



January 15, 2021

The Honorable Mary Kiffmeyer, Chair
State Government Finance and Policy and Elections Committee

The Honorable Julie A. Rosen, Chair
Senate Finance Committee

The Honorable Michael Nelson, Chair
State Government Finance and Elections Committee

The Honorable Rena Moran, Chair
House Ways and Means Committee

The Honorable Jim Carlson, Ranking Minority Member
State Government Finance and Policy and Elections Committee

The Honorable John Marty, Ranking Minority Member
Senate Finance Committee

The Honorable Jim Nash, Republican Lead
State Government Finance and Elections Committee

The Honorable Pat Garofalo, Republican Lead
House Ways and Means Committee

Commissioner Jim Showalter
Minnesota Management and Budget

Enclosed you will find the recommendations of the Advisory Task Force on State Employment and Retention of Employees with Disabilities, authorized and governed by Minnesota Session Laws 2019, Chapter 10, Article II, Section 24.

We strongly recommend that several state statutes be updated and strengthened to improve the hiring and retention of state employees with disabilities.

The Advisory Task Force fulfills its mission, as defined by the legislature in the session law, by submitting this report to the chairs and ranking minority members of the committees with jurisdiction over state government finance and policy and to the commissioner of Minnesota Management and Budget.

Sincerely,

David Fenley, Chair
Advisory Task Force on State Employment and Retention of Employees with Disabilities

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Strategies for Attracting and Retaining State Employees with Disabilities

Advisory Task Force on State Employment and
Retention of Employees with Disabilities
January 15, 2021

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As required by Minnesota Statutes, section 3.197: This report cost approximately \$30,000 to prepare.

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Executive summary

The Advisory Task Force on State Employment and Retention of Employees with Disabilities (hereafter known as “the task force”) was created by the 2019 Minnesota Legislature and charged with submitting a report on strategies for attracting and retaining state employees with disabilities, including proposed legislation. Legislation limited the task force’s scope to recommendations regarding the hiring and retention of employees with disabilities. The task force did not expand its work beyond that scope.

The task force recommends specific revisions to Minnesota Statutes Chapter 43A, which governs the hiring and retention of employees. Implementing these recommendations will demonstrate the State of Minnesota’s commitment to the hiring, retention, and advancement of people with disabilities by modernizing outdated and potentially discriminatory language, creating more clarity and consistency, and adding capacity for essential equity work.

To be successful in recruiting and retaining state employees with disabilities, once these essential statutory changes are made, people with disabilities and the organizations that represent them must be directly involved in the resulting policy development and oversight.

The recommendations presented in this report are grounded in best practice and align with the framework developed by The Council of State Governments and the National Conference of State Legislatures. They are also grounded in the real experiences of applicants and employees with disabilities in Minnesota and the available data provided to the task force. While the task force recognizes that existing policies and procedures may be intended to achieve the same outcomes as the recommendations in this report, after fifteen months of careful deliberation, the task force concluded that statutes must be modernized.

In this report, the task force has drafted recommended changes to statute. However, none of the task force members are attorneys. The task force would welcome the opportunity to work with legislators, legislative staff, and the Revisor’s Office to convert these recommendations into legislative language that will ultimately attract and retain more employees with disabilities, who contribute their passion, skills, and creativity to the state workforce every day.

Introduction

Advisory Task Force on State Employment and Retention of Employees with Disabilities

Purpose and scope

The 2019 Minnesota Legislature created the Advisory Task Force on State Employment and Retention of Employees with Disabilities (hereafter known as “the task force”). [Minnesota Session Laws 2019, Chapter 10](#),

[Article II, Section 24](#) states that the task force must submit a report on strategies for attracting and retaining state employees with disabilities, including a proposal for any legislation necessary to implement the task force’s recommendations.

Membership and process

The legislation creating the task force identified its membership as representatives from:

- Minnesota Commission of the Deaf, Deafblind & Hard of Hearing
- Minnesota Governor’s Council on Developmental Disabilities
- Minnesota Council on Disability
- Minnesota Management and Budget
- Minnesota Office of Accessibility, housed in Minnesota IT Services (MNIT)
- Office of Ombudsman for Mental Health and Developmental Disabilities
- Olmstead Implementation Office
- State Services for the Blind
- System of Technology to Achieve Results (STAR)
- Vocational Rehabilitation Services

See Appendix A for a list of the task force members.

David Fenley, the representative from the Minnesota Council on Disability, served as task force chair. The meetings were facilitated by consultants from Minnesota Management and Budget’s (MMB’s) Management Analysis and Development, who also assisted with drafting and revising this report.¹ MMB’s Enterprise Human Capital division provided administrative support and coordinated meeting space and logistics.

Fifteen task force meetings were held between September 2019 and January 2021. The task force developed and approved a charter and agreed to make decisions by consensus. Meetings were open to the public and time was dedicated at each meeting for public comment. The task force met in person from September 2019 through February 2020, at which time executive orders required or requested that nonessential workers stay at home. The task force then met virtually, and the meetings continued to remain open to the public.

Vision

The task force started their work by establishing a common vision for state employment and retention of employees with disabilities.

Minnesota has a sustained and visible commitment to attracting and retaining people with disabilities to be state employees.

¹ The Minnesota Commission of the Deaf, DeafBlind, and Hard of Hearing provided funding for these consulting services.

This sustained and visible commitment is demonstrated by:

- Meaningful inclusion of people with disabilities in decision-making, including hiring of people with disabilities at the highest levels of government;
- Buy-in across state government for attracting and retaining people with disabilities, plus the necessary investment of resources and capacity-building to achieve clear goals;
- Effective policies, processes, and procedures to support a high retention rate of employees with disabilities;
- Effective noncompetitive appointment practices to attract and hire people with disabilities;
- Timely and appropriate reasonable accommodations for all employees with disabilities and for candidates with disabilities who are applying for state employment;
- Shared, timely, transparent, and robust data collection to measure the effectiveness of state efforts to recruit and retain employees with disabilities; and
- Effective work preparation, including post-secondary education, to increase the number of qualified applicants with disabilities for state employment.

Leading by example

Guiding principles

The Council of State Governments and the National Conference of State Legislatures convened the National Task Force on Workforce Development for People with Disabilities (National Task Force). The National Task Force’s work was published December 2016 in the report “Work Matters: A Framework for States on Workforce Development for People with Disabilities.”² The policy framework presented in “Work Matters” is grounded by the following guiding principles, which are quoted directly from the report:

“Disability is a natural part of the human experience that in no way diminishes one’s right to fully participate in all aspects of community life.”

As such, state disability policy should consider support of the following four goals:

- 1. Equal opportunity, including treating people with disabilities as individuals, making assessments based on facts, objective evidence and science, and providing effective and meaningful experiences in the most integrated setting appropriate.*
- 2. Full participation in society, including engagement of people with disabilities in relevant decision-making at the individual and systems levels, self-determination, self-advocacy and informed choice.*
- 3. Economic self-sufficiency, including employment-related services and supports, financial literacy, entrepreneurship and work incentives.*
- 4. Independent living, including skills development and long-term services and supports.*

² Whitehouse, Ingram & Silverstein, December 2016:
https://www.ncsl.org/Portals/1/Documents/employ/Work_Matters_Report.pdf

Disability can develop at any point during an individual’s lifetime and have varying impacts.

As such, state agencies should ensure service delivery is relevant at all ages, is inclusive of all types of disabilities, and maximizes the strengths and abilities of the individual. States should also consider providing a centralized systems navigation process so that people with disabilities and their families have a place to ask questions and get answers about rights, responsibilities, services and supports.

Successful disability policy embraces the “nothing about us without us” principle.

Individuals with disabilities, alongside families, advocates and champions from agencies, education, business and communities, should be engaged throughout the policymaking process at all levels. This includes increasing the actual participation of people with disabilities at the highest levels of state government.

People with disabilities are underutilized in our workforce and frequently experience social and economic disadvantage.

There is strong rationale for including people with disabilities in public policy efforts targeting other under-represented groups like veterans, women and minorities.

People with disabilities have valuable and unique contributions to make.

State disability employment initiatives have the best chance at success when employers are motivated to hire people with disabilities not because they have to or because it’s the right thing to do, but because they recognize that disability inclusion helps boost the bottom line through increased innovation, creativity and productivity.”

In addition to the guiding principles from the “Work Matters” report, the task force identified the following essential guiding principle:

Legislative and policy changes are only as good as the culture that implements them.

State disability employment initiatives must be implemented in an organizational culture that emphasizes accountability and includes people with disabilities directly in both the implementation and the accountability structure that surrounds any legislative or policy changes.

The opportunity for state governments to lead by example

In “Work Matters,” the National Task Force identified barriers to employment for people with disabilities and presented a framework for policy options to address those barriers.

The first policy option recommended in “Work Matters” is for states to lead by example as model employers of people with disabilities.³

State governments, through their employment practices, agency policies and outreach efforts to private-sector employers, have the opportunity to communicate to citizens with disabilities that the state is committed to securing and expanding employment access and community inclusion for people with disabilities.⁴

Minnesota must lead by example and “walk the talk.” Through implementation of the following recommendations, Minnesota will move closer to becoming an inclusive model employer of people with disabilities and show the way for other employers.

Current status of separation and retention rates for state employees with disabilities

MMB provided the following data to the task force only in response to a formal data request from the task force. The task force believes this is an incomplete data set and strongly recommends improvements in data collection and reporting about employees with disabilities.

Separation rates for employees with disabilities

In 2020, 11.4 percent of state employees with disabilities separated from state employment, with 88.6 percent being retained. The retention rate was lower for female employees with disabilities than the overall total, at 87.5 percent, and still lower for employees with disabilities who are identified as racial or ethnic minorities, at 85.8 percent. More detailed data, including breakdowns by agency and career category, are included in Appendix B.

Exit survey results

Between January 2019 and June 2020, 114 of the employees with disabilities who separated from state employment voluntarily participated in an exit survey. The results reflect only 20 percent of the total number of employees with disabilities who separated from state employment during this period, so the results cannot be assumed to be representative of all employees with disabilities who were not retained. Additional detail is provided in Appendix C.

When asked why they were leaving their job, 44.7 percent of employees with disabilities who responded selected resignation as the reason, and 32.5 percent selected retirement. Resignation and retirement were also the two most common reasons selected by all exiting employees who participated in the exit survey.

³ Whitehouse, Ingram & Silverstein, 21

⁴ Whitehouse, Ingram & Silverstein, 20

When asked if they would consider returning to work at their agency in the future, 63.2 percent of employees with disabilities who responded said no, compared with 34.2 percent of all exiting employees who participated in the survey. However, when retiring employees are excluded, 74.4 percent of exiting employees with disabilities who responded said they would consider returning to their agency, compared with 71.6 percent of all exiting employees.

When asked if they would recommend their agency as a good place to work, 20.2 percent of employees with disabilities who responded said no, compared with 13.8 percent of all exiting employees who responded.

When asked overall how satisfied they were with their agency as a place of work, 24.6 percent of employees with disabilities who responded said they were strongly or somewhat dissatisfied, compared with 17.1 percent of all exiting employees who responded.

On the exit survey, respondents were also asked what reasons influenced their decision to leave their agency. This was a separate question from why they were leaving their job, the results of which are presented above. Employees with disabilities who responded to the question selected the following as the top five reasons that influenced their decision to leave their agency (two of the reasons tied for fifth place):

- **Retirement:** 9.7 percent selected this as a reason for deciding to leave
- **Management practices:** 8.5 percent selected this as a reason for deciding to leave
- **Lack of promotional opportunities/career advancement opportunity:** 7.4 percent selected this as a reason for deciding to leave
- **Family or personal reasons:** 6.2 percent selected this as a reason for deciding to leave
- **Better opportunity elsewhere:** 5.8 percent selected this as a reason for deciding to leave
- **Workload (amount of work assigned, time given to complete it, fairness of distribution):** 5.8 percent selected this as a reason for deciding to leave

Employees with disabilities who responded expressed the highest percentage of somewhat or strong disagreement with the following five statements:

- **My supervisor helped me plan for my career growth:** 40.4 percent somewhat or strongly disagreed
- **My work unit was a positive environment:** 35.1 percent somewhat or strongly disagreed
- **I was provided a mentor who worked with me to learn my role and responsibilities:** 34.2 percent somewhat or strongly disagreed
- **My supervisor recognized me for my work efforts:** 29.8 percent somewhat or strongly disagreed
- **I felt comfortable expressing my opinions to my supervisor:** 28.9 percent somewhat or strongly disagreed

Recommendations

The task force recommends the following changes to Minnesota Statutes Chapter 43A, which govern the hiring and retention of employees.

Each section is focused on a specific part of Minnesota Statutes Chapter 43A. Each section begins with rationale for the recommended statute changes, followed by proposed revised statute language.

The task force recommendations for proposed new language is marked by underlining and brackets.

For example, [proposed language can be identified by finding brackets around underlined language.]

The recommendations presented in this report are grounded in best practice and align with the framework developed by The Council of State Governments and the National Conference of State Legislatures. They are also grounded in the real experiences of applicants and employees with disabilities in Minnesota and the available data provided to the task force. While the task force recognizes that existing policies and procedures may be intended to achieve the same outcomes as these recommendations, after fifteen months of careful deliberation, the task force concluded that statutes must be modernized.

The task force would welcome the opportunity to work with legislators, legislative staff, and the Revisor's Office to convert the following recommendations into legislative language.

Following the recommended statutory changes, you will find sections presenting implementation considerations and fiscal considerations.

Minn. Stat. 43A.01 POLICIES

Rationale for recommended statutory changes to 43A.01

The following changes should be made to [Minn. Stat. 43A.01 Policies](#), Subd. 2, to address discrimination issues.

Recommended statutory changes to 43A.01

Subd. 2. Precedence of merit principles and nondiscrimination.

It is the policy of this state to provide for equal employment opportunity consistent with chapter 363A by ensuring that all personnel actions be based on the ability to perform the duties and responsibilities assigned to the position without regard to age, race, creed or religion, color, disability, sex, national origin, marital status, status with regard to public assistance, or political affiliation. It is the policy of this state to take affirmative action to eliminate the underutilization of qualified members of protected groups in the civil service, where such action is not in conflict with other provisions of this chapter or chapter 179, in order to correct imbalances and eliminate the [effects of systemic discrimination, and support participation fully and equally in the social and economic life in the State of Minnesota. It is a requirement that managers and supervisors responsible for hiring are aware of bias that can be present in the hiring process.]

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.

Minn. Stat. 43A.02 DEFINITIONS

Rationale for recommended statutory changes to 43A.02

The task force researched and collated fifteen definitions that should be added to [Minn. Stat. 43A.02 Definitions](#) in order to modernize Minnesota Statutes Chapter 43A.

Recommended statutory changes to 43A.02

The task force recommends adding definitions for the following terms to Minn. Stat. 43A.02.

- Accommodation Fund
- Americans with Disabilities Act (ADA)
- Auxiliary Aids and Services
- Digital Accessibility
- Discrimination
- Employee Health Program
- Examinations and Courses
- Genetic Information Nondiscrimination Act
- Integrated Settings
- Interference, Coercion, or Intimidation
- Medical Exams
- Model Employer
- Qualified Individual with a Disability
- Reasonable Accommodation
- Undue Hardship

Appendix D includes definition language that would align Minnesota Statutes Chapter 43A with existing state statutes, the Americans with Disabilities Act (ADA), and US Code. Again, the task force would welcome the opportunity to work with legislators, legislative staff, and the Revisor’s Office to develop legislative language to define the above terms.

Minn. Stat. 43A.04 GENERAL POWERS AND RESPONSIBILITIES OF COMMISSIONER

Rationale for recommended statutory changes to 43A.04

[Minn. Stat. 43A.04 General Powers and Responsibilities of Commissioner](#) should be amended to highlight the responsibilities of leadership in the twenty-first century to ensure equitable hiring practices; demonstrate a commitment to diversity, equity, and inclusion; and respond to changing state demographics. Minn. Stat.

43A.04, Subd. 4, should be amended to update language related to employee selection, appraisal, and training requirements.

Recommended statutory changes to 43A.04

Subd. 1a. Mission; efficiency.

It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government; [all technology shall be accessible and provided in a timely manner as described in 363A.42, 363A.43, and the State Digital Accessibility and Usability standard as referenced in 16E.03, subdivision 2 (3) and subdivision 9.;]
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;
- (6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1;
- (7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department; [and
- (8) endeavor to use equitable and inclusive practices to attract and recruit protected class employees, actively eliminate discrimination against protected group employees, and ensure equitable access to development and training, advancement, and promotional opportunities.]

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 available [in fully usable and accessible digital formats as referenced in 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, 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 [in fully usable and accessible digital formats as referenced in 16E.03] 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 process for providing comment shall include multiple formats to ensure equal access, including phone, digital content, and/or email.]

Subd. 7. Reporting.

The commissioner shall issue a written report by February 1 and August 1 of each year to the chair of the Legislative Coordinating Commission. The report must list the number of appointments made under each of the categories in section 43A.15, the number made to the classified service other than under section 43A.15, and the number made under section 43A.08, subdivision 2a, during the six-month periods ending June 30 and December 31, respectively. [The reports shall be posted online and shall be accessible as referenced in 16E.03. The commissioner shall publicize these reports to assure broad dissemination.]

Minn. Stat. 43A.05 POWERS AND RESPONSIBILITIES; PERSONNEL

Rationale for recommended statutory changes to 43A.05

Minn. Stat. 43A.05 Powers and Responsibilities; Personnel should be amended to address how career paths, retention, and advancement opportunities are made available to employees with disabilities.

Recommended statutory changes to 43A.05

Subd. 1. General.

The commissioner shall perform the duties assigned in this chapter.

The commissioner's authority and responsibility shall include but not be limited to maintenance of a classification plan, assignment of all positions in the classified service to job classes, maintenance and approval of total compensation plans for all positions in the executive branch pursuant to the provisions of section 43A.18 and other provisions of law; administration of systems for employee selection; maintenance of employee performance appraisal, training and affirmative action programs; and maintenance and publication of logical career paths in the classified civil service [that describe career paths available to qualified individuals with disabilities.]

Minn. Stat. 43A.071 SERVICE WORKER

Rationale for recommendation related to 43A.071

Minn. Stat. 43A.071 Service Worker is outdated.

Recommendation related to 43A.071

Currently there are individuals in state employment categorized under the Service Worker definition, but the statute and class specifications need clarification and updating. The task force recommends that the legislature require MMB to convene a new or existing committee to review and make a recommendation regarding revisions to the Service Worker class specifications and statute 43A.071.

Minn. Stat. 43A.09 RECRUITMENT

Rationale for recommended statutory changes to 43A.09

Minn. Stat. 43A.09 Recruitment should be amended to specifically describe recruitment strategies for people with disabilities.

Recommended statutory changes to 43A.09

The commissioner in cooperation with appointing authorities of all state agencies shall maintain an active recruiting program publicly conducted and designed to attract sufficient numbers of well-qualified people to meet the needs of the civil service, and to enhance the image and public esteem of state service employment. Special emphasis shall be given to recruitment of veterans and protected group members[, including qualified individuals with disabilities,] to assist state agencies in meeting affirmative action goals to achieve a balanced work force. [All technology and digital content related to recruiting and hiring shall be accessible and usable by people with disabilities.]

Minn. Stat. 43A.10 SELECTION PROCESS; ELIGIBILITY TO COMPETE

Rationale for recommended statutory changes to 43A.10

Minn. Stat. 43A.10 Selection Process; Eligibility to Compete should be amended to ensure that application processes are accessible and usable by all potential applicants, including people with disabilities, that job postings do not contain discriminatory language, and that there is a direct cross-reference to the state's Accommodation Fund.

Recommended statutory changes to 43A.10

Subd. 2a. Selection criteria and methods.

The commissioner shall establish and maintain a database of applicants for state employment. The commissioner shall establish, publicize, and enforce minimum requirements for applications, [and shall ensure that:

- a) All postings shall be written so as to be relevant to the duties of the job and be nondiscriminatory;
- b) The appointing authority shall enforce the established minimum requirements for application;
- c) The 700-hour on-the-job demonstration experience is considered an alternative, noncompetitive hiring process for classified positions for qualified individuals with disabilities; and

- d) Hiring managers and others involved in the selection process are aware of the Accommodation Fund as defined under section 16B.4805 to ensure that people with disabilities obtain timely and appropriate accommodations within the hiring process and the state agency can request reimbursement.

The commissioner shall ensure that all online application processes and all digital content shall be accessible and usable for people with disabilities.]

Subd. 7. Selection process accommodations.

Upon request, the commissioner or appointing authority shall provide [reasonable accommodations to qualified applicants with disabilities, to ensure full participation in the selection process. The Accommodation Fund (363.08, subd. 6) shall be readily available for use as appropriate for reimbursement of expenses related to selection process accommodations. All agencies will be made aware of the Accommodation Fund and its critical function of removing cost considerations from interview selection decisions.]

Minn. Stat. 43A.14 APPOINTMENTS

Rationale for recommended statutory changes to 43A.14

Minn. Stat. 43A.14 Appointments should be amended to update language about a representative workforce.

Recommended statutory changes to 43A.14

All appointments to the classified service shall be based upon merit and ability to perform the duties of the position and the needs of the employing agency, including the need to achieve and maintain a representative work force[, including representation of people with disabilities.] For employees in a bargaining unit as defined in section 179A.10 appointments shall be subject to applicable provisions of collective bargaining agreements.

Minn. Stat. 43A.15 NONCOMPETITIVE AND QUALIFYING APPOINTMENTS

Rationale for recommended statutory changes to 43A.15

Minn. Stat. 43A.15 Noncompetitive and Qualifying Appointments should be amended to protect, clarify, and strengthen the 700-hour on-the-job demonstration experience (current program title is Connect 700).

Person-first language should be added to modernize this statute.

Current program challenges in attracting and retaining qualified applicants with disabilities are addressed by recommendations in the following areas:

- Design and implement a training curriculum and conduct annual staff training;

- Improve oversight and management of the program by creating a new position for a full-time, dedicated staff person;
- Collect additional program statistics and publish annually;
- Create a memorandum of understanding (MOU) with state agency disability experts to provide consultation regarding the program and to provide technical assistance;
- Ensure that appropriate and timely accommodations are implemented; and
- Establish a formal grievance process.

Recommended statutory changes to 43A.15

Subd. 14. On-the-job demonstration process and appointment.

- a) The commissioner shall [consult with the Department of Employment and Economic Development’s Vocational Rehabilitation Services and State Services for the Blind agencies, the Disability Agency Forum, and other disability experts in establishing] qualifying procedures for applicants whose disabilities are of such a significant nature that the applicants are unable to demonstrate their abilities in the selection process. The qualifying procedures must consist of up to 700-hours on-the-job [demonstration] experience. [The 700-hour on-the-job demonstration experience is an alternative, noncompetitive hiring process for qualified applicants with disabilities. All permanent executive branch classified positions are eligible for a 700-hour on-the-job demonstration, and all permanent classified job postings need to link to the on-the-job demonstration overview and certification process.]
- b) The commissioner may authorize the probationary appointment of an applicant based on the request of the appointing authority that documents that the applicant has successfully demonstrated qualifications for the position through completion of an on-the-job [demonstration] experience. [Qualified applicants should be converted to permanent, probationary appointments at the point in the 700-hour on-the-job experience at which they have demonstrated the ability to perform the essential functions of the job.] The implementation of this subdivision may not be deemed a violation of chapter 43A or 363A.
- c) [The commissioner and the Americans with Disabilities Act and disability employment director, described in 43A.19, subd. 1 (e), are responsible for the administration and oversight of the 700 hours on-the-job demonstration experience, including the establishment of policies and procedures, data collection and reporting requirements, and compliance.]
- d) The commissioner shall collect and report on its website annually the enterprise-wide statistics on the 700-hour on-the-job demonstration experience, at least:
 - 1) Number of certifications submitted, granted, rejected
 - 2) Number of applicants interviewed, appointed, converted to probationary status
 - 3) Number of employees retained after one year in state employment
 - 4) Number of employees with terminated appointments and reason for termination

- 5) Average length of time in an on-the-job demonstration appointment
 - 6) Category of entity certifications by the number
 - 7) By department or agency, number of appointments and hires; number of managers and supervisors trained
- e) The commissioner or the commissioner's designee shall develop and administer an annual survey of participants in the 700-hour on-the-job demonstration experience who are hired and those who are not hired, as well as the managers of participants in the 700-hour on-the-job demonstration experience. Management and budget will meet at least annually with Department of Employment and Economic Development's Vocational Rehabilitation Services and State Services for the Blind agencies and other disability experts to review the survey results, assess program satisfaction, recommend areas for continuous improvement, and develop a summary report to be published annually on management and budget's website.
 - f) The commissioner or the commissioner's designee shall design and implement a training curriculum for the on-the-job demonstration experience. All executive leaders, managers, supervisors, human resources professionals, affirmative action officers, and Americans with Disabilities Act coordinators must receive annual training on the program.
 - g) The commissioner shall enter into a memorandum of understanding with Minnesota Department of Employment and Economic Development's State Services for the Blind and Vocational Rehabilitation Services to provide technical assistance on the hiring and retention of individuals with disabilities.
 - h) 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 and Supported Work program, which is outlined in 43A.421, subdivision 2.
 - i) Appointing agencies shall ensure that reasonable accommodation requests including accessible technology or alternative formats are provided in a timely manner during the application and hiring process and throughout the on-the-job demonstration period pursuant to 363A.42, 363A.43, and the State Digital Accessibility and Usability standard as referenced in 16E.03, subdivision 2 (3) and subdivision 9.]

Minn. Stat. 43A.19 AFFIRMATIVE ACTION

Rationale for recommended statutory changes to 43A.19

Minn. Stat. 43A.19 Affirmative Action should be amended to describe in detail how affirmative action plans can more effectively assist people with disabilities throughout the recruitment, hiring, retention, and advancement process of state employment.

Recommended statutory changes to 43A.19

Subd. 1. Statewide affirmative action program.

- a) To assure that positions in the executive branch of the civil service are equally accessible to all qualified persons, and to eliminate the effects of past and present discrimination, intended or unintended, on the basis of protected group status. The commissioner shall adopt and periodically revise, if necessary, a statewide affirmative action program. The statewide affirmative action program must consist of at least the following:
- 1) objectives, goals, and policies;
 - 2) procedures, standards, and assumptions to be used by agencies in the preparation of agency affirmative action plans, including methods by which goals and timetables are established;
 - 3) the analysis of separation patterns to determine the impact on protected group members; and a report on this data should be reported to the statewide Director of Recruitment, Retention and Affirmative Action and the statewide Americans with Disabilities Act coordinator, in addition to being available to anyone upon request.
 - 4) requirements for annual objectives and submission of affirmative action progress reports from heads of agencies. Management and budget shall make available both aggregate and agency level reports to the public.
- b) The commissioner shall establish statewide affirmative action goals for each of the federal Equal Employment Opportunity (EEO) occupational categories applicable to state employment, using at least the following factors:
- 1) the percentage of members of each protected class in the recruiting area population who have the necessary skills; and
 - 2) the availability for promotion or transfer of current employees who are members of protected classes.
- c) The commissioner may use any of the following factors in addition to the factors required under paragraph (b):
- 1) the extent of unemployment of members of protected classes in the recruiting area 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 Americans with Disabilities Act and disability employment director who may be delegated the preparation, revision, implementation, evaluation, and administration of the program. This position will administer the 700-hour on-the-job demonstration experience, Supported Work, and disabled veterans employment programs. The statewide Americans with Disabilities Act and disability employment director shall have education, knowledge, and skills in disability policy, employment, and the Americans with Disabilities Act. The commissioner may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subd. 1a.]
- f) Agency affirmative action plans (reports and progress) must be posted on the agency's public websites and internal websites within 30 days of being approved. Management and budget shall post a link to all executive branch agency-approved affirmative action plans on its external-facing website. Accessible copies of the affirmative action plan shall be available to all employees and members of the general public upon request.]

Minn. Stat. 43A.191 AGENCY AFFIRMATIVE ACTION PROGRAMS

Rationale for recommended statutory changes to 43A.191

[Minn. Stat. 43A.191 Agency Affirmative Action Programs](#) should be amended to expand on retention strategies, clarify that medical examinations cannot be discriminatory, and to delineate the credentials of ADA coordinators.

Recommended statutory changes to 43A.191

Subd. 1. Affirmative Action Officers.

- a) Each agency with 1,000 employees or more shall have at least one full-time affirmative action officer, who shall have primary responsibility for developing and maintaining the agency's affirmative action plan. The officer shall devote full time to affirmative action activities. The affirmative action officer shall report administratively and on policy issues directly to the agency head.
- b) [In accordance with [43A.08, subd. 1a \(4\)](#), the affirmative action officer must not be an unclassified employee.]

Subd. 2. Agency affirmative action plans.

- a) The head of each agency in the executive branch shall prepare and implement an agency affirmative action plan consistent with this section and rules issued under section [43A.04, subd. 3](#).
- b) The agency plan must include a plan for the provision of reasonable accommodation in the hiring and promotion [of people with disabilities]. The reasonable accommodation plan must consist of at least the following:
 - 1) procedures for compliance with sections [16E.03, subd. 9](#), [363A.08](#) to [363A.19](#), and [363A.28, subd. 10](#), and, where appropriate, regulations implementing United States Code, title 29, section 794, as amended through December 31, 1984, which is section 504 of the Rehabilitation Act of 1973, as amended and the Americans with Disabilities Act, United States Code, title 42, sections 101 to 108, 201 to 231, 241 to 246, 401, 402, and 501 to 514;
 - 2) [methods and procedures for providing timely access to reasonable accommodations during the application process, throughout current employment, and when seeking promotion;]
 - 3) provisions for funding reasonable accommodations; and
 - 4) the number of requests made, the number of requests approved, and the number of requests reimbursed from the state accommodation account under section [16B.4805](#).
- c) The agency plan must be prepared by the agency head with the assistance of the agency affirmative action officer and the director of diversity and equal employment opportunity. The agency may consult with the Council on Disability, vocational rehabilitation services, state services for the blind, and other disability experts to review and make recommendations on recruitment and retention of people with disabilities.
- d) [Each agency shall adopt and implement an affirmative action plan that includes a specific section that provides sufficient assurances, procedures, and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities at all levels of state employment. The criteria for this section of the agency affirmative action plan must include:
 - 1) **Disability hiring and advancement program section;**
 - 2) **Recruitment.** The section shall describe specific actions to ensure that a broad range of individuals with disabilities will be aware of and be encouraged to apply for job vacancies when eligible. Such actions shall include, at a minimum:
 - i. Use of programs and resources that identify job applicants with disabilities who are eligible to be appointed under a hiring authority that takes disability into account, consistent with the 700-Hour On-the-Job Demonstration Program. Such programs can include Vocational Rehabilitation Services and State Services for the Blind that provide the qualifications necessary for particular positions within the agency to individuals with disabilities. Resources can include databases of individuals with disabilities who

previously applied to the agency but were not hired for the positions they applied for, and training and internship programs that lead directly to employment for individuals with disabilities; and

- ii. Establishment and maintenance of contacts (which may include formal agreements) with organizations that specialize in providing assistance to individuals with disabilities in securing and maintaining employment, such as State Vocational Rehabilitation Agencies, State Services for the Blind, community rehabilitation programs, day training and habilitation programs, and Employment Network service providers.

3) **Application process.** The affirmative action plan section shall ensure that the agency has designated sufficient staff to handle any disability-related issues that arise during the application and selection processes, and shall require the agency to provide such individuals with sufficient training, support, and other resources to carry out their responsibilities under this section. Such responsibilities shall include, at a minimum:

- i. Ensuring that disability-related questions from members of the public regarding the agency's application and selection processes are answered promptly and correctly, including questions about reasonable accommodations needed by job applicants during the application and selection processes and questions about how individuals may apply for appointment under hiring authorities that take disability into account;
- ii. Processing requests for reasonable accommodations needed by job applicants during the application and placement processes, and ensuring that the agency provides such accommodations when required to do so;
- iii. Accepting applications for appointment under hiring authorities that take disability into account;
- iv. If an individual has applied for appointment to a particular position under a hiring authority that takes disability into account, determining whether the individual is eligible for appointment under such authority, and, if so, forwarding the individual's application to the relevant hiring officials with an explanation of how and when the individual may be appointed, consistent with all applicable laws; and
- v. Overseeing any other agency programs designed to increase hiring of individuals with disabilities.]

e) The agency plan must identify any positions in the agency that can be used for supported employment as defined in section [268A.01, subdivision 13](#), of persons with severe disabilities. The agency shall report this information to the commissioner. An agency that hires more than one supported worker in the identified positions must receive recognition for each supported worker toward meeting the agency's affirmative action goals and objectives.

f) An agency affirmative action plan may not be implemented without the commissioner's approval.

Subd. 3. Audits; sanctions and incentives.

- a) The commissioner shall annually audit the record of each agency to determine the rate of compliance with affirmative action requirements. [Management and budget will report all audit findings to the governor's office if a state agency fails to meet any of its affirmative action requirements for two consecutive years.]
- b) By March 1 of each odd-numbered year, the commissioner shall submit a report on affirmative action progress of each agency and the state as a whole to the governor and to the Finance Committee of the senate, the Ways and Means Committee of the house of representatives, the Governmental Operations Committees of both houses of the legislature, and the Legislative Coordinating Commission[, and to members of the public]. The report must include noncompetitive appointments made under section 43A.08, subdivision 2a, or 43A.15, subdivisions 3 to 7, 10, and 12, and cover each agency's rate of compliance with affirmative action requirements.
- c) An agency that does not meet its hiring goals must justify its non-affirmative action hires in competitive appointments and noncompetitive appointments made under section 43A.08, subdivisions 1, clauses (9), (11), and (16), and 2a; and section 43A.15, subdivisions 3, 10, 12, and 13, according to criteria issued by the Department of Management and Budget. In addition, an agency shall:
 - 1) demonstrate a good faith effort to recruit protected group members by following an active recruitment plan;
 - 2) implement a coordinated retention plan; and
 - 3) have an established complaint resolution procedure.
- d) The commissioner shall develop reporting standards and procedures for measuring compliance.
- e) An agency is encouraged to develop other innovative ways to promote awareness, acceptance, and appreciation for diversity and affirmative action. These innovations will be considered when evaluating an agency's compliance with this section.
- f) An agency not in compliance with affirmative action requirements of this section must identify methods and programs to improve performance, to reallocate resources internally in order to increase support for affirmative action programs, and to submit program and resource reallocation proposals to the commissioner for approval. An agency must submit these proposals within 120 days of being notified by the commissioner that it is out of compliance with affirmative action requirements. The commissioner shall monitor quarterly the affirmative action programs of an agency found to be out of compliance.
- g) The commissioner shall establish a program to recognize an agency that has made significant and measurable progress in implementing an affirmative action plan.
- h) The commissioner must maintain and make available, on an annual basis, summary data as defined in section 13.02, subdivision 19, on the percentage of members of each protected group as defined in section 43A.02, subdivision 33, that were hired in the executive branch in each of the federal Equal

Employment Opportunity (EEO) occupational categories applicable to state employment. Nothing in this provision, however, shall require any person to disclose their protected group status, nor shall it require the commissioner or any appointing authority to determine the protected group status of any person.

Minn. Stat. 43A.21 TRAINING PROGRAMS

Rationale for recommended statutory changes to 43A.21

Minn. Stat. 43A.21 Training Programs should be amended to describe mandatory training on the topic of disabilities.

There is currently minimal professional development and training opportunities for State of Minnesota employees that include disability and accessibility. Managers receive at least four hours and supervisors seven and a half hours on equity and inclusion during their mandatory core training, and the topic of equity and inclusion may be touched on within other trainings as well, but the focus on disability and accessibility is minimal.

The current training platform, Enterprise Learning Management, is not completely accessible. Staff who use screen readers are often not able to complete required trainings like other employees, and they must do extra and time-consuming workarounds to have their records show completion.

Digital and paper materials provided for training often do not meet accessibility standards. Digital materials use images that are not described with alternative text, captioning or audio descriptions are missing, and tables and charts are impossible to navigate. Paper materials are not offered in other formats, including Braille, and are often handed out at the time of the training. Someone who cannot access the printed word does not get the same information as their peers and cannot participate fully in the training.

Recommended statutory changes to 43A.21

Subd. 1. Authority; purpose.

- a) The commissioner[, in coordination with the statewide Americans with Disabilities Act and disability employment director and chief inclusion officer,] shall develop and interpret policy and administer and, to the extent possible, conduct programs in training and development for employees to [at a minimum:]
 - 1) promote individual, group and agency efficiency and effectiveness;
 - 2) [build employee capacity to deliver accessible and inclusive services to the public, including people with disabilities; and
 - 3) support an inclusive work environment for employees with disabilities and employees of other protected classes.]

Subd. 2. Responsibilities.

- a) The commissioner is responsible for developing and coordinating consistent training policy which shall be binding on all state agencies in the executive branch. The policies shall include conditions under which employees may receive or be assigned to training; internships and work-training programs; minimum and maximum training standards for employee participation and agency reporting requirements. [At a minimum, state employees must receive training on any statutes or policies related to:
 - 1) Title II of the Americans with Disabilities Act and affirmative action;
 - 2) Equal opportunity employment; and
 - 3) Digital accessibility standards.]
- b) Career development training is a permissive subject of collective bargaining. Each appointing authority in the executive branch, including the Minnesota State Retirement System and the Teachers Retirement Association, is primarily responsible for planning, budgeting, conducting and evaluating training programs.

Subd. 3. Programs.

- a) The commissioner or the commissioner's designee shall design and implement management training and development programs for the state service. The programs shall include but not be limited to mandatory training and development requirements for managers and supervisors. No person shall acquire permanent status in a management or supervisory position in the classified service until training and development requirements have been met.
- b) [All managers and supervisors must receive training on inclusive work environments, disability awareness, cultural competence, and other equity and diversity areas.]
- c) Agencies shall conduct an annual Americans with Disabilities Act self-assessment to ensure training programs meet the standards for universal design in learning.]

NEW Subd. 6. Accessibility.

[The commissioner is responsible for ensuring all training content and platforms meet the State of Minnesota Accessibility Standard according to Minnesota Statute 16E.03, subdivision 2 (3) and subdivision 9.]

- 1) Reasonable accommodations must be implemented in a timely and appropriate manner to ensure all state employees can participate in state-offered trainings.
- 2) All state employees, including Americans with Disabilities Act coordinators and human resources staff, will have the training and resources to implement an accessible and inclusive workplace.]

Minn. Stat. 43A.36 RELATIONSHIPS WITH OTHER AGENCIES AND JURISDICTIONS

Rationale for recommended statutory changes to 43A.36

Minn. Stat. 43A.36 Relationships with Other Agencies and Jurisdictions should be amended to describe dissemination of information, duties of commissioners, and ADA self-assessments.

Recommended statutory changes to 43A.36

Subd. 1. Cooperation; state agencies.

The commissioner may delegate administrative functions associated with the duties of the commissioner to appointing authorities who have the capability to perform such functions when the commissioner determines that it is in the best interests of the state civil service. The commissioner shall consult with agencies and agencies shall cooperate as appropriate in implementation of this chapter.

The commissioner, in conjunction with appointing authorities, shall analyze and assess current and future human resource requirements of the civil service and coordinate personnel actions throughout the civil service to meet the requirements. The commissioner shall provide recruiting assistance and make the applicant database available to appointing authorities to use in making appointments to positions in the unclassified service.

The head of each agency in the executive branch shall designate an agency personnel officer. The agency personnel officer shall be accountable to the agency head for all personnel functions prescribed by laws, rules, collective bargaining agreements, the commissioner and the agency head. Except when otherwise prescribed by the agency head in a specific instance, the personnel officer shall be assumed to be the authority accountable to the agency head over any other officer or employee in the agency for personnel functions.

The head of each agency in the executive branch shall designate an affirmative action officer who shall have primary responsibility for the administration of the agency's affirmative action plan. The officer shall report directly to the head of the agency on affirmative action matters.

[The head of each agency in the executive branch shall designate an Americans with Disabilities Act coordinator who shall have primary responsibility for the administration of Americans with Disabilities Act policies, procedures, trainings, requests, and arbitration. The officer shall report directly to the commissioner.]

Minn. Stat. 43A.421 SUPPORTED WORK

Rationale for recommended statutory changes to 43A.421

Minn. Stat. 43A.421 Supported Work should be amended to modernize this 40-year-old program. The task force recommends the removal of the current limit of 50 positions and stating that “active” full-time positions may be selected for the supported work program be removed. New language should be added that includes oversight by the commissioner, data collection, compliance, and implementation of a formal grievance process. The supported work program is vastly underutilized. The task force recommends training be developed and presented annually to create awareness and understanding of the program.

Recommended statutory changes to 43A.421

NEW Subd. 1. Responsibilities.

- a) [The commissioner is responsible for the administration and oversight of the supported work program, including the establishment of policies and procedures, data collection and reporting requirements, and compliance.]
- b) The commissioner or the commissioner’s designee shall design and implement a training curriculum for the supported work program. All executive leaders, managers, supervisors, human resources professionals, affirmative action officers, and Americans with Disabilities Act coordinators must receive training on the program.
- c) The commissioner or the commissioner’s designee shall develop, administer, and make public a formal grievance process for individuals in the program.]

NEW Subd. 2. Program.

[Active] full-time positions within agencies of state government may be selected for inclusion for a supported work program for persons with significant impact of disability. A full-time position may be shared by up to three persons with significant disabilities and their job coach. The job coach is not a state employee within the scope of section 43A.02, subdivision 21, or 179A.03, subdivision 14, unless the job coach holds another position within the scope of section 43A.02, subdivision 21, or 179A.03, subdivision 14. [All classified supported work job postings need to link to the overview and application process for the supported work program.]

NEW Statute: Requirements for ADA Coordinators

Rationale for creating a new statute

Federal law requires that agencies have an ADA coordinator ([see 42 USC §35.107](#) and related law). In Minnesota, [Executive Order 96-09](#) (now superseded by [EO 19-14](#)) operationalized those requirements for the executive

branch. The state legislature should update state statute to incorporate federal law and the governor's executive order.

Recommended specifications for a new statute

The new statute should specify that:

- Each state agency shall designate at least one ADA coordinator who is responsible for implementation of Title I of the ADA, which prohibits discrimination against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training and other terms, conditions, and privileges of employment.
- The ADA coordinator will have knowledge and skills in:
 - the recruitment, selection, development, and retention of people with disabilities;
 - workforce data analysis;
 - disability employment laws and regulations; and
 - strategy development for universal and inclusive work workplaces.
- The ADA coordinator will be responsible for overseeing the development, implementation, monitoring, and evaluation of effective strategies to attract, engage, and advance people with disabilities. This includes assisting employees with identifying, acquiring, and maintaining effective accommodations and submitting reimbursement requests to the statewide accommodation fund.
- The ADA coordinator will be responsible for collecting data and preparing reports to ensure transparency and accountability and will serve as a key liaison for disability employment and training initiatives.

Implementation and accountability

This report has focused on the changes that need to be made to state statutes in the short term. The recommendations will modernize very outdated, possibly discriminatory language. The proposed statutory language changes will also create more clarity and consistency, and in some cases add capacity for important equity work. Most of all, the recommendations reflect essential changes to show that the State of Minnesota is committed to the hiring, retention, and advancement of people with disabilities.

However, it is not enough to merely change state statute in order to improve the hiring and retention of employees with disabilities. Policy change must be implemented effectively and with necessary resources. Agencies must be held accountable for implementation that leads to real results for people with disabilities.

The state's culture must embrace the guiding principles outlined in the introduction to this report. People with disabilities and the organizations that represent them must be directly involved in the development of the policies and governance that results from the statutory updates. For example, revisions to Minnesota Statutes 43A.15 and 43A.19 outline expectations for data collection and reporting critical to monitoring programs' effectiveness. That is more likely to happen if agencies embrace their responsibilities and permit consultation and oversight from people with disabilities and the organizations that represent them.

Policies and procedures

Changes in statute should lead to changes in policies that will drive implementation. Several policy changes and procedures must become higher priorities for the executive branch, including:

- Greater recognition of the importance of both physical and digital accessibility;
- Improved access to Title I accommodations and increased awareness of Title II policy and MMB policy #1358 (ADA);
- New requirements about training on ADA issues including disability rights, disability awareness, what discrimination is, standards, and accommodations;
- Improved data collection and reporting;
- Hiring and management of full-time ADA personnel;
- Increased interagency collaboration to support statutory changes;
- Streamlining of hiring programs to improve employment of people with disabilities;
- Promotion of people with disabilities to leadership positions; and
- Continued discussions about mandatory training and what topics are recommended for which personnel.

Other agencies may have responsibilities for policy changes such as the Department of Labor and Industry, MNIT, and the Department of Administration with respect to physical and digital accessibility issues.

Updated policies and procedures related to the 700-hour on-the-job experience must reinstate the requirement that participants meet regularly with their supervisor to discuss employee performance and expectations. These meetings should also regularly require including managers and representatives from human resources. Future guidance provided to agencies regarding the 700-hour on-the-job demonstration experience program must be developed utilizing the expertise of people with disabilities and the organizations that represent them. Changes should not be made to that guidance without meaningful input from the same.

Training

Several of the recommended statutory changes affect training. The task force believes that training must be well designed and developed in order to be fully accessible as well as engaging. Ineffective training and delivery can be more harmful than no training at all because of the waste of public resources and negative reactions from the audience.

While MMB Enterprise Talent Development will be responsible for creation of training resources, other agencies should be consulted because of subject matter expertise, skills, and experience. Therefore, a centralized list of disability-related training resources and experts should be created and maintained.

The task force discussed several training needs including:

- How to procure accessible IT;
- Best practices for providing accommodations (especially for ADA coordinators, managers, and supervisors);

- Certification training for all ADA coordinators through accredited resources such as <https://www.adacoordinator.org/>.
- Awareness training that addresses disability issues and accessibility guidelines (especially for managers, supervisors, and all employees); and
- Awareness training and how to implement the 700-hour on-the-job demonstration experience program and supported worker programs (including web-based reference guides for managers and supervisors).

Training must be comprehensive and consistent across agencies. There must be accountability for agencies to implement required trainings.

Agencies are strongly advised to include their ADA coordinators and digital accessibility coordinators in the planning and implementation stages of all trainings, in addition to people with disabilities and the organizations that represent them.

There needs to be more guidance and resources for agencies on how to effectively train employees on issues related to equity and inclusion, especially around disability issues. Agencies need in-house champions to push forward conversations about diversity and inclusion that specifically address disability. These champions' voices must be valued by leadership within agencies.

Employees with disabilities need equal access to training for emerging leaders. One recommendation is to have an advisory group that specifically nominates employees with disabilities to the Emerging Leadership Institute and Senior Leadership Institute.

Communication

MMB, in coordination with the chief inclusion officer and agencies representing people with disabilities, must develop a comprehensive communication plan on the statutory changes and their implementation. The plan should include timeframes, scripted and consistent messaging, and responsible parties.

- Communication could include messaging on the overall changes, training, staffing and hiring, updates to the 700-hour on-the-job demonstration experience and supported worker programs, and access to all the relevant forms, policies, procedures, and data reports.
- Consider multiple communication platforms and channels in order to reach all sectors of target populations, including people with disabilities: town-hall-style virtual meetings, email, website updates.
- Consider what communication should be inward facing and what needs to be shared externally.
- All communications must be accessible and provide accommodations whenever requested.

The plan must identify both those who need to be involved in implementation as well as those affected by the changes and tailor communications to those groups:

- Commissioners and senior leaders
- ADA and affirmative action officers
- Human resources
- Managers and supervisors
- All staff

- External stakeholders

While the plan will involve multiple agencies and organizations and include subsets of plans and responsibilities, there must be a single point of contact. The task force recommends a communications spokesperson or representative who is responsible for coordinating the plan and putting together resources and has a central place to store the information that has been shared.

The plan must identify a long-term communication strategy, so this information is ongoing, current, relevant, and sustained.

The plan must include a calendar of all deadlines and deliverables, including legislatively mandated deliverables.

Enforcement and oversight

As noted earlier, there is no one single governance or enforcement mechanism. For the recommendations to be successfully implemented, agencies must embrace a culture of inclusion, equity, and diversity and an understanding of their role in ensuring success of these statutory changes and related activities.

The following are key areas where success is dependent on agencies' support for recommended changes.

First, compliance with ADA coordinator requirements. While much is already defined elsewhere, ADA issues bear repeating:

- Defining and publishing guidance on accommodations for agency managers and supervisors as well as all employees.
- Providing opportunities for ADA coordinators to obtain appropriate training and certification.
- Supporting sufficient time for ADA coordinators to do their job. Currently, many agencies direct ADA coordinators to focus on other responsibilities, limiting their capacity to fulfill their ADA coordinator responsibilities.
- Implementing a proper reporting structure. ADA coordinators must have a direct line to the agency head or commissioner. The ADA coordinator by definition must be independent from human resources.
- All ADA-related information must be kept separate from personnel files.

Second, implementation of the statutory updates to the 700-hour on-the-job demonstration experience program must include active participation and governance by people with disabilities and the small agencies whose charters are dedicated to supporting or representing people with disabilities

Third, as previously noted, a number of current statutes as well as the recommended statutory changes in this report involve data collection. All data collection must be consistent, valid, reliable, and timely. Agencies that fail to perform their duties in a timely manner must be held accountable.

Finally, any changes to policies or procedures that apply to people with disabilities must engage disability stakeholders including the small agencies whose charters are dedicated to supporting or representing people with disabilities.

Fiscal considerations

Accessibility

The digital accessibility considerations have been required in statute since 2009. Any additional costs or resources for compliance should not be considered burdensome at this point and should be considered the normal cost of operations. They therefore should not require any additional resources allocated in the state budget.

Also, using contracts and best practices to ensure that accessibility is included from the beginning of new projects is much less expensive than remediation.

Accommodations fund

The accommodations fund is currently set at \$200,000.00. As awareness of the fund continues to increase among agencies, there may be a need to increase the allocation. Fifteen percent of the fund is dedicated to administrative costs.

Training

There are materials that currently exist for training managers and other staff on the 700-hour on-the-job demonstration experience, affirmative action program, and other programs identified in the recommended statute changes noted previously. However, existing training materials may need to be updated to align with changes that have been made to the programs since they were developed.

There may be undetermined costs associated with the creation of new accessibility modules to include in Enterprise Talent Development's Core Training options.

Annual training for Equal Opportunity and ADA staff is estimated to be approximately \$15,000 to develop and provide an initial training. Using a train-the-trainer model afterward, with curriculum owned by the state, would be the most cost-effective solution.

Staffing

The estimated cost for salary and benefits for the new ADA and Disability Employment Director, as described in this report in 43A.19, subd. 1 (e), is approximately \$100,000.

Many responsibilities related to the work described in the revised statutes above exist in position descriptions of some current roles. However, additional staff support may be necessary to implement this program as intended and to increase the effectiveness of the program.

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Appendix A: Members of the Advisory Task Force on State Employment and Retention of Employees with Disabilities

- **David Fenley (Chair)**, Minnesota Council on Disability
- **Diane Doolittle**, Minnesota Olmstead Implementation Office
- **Dr. Amy Hebert Knopf**, Minnesota Commission of the Deaf, Deafblind & Hard of Hearing
- **Natasha Jerde**, Minnesota Department of Employment and Economic Development—State Services for the Blind
- **Steve Kuntz**, Minnesota Department of Employment and Economic Development—Vocational Rehabilitation Services
 - **Maureen McAvoy** replaced Steve Kuntz upon his retirement in February 2020
- **Roberta Opheim**, Minnesota Office of Ombudsman for Mental Health and Developmental Disabilities
- **Kim Moccia**, A System of Technology to Achieve Results (STAR) Program
 - **Amy Perron** replaced Kim Moccia in February 2020
- **Dr. Colleen Wieck**, Minnesota Governor’s Council on Developmental Disabilities
- **Jay Wyant**, Minnesota Office of Accessibility, Minnesota IT Services
- **Chris Taylor**, Minnesota Management and Budget, Chief Inclusion Officer

Appendix B: Separation rates

This data was provided by MMB to the task force following a formal data request. To calculate retention rates, subtract the separation rate from 100 percent. The data in this appendix is from 2020.

Table 1. Percent of employees with disabilities separated in 2020 by agency and protected class

Agency	All Employees with Disabilities	Racial/Ethnic Minorities with Disabilities	Female Employees with Disabilities
Administration Dept	12.7%	0.0%	12.0%
Agriculture Dept	12.5%	0.0%	18.2%
Attorney General	18.6%	0.0%	21.2%
Commerce Dept	16.1%	0.0%	7.7%
Corrections Dept	10.2%	25.5%	11.7%
Education Department	6.7%	0.0%	8.0%
Employ & Econ Development Dept	9.5%	3.1%	11.3%
Health Department	11.2%	12.5%	13.0%
Housing Finance Agency	0.0%	0.0%	0.0%
Human Services Dept	12.4%	12.0%	12.6%
Labor & Industry Dept	6.5%	0.0%	0.0%
Lottery	11.1%	25.0%	0.0%
Military Affairs Dept	18.2%	33.3%	0.0%
Minnesota Zoological Garden	40.7%	66.7%	35.0%
Mn Management & Budget	15.4%	25.0%	15.8%
Mn State Academies	7.1%	100.0%	8.9%
MNIT Services Office	8.0%	8.3%	11.3%
MNsure	52.6%	33.3%	50.0%
Natural Resources Dept	14.0%	0.0%	16.5%
Pollution Control Agency	11.1%	12.5%	12.1%
Public Safety Dept	12.2%	23.8%	15.0%
Revenue Dept	12.4%	20.0%	11.0%
Transportation Dept	9.0%	18.4%	10.0%
Veterans Affairs Dept	8.3%	18.2%	9.6%
All Other Agencies	11.2%	5.0%	14.5%
Executive Branch Total	11.4%	14.2%	12.5%

Table 2. Percent of employees with disabilities separated in 2020 by career category and protected class

Career Category	All Employees with Disabilities	Racial/Ethnic Minorities with Disabilities	Female Employees with Disabilities
Accounting, Audit, and Finance Careers	12.3%	28.6%	8.5%

Career Category	All Employees with Disabilities	Racial/Ethnic Minorities with Disabilities	Female Employees with Disabilities
Agriculture Careers	23.1%	0.0%	40.0%
Commerce Careers	16.7%	0.0%	20.0%
Corrections Careers	8.9%	22.6%	11.1%
Diversity and EEO Careers	9.1%	0.0%	12.5%
Economic Security Careers	10.3%	5.6%	12.5%
Education and Teaching Careers	11.5%	0.0%	15.0%
Engineer and Architect Careers	7.8%	0.0%	18.2%
Executive Leadership Careers	9.1%	0.0%	14.3%
Facilities Operations and Maintenance Careers	18.8%	22.2%	29.4%
Food and Personal Service Careers	13.6%	50.0%	25.0%
Human Resources Careers	20.5%	0.0%	25.8%
Human Services and Development Careers	12.8%	20.3%	11.7%
Industrial Safety and Regulation Careers	9.1%	0.0%	0.0%
Information Technology Careers	7.0%	9.1%	8.5%
Insurance and Benefits Careers	12.2%	12.5%	15.4%
Laboratory Science Careers	14.3%	NA	25.0%
Law Careers	7.0%	0.0%	7.7%
Library and Information Resource Careers	0.0%	0.0%	0.0%
Loans and Grants Careers	6.5%	0.0%	7.7%
Management Careers	10.3%	16.7%	7.5%
Manufacturing and Equipment Careers	0.0%	NA	0.0%
Medical, Dental, and Nursing Careers	11.6%	18.2%	11.5%
Natural Resources Careers	9.6%	0.0%	10.0%
Office Administration Careers	14.1%	19.3%	12.9%
Planning and Research Careers	10.8%	3.6%	10.1%
Program Administration	7.0%	0.0%	8.2%
Protective Services Careers	10.1%	33.3%	8.3%
Psychology and Counseling Careers	24.7%	27.3%	21.2%
Public Health Careers	3.2%	0.0%	5.3%
Public Relations and Marketing Careers	4.3%	0.0%	0.0%
Purchasing and Administrative Services Careers	0.0%	0.0%	0.0%
Rehabilitation Therapy Careers	13.8%	0.0%	17.6%

Career Category	All Employees with Disabilities	Racial/Ethnic Minorities with Disabilities	Female Employees with Disabilities
Revenue and Gaming Reg Careers	12.0%	22.2%	12.9%
Student Worker and Internships	42.1%	100.0%	54.5%
Transportation Operations and Regulation Careers	8.1%	15.8%	14.3%
All Other Career Families	9.7%	0.0%	33.3%
Executive Branch Total	11.4%	14.2%	12.5%

Appendix C: Analysis of exit survey results

The content of the following report was provided by MMB to the task force following a formal data request. All of the statements regarding the results, including statements related to significance of differences across groups, were provided by MMB. The only changes made to the report were to align formatting with the rest of the report and make the tables accessible.

Analysis of Exit Survey Results: Employees with Disabilities, Executive Branch

The exit survey has been administered since January 2019 and is designed to identify the reasons why employees are leaving state agencies and their impressions of the work environment. The results below are focused on the 114 employees with disabilities who left executive branch agencies and who filled out the survey. Results are compared with those of all exiting employees as well as racial/ethnic minorities and female employees. Results were compiled between January 2019 through June 2020.

Table 3. Why are you leaving your job?

Response	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
End of temporary appointment	7.5%	7.0%	8.4%	7.4%
Move to another state agency	12.9%	14.0%	18.7%	14.9%
Resignation	46.1%	44.7%	66.8%	49.1%
Retirement	31.9%	32.5%	5.6%	28.1%
No answer	1.5%	1.8%	0.5%	0.5%

Employees with disabilities are significantly more likely than other employees to cite retirement as the reason they are leaving an agency.

Table 4. Would you consider returning to work at this agency?

Response	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
No	34.2%	63.2%	32.2%	34.7%

Response	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
Yes	63.5%	35.1%	67.3%	64.0%
No answer	2.2%	0.0%	0.5%	1.4%

Employees with disabilities are far less likely to express a willingness to return to work. However, when retiring employees are excluded, 74.4% of exiting employees with disabilities expressed a willingness to return to their agencies compared to 71.6% for all employees, 69.0% for racial/ethnic minorities and 71.6% for female employees.

Table 5. Would you recommend the agency as a good place to work?

Response	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
No	13.8%	20.2%	15.4%	15.2%
Yes, with reservations	43.8%	41.2%	44.4%	45.5%
Yes, without reservations	40.8%	36.8%	40.2%	38.5%
No answer	1.6%	0.0%	0.0%	0.7%

Employees with disabilities are less likely than other employees to recommend their agency as a good place to work.

Table 6. Overall, how satisfied were you with the agency as a place of work?

Response	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
Strongly dissatisfied	7.4%	11.4%	9.8%	8.0%
Somewhat dissatisfied	9.7%	13.2%	11.2%	10.3%
Neutral	13.2%	8.8%	21.0%	13.9%
Somewhat satisfied	33.3%	36.0%	29.4%	36.1%
Strongly satisfied	34.6%	29.8%	28.5%	30.9%
No answer	1.8%	0.0%	0.0%	0.7%

About 25% of employees with disabilities expressed some dissatisfaction with their agency compared to 17% for all employees, 21% for racial/ethnic employees and 18% for female employees. However, employees with disabilities were far less likely than others to have a neutral level of satisfaction. As a result, they also have a similar (or higher) level of satisfaction than other groups—66% versus 68% for all employees, 58% for racial/ethnic employees and 67% for female employees.

The table below (Table 7) shows the reasons employees cited in deciding to leave their agency. The list below is sorted by the most to least often cited reasons by employees with disabilities. The ranks for all groups are given in parentheses. Employees with disabilities are somewhat more likely than all other employees to cite management practices, family/personal reasons, workload, conflict with supervisor, lack of recognition and unchallenging job duties as reasons for leaving.

Table 7. What reasons influenced your decision to leave the agency? (ranked out of 24 reasons)

Reason	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
Retirement	12.2% (1)	9.7% (1)	1.6% (22)	10.8% (1)
Management practices	7.7% (3)	8.5% (2)	7.8% (3)	8.0% (3)
Lack of promotional opportunities/career advancement opportunity	7.3% (4)	7.4% (3)	9.5% (1)	7.7% (4)
Family or personal reason(s)	5.5% (6)	6.2% (4)	5.0% (6)	5.4% (6)
Better opportunity elsewhere	9.0% (2)	5.8% (5)	8.7% (2)	8.1% (2)
Workload (amount of work assigned, time given to complete it, fairness of distribution)	3.9% (9)	5.8% (6)	4.6% (9)	4.6% (8)
Conflict with my supervisor	3.5% (10)	5.4% (7)	3.8% (10)	3.8% (10)
Lack of recognition	3.0% (13)	5.4% (8)	3.0% (14)	3.6% (11)
Salary/pay	6.4% (5)	5.4% (9)	6.6% (4)	5.8% (5)
Organizational culture	5.3% (7)	5.0% (10)	5.6% (5)	5.4% (7)
Job duties were not interesting/challenging	2.9% (14)	3.9% (11)	3.2% (13)	3.4% (12)
Quality of supervision	3.2% (12)	3.5% (12)	2.2% (17)	3.2% (14)
Change in career path	4.0% (8)	1.9% (13)	4.6% (7)	3.8% (9)
Commute/transportation issues	2.3% (17)	1.9% (14)	1.6% (21)	2.2% (19)
Conflict with coworkers	2.0% (19)	1.9% (15)	2.8% (15)	2.3% (18)

Reason	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
Desire different employment condition (full-time, part-time, intermittent)	2.6% (15)	1.9% (16)	2.0% (18)	2.6% (16)
Working conditions (physical environment, tools, resources)	2.1% (18)	1.9% (17)	1.8% (20)	2.4% (17)
Lack of flexible work schedule/inability to telework	2.4% (16)	1.6% (18)	2.6% (16)	2.7% (15)
Lack of training opportunities	1.0% (22)	1.6% (19)	2.0% (19)	1.1% (21)
Continuing education	1.2% (20)	1.2% (20)	3.4% (12)	1.5% (20)
Work schedule or schedule pattern (hours/days of work)	3.3% (11)	1.2% (21)	3.8% (11)	3.3% (13)
Benefits are insufficient (insurance, retirement, vacation/sick leave)	0.5% (23)	0.8% (22)	0.6% (23)	0.4% (23)
Lack of diversity in the workplace	1.0% (21)	0.8% (23)	4.6% (8)	0.9% (22)
Student loan or tuition reimbursement; new employer paying a portion of my existing loan or tuition	0.3% (24)	0.4% (24)	0.0% (24)	0.3% (24)
Other	7.2%	10.9%	8.9%	7.6%

The table below (Table 8) shows the level of agreement with various statements about exiting employees' agency work environments. The table is sorted in descending order of those statements employees with disabilities expressed the most disagreement. The rank (highest disagreement) is given in parentheses for each protected group.

Table 8. Percent of Exiting Employees Expressing Strong or Somewhat Strong Disagreement with Workplace-Related Statements—by Protected Group

Statement	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
My supervisor helped me plan for my career growth.	30.3% (1)	40.4% (1)	33.2% (1)	32.9% (1)
My work unit was a positive environment.	24.5% (3)	35.1% (2)	26.6% (3)	30.0% (3)

Statement	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
I was provided a mentor who worked with me to learn my role and responsibilities.	27.2% (2)	34.2% (3)	28.5% (2)	30.4% (2)
My supervisor recognized me for my work efforts.	17.7% (9)	29.8% (4)	22.0% (5)	20.5% (10)
I had the resources and tools I needed to be successful.	19.0% (6)	29.8% (5)	22.0% (6)	20.8% (8)
I felt comfortable expressing my opinions to my supervisor.	20.9% (4)	28.9% (6)	22.4% (4)	23.5% (4)
My supervisor provided me constructive feedback.	17.7% (8)	27.2% (7)	17.3% (10)	21.4% (5)
My supervisor provided me consistent feedback.	18.6% (7)	24.6% (8)	18.7% (9)	21.3% (7)
I was provided with a thorough orientation and onboarding to learn my job.	19.3% (5)	24.6% (9)	21.5% (8)	21.4% (6)
My supervisor fostered an environment that valued diversity and inclusion.	17.4% (11)	23.7% (10)	21.5% (7)	20.7% (9)
My supervisor treated me fairly.	14.0% (13)	22.8% (11)	16.4% (11)	15.8% (13)
My supervisor was approachable.	16.1% (11)	22.8% (12)	15.4% (12)	18.9% (11)
My supervisor treated me with respect.	13.5% (14)	21.9% (13)	13.6% (15)	15.5% (14)
My performance expectations were clear	15.2% (12)	21.1% (14)	14.0% (14)	16.3% (12)
I felt that my working conditions (physical, work environment, tools, resources, etc.) were safe	10.4% (16)	16.7% (15)	9.8% (16)	12.8% (16)
My performance expectations were realistic	12.3% (15)	15.8% (16)	14.5% (13)	14.5% (15)
I had all the tools and equipment necessary to be safe on the job	7.3% (17)	13.2% (17)	7.0% (17)	8.5% (17)
My supervisor encouraged me to work within safety guidelines	4.5% (19)	8.8% (18)	6.5% (18)	5.1% (19)
I was made aware of how to report suspected Code of	5.3% (18)	7.9% (19)	5.6% (19)	6.4% (18)

Statement	Total, All Employees (n=1,345)	Employees with Disabilities (n=114)	Racial/Ethnic Minorities (n=214)	Female Employees (n=809)
Conduct violations.				
I received adequate training and guidance on the Code of Conduct while employed.	3.3% (21)	6.1% (20)	3.7% (20)	3.5% (21)
I was provided information about the mission, vision and values of the agency.	4.2% (20)	5.3% (21)	3.3% (21)	4.3% (20)

Employees with disabilities expressed higher level of disagreement than all employees in every statement above. However, employees with disabilities showed the biggest differences from all employees in these statements:

- My supervisor recognized me for my work efforts (+12.1% than all employees).
- I had the resources and tools I needed to be successful (+10.8% than all employees).
- My work unit was a positive environment (+10.6% than all employees).
- My supervisor helped me plan for my career growth (+10.1% than all employees).
- My supervisor provided me constructive feedback (+9.5% than all employees).
- My supervisor treated me fairly (+8.8% than all employees).
- My supervisor treated me with respect (+8.4% than all employees).
- I felt comfortable expressing my opinions to my supervisor (+8.0% than all employees).

Appendix D: Definitions to be added to 43A.02

The task force researched and collated fifteen definitions that should be added to [Minn. Stat. 43A.02 Definitions](#) in order to modernize Minnesota Statutes Chapter 43A. The following recommended definitions would ensure that Chapter 43A aligns with existing state statutes, the ADA, and US Code.

Accommodation Fund: Created by [16B.4805](#). The accommodation account is created as an account in the special revenue fund for reimbursing state agencies for expenses incurred in providing reasonable accommodations eligible for reimbursement for agency employees and applicants for agency employment. This fund is administered by the Commissioner of Administration.

Americans With Disabilities Act (ADA): The term “ADA” means the Americans with Disabilities Act of 1990, as amended ([42 U.S.C. 12101 through 12117](#)).

Auxiliary Aids and Services: The term “auxiliary aids and services” includes:

1. qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
2. qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
3. acquisition or modification of equipment or devices; and
4. other similar services and actions.

Digital Accessibility: Information and communication technology (ICT), including products, devices, services, and content that is designed and built so people with disabilities can use or participate in them, as defined by the state digital accessibility and usability standard, adopted due to [16E.03, subdivision 9](#). Any statutory reference to “accessible” or “accessibility” in the context of ICT is understood to mean “digital accessibility.”

Discrimination: No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

The term “discriminate” includes:

1. Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the

opportunities or status of such applicant or employee because of the disability of such applicant or employee;

2. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);
3. Using standards, criteria, or methods of administration
 - a. that have the effect of discrimination on the basis of disability; or
 - b. that perpetuate the discrimination of others who are subject to common administrative control;
4. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;
5. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;
6. Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and
7. Failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

Employee Health Program: An employee health program, including any disability-related inquiries or medical examinations that are part of such program, must be reasonably designed to promote health or prevent disease. A program satisfies this standard if it has a reasonable chance of improving the health of, or

preventing disease in, participating employees, and it is not overly burdensome, is not a subterfuge for violating the ADA or other laws prohibiting employment discrimination, and is not highly suspect in the method chosen to promote health or prevent disease. A program consisting of a measurement, test, screening, or collection of health-related information without providing results, follow-up information or advice designed to improve the health of participating employees is not reasonably designed to promote health or prevent disease, unless the collected information actually is used to design a program that addresses at least a subset of the conditions identified. A program is also not reasonably designed if it exists mainly to shift costs from the covered entity to targeted employees based on their health or simply to give an employer information to estimate future health care costs. Whether an employee health program is reasonably designed to promote health or prevent disease is evaluated in light of all the relevant facts and circumstances.

Examinations and Courses: Any person who offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

Genetic Information Nondiscrimination Act: The Genetic Information Nondiscrimination Act of 2008 (Pub.L. 110-233, 122 Stat. 881, enacted May 21, 2008), is an Act of Congress in the United States designed to prohibit some types of genetic discrimination. The act bars the use of genetic information in health insurance and employment: it prohibits group health plans and health insurers from denying coverage to a healthy individual or charging that person higher premiums based solely on a genetic predisposition to developing a disease in the future, and it bars employers from using individuals' genetic information when making hiring, firing, job placement or promotion decisions.

Integrated Settings: Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

Interference, Coercion, or Intimidation: It shall be unlawful to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this law.

Medical Exams—Pre-Employment and Employment:

1. PROHIBITED EXAMINATION OR INQUIRY: Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.
2. ACCEPTABLE INQUIRY: A covered entity may make pre-employment inquiries into the ability of an applicant to perform job-related functions.

3. EMPLOYMENT ENTRANCE EXAMINATION: A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if:
- a. all entering employees are subject to such an examination regardless of disability;
 - b. information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:
 - i. supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
 - ii. first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
 - iii. government officials investigating compliance with this law shall be provided relevant information on request; and
 - c. the results of such examination are used only in accordance with this law.

Model Employer: The state shall be a model employer of individuals with disabilities. Agencies shall give full consideration to the hiring, advancement, and retention of qualified individuals with disabilities in the state workforce. Agencies shall also take affirmative action to promote the recruitment, hiring, and advancement of qualified individuals with disabilities, with the goal of eliminating underrepresentation of individuals with disabilities in the state workforce.

Qualified Individual with a Disability: The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

Reasonable Accommodation: As defined by 363A.08, subdivision 6: “Reasonable accommodation” means steps that must be taken to accommodate the known physical or mental limitations of qualified individual with a disability. “Reasonable accommodation” may include but is not limited to, nor does it necessarily require:

1. Making facilities readily accessible to and usable by people with disabilities; and
2. Job restructuring, modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

A reasonable accommodation does not need to be provided if it is unsafe to the employee or others if implemented.

Undue Hardship: In determining whether an accommodation would impose an undue hardship, as defined in 363A.08. subd. 6, on the operation of a business or organization, factors to be considered include:

1. The overall size of the business or organization with respect to number of employees or members and the number and type of facilities;
2. The type of the operation, including the composition and structure of the workforce, and the number of employees at the location where the employment would occur;
3. The nature and cost of the needed accommodation;
4. The reasonable ability to finance the accommodation at each site of business; and
5. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability or with knowledgeable people with disabilities or organizations.]