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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2017

03/08/2021 Authored by Reyer, Hornstein, Hollins, Berg, Keeler and others
The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act

1.2 relating to state government; adopting recommendations of the Advisory Task

1.3 Force on State Employment and Retention of Employees with Disabilities; requiring

1.4 a report; amending Minnesota Statutes 2020, sections 43A.01, subdivision 2;

1.5 43A.02, by adding subdivisions; 43A.04, subdivisions 1a, 4, 7; 43A.05, subdivision

1.6 1; 43A.09; 43A.10, subdivisions 2a, 7; 43A.14; 43A.15, subdivision 14, by adding

1.7 a subdivision; 43A.19, subdivision 1; 43A.191; 43A.21, subdivisions 1, 2, 3, by

1.8 adding a subdivision; 43A.36, subdivision 1; 43A.421; proposing coding for new

1.9 law in Minnesota Statutes, chapter 43A.

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

1.11 Section 1. Minnesota Statutes 2020, section 43A.01, subdivision 2, is amended to read:

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

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

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

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

1.16 disability, sex, national origin, marital status, status with regard to public assistance, or

1.17 political affiliation. It is the policy of this state to take affirmative action to eliminate the

1.18 underutilization of qualified members of protected groups in the civil service, where such

1.19 action is not in conflict with other provisions of this chapter or chapter 179, in order to

1.20 correct imbalances and eliminate the ~~present~~ effects of ~~past~~ systemic discrimination and

1.21 support full and equal participation in the social and economic life in the state. Managers

1.22 and supervisors that are responsible for hiring must be made aware of bias that can be present

1.23 in the hiring process.

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

2.4 Sec. 2. Minnesota Statutes 2020, section 43A.02, is amended by adding a subdivision to
2.5 read:

2.6 Subd. 1a. **Accommodation fund.** "Accommodation fund" means the fund created under
2.7 section 16B.4805 for reimbursing state agencies for eligible expenses incurred in providing
2.8 reasonable accommodations to state employees with disabilities.

2.9 Sec. 3. Minnesota Statutes 2020, section 43A.02, is amended by adding a subdivision to
2.10 read:

2.11 Subd. 3a. **Americans with Disabilities Act.** "Americans With Disabilities Act" or
2.12 "ADA" means the Americans with Disabilities Act of 1990, as amended, United States
2.13 Code title 42, sections 12101 to 12117.

2.14 Sec. 4. Minnesota Statutes 2020, section 43A.02, is amended by adding a subdivision to
2.15 read:

2.16 Subd. 18a. **Digital accessibility.** "Digital accessibility" means information and
2.17 communication technology, including products, devices, services, and content that are
2.18 designed and built so people with disabilities can use or participate in them, as defined by
2.19 the accessibility standard adopted under section 16E.03, subdivision 9. Any statutory
2.20 reference to accessible or accessibility in the context of information and communication
2.21 technology includes digital accessibility.

2.22 Sec. 5. Minnesota Statutes 2020, section 43A.02, is amended by adding a subdivision to
2.23 read:

2.24 Subd. 35a. **Reasonable accommodation.** "Reasonable accommodation" has the meaning
2.25 given under section 363A.08, subdivision 6.

2.26 Sec. 6. Minnesota Statutes 2020, section 43A.04, subdivision 1a, is amended to read:

2.27 Subd. 1a. **Mission; efficiency.** It is part of the department's mission that within the
2.28 department's resources the commissioner shall endeavor to:

2.29 (1) prevent the waste or unnecessary spending of public money;

3.1 (2) use innovative fiscal and human resource practices to manage the state's resources
3.2 and operate the department as efficiently as possible;

3.3 (3) coordinate the department's activities wherever appropriate with the activities of
3.4 other governmental agencies;

3.5 (4) use technology where appropriate to increase agency productivity, improve customer
3.6 service, increase public access to information about government, and increase public
3.7 participation in the business of government;

3.8 (5) ensure that all technology utilized is accessible and provided in a timely manner as
3.9 described in sections 363A.42 and 363A.43 and the accessibility standards under section
3.10 16E.03, subdivisions 2, clause (3), and 9;

3.11 ~~(5)~~ (6) utilize constructive and cooperative labor-management practices to the extent
3.12 otherwise required by chapters 43A and 179A;

3.13 ~~(6)~~ (7) report to the legislature on the performance of agency operations and the
3.14 accomplishment of agency goals in the agency's biennial budget according to section 16A.10,
3.15 subdivision 1; and

3.16 ~~(7)~~ (8) recommend to the legislature appropriate changes in law necessary to carry out
3.17 the mission and improve the performance of the department; and

3.18 (9) endeavor to use equitable and inclusive practices to attract and recruit protected class
3.19 employees; actively eliminate discrimination against protected group employees; and ensure
3.20 equitable access to development and training, advancement, and promotional opportunities.

3.21 Sec. 7. Minnesota Statutes 2020, section 43A.04, subdivision 4, is amended to read:

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

3.30 Administrative procedures shall be reproduced and made available for comment in
3.31 accessible digital formats under section 16E.03 to agencies, employees, and appropriate

4.1 exclusive representatives certified pursuant to sections 179A.01 to 179A.25, for at least 15
4.2 days prior to implementation and shall include but are not limited to:

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

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

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

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

4.15 (5) procedures for pilots of the reengineered employee selection process. Employment
4.16 provisions of this chapter, associated personnel rules adopted under subdivision 3, and
4.17 administrative procedures established under clauses (1) and (3) may be waived for the
4.18 purposes of these pilots. The pilots may affect the rights of and processes available to
4.19 members of the general public seeking employment in the classified service. The
4.20 commissioner will provide public notice of any pilot directly affecting the rights of and
4.21 processes available to the general public and make the administrative procedures available
4.22 for comment to the general public, agencies, employees, and appropriate exclusive
4.23 representatives certified pursuant to sections 179A.01 to 179A.25 for at least 30 days prior
4.24 to implementation. The public notice must be provided in an accessible digital format under
4.25 section 16E.03. The process for providing comment shall include multiple formats to ensure
4.26 equal access, including via telephone, digital content, and e-mail.

4.27 Sec. 8. Minnesota Statutes 2020, section 43A.04, subdivision 7, is amended to read:

4.28 Subd. 7. **Reporting.** The commissioner shall issue a written report by February 1 and
4.29 August 1 of each year to the chair of the Legislative Coordinating Commission. The report
4.30 must list the number of appointments made under each of the categories in section 43A.15,
4.31 the number made to the classified service other than under section 43A.15, and the number
4.32 made under section 43A.08, subdivision 2a, during the six-month periods ending June 30
4.33 and December 31, respectively. The report must be posted online and must be accessible

5.1 under section 16E.03. The commissioner shall advertise these reports in multiple formats
 5.2 to ensure broad dissemination.

5.3 Sec. 9. Minnesota Statutes 2020, section 43A.05, subdivision 1, is amended to read:

5.4 Subdivision 1. **General.** The commissioner shall perform the duties assigned in this
 5.5 chapter.

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

5.14 Sec. 10. Minnesota Statutes 2020, section 43A.09, is amended to read:

5.15 **43A.09 RECRUITMENT.**

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

5.24 Sec. 11. Minnesota Statutes 2020, section 43A.10, subdivision 2a, is amended to read:

5.25 Subd. 2a. **Application requirements.** (a) The commissioner shall establish and maintain
 5.26 a database of applicants for state employment. The commissioner shall establish, publicize,
 5.27 and enforce minimum requirements for ~~application.~~ applications, and shall ensure that:

5.28 (1) all postings shall be written so as to be relevant to the duties of the job and be
 5.29 nondiscriminatory;

5.30 (2) the appointing authority ~~shall enforce~~ enforces the established minimum requirements
 5.31 for application;

6.1 (3) the 700-hour on-the-job demonstration experience is considered an alternative,
 6.2 noncompetitive hiring process for classified positions for qualified individuals who express
 6.3 interest directly to the appointing authority. with disabilities; and

6.4 (4) hiring managers and others involved in the selection process are aware of the
 6.5 accommodation fund under section 16B.4805 to ensure that people with disabilities obtain
 6.6 timely and appropriate accommodations within the hiring process and the state agency can
 6.7 request reimbursement.

6.8 (b) The commissioner shall ensure that all online application processes and all digital
 6.9 content shall be accessible and usable for people with disabilities.

6.10 Sec. 12. Minnesota Statutes 2020, section 43A.10, subdivision 7, is amended to read:

6.11 Subd. 7. **Selection process accommodations.** Upon request, the commissioner or
 6.12 appointing authority shall provide selection process reasonable accommodations to ~~an~~
 6.13 ~~applicant with a disability that does not prevent performance of the duties of the position.~~
 6.14 ~~The accommodations must provide an opportunity to fairly assess the ability of the applicant~~
 6.15 ~~to perform the duties of the position notwithstanding the disability but must preserve, to the~~
 6.16 ~~extent feasible, the validity of the selection process and equitable comparison of results~~
 6.17 ~~with the results of competitors without~~ qualified applicants with disabilities; to ensure full
 6.18 participation in the selection process, including use of the accommodation fund under section
 6.19 16B.4805 during the selection process. The commissioner must ensure that agencies are
 6.20 made aware of the accommodation fund and its critical function of removing cost
 6.21 considerations from interview selection decisions.

6.22 Sec. 13. Minnesota Statutes 2020, section 43A.14, is amended to read:

6.23 **43A.14 APPOINTMENTS.**

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

6.29 Sec. 14. Minnesota Statutes 2020, section 43A.15, subdivision 14, is amended to read:

6.30 Subd. 14. **700-hour on-the-job demonstration process and appointment**
 6.31 **experience.** (a) The commissioner shall ~~establish~~ consult with the Department of Employment
 6.32 and Economic Development's Vocational Rehabilitation Services and State Services for the

7.1 Blind, the Disability Agency Forum, and other disability experts in establishing qualifying
7.2 procedures for applicants whose disabilities are of such a significant nature that the applicants
7.3 are unable to demonstrate their abilities in the selection process. The qualifying procedures
7.4 must consist of up to 700 hours on-the-job ~~trial work~~ demonstration experience. ~~Up to three~~
7.5 ~~persons with significant disabilities and their job coach may be allowed to demonstrate their~~
7.6 ~~job competence as a unit through the on-the-job trial work experience selection procedure.~~
7.7 ~~This~~ The 700-hour on-the-job demonstration process must be limited to applicants for whom
7.8 there is no reasonable accommodation in the selection process experience is an alternative,
7.9 noncompetitive hiring process for qualified applicants with disabilities. All permanent
7.10 executive branch classified positions are eligible for a 700-hour on-the-job demonstration
7.11 experience, and all permanent classified job postings must provide information regarding
7.12 the on-the-job demonstration overview and certification process.

7.13 (b) The commissioner may authorize the probationary appointment of an applicant based
7.14 on the request of the appointing authority that documents that the applicant has successfully
7.15 demonstrated qualifications for the position through completion of an on-the-job ~~trial work~~
7.16 ~~demonstration~~ experience. Qualified applicants should be converted to permanent,
7.17 probationary appointments at the point in the 700-hour on-the-job experience at which they
7.18 have demonstrated the ability to perform the essential functions of the job. The
7.19 implementation of this subdivision may not be deemed a violation of chapter 43A or 363A.

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

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

7.28 (e) The commissioner shall enter into a memorandum of understanding with the
7.29 Department of Employment and Economic Development's State Services for the Blind and
7.30 Vocational Rehabilitation Services to provide technical assistance on the hiring and retention
7.31 of individuals with disabilities.

7.32 (f) The commissioner or the commissioner's designee shall develop, administer, and
7.33 make public a formal grievance process for individuals in the 700-hour on-the-job

8.1 demonstration experience under this subdivision and supported work program under section
 8.2 43A.421, subdivision 2.

8.3 (g) Appointing agencies shall ensure that reasonable accommodation requests, including
 8.4 accessible technology or alternative formats, are provided in a timely manner during the
 8.5 application and hiring process and throughout the 700-hour on-the-job demonstration
 8.6 experience period pursuant to sections 363A.42 and 363A.43 and the accessibility standards
 8.7 under section 16E.03, subdivisions 2, clause (3), and 9.

8.8 Sec. 15. Minnesota Statutes 2020, section 43A.15, is amended by adding a subdivision to
 8.9 read:

8.10 Subd. 14a. **Report and survey.** (a) The commissioner shall annually collect
 8.11 enterprise-wide statistics on the 700-hour on-the-job demonstration experience under
 8.12 subdivision 14 and annually issue a report that includes the following:

8.13 (1) the number of certifications submitted, granted, and rejected;

8.14 (2) the number of applicants interviewed, appointed, and converted to probationary
 8.15 status;

8.16 (3) the number of employees retained after one year in state employment;

8.17 (4) the number of employees with terminated appointments and the reason for termination;

8.18 (5) the average length of time in an on-the-job demonstration appointment;

8.19 (6) the number and category of entity certifications; and

8.20 (7) by department or agency, the number of appointments and hires and the number of
 8.21 managers and supervisors trained.

8.22 (b) The commissioner or the commissioner's designee shall develop and administer an
 8.23 annual survey of participants in the 700-hour on-the-job demonstration experience who are
 8.24 hired and those who are not hired, as well as the managers of participants in the 700-hour
 8.25 on-the-job demonstration experience. The commissioner of management and budget must
 8.26 meet at least annually with the Department of Employment and Economic Development's
 8.27 Vocational Rehabilitation Services and State Services for the Blind, the Disability Agency
 8.28 Forum, and other disability experts to review the survey results, assess program satisfaction,
 8.29 recommend areas for continuous improvement, and develop a summary report which must
 8.30 be published annually on the department's website.

9.1 Sec. 16. Minnesota Statutes 2020, section 43A.19, subdivision 1, is amended to read:

9.2 Subdivision 1. **Statewide affirmative action program.** (a) To assure that positions in
9.3 the executive branch of the civil service are equally accessible to all qualified persons, and
9.4 to eliminate the ~~underutilization of qualified members of protected groups~~ effects of past
9.5 and present discrimination, intended or unintended, on the basis of protected group status,
9.6 the commissioner shall adopt and periodically revise, if necessary, a statewide affirmative
9.7 action program. The statewide affirmative action program must consist of at least the
9.8 following:

9.9 (1) objectives, goals, and policies;

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

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

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

9.17 Agency heads must report the data in clause (2) to the state Director of Recruitment,
9.18 Retention and Affirmative Action and the state ADA coordinator, in addition to being
9.19 available to anyone upon request. The commissioner of management and budget must post
9.20 the aggregate and agency-level reports under clause (4) on the agency's website.

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

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

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

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

9.30 (1) the extent of unemployment of members of protected classes in the recruiting area
9.31 population;

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

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

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

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

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

10.23 Sec. 17. Minnesota Statutes 2020, section 43A.191, is amended to read:

10.24 **43A.191 AGENCY AFFIRMATIVE ACTION PROGRAMS.**

10.25 Subdivision 1. **Affirmative action officers.** (a) Each agency with 1,000 employees or
10.26 more shall have at least one full-time affirmative action officer, who shall have primary
10.27 responsibility for developing and maintaining the agency's affirmative action plan. The
10.28 officer shall devote full time to affirmative action activities. The affirmative action officer
10.29 shall report administratively and on policy issues directly to the agency head. Pursuant to
10.30 section 43A.08, subdivision 1a, clause (4), the affirmative action officer must not be an
10.31 unclassified employee.

11.1 (b) The agency heads shall assign affirmative action officers or designees for agencies
11.2 with fewer than 1,000 employees. The designees shall report administratively and on policy
11.3 issues directly to the agency head.

11.4 (c) An agency may not use authority under section 43A.08, subdivision 1a, to place the
11.5 position of an agency affirmative action officer or designee in the unclassified service.

11.6 Subd. 2. **Agency affirmative action plans.** (a) The head of each agency in the executive
11.7 branch shall prepare and implement an agency affirmative action plan consistent with this
11.8 section and rules issued under section 43A.04, subdivision 3.

11.9 (b) The agency plan must include a plan for the provision of reasonable accommodation
11.10 in the hiring and promotion of qualified ~~disabled~~ persons with disabilities. The reasonable
11.11 accommodation plan must consist of at least the following:

11.12 (1) procedures for compliance with sections 16E.03, subdivision 9, 363A.08 to 363A.19,
11.13 and 363A.28, subdivision 10, and, where appropriate, regulations implementing United
11.14 States Code, title 29, section 794, as amended through December 31, 1984, which is section
11.15 504 of the Rehabilitation Act of 1973, as amended and the Americans with Disabilities Act,
11.16 United States Code, title 42, sections 101 to 108, 201 to 231, 241 to 246, 401, 402, and 501
11.17 to 514;

11.18 (2) methods and procedures for providing timely access to reasonable accommodation
11.19 ~~for disabled job applicants, current employees, and employees~~ accommodations during the
11.20 application process, throughout current employment, and when seeking promotion;

11.21 (3) provisions for funding reasonable accommodations; and

11.22 (4) the number of requests made, the number of requests approved, and the number of
11.23 requests reimbursed from the state accommodation account under section 16B.4805.

11.24 (c) The agency plan must be prepared by the agency head with the assistance of the
11.25 agency affirmative action officer and the director of diversity and equal employment
11.26 opportunity. The agency may consult with the Council on Disability, vocational rehabilitation
11.27 services, state services for the blind, and other disability experts to review and make
11.28 recommendations on recruitment and retention of people with disabilities.

11.29 (d) The agency plan must identify any positions in the agency that can be used for
11.30 supported employment as defined in section 268A.01, subdivision 13, of persons with severe
11.31 disabilities. The agency shall report this information to the commissioner. An agency that
11.32 hires more than one supported worker in the identified positions must receive recognition

12.1 for each supported worker toward meeting the agency's affirmative action goals and
12.2 objectives.

12.3 (e) An agency affirmative action plan may not be implemented without the
12.4 commissioner's approval.

12.5 Subd. 2a. Disability recruitment, hiring, and advancement. (a) Each agency affirmative
12.6 action plan must include a section that provides sufficient assurances, procedures, and
12.7 commitments to provide adequate hiring, placement, and advancement opportunities for
12.8 individuals with disabilities at all levels of state employment. The criteria for this section
12.9 of the agency affirmative action plan must include a section on disability hiring and
12.10 advancement, including the provisions in this subdivision.

12.11 (b) The plan must describe specific actions to ensure that a broad range of individuals
12.12 with disabilities will be aware of and be encouraged to apply for job vacancies when eligible.
12.13 The actions must include, at a minimum:

12.14 (1) the use of programs and resources that identify job applicants with disabilities who
12.15 are eligible to be appointed under a hiring authority that takes disability into account,
12.16 consistent with the demonstration program under section 43A.15, subdivision 14. The
12.17 programs may include the Department of Employment and Economic Development's
12.18 Vocational Rehabilitation Services and State Services for the Blind that provide the
12.19 qualifications necessary for positions within the agency to individuals with disabilities.
12.20 Resources may include databases of individuals with disabilities who previously applied to
12.21 the agency but were not hired for the positions they applied for, and training and internship
12.22 programs that lead directly to employment for individuals with disabilities; and

12.23 (2) establishment and maintenance of contacts, which may include formal agreements,
12.24 with organizations that specialize in providing assistance to individuals with disabilities in
12.25 securing and maintaining employment, such as the Department of Employment and Economic
12.26 Development's Vocational Rehabilitation Services, State Services for the Blind, community
12.27 rehabilitation programs, day training and habilitation programs, and employment network
12.28 service providers.

12.29 (c) The plan must ensure that the agency has designated sufficient staff to handle any
12.30 disability-related issues that arise during the application and selection process, and shall
12.31 require the agency to provide staff with sufficient training, support, and other resources to
12.32 carry out the responsibilities under this section. Responsibilities include, at a minimum:

12.33 (1) ensuring that disability-related questions from members of the public regarding the
12.34 agency's application and selection processes are answered promptly and correctly, including

13.1 questions about reasonable accommodations needed by job applicants during the application
13.2 and selection process and questions about how individuals may apply for positions under
13.3 hiring authorities that take disability into account;

13.4 (2) processing requests for reasonable accommodations needed by job applicants during
13.5 the application and placement process and ensuring that the agency provides such
13.6 accommodations when required;

13.7 (3) accepting applications for a position under hiring authorities that take disability into
13.8 account;

13.9 (4) if an individual has applied for appointment to a particular position under a hiring
13.10 authority that takes disability into account, determining whether the individual is eligible
13.11 for appointment under such authority and, if so, forwarding the individual's application to
13.12 the relevant hiring officials with an explanation of how and when the individual may be
13.13 appointed, consistent with all applicable laws; and

13.14 (5) overseeing any other agency programs designed to increase hiring of individuals
13.15 with disabilities.

13.16 **Subd. 3. Audits; sanctions and incentives.** (a) The commissioner shall annually audit
13.17 the record of each agency to determine the rate of compliance with affirmative action
13.18 requirements. The department must report all audit findings to the governor's office if a
13.19 state agency fails to meet any of its affirmative action requirements for two consecutive
13.20 years.

13.21 (b) By March 1 of each odd-numbered year, the commissioner shall submit a report on
13.22 affirmative action progress of each agency and the state as a whole to the governor and to
13.23 the Finance Committee of the senate, the Ways and Means Committee of the house of
13.24 representatives, the Governmental Operations Committees of both houses of the legislature,
13.25 and the Legislative Coordinating Commission. The report must include noncompetitive
13.26 appointments made under section 43A.08, subdivision 2a, or 43A.15, subdivisions 3 to 7,
13.27 10, and 12, and cover each agency's rate of compliance with affirmative action requirements.
13.28 The report must be made available to the public on the department's website.

13.29 (c) An agency that does not meet its hiring goals must justify its nonaffirmative action
13.30 hires in competitive appointments and noncompetitive appointments made under section
13.31 43A.08, subdivisions 1, clauses (9), (11), and (16), and 2a; and section 43A.15, subdivisions
13.32 3, 10, 12, and 13, according to criteria issued by the department of ~~Management and Budget~~.
13.33 In addition, an agency shall:

14.1 (1) demonstrate a good faith effort to recruit protected group members by following an
 14.2 active recruitment plan;

14.3 (2) implement a coordinated retention plan; and

14.4 (3) have an established complaint resolution procedure.

14.5 (d) The commissioner shall develop reporting standards and procedures for measuring
 14.6 compliance.

14.7 (e) An agency is encouraged to develop other innovative ways to promote awareness,
 14.8 acceptance, and appreciation for diversity and affirmative action. These innovations will
 14.9 be considered when evaluating an agency's compliance with this section.

14.10 (f) An agency not in compliance with affirmative action requirements of this section
 14.11 must identify methods and programs to improve performance, to reallocate resources
 14.12 internally in order to increase support for affirmative action programs, and to submit program
 14.13 and resource reallocation proposals to the commissioner for approval. An agency must
 14.14 submit these proposals within 120 days of being notified by the commissioner that it is out
 14.15 of compliance with affirmative action requirements. The commissioner shall monitor
 14.16 quarterly the affirmative action programs of an agency found to be out of compliance.

14.17 (g) The commissioner shall establish a program to recognize an agency that has made
 14.18 significant and measurable progress in implementing an affirmative action plan.

14.19 (h) The commissioner must maintain and make available, on an annual basis, summary
 14.20 data as defined in section 13.02, subdivision 19, on the percentage of members of each
 14.21 protected group as defined in section 43A.02, subdivision 33, that were hired in the executive
 14.22 branch in each of the federal Equal Employment Opportunity (EEO) occupational categories
 14.23 applicable to state employment. Nothing in this provision, however, shall require any person
 14.24 to disclose their protected group status, nor shall it require the commissioner or any
 14.25 appointing authority to determine the protected group status of any person.

14.26 Sec. 18. Minnesota Statutes 2020, section 43A.21, subdivision 1, is amended to read:

14.27 Subdivision 1. **Authority; purpose.** The commissioner, in coordination with the statewide
 14.28 ADA and disability employment director and chief inclusion officer, shall develop and
 14.29 interpret policy and administer and, to the extent possible, conduct programs in training and
 14.30 development for employees to, at a minimum:

14.31 (1) promote individual, group and agency efficiency and effectiveness;

15.1 (2) build employee capacity to deliver accessible and inclusive services to the public,
 15.2 including people with disabilities; and

15.3 (3) support an inclusive work environment for employees with disabilities and employees
 15.4 of other protected classes.

15.5 Sec. 19. Minnesota Statutes 2020, section 43A.21, subdivision 2, is amended to read:

15.6 Subd. 2. **Responsibilities.** (a) The commissioner is responsible for developing and
 15.7 coordinating consistent training policy which shall be binding on all state agencies in the
 15.8 executive branch. The policies shall include conditions under which employees may receive
 15.9 or be assigned to training; internships and work-training programs; minimum and maximum
 15.10 training standards for employee participation and agency reporting requirements. At a
 15.11 minimum, state employees must receive training on statutes or policies related to:

15.12 (1) Title II of the Americans with Disabilities Act;

15.13 (2) the state's affirmative action policy;

15.14 (3) equal opportunity employment; and

15.15 (4) digital accessibility standards.

15.16 (b) Career development training is a permissive subject of collective bargaining. Each
 15.17 appointing authority in the executive branch, including the Minnesota State Retirement
 15.18 System and the Teachers Retirement Association, is primarily responsible for planning,
 15.19 budgeting, conducting and evaluating training programs.

15.20 Sec. 20. Minnesota Statutes 2020, section 43A.21, subdivision 3, is amended to read:

15.21 Subd. 3. **Programs.** (a) The commissioner or the commissioner's designee shall design
 15.22 and implement management training and development programs for the state service. The
 15.23 programs shall include but not be limited to mandatory training and development
 15.24 requirements for managers and supervisors. No person shall acquire permanent status in a
 15.25 management or supervisory position in the classified service until training and development
 15.26 requirements have been met.

15.27 (b) All managers and supervisors must receive training on inclusive work environments,
 15.28 disability awareness, cultural competence, and other equity and diversity areas.

15.29 (c) Agencies shall conduct an annual Americans with Disabilities Act self-assessment
 15.30 to ensure training programs meet the standards for universal design in learning.

16.1 Sec. 21. Minnesota Statutes 2020, section 43A.21, is amended by adding a subdivision to
16.2 read:

16.3 Subd. 6. Accessibility. The commissioner is responsible for ensuring that all training
16.4 content and platforms meet the accessibility standards under section 16E.03, subdivisions
16.5 2, clause (3), and 9. Reasonable accommodations must be implemented in a timely and
16.6 appropriate manner to ensure that all state employees can participate in state-offered trainings.
16.7 All state employees, including ADA coordinators and human resources staff, must have the
16.8 training and resources to implement an accessible and inclusive workplace.

16.9 Sec. 22. Minnesota Statutes 2020, section 43A.36, subdivision 1, is amended to read:

16.10 Subdivision 1. **Cooperation; state agencies.** (a) The commissioner may delegate
16.11 administrative functions associated with the duties of the commissioner to appointing
16.12 authorities who have the capability to perform such functions when the commissioner
16.13 determines that it is in the best interests of the state civil service. The commissioner shall
16.14 consult with agencies and agencies shall cooperate as appropriate in implementation of this
16.15 chapter.

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

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

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

16.31 (e) Pursuant to section 43A.431, the head of each agency in the executive branch shall
16.32 designate an ADA coordinator who shall have primary responsibility for the administration

17.1 of ADA policies, procedures, trainings, requests, and arbitration. The coordinator shall
 17.2 report directly to the commissioner.

17.3 Sec. 23. Minnesota Statutes 2020, section 43A.421, is amended to read:

17.4 **43A.421 SUPPORTED WORK PROGRAM.**

17.5 Subdivision 1. **Program established.** A total of 50 full-time Active positions within
 17.6 agencies of state government may be selected for inclusion for a supported work program
 17.7 for persons with severe disabilities. A full-time position may be shared by up to three persons
 17.8 with severe disabilities and their job coach. The job coach is not a state employee within
 17.9 the scope of section 43A.02, subdivision 21, or 179A.03, subdivision 14, unless the job
 17.10 coach holds another position within the scope of section 43A.02, subdivision 21, or 179A.03,
 17.11 subdivision 14. All classified supported work job postings need to link to the overview and
 17.12 application process for the supported work program.

17.13 Subd. 2. **Responsibilities.** (a) The commissioner is responsible for the administration
 17.14 and oversight of the supported work program, including the establishment of policies and
 17.15 procedures, data collection and reporting requirements, and compliance.

17.16 (b) The commissioner or the commissioner's designee shall design and implement a
 17.17 training curriculum for the supported work program. All executive leaders, managers,
 17.18 supervisors, human resources professionals, affirmative action officers, and Americans with
 17.19 Disabilities Act coordinators must receive training regarding the program.

17.20 (c) The commissioner or the commissioner's designee shall develop, administer, and
 17.21 make public a formal grievance process for individuals in the program.

17.22 Sec. 24. **[43A.431] AMERICANS WITH DISABILITIES ACT COORDINATORS.**

17.23 (a) Each state agency shall designate at least one ADA coordinator who is responsible
 17.24 for implementation of Title I of the ADA, to advance the prohibition on discrimination
 17.25 against qualified individuals with disabilities in job application procedures, hiring, firing,
 17.26 advancement, compensation, job training and other terms, conditions, and privileges of
 17.27 employment. The ADA coordinator must have demonstrated knowledge and experience in:

17.28 (1) the recruitment, selection, development, and retention of people with disabilities;

17.29 (2) workforce data analysis;

17.30 (3) disability employment laws and regulations; and

17.31 (4) strategy development for universal and inclusive workplaces.

18.1 (b) The ADA coordinator is responsible for overseeing the development, implementation,
18.2 monitoring, and evaluation of effective strategies to attract, engage, and advance people
18.3 with disabilities. This includes assisting employees with identifying, acquiring, and
18.4 maintaining effective accommodations and submitting reimbursement requests to the
18.5 statewide accommodation fund under section 16B.4805.

18.6 (c) The ADA coordinator is responsible for collecting data and preparing reports to
18.7 ensure transparency and accountability and must serve as a key liaison for disability
18.8 employment and training initiatives.

18.9 **Sec. 25. ADVISORY COMMITTEE ON SERVICE WORKER STANDARDS.**

18.10 The commissioner of management and budget shall convene an advisory committee to
18.11 review and make recommendations regarding updates and clarifications to the service worker
18.12 class specifications under Minnesota Statutes, section 43A.071. By January 15, 2022, the
18.13 commissioner shall report to the legislative committees with jurisdiction over state
18.14 government employees on recommendations for changes to Minnesota Statutes, section
18.15 43A.071.