesota State Colleges and Universities; the Minnesota Office of Higher Education; the Perpich Center for Arts Education; and the Minnesota Zoological Board, may designate additional unclassified positions.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(1) the designation of the position would not be contrary to other law relating specifically to that agency;

(2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with, the governor and the agency head, the employing statutory board or commission, or the employing constitutional officer;

(6) the position would be at the level of division or bureau director or assistant to the agency head; and

(7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

7.1 Sec. 10. Minnesota Statutes 2022, section 43A.08, subdivision 4, is amended to read:

7.2 Subd. 4. **Length of service for student workers.** A person may ~~not~~ only be employed
7.3 as a student worker in the unclassified service under subdivision 1 ~~for more than 36 months.~~
7.4 ~~Employment at a school that a student attends is not counted for purposes of this 36-month~~
7.5 ~~limit. Student workers in the Minnesota Department of Transportation SEEDS program~~
7.6 ~~who are actively involved in a four-year degree program preparing for a professional career~~
7.7 ~~job in the Minnesota Department of Transportation may be employed as a student worker~~
7.8 ~~for up to 48 months~~ if they are enrolled in secondary, postsecondary, or graduate study.

7.9 Sec. 11. Minnesota Statutes 2022, section 43A.10, subdivision 2c, is amended to read:

7.10 Subd. 2c. **Managerial positions.** (a) The commissioner, and any applicable appointing
7.11 authority, must ensure that all hiring for classified positions identified as managerial under
7.12 section 43A.18, subdivision 3, is conducted through a fair and open process where all
7.13 candidates who meet the minimum qualifications for the position are considered. For
7.14 classified management positions filled through a competitive selection process, under no
7.15 circumstances may:

7.16 (1) the job requirements be altered to fit a particular candidate prior to the posting of a
7.17 position; or

7.18 (2) internal documents identify a particular candidate as the future holder of a position
7.19 prior to their official hiring.

7.20 (b) Notice of a vacant position subject to this section must be posted, and applications
7.21 must be accepted, for a period of no fewer than 21 days before the position is filled. Upon
7.22 request of an appointing authority, the commissioner may waive the requirements of this
7.23 paragraph. ~~Notice of a waiver must be published in the State Register no more than 14 days~~
7.24 ~~after the waiver is granted. The notice must describe the reason for the waiver. By February~~
7.25 1 of each year, the commissioner shall submit a report to the chair of the Legislative
7.26 Coordinating Commission on waivers granted in the prior year.

7.27 (c) This subdivision does not apply to positions subject to more specific appointment
7.28 procedures under section 43A.15 or other applicable law, and does not restrict the authority
7.29 of the commissioner to limit or remove an applicant from consideration under subdivision
7.30 6a or 6b.

8.1 Sec. 12. Minnesota Statutes 2022, section 43A.11, subdivision 7, is amended to read:

8.2 Subd. 7. **Ranking of veterans.** Applicants who meet the minimum qualifications for a
8.3 vacant position and claim disabled veteran's preference shall be listed in the applicant pool
8.4 ahead of all other applicants. Applicants who meet the minimum qualifications for a vacant
8.5 position and claim nondisabled veteran's preference shall be listed in the applicant pool
8.6 after those claiming disabled veteran's preference and ahead of nonveterans. Each recently
8.7 separated veteran who meets minimum qualifications for a vacant unlimited position and
8.8 has claimed a veterans or disabled veterans preference must be considered for the position.
8.9 The top five recently separated veterans must be granted an interview for the position by
8.10 the hiring authority.

8.11 The term "recently separated veteran" means a veteran, as defined in section 197.447,
8.12 who has served in active military service, at any time on or after September 11, 2001, and
8.13 who has been honorably discharged from active service, as shown by the person's form
8.14 DD-214.

8.15 Sec. 13. Minnesota Statutes 2022, section 43A.11, subdivision 9, is amended to read:

8.16 Subd. 9. **Rejection Nonselection; explanation.** If the appointing authority ~~rejects~~ does
8.17 not select a member of the finalist pool who has claimed veteran's preference, the appointing
8.18 authority shall notify the finalist in writing ~~of the reasons for the rejection.~~

8.19 Sec. 14. Minnesota Statutes 2022, section 43A.121, is amended to read:

8.20 **43A.121 RANKING OF THE APPLICANT POOL.**

8.21 Applicants referred from a layoff list shall be ranked as provided in the collective
8.22 bargaining agreement or plan established under section 43A.18, under which the layoff list
8.23 was established. All other names in an applicant pool shall be ranked according to the
8.24 veteran's preference provisions of section 43A.11, subdivision 7, ~~and then in descending~~
8.25 ~~order of the number of skill matches for the vacant position.~~ If any ties in rank remain, those
8.26 names shall appear in alphabetical order.

8.27 Sec. 15. Minnesota Statutes 2022, section 43A.15, subdivision 2, is amended to read:

8.28 Subd. 2. **Emergency appointments.** An appointing authority may make an emergency
8.29 appointment for up to ~~45~~ 90 working days. No person may be employed in any one agency
8.30 on an emergency basis for more than ~~45~~ 90 working days in any 12-month period.

9.1 Sec. 16. Minnesota Statutes 2022, section 43A.15, subdivision 3, is amended to read:

9.2 Subd. 3. **Temporary appointments.** The commissioner may authorize an appointing
9.3 authority to make a temporary appointment of up to ~~six months~~ one year. ~~The commissioner~~
9.4 ~~may, in the best interest of the state, grant an extension of a temporary appointment or~~
9.5 ~~approve a temporary appointment to fill a vacancy created by an approved leave of absence~~
9.6 ~~to a maximum period of one year. When practicable, the appointing authority may search~~
9.7 ~~the employment database for qualified applicants or, when necessary, the commissioner~~
9.8 may authorize the appointment of any person deemed qualified by the appointing authority.

9.9 No person shall be employed on a temporary basis in any one agency for more than 12
9.10 months in any 24-month period.

9.11 Sec. 17. Minnesota Statutes 2022, section 43A.15, subdivision 4, is amended to read:

9.12 Subd. 4. **Provisional appointments.** The commissioner may authorize an appointing
9.13 authority to make a provisional appointment if no applicant is suitable or available for
9.14 appointment and the person to be provisionally appointed is qualified in all respects except
9.15 for completion of a licensure or certification requirement.

9.16 No person shall be employed on a provisional basis for more than six months unless the
9.17 commissioner grants an extension to a maximum of 12 months in the best interest of the
9.18 state. No extension may be granted beyond 12 months except where there is a lack of
9.19 applicants and the provisional appointee is continuing to work to complete the licensure or
9.20 certification requirement.

9.21 At the request of an appointing authority, the commissioner may authorize the
9.22 probationary appointment of a provisional appointee who has performed satisfactorily ~~for~~
9.23 ~~at least 60 days~~ and has completed the licensure or certification requirement.

9.24 Sec. 18. Minnesota Statutes 2022, section 43A.15, subdivision 7, is amended to read:

9.25 Subd. 7. **Appointments for unclassified incumbents of newly classified positions.** The
9.26 commissioner may authorize the probationary appointment of an incumbent who has passed
9.27 a qualifying selection process and who has served at least one year in an unclassified position
9.28 ~~which has been placed in the classified service by proper authority.~~

10.1 Sec. 19. Minnesota Statutes 2022, section 43A.15, subdivision 12, is amended to read:

10.2 Subd. 12. ~~Work-training~~ **Trainee appointments.** The commissioner may authorize
10.3 the probationary appointment of persons who successfully complete on-the-job state training
10.4 programs ~~which~~ that have been approved by the commissioner.

10.5 Sec. 20. Minnesota Statutes 2023 Supplement, section 43A.15, subdivision 14, is amended
10.6 to read:

10.7 Subd. 14. **700-hour on-the-job demonstration experience.** (a) The commissioner shall
10.8 consult with the Department of Employment and Economic Development's Vocational
10.9 Rehabilitation Services and State Services for the Blind and other disability experts in
10.10 establishing, reviewing, and modifying the qualifying procedures for applicants whose
10.11 disabilities are of such a significant nature that the applicants are unable to demonstrate
10.12 their abilities in the selection process. The qualifying procedures must consist of up to 700
10.13 hours of on-the-job demonstration experience. The 700-hour on-the-job demonstration
10.14 experience is an alternative, noncompetitive hiring process for qualified applicants with
10.15 disabilities. All permanent executive branch classified positions are eligible for a 700-hour
10.16 on-the-job demonstration experience, and all permanent classified job postings must provide
10.17 information regarding the on-the-job demonstration overview and certification process.

10.18 (b) The commissioner ~~may~~ shall authorize the probationary appointment of an applicant
10.19 based on the request of the appointing authority that documents that the applicant has
10.20 successfully demonstrated qualifications for the position through completion of an on-the-job
10.21 demonstration experience. A qualified applicant ~~should~~ shall be converted to ~~permanent~~,
10.22 probationary appointments at the point in the 700-hour on-the-job experience when the
10.23 applicant has demonstrated the ability to perform the essential functions of the job with or
10.24 without reasonable accommodation. The implementation of this subdivision may not be
10.25 deemed a violation of chapter 43A or 363A.

10.26 (c) The commissioner and the ADA and disability employment director, described in
10.27 section 43A.19, subdivision 1, paragraph (e), are responsible for the administration and
10.28 oversight of the 700-hour on-the-job demonstration experience, including the establishment
10.29 of policies and procedures, data collection and reporting requirements, and compliance.

10.30 (d) The commissioner or the commissioner's designee shall design and implement a
10.31 training curriculum for the 700-hour on-the-job demonstration experience. All executive
10.32 leaders, managers, supervisors, human resources professionals, affirmative action officers,
10.33 and ADA coordinators must receive annual training on the program.

(e) The commissioner or the commissioner's designee shall develop, administer, and make public a formal grievance process for individuals in the 700-hour on-the-job demonstration experience under this subdivision and supported work program under section 43A.421, subdivision 2.

(f) An appointing authority must make reasonable accommodations in response to a request from an applicant with a disability, including providing accommodations in a timely manner during the application and hiring process and throughout the 700-hour on-the-job demonstration experience. Requirements for accessibility for public records under section 363A.42, continuing education under section 363A.43, and technology under section 16E.03, subdivision 2, clauses (3) and (9), apply to an agency filling an appointment during the application and hiring process and through the on-the-job demonstration experience period.

Sec. 21. Minnesota Statutes 2022, section 43A.17, subdivision 3, is amended to read:

Subd. 3. Unusual employment situations. (a) Upon the request of the appointing authority, and when the commissioner determines that changes in employment situations create difficulties in attracting or retaining employees, the commissioner may approve an unusual employment situation increase to advance an employee within the salary range.

(b) The following conditions apply to a request under paragraph (a) to advance an employee within a salary range:

(1) the appointing authority making the request must submit a detailed written statement for each position contained in the request, specifying the changes in employment situations that create difficulties in attracting or retaining an employee for the position;

(2) the commissioner shall review each proposal giving due consideration to salary rates paid to other employees in the same class and agency and, if other conditions in this paragraph are met, may approve any request that in the commissioner's judgment is in the best interest of the state;

(3) the action must be consistent with applicable provisions of collective bargaining agreements or plans adopted under section 43A.18; and

(4) each increase or exemption must be separately documented for each employee or position and may not be applied to groups of employees; ~~and.~~

~~(5) the commissioner shall report the granting of a request to the chair of the Legislative Coordinating Commission within three working days. By February 1 of each year, the~~
commissioner shall submit a report to the chair of the Legislative Coordinating Commission on requests granted in the prior year.

12.1 Sec. 22. Minnesota Statutes 2022, section 43A.17, subdivision 5, is amended to read:

12.2 Subd. 5. **Salary on demotion; special cases.** The commissioner may, upon request of
12.3 an appointing authority, approve payment of an employee with permanent status at a salary
12.4 rate above the maximum of the class to which the employee is demoted. The commissioner
12.5 shall take such action as required by collective bargaining agreements or plans pursuant to
12.6 section 43A.18. If the action is justified by the employee's long or outstanding service,
12.7 exceptional or technical qualifications, ~~age, health,~~ or substantial changes in work assignment
12.8 beyond the control of the employee, the commissioner may approve a rate up to and including
12.9 the employee's salary immediately prior to demotion. Thereafter, so long as the employee
12.10 remains in the same position, the employee shall not be eligible to receive any increase in
12.11 salary until the employee's salary is within the range of the class to which the employee's
12.12 position is allocated unless such increases are specifically provided in collective bargaining
12.13 agreements or plans pursuant to section 43A.18.

12.14 Sec. 23. Minnesota Statutes 2022, section 43A.18, subdivision 2, is amended to read:

12.15 Subd. 2. ~~Commissioner's plan~~ **Nonrepresented employees compensation plan.** Except
12.16 as provided in section 43A.01, the compensation, terms and conditions of employment for
12.17 all classified and unclassified employees, except unclassified employees in the legislative
12.18 and judicial branches, who are not covered by a collective bargaining agreement and not
12.19 otherwise provided for in chapter 43A or other law are governed solely by a plan developed
12.20 by the commissioner. The Legislative Coordinating Commission shall review and approve,
12.21 or reject, or modify the plan plans under section 3.855, subdivision 2. The plan need not be
12.22 adopted in accordance with the rulemaking provisions of chapter 14.

12.23 Sec. 24. Minnesota Statutes 2022, section 43A.18, subdivision 3, is amended to read:

12.24 Subd. 3. **Managerial plan.** (a) The commissioner shall identify individual positions or
12.25 groups of positions in the classified and unclassified service in the executive branch as being
12.26 managerial. The list must not include positions listed in subdivision 4.

12.27 (b) The commissioner shall periodically prepare a plan for total compensation and terms
12.28 and conditions of employment for employees of those positions identified as being managerial
12.29 and whose salaries and benefits are not otherwise provided for in law or other plans
12.30 established under this chapter. Before becoming effective those portions of the plan
12.31 establishing compensation and terms and conditions of employment must be reviewed and
12.32 approved ~~or modified~~ by the Legislative Coordinating Commission and the legislature under
12.33 section 3.855, subdivisions 2 and 3.

13.1 (c) Incumbents of managerial positions as identified under this subdivision must be
13.2 excluded from any bargaining units under chapter 179A.

13.3 (d) The management compensation plan must provide methods and levels of
13.4 compensation for managers that will be generally comparable to those applicable to managers
13.5 in other public and private employment. The plan must ensure that compensation within
13.6 assigned salary ranges is related to level of performance. The plan must also provide a
13.7 procedure for establishment of a salary rate for a newly created position and a new appointee
13.8 to an existing position and for progression through assigned salary ranges. The employee
13.9 benefits established under the provisions of the managerial plan may be extended to agency
13.10 heads whose salaries are established in section 15A.0815 and to constitutional officers,
13.11 judges of the Workers' Compensation Court of Appeals, and Tax Court judges.

13.12 Sec. 25. Minnesota Statutes 2022, section 43A.18, subdivision 9, is amended to read:

13.13 Subd. 9. **Summary information on website.** Before the commissioner submits a
13.14 proposed ~~collective bargaining agreement~~, arbitration award, or compensation plan to the
13.15 Legislative Coordinating Commission for review under section 3.855, the commissioner
13.16 must post on a state website a summary of the proposed ~~agreement~~, award, or plan. The
13.17 summary must include the amount of and nature of proposed changes in employee
13.18 compensation, the estimated cost to the state of proposed changes in employee compensation,
13.19 and a description of proposed significant changes in policy. After approval of an ~~agreement~~,
13.20 award, or plan by the Legislative Coordinating Commission, the commissioner must provide
13.21 a link from the commissioner's summary to the full text of the ~~agreement~~, award, or plan.
13.22 The summary must remain on the website at least until the full legislature has approved the
13.23 ~~agreement~~, award, or plan. This section also applies to agreements, awards, and plans
13.24 covering employees of the Minnesota State Colleges and Universities and to compensation
13.25 plans that must be submitted to the Legislative Coordinating Commission by other executive
13.26 appointing authorities. The Minnesota State Colleges and Universities and other executive
13.27 appointing authorities must submit information to the commissioner, at a time and in a
13.28 manner specified by the commissioner, so the commissioner can post information relating
13.29 to these appointing authorities on the web as required by this section.

13.30 Sec. 26. Minnesota Statutes 2022, section 43A.181, subdivision 1, is amended to read:

13.31 Subdivision 1. **Donation of vacation time.** A state employee may donate up to 12 hours
13.32 of accrued vacation time in any fiscal year to the account established by subdivision 2 for
13.33 the benefit of another state employee. ~~The employee must notify the employee's agency~~

14.1 ~~head of the amount of accrued vacation time the employee wishes to donate and the name~~
14.2 ~~of the other state employee who is to benefit from the donation. The agency head shall~~
14.3 ~~determine the monetary value of the donated time, using the gross salary of the employee~~
14.4 ~~making the donation. The agency head shall transfer that amount, less deductions for~~
14.5 ~~applicable taxes and retirement contributions, to the account established by subdivision 2.~~
14.6 A donation of accrued vacation time is irrevocable once its monetary value has been
14.7 transferred to the account.

14.8 Sec. 27. Minnesota Statutes 2022, section 43A.1815, is amended to read:

14.9 **43A.1815 VACATION DONATION TO SICK LEAVE ACCOUNT.**

14.10 (a) In addition to donations under section 43A.181, a state employee may donate a total
14.11 of up to 40 hours of accrued vacation leave each fiscal year to the sick leave account of one
14.12 or more state employees. A state employee may not be paid for more than 80 hours in a
14.13 payroll period during which the employee uses sick leave credited to the employee's account
14.14 as a result of a transfer from another state employee's vacation account.

14.15 (b) At retirement, eligible state employees may donate additional accumulated vacation
14.16 hours in excess of their vacation payout at time of retirement, into a general pool, even if
14.17 they already have donated 40 hours.

14.18 ~~(b)~~ (c) The recipient employee must receive donations, as available, for a life-threatening
14.19 condition of the employee or spouse or dependent child that prevents the employee from
14.20 working. A recipient may use program donations retroactively to when all forms of paid
14.21 leave are exhausted if the employee has sufficient donations to cover the period of
14.22 retroactivity. A recipient who receives program donations under this section may use up to
14.23 80 hours of program donations after the death of a spouse or dependent child.

14.24 ~~(c)~~ (d) An applicant for benefits under this section who receives an unfavorable
14.25 determination may select a designee to consult with the commissioner or commissioner's
14.26 designee on the reasons for the determination.

14.27 ~~(d)~~ (e) The commissioner shall establish procedures under section 43A.04, subdivision
14.28 4, for eligibility, duration of need based on individual cases, monitoring and evaluation of
14.29 individual eligibility status, and other topics related to administration of this program.

15.1 Sec. 28. Minnesota Statutes 2023 Supplement, section 43A.19, subdivision 1, is amended
15.2 to read:

15.3 Subdivision 1. **Statewide affirmative action program.** (a) To assure that positions in
15.4 the executive branch of the civil service are equally accessible to all qualified persons, and
15.5 to eliminate the effects of past and present discrimination, intended or unintended, on the
15.6 basis of protected group status, the commissioner shall adopt and periodically revise, if
15.7 necessary, a statewide affirmative action program. The statewide affirmative action program
15.8 must consist of at least the following:

15.9 (1) objectives, goals, and policies;

15.10 (2) procedures, standards, and assumptions to be used by agencies in the preparation of
15.11 agency affirmative action plans, including methods by which goals and timetables are
15.12 established;

15.13 (3) the analysis of separation patterns to determine the impact on protected group
15.14 members; and

15.15 (4) requirements for annual objectives and submission of affirmative action progress
15.16 reports from heads of agencies.

15.17 Agency heads must report the data in clause (3) to the state Director of ~~Recruitment,~~
15.18 ~~Retention and~~ Affirmative Action and the state ADA coordinator, in addition to being
15.19 available to anyone upon request. The commissioner must annually post the aggregate and
15.20 agency-level reports under clause (4) on the agency's website.

15.21 (b) The commissioner shall establish statewide affirmative action goals for each of the
15.22 federal Equal Employment Opportunity (EEO) occupational categories applicable to state
15.23 employment, using at least the following factors:

15.24 (1) the percentage of members of each protected class in the recruiting area population
15.25 who have the necessary skills; and

15.26 (2) the availability for promotion or transfer of current employees who are members of
15.27 protected classes.

15.28 (c) The commissioner may use any of the following factors in addition to the factors
15.29 required under paragraph (b):

15.30 (1) the extent of unemployment of members of protected classes in the recruiting area
15.31 population;

(2) the existence of training programs in needed skill areas offered by employing agencies and other institutions; and

(3) the expected number of available positions to be filled.

(d) The commissioner shall designate a state director of diversity and equal employment opportunity who may be delegated the preparation, revision, implementation, and administration of the program. The commissioner of management and budget may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a.

(e) The commissioner shall designate a statewide ADA and disability employment director. The commissioner may delegate the preparation, revision, implementation, evaluation, and administration of the program to the director. The director must administer the 700-hour on-the-job demonstration experience under the supported work program and disabled veteran's employment programs. The ADA and disability employment director shall have education, knowledge, and skills in disability policy, employment, and the ADA. The commissioner may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a.

(f) Agency affirmative action plans, including reports and progress, must be posted on the agency's public and internal websites within 30 days of being approved. The commissioner of management and budget shall post a link to all executive branch agency-approved affirmative action plans on its public website. Accessible copies of the affirmative action plan must be available to all employees and members of the general public upon request.

Sec. 29. Minnesota Statutes 2022, section 43A.23, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) The commissioner is authorized to request proposals or to negotiate and to enter into contracts with parties which in the judgment of the commissioner are best qualified to provide service to the benefit plans. Contracts entered into are not subject to the requirements of sections 16C.16 to 16C.19. The commissioner may negotiate premium rates and coverage. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers, and any other factors ~~which~~ that the commissioner deems appropriate. Each benefit contract must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. A carrier licensed under chapter 62A is exempt from the taxes imposed by chapter 297I on premiums paid to it by the state.

(b) All self-insured hospital and medical service products must comply with coverage mandates, data reporting, and consumer protection requirements applicable to the licensed carrier administering the product, had the product been insured, including chapters 62J, 62M, and 62Q. Any self-insured products that limit coverage to a network of providers or provide different levels of coverage between network and nonnetwork providers shall comply with section 62D.123 and geographic access standards for health maintenance organizations adopted by the commissioner of health in rule under chapter 62D.

(c) Notwithstanding paragraph (b), a self-insured hospital and medical product offered under sections 43A.22 to 43A.30 is required to extend dependent coverage to an eligible employee's child to the full extent required under chapters 62A and 62L. Dependent child coverage must, at a minimum, extend to an eligible employee's dependent child to the limiting age as defined in section 62Q.01, subdivision 2a, disabled children to the extent required in sections 62A.14 and 62A.141, and dependent grandchildren to the extent required in sections 62A.042 and 62A.302.

(d) Beginning January 1, 2010, the health insurance benefit plans offered in the ~~commissioner's plan~~ Nonrepresented Employees Compensation Plan under section 43A.18, subdivision 2, and the managerial plan under section 43A.18, subdivision 3, ~~must~~ may include an option for a health plan that is compatible with the definition of a high-deductible health plan in section 223 of the United States Internal Revenue Code.

Sec. 30. Minnesota Statutes 2022, section 43A.23, subdivision 2, is amended to read:

Subd. 2. Contract to contain statement of benefits. (a) Each contract under sections 43A.22 to 43A.30 shall contain a detailed statement of benefits offered and shall include any maximums, limitations, exclusions, and other definitions of benefits the commissioner deems necessary or desirable. Each hospital and medical benefits contract shall provide benefits at least equal to those required by section 62E.06, subdivision 2.

(b) All summaries of benefits describing the hospital and medical service benefits offered to state employees must comply with laws and rules for content and clarity applicable to the licensed carrier administering the product. Referral procedures must be clearly described. The commissioners of commerce and health, ~~as appropriate, shall~~ may review the summaries of benefits, ~~whether written or electronic,~~ and advise the commissioner on any changes needed to ensure compliance.

18.1 Sec. 31. Minnesota Statutes 2022, section 43A.24, subdivision 1a, is amended to read:

18.2 Subd. 1a. **Opt out.** (a) An individual eligible for state-paid hospital, medical, and dental
18.3 benefits under this section has the right to decline those benefits, provided the individual
18.4 declining the benefits can prove health insurance coverage from another source. Any
18.5 individual declining benefits must do so in writing, signed and dated, on a form provided
18.6 by the commissioner.

18.7 (b) The commissioner must create, and make available in hard copy and online a form
18.8 for individuals to use in declining state-paid hospital, medical, and dental benefits. The form
18.9 must, at a minimum, include notice to the declining individual of the next available
18.10 opportunity and procedure to re-enroll in the benefits.

18.11 ~~(c) No later than January 15 of each year, the commissioner of management and budget~~
18.12 ~~must provide a report to the chairs and ranking minority members of the legislative~~
18.13 ~~committees with jurisdiction over state government finance on the number of employees~~
18.14 ~~choosing to opt out of state employee group insurance coverage under this section. The~~
18.15 ~~report must provide itemized statistics, by agency, and include the total amount of savings~~
18.16 ~~accrued to each agency resulting from the opt-outs.~~

18.17 Sec. 32. Minnesota Statutes 2022, section 43A.24, subdivision 2, is amended to read:

18.18 Subd. 2. **Other eligible persons.** The following persons are eligible for state paid life
18.19 insurance and hospital, medical, and dental benefits as determined in applicable collective
18.20 bargaining agreements or by the commissioner or by plans pursuant to section 43A.18,
18.21 subdivision 6, ~~or by the Board of Regents for employees of the University of Minnesota~~
18.22 ~~not covered by collective bargaining agreements.~~ Coverages made available, including
18.23 optional coverages, are as contained in the plan established pursuant to section 43A.18,
18.24 subdivision 2:

18.25 (1) a member of the state legislature, provided that changes in benefits resulting in
18.26 increased costs to the state shall not be effective until expiration of the term of the members
18.27 of the existing house of representatives. An eligible member of the state legislature may
18.28 decline to be enrolled for state paid coverages by filing a written waiver with the
18.29 commissioner. The waiver shall not prohibit the member from enrolling the member or
18.30 dependents for optional coverages, without cost to the state, as provided for in section
18.31 43A.26. A member of the state legislature who returns from a leave of absence to a position
18.32 previously occupied in the civil service shall be eligible to receive the life insurance and
18.33 hospital, medical, and dental benefits to which the position is entitled;

19.1 (2) an employee of the legislature or an employee of a permanent study or interim
19.2 committee or commission or a state employee on leave of absence to work for the legislature,
19.3 during a regular or special legislative session, as determined by the Legislative Coordinating
19.4 Commission;

19.5 (3) a judge of the appellate courts or an officer or employee of these courts; a judge of
19.6 the district court, a judge of county court, or a judge of county municipal court; a district
19.7 court referee, judicial officer, court reporter, or law clerk; a district administrator; an
19.8 employee of the Office of the District Administrator that is not in the Second or Fourth
19.9 Judicial District; a court administrator or employee of the court administrator in a judicial
19.10 district under section 480.181, subdivision 1, paragraph (b), and a guardian ad litem program
19.11 employee;

19.12 (4) a salaried employee of the Public Employees Retirement Association;

19.13 (5) a full-time military or civilian officer or employee in the unclassified service of the
19.14 Department of Military Affairs whose salary is paid from state funds;

19.15 (6) an employee of the Minnesota Historical Society, whether paid from state funds or
19.16 otherwise, who is not a member of the governing board;

19.17 ~~(7) an employee of the regents of the University of Minnesota;~~

19.18 ~~(8)~~ (7) notwithstanding section 43A.27, subdivision 3, an employee of the state of
19.19 Minnesota or the regents of the University of Minnesota who is at least 60 and not yet 65
19.20 years of age on July 1, 1982, who is otherwise eligible for employee and dependent insurance
19.21 and benefits pursuant to section 43A.18 or other law, who has at least 20 years of service
19.22 and retires, earlier than required, within 60 days of March 23, 1982; or an employee who
19.23 is at least 60 and not yet 65 years of age on July 1, 1982, who has at least 20 years of state
19.24 service and retires, earlier than required, from employment at Rochester state hospital after
19.25 July 1, 1981; or an employee who is at least 55 and not yet 65 years of age on July 1, 1982,
19.26 and is covered by the Minnesota State Retirement System correctional employee retirement
19.27 plan or the State Patrol retirement fund, who has at least 20 years of state service and retires,
19.28 earlier than required, within 60 days of March 23, 1982. For purposes of this clause, a person
19.29 retires when the person terminates active employment in state or University of Minnesota
19.30 service and applies for a retirement annuity. Eligibility shall cease when the retired employee
19.31 attains the age of 65, or when the employee chooses not to receive the annuity that the
19.32 employee has applied for. The retired employee shall be eligible for coverages to which the
19.33 employee was entitled at the time of retirement, subject to any changes in coverage through
19.34 collective bargaining or plans established pursuant to section 43A.18, for employees in

positions equivalent to that from which retired, provided that the retired employee shall not be eligible for state-paid life insurance. Coverages shall be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program;

~~(9)~~ (8) an employee of an agency of the state of Minnesota identified through the process provided in this paragraph who is eligible to retire prior to age 65. The commissioner and the exclusive representative of state employees shall enter into agreements under section 179A.22 to identify employees whose positions are in programs that are being permanently eliminated or reduced due to federal or state policies or practices. Failure to reach agreement identifying these employees is not subject to impasse procedures provided in chapter 179A. The commissioner must prepare a plan identifying eligible employees not covered by a collective bargaining agreement in accordance with the process outlined in section 43A.18, subdivisions 2 and 3. For purposes of this paragraph, a person retires when the person terminates active employment in state service and applies for a retirement annuity. Eligibility ends as provided in the agreement or plan, but must cease at the end of the month in which the retired employee chooses not to receive an annuity, or the employee is eligible for employer-paid health insurance from a new employer. The retired employees shall be eligible for coverages to which they were entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established under section 43A.18 for employees in positions equivalent to that from which they retired, provided that the retired employees shall not be eligible for state-paid life insurance;

~~(10)~~ (9) employees of the state Board of Public Defense, with eligibility determined by the state Board of Public Defense in consultation with the commissioner of management and budget; and

~~(11)~~ (10) employees of supporting organizations of Enterprise Minnesota, Inc., established after July 1, 2003, under section 116O.05, subdivision 4, as paid for by the supporting organization.

Sec. 33. Minnesota Statutes 2022, section 43A.27, subdivision 2, is amended to read:

Subd. 2. **Elective eligibility.** The following persons, if not otherwise covered by section 43A.24, may elect coverage for themselves or their dependents at their own expense:

(1) a state employee, including persons on layoff from a civil service position as provided in collective bargaining agreements or a plan established pursuant to section 43A.18;

21.1 ~~(2) an employee of the Board of Regents of the University of Minnesota, including~~
 21.2 ~~persons on layoff, as provided in collective bargaining agreements or by the Board of~~
 21.3 ~~Regents;~~

21.4 ~~(3)~~ (2) an officer or employee of the State Agricultural Society, Center for Rural Policy
 21.5 and Development, Agricultural Utilization Research Institute, State Horticultural Society,
 21.6 Sibley House Association, Minnesota Humanities ~~Center~~ Commission, Minnesota Area
 21.7 Industry Labor Management Councils, ~~Minnesota International Center, Minnesota Academy~~
 21.8 ~~of Science, Science Museum of Minnesota,~~ Minnesota Safety Council, ~~state Office of~~
 21.9 ~~Disabled American Veterans,~~ state Office of the American Legion and its auxiliary, or state
 21.10 Office of Veterans of Foreign Wars and its auxiliary, ~~or state Office of the Military Order~~
 21.11 ~~of the Purple Heart;~~

21.12 ~~(4)~~ (3) a civilian employee of the adjutant general who is paid from federal funds and
 21.13 who is not eligible for benefits from any federal civilian employee group life insurance or
 21.14 health benefits program;

21.15 ~~(5)~~ (4) an officer or employee of the ~~State Capitol~~ Affinity Plus Credit Union or the
 21.16 ~~Highway Hiway~~ Credit Union; and

21.17 ~~(6)~~ (5) an employee of the joint underwriting association pursuant to section 62I.121 or
 21.18 Minnesota FAIR plan pursuant to section 65A.35, subdivision 5, unless the commissioner
 21.19 determines that making these employees eligible to purchase this coverage would cause the
 21.20 state employee group insurance program to lose its status as a governmental plan or would
 21.21 cause the program to be treated as a multiemployer welfare arrangement.

21.22 Sec. 34. Minnesota Statutes 2022, section 43A.27, subdivision 4, is amended to read:

21.23 Subd. 4. **Retired judges; former legislators.** (a) Retired judges or former legislators
 21.24 may elect to purchase coverage for themselves or their dependents at their own expense as
 21.25 provided in ~~paragraphs (b) and (c)~~ this section.

21.26 (b) A retired judge of the state supreme court, the court of appeals, a district court, a
 21.27 county court, a county municipal court, or a probate court may elect to purchase coverage
 21.28 provided persons listed in section 43A.24, subdivision 2, clause (3). A former member of
 21.29 the legislature may elect to purchase coverage provided to persons listed in section 43A.24,
 21.30 subdivision 2, clause (11). The commissioner shall notify judges no later than the effective
 21.31 date of their retirement and legislators no later than 30 days after vacating office of their
 21.32 right to exercise the option provided in this subdivision. A retired judge and a former
 21.33 legislator must notify the commissioner or designee of the commissioner within 30 days

22.1 after the effective date of retirement or vacating office if the judge or former legislator
22.2 intends to exercise the option.

22.3 ~~(c) A former member of the legislature may elect to purchase coverage provided persons~~
22.4 ~~listed in section 43A.24, subdivision 2, clause (1).~~

22.5 Sec. 35. Minnesota Statutes 2022, section 43A.346, subdivision 2, is amended to read:

22.6 Subd. 2. **Eligibility.** (a) This section applies to a terminated state employee who:

22.7 (1) for at least the five years immediately preceding separation under ~~clause~~ clauses (2)
22.8 and (3), was regularly scheduled to work 1,044 or more hours per year in a position covered
22.9 by a pension plan administered by the Minnesota State Retirement System or the Public
22.10 Employees Retirement Association;

22.11 (2) terminated state or Metropolitan Council employment;

22.12 (3) at the time of termination under clause (2), met the age and service requirements
22.13 necessary to receive an unreduced retirement annuity from the plan and satisfied requirements
22.14 for the commencement of the retirement annuity or, for a terminated employee under the
22.15 unclassified employees retirement plan, met the age and service requirements necessary to
22.16 receive an unreduced retirement annuity from the plan and satisfied requirements for the
22.17 commencement of the retirement annuity or elected a lump-sum payment; and

22.18 (4) agrees to accept a postretirement option position with the same or a different
22.19 appointing authority, working a reduced schedule that is both (i) a reduction of at least 25
22.20 percent from the employee's number of previously regularly scheduled work hours; and (ii)
22.21 1,044 hours or less in state or Metropolitan Council service.

22.22 (b) For purposes of this section, an unreduced retirement annuity includes a retirement
22.23 annuity computed under a provision of law which permits retirement, without application
22.24 of an earlier retirement reduction factor, whenever age plus years of allowable service total
22.25 at least 90.

22.26 (c) For purposes of this section, as it applies to state employees who are members of the
22.27 Public Employees Retirement Association who are at least age 62, the length of separation
22.28 requirement and termination of service requirement prohibiting return to work agreements
22.29 under section 353.01, subdivisions 11a and 28, are not applicable.

23.1 Sec. 36. Minnesota Statutes 2022, section 43A.346, subdivision 6, is amended to read:

23.2 Subd. 6. **Duration.** Postretirement option employment is for an initial period not to
23.3 exceed one year. During that period, the appointing authority may not modify the conditions
23.4 of employment specified in the written offer without the person's consent, except as required
23.5 by law or by the collective bargaining agreement or compensation plan applicable to the
23.6 person. At the end of the initial period, the appointing authority has sole discretion to
23.7 determine if the offer of a postretirement option position will be renewed, renewed with
23.8 modifications, or terminated. Postretirement option employment may be renewed for periods
23.9 of up to one year, not to exceed a total duration of five years. No person may be employed
23.10 in one or a combination of postretirement option positions under this section for a total of
23.11 more than five years.

23.12 Sec. 37. **REPEALER.**

23.13 Minnesota Statutes 2022, sections 43A.05, subdivision 6; 43A.315; 43A.317, subdivisions
23.14 1, 2, 3, 5, 6, 7, 8, 9, 10, and 12; and 43A.318, subdivisions 1, 2, 4, and 5, are repealed.

43A.05 POWERS AND RESPONSIBILITIES; PERSONNEL.

Subd. 6. **Allocation.** The amount recommended by the Legislative Coordinating Commission pursuant to subdivision 5 to make comparability adjustments shall be submitted to the full legislature by March 1 of each odd-numbered year. The legislature may accept, reject, or modify the amount recommended. The commissioner shall allocate the amount appropriated by the legislature, on a pro rata basis, if necessary, to the proper accounts for distribution to incumbents of classes which have been approved for comparability adjustments.

Funds appropriated for purposes of comparability adjustments for state employees shall be drawn exclusively from and shall not be in addition to the funds appropriated for salary supplements or other employee compensation. Funds not used for purposes of comparability adjustments shall revert to the appropriate fund.

43A.315 STATE EMPLOYEE EFFICIENT USE OF HEALTH CARE INCENTIVE PROGRAM.

The commissioner of management and budget may develop and implement a program that creates an incentive for efficient use by state employees of State Employee Group Insurance Program (SEGIP). The program may reward employees covered by SEGIP as a group if per capita employee health care costs paid by SEGIP for a calendar year prove to be less than estimated by the commissioner prior to the beginning of the calendar year. The reward may consist of payments of one-half of the cost-savings into the employees' health reimbursement accounts, to be made no later than June 30 of the following calendar year.

43A.317 MINNESOTA EMPLOYEES INSURANCE PROGRAM.

Subdivision 1. **Intent.** The legislature finds that the creation of a statewide program to provide employers with the advantages of a large pool for insurance purchasing would advance the welfare of the citizens of the state.

Subd. 2. **Definitions.** (a) **Scope.** For the purposes of this section, the terms defined have the meaning given them.

(b) **Commissioner.** "Commissioner" means the commissioner of management and budget.

(c) **Eligible employee.** "Eligible employee" means an employee eligible to participate in the program under the terms described in subdivision 6.

(d) **Eligible employer.** "Eligible employer" means an employer eligible to participate in the program under the terms described in subdivision 5.

(e) **Eligible individual.** "Eligible individual" means a person eligible to participate in the program under the terms described in subdivision 6.

(f) **Employee.** "Employee" means an employee of an eligible employer. "Employee" includes a sole proprietor, partner of a partnership, member of a limited liability company, or independent contractor.

(g) **Employer.** "Employer" means a private person, firm, corporation, partnership, limited liability company, association, or other entity actively engaged in business or public services. "Employer" includes both for-profit and nonprofit entities.

(h) **Program.** "Program" means the Minnesota employees insurance program created by this section.

Subd. 3. **Administration.** After consulting with the chairs of the senate Governmental Operations and Veterans Committee and the house of representatives Governmental Operations and Veterans Affairs Policy Committee, the commissioner may determine when the program provided under this section is available. When the commissioner makes the program available, the commissioner shall, consistent with the provisions of this section, administer the program and determine its coverage options, funding and premium arrangements, contractual arrangements, and all other matters necessary to administer the program. The commissioner's contracting authority for the program, including authority for competitive bidding and negotiations, is governed by section 43A.23.

Subd. 5. **Employer eligibility.** (a) **Procedures.** All employers are eligible for coverage through the program subject to the terms of this subdivision. The commissioner shall establish procedures for an employer to apply for coverage through the program.

(b) **Term.** The initial term of an employer's coverage may be for up to two years from the effective date of the employer's application. After that, coverage will be automatically renewed for an additional term unless the employer gives notice of withdrawal from the program according to procedures established by the commissioner or the commissioner gives notice to the employer of the discontinuance of the program. The commissioner may establish conditions under which an employer may withdraw from the program prior to the expiration of a term, including by reason of an increase in health coverage premiums of 50 percent or more from one insurance year to the next. An employer that withdraws from the program may not reapply for coverage for a period of time equal to its initial term of coverage.

(c) **Minnesota work force.** An employer is not eligible for coverage through the program if five percent or more of its eligible employees work primarily outside Minnesota, except that an employer may apply to the program on behalf of only those employees who work primarily in Minnesota.

(d) **Employee participation; aggregation of groups.** An employer is not eligible for coverage through the program unless its application includes all eligible employees who work primarily in Minnesota, except employees who waive coverage as permitted by subdivision 6. Private entities that are eligible to file a combined tax return for purposes of state tax laws are considered a single employer, except as otherwise approved by the commissioner.

(e) **Private employer.** A private employer is not eligible for coverage unless it has two or more eligible employees in the state of Minnesota. If an employer has only two eligible employees and one is the spouse, child, sibling, parent, or grandparent of the other, the employer must be a Minnesota-domiciled employer and have paid Social Security or self-employment tax on behalf of both eligible employees.

(f) **Minimum participation.** The commissioner must require as a condition of employer eligibility that at least 75 percent of its eligible employees who have not waived coverage participate in the program. The participation level of eligible employees must be determined at the initial offering of coverage and at the renewal date of coverage. For purposes of this section, waiver of coverage includes only waivers due to coverage under another group health benefit plan.

(g) **Employer contribution.** The commissioner must require as a condition of employer eligibility that the employer contribute at least 50 percent toward the cost of the premium of the employee and may require that the contribution toward the cost of coverage is structured in a way that promotes price competition among the coverage options available through the program.

(h) **Enrollment cap.** The commissioner may limit employer enrollment in the program if necessary to avoid exceeding the program's reserve capacity.

Subd. 6. **Individual eligibility.** (a) **Procedures.** The commissioner shall establish procedures for eligible employees and other eligible individuals to apply for coverage through the program.

(b) **Employees.** An employer shall determine when it applies to the program the criteria its employees must meet to be eligible for coverage under its plan. An employer may subsequently change the criteria annually or at other times with approval of the commissioner. The criteria must provide that new employees become eligible for coverage after a probationary period of at least 30 days, but no more than 90 days.

(c) **Other individuals.** An employer may elect to cover under its plan:

(1) the spouse, dependent children to the limiting age as defined in section 62Q.01, subdivision 2a, disabled children to the extent required in sections 62A.14 and 62A.141, and dependent grandchildren to the extent required in sections 62A.042 and 62A.302;

(2) a retiree who is eligible to receive a pension or annuity from the employer and a covered retiree's spouse, dependent children to the limiting age as defined in section 62Q.01, subdivision 2a, disabled children to the extent required in sections 62A.14 and 62A.141, and dependent grandchildren to the extent required in sections 62A.042 and 62A.302;

(3) the surviving spouse, dependent children to the limiting age as defined in section 62Q.01, subdivision 2a, disabled children, and dependent grandchildren of a deceased employee or retiree, if the spouse, children, or grandchildren were covered at the time of the death;

(4) a covered employee who becomes disabled, as provided in sections 62A.147 and 62A.148;
or

(5) any other categories of individuals for whom group coverage is required by state or federal law.

An employer shall determine when it applies to the program the criteria individuals in these categories must meet to be eligible for coverage. An employer may subsequently change the criteria annually, or at other times with approval of the commissioner. The criteria for dependent children to the limiting age as defined in section 62Q.01, subdivision 2a, disabled children, and dependent grandchildren may be no more inclusive than the criteria under section 43A.18, subdivision 2. This paragraph shall not be interpreted as relieving the program from compliance with any federal and state continuation of coverage requirements.

(d) **Waiver and late entrance.** An eligible individual may waive coverage at the time the employer joins the program or when coverage first becomes available. The commissioner may establish a preexisting condition exclusion of not more than 18 months for late entrants as defined in section 62L.02, subdivision 19.

(e) **Continuation coverage.** The program shall provide all continuation coverage required by state and federal law.

Subd. 7. **Coverage.** Coverage is available through the program beginning on July 1, 1993. Until an arrangement is in place to provide coverage through a transfer of risk to one or more carriers regulated under chapter 62A, 62C, or 62D, the commissioner shall solicit bids under section 43A.23, from carriers regulated under chapters 62A, 62C, and 62D, to provide coverage of eligible individuals. The commissioner shall provide coverage through contracts with carriers, unless the commissioner receives no reasonable bids from carriers.

(a) **Health coverage.** Health coverage is available to all employers in the program. The commissioner shall attempt to establish health coverage options that have strong care management features to control costs and promote quality and shall attempt to make a choice of health coverage options available. Health coverage for a retiree who is eligible for the federal Medicare program must be administered as though the retiree is enrolled in Medicare parts A and B. To the extent feasible as determined by the commissioner and in the best interests of the program, the commissioner shall model coverage after the plan established in section 43A.18, subdivision 2. Health coverage must include at least the benefits required of a carrier regulated under chapter 62A, 62C, or 62D for comparable coverage. Coverage under this paragraph must not be provided as part of the health plans available to state employees.

(b) **Optional coverages.** In addition to offering health coverage, the commissioner may arrange to offer dental coverage through the program. Employers with health coverage may choose to offer dental coverage according to the terms established by the commissioner.

(c) **Open enrollment.** The program must meet all underwriting requirements of chapter 62L and must provide periodic open enrollments for eligible individuals for those coverages where a choice exists.

(d) **Technical assistance.** The commissioner may arrange for technical assistance and referrals for eligible employers in areas such as health promotion and wellness, employee benefits structure, tax planning, and health care analysis services as described in section 62J.2930.

Subd. 8. **Premiums.** (a) **Payments.** Employers enrolled in the program shall pay premiums according to terms established by the commissioner. If an employer fails to make the required payments, the commissioner may cancel coverage and pursue other civil remedies.

(b) **Rating method.** The commissioner shall determine the premium rates and rating method for the program. The rating method for eligible small employers must meet or exceed the requirements of chapter 62L. The rating methods must recover in premiums all of the ongoing costs for state administration and for maintenance of a premium stability and claim fluctuation reserve. On June 30, 1999, after paying all necessary and reasonable expenses, the commissioner must apply up to \$2,075,000 of any remaining balance in the Minnesota employees' insurance trust fund to repayment of any amounts drawn or expended for this program from the health care access fund.

(c) **Taxes and assessments.** To the extent that the program operates as a self-insured group, the premiums paid to the program are not subject to the taxes imposed by chapter 297I, but the program is subject to a Minnesota Comprehensive Health Association assessment under section 62E.11.

Subd. 9. **Minnesota employees insurance trust fund.** (a) **Contents.** The Minnesota employees insurance trust fund in the state treasury consists of deposits received from eligible employers and

individuals, contractual settlements or rebates relating to the program, investment income or losses, and direct appropriations.

(b) **Appropriation.** All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other costs necessary to administer the program.

(c) **Reserves.** For any coverages for which the program does not contract to transfer full financial responsibility, the commissioner shall establish and maintain reserves:

(1) for claims in process, incomplete and unreported claims, premiums received but not yet earned, and all other accrued liabilities; and

(2) to ensure premium stability and the timely payment of claims in the event of adverse claims experience. The reserve for premium stability and claim fluctuations must be established according to the standards of section 62C.09, subdivision 3, except that the reserve may exceed the upper limit under this standard until July 1, 1997.

(d) **Investments.** The State Board of Investment shall invest the fund's assets according to section 11A.24. Investment income and losses attributable to the fund must be credited to the fund.

Subd. 10. **Program status.** The Minnesota employees insurance program is a state program to provide the advantages of a large pool to small employers for purchasing health coverage, other coverages, and related services from insurance companies, health maintenance organizations, and other organizations. The program is not an insurance company. Coverage under this program shall be considered a certificate of insurance or similar evidence of coverage and is subject to all applicable requirements of chapters 60A, 62A, 62C, 62E, 62H, 62L, and 72A, and is subject to regulation by the commissioner of commerce to the extent applicable.

Subd. 12. **Status of agents.** Notwithstanding sections 60K.49 and 72A.07, the program may use, and pay referral fees, commissions, or other compensation to, agents licensed as insurance producers under chapter 60K or licensed under section 62C.17, regardless of whether the agents are appointed to represent the particular health carriers or community integrated service networks that provide the coverage available through the program. When acting under this subdivision, an agent is not an agent of the health carrier or community integrated service network, with respect to that transaction.

43A.318 PUBLIC EMPLOYEES GROUP LONG-TERM CARE INSURANCE PROGRAM.

Subdivision 1. **Definitions.** (a) **Scope.** For the purposes of this section, the terms defined have the meanings given them.

(b) **Eligible person.** "Eligible person" means:

(1) a person who is eligible for insurance and benefits under section 43A.24;

(2) a person who at the time of separation from employment was eligible to purchase coverage at personal expense under section 43A.27, subdivision 3, regardless of whether the person elected to purchase this coverage;

(3) a spouse of a person described in clause (1) or (2), regardless of the enrollment status in the program of the person described in clause (1) or (2); or

(4) a parent of a person described in clause (1), regardless of the enrollment status in the program of the person described in clause (1).

(c) **Program.** "Program" means the statewide public employees long-term care insurance program created under subdivision 2.

(d) **Qualified vendor.** "Qualified vendor" means an entity licensed or authorized to underwrite, provide, or administer group long-term care insurance benefits in this state.

Subd. 2. **Program creation; general provisions.** (a) The commissioner may administer a program to make long-term care coverage available to eligible persons. The commissioner may determine the program's funding arrangements, request bids from qualified vendors, and negotiate and enter into contracts with qualified vendors. Contracts are not subject to the requirements of section 16C.16 or 16C.19. Contracts must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. The program may not be self-insured until the commissioner has completed an actuarial study

of the program and reported the results of the study to the legislature and self-insurance has been specifically authorized by law.

(b) The program may provide coverage for home, community, and institutional long-term care and any other benefits as determined by the commissioner. Coverage is optional. The enrolled eligible person must pay the full cost of the coverage.

(c) The commissioner shall promote activities that attempt to raise awareness of the need for long-term care insurance among residents of the state and encourage the increased prevalence of long-term care coverage. These activities must include the sharing of knowledge gained in the development of the program.

(d) The commissioner may employ and contract with persons and other entities to perform the duties under this section and may determine their duties and compensation consistent with this chapter.

(e) The benefits provided under this section are not terms and conditions of employment as defined under section 179A.03, subdivision 19, and are not subject to collective bargaining.

(f) The commissioner shall establish underwriting criteria for entry of all eligible persons into the program. Eligible persons who would be immediately eligible for benefits may not enroll.

(g) Eligible persons who meet underwriting criteria may enroll in the program upon hiring and at other times established by the commissioner.

(h) An eligible person enrolled in the program may continue to participate in the program even if an event, such as termination of employment, changes the person's employment status.

(i) Participating public employee pension plans and public employers may provide automatic pension or payroll deduction for payment of long-term care insurance premiums to qualified vendors contracted with under this section.

(j) The premium charged to program enrollees must include an administrative fee to cover all program expenses incurred in addition to the cost of coverage. All fees collected are appropriated to the commissioner for the purpose of administering the program.

Subd. 4. Long-term care insurance trust fund. (a) The long-term care insurance trust fund in the state treasury consists of deposits of the premiums received from persons enrolled in the program. All money in the fund is appropriated to the commissioner to pay premiums, claims, refunds, administrative costs, and other related service costs. The commissioner shall reserve an amount of money sufficient to cover the actuarially estimated costs of claims incurred but unpaid. The trust fund must be used solely for the purpose of the program.

(b) The State Board of Investment shall invest the money in the fund according to section 11A.24. Investment income and losses attributable to the fund must be credited to or deducted from the fund.

Subd. 5. Private sources. This section does not prohibit or limit individuals or local governments from purchasing long-term care insurance through other private sources.