

Chapter 10

2021 First Special Session

Subject Workforce and Labor Omnibus Bill

Bill S.F. 9

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Overview

This is the 2021 omnibus workforce and labor finance and policy act. Governor Tim Walz signed this act into law on June 30, 2021.

Article 1: Appropriations

Provides appropriations and adjusts some prior appropriations. See spreadsheet for details.

Article 2: Department of Employment and Economic Development

Department of Employment and Economic Development (DEED) policy.

Section Description – Article 2: Department of Employment and Economic Development

1 Receipt of gifts, money; appropriation.

Allows the commissioner of DEED to accept donations and use them as additional funding for the State Services for the Blind.

2 Eligible projects.

Allows up to 15 percent of a project funded by the greater Minnesota business development public infrastructure program to be for an ancillary purpose not otherwise eligible for inclusion in the program, if approved by the commissioner.

Effective date: This section is effective July 1, 2021, and applies to projects that have been funded previously under Minnesota Statutes, section 116J.431.

3 Ineligible projects.

Clarifies the types of projects that are ineligible for funding through the greater Minnesota business development public infrastructure program.

Section Description – Article 2: Department of Employment and Economic Development

Effective date: This section is effective July 1, 2021, and applies to projects that have been funded previously under Minnesota Statutes, section 116J.431.

4 Development restrictions expiration.

Removes restrictions on what types of projects can be supported by infrastructure funded by the greater Minnesota business development public infrastructure program after ten years.

Effective date: This section is effective July 1, 2021, and applies to projects that have been funded previously under Minnesota Statutes, section 116J.431.

5 [116J.8749] Main Street Economic Revitalization Program.

Subd. 1. Definitions. Defines key terms including:

- “Eligible project” means the development, redevelopment, demolition, site preparation, predesign, design, engineering, repair, or renovation of real property or capital improvements. Requires that an eligible project be designed to address the greatest economic development and redevelopment needs that have arisen in the community surrounding the project since March 15, 2020. Excludes the purchase of real estate or business operations or business operating expenses from the definition.
- “Eligible recipient” means a business, nonprofit organization, or developer seeking funding to complete an eligible project. Excludes partner organizations and local units of government.
- “Guaranteed loan” means a loan guaranteed by the state for 80 percent of the loan amount for a maximum period of 15 years.
- “Leveraged grant” means a grant matched by the eligible recipient’s commitment of nonstate funds to the project at a level of 200 percent of the grant amount.
- “Partner organizations” means foundations engaged in economic development, community development financial institutions, and community development corporations.

Subd. 2. Establishment. Establishes the Main Street Economic Revitalization Program to fund eligible projects designed to address the greatest economic development and redevelopment needs that have arisen in the community surrounding the project since March 15, 2020.

Subd. 3. Grants to partner organizations. Establishes the procedures for the commissioner to make grants to partner organizations. Requires that a partner organization:

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- 1) submit a plan for providing leveraged grants and guaranteed loans to eligible recipients for specific eligible projects, including an analysis of the economic impact of the proposed projects;
- 2) establish a process for avoiding conflicts of interest in making awards; and
- 3) demonstrate that the partner organization has raised funds—other than existing assets or state or federal funds—for the proposed projects or will do so within 15 months of encumbrance of the funds.

Establishes three rounds for making grants and lets partners apply in multiple rounds for new or previously unfunded projects. Allows up to four percent of the grant to be used for the administrative and monitoring costs of the partner.

Subd. 4. Award criteria. Gives funding preference to applications that (1) have the greatest regional economic impact, particularly on the local tax base, and (2) have the greatest portion of the estimated cost met through nonstate funds.

Subd. 5. Leveraged grants to eligible recipients. Limits leveraged grants to eligible recipients to a maximum of \$750,000 and no more than 30 percent of the total cost of an eligible project. Requires that eligible projects secure commitments for all required matching funds and development approvals before the leveraged grant may be distributed.

Subd. 6. Guaranteed loans to eligible recipients. Limits guaranteed loans to eligible recipients to a maximum of \$2,000,000 and a term of no more than 15 years. Requires that eligible projects secure all required development approvals before the guaranteed loan may be distributed and that, upon origination, the commissioner reserve ten percent of the loan amount in the loan guarantee trust fund account to cover defaults. Guaranteed loans must also comply with the requirements of subdivision 7.

Subd. 7. Required terms for guaranteed loans. Lists a number of technical and procedural requirements for guaranteed loans.

Subd. 8. Loan guarantee trust fund established. Establishes an account in the special revenue fund to pay for defaulted loan guarantees. Cancels to the state general fund any funds remaining in the account on the day this section expires.

Subd. 9. Statewide program. Stipulates that funding under this section shall be split between the metropolitan areas and greater Minnesota in proportion to eligible demand in an approximately equal dollar amount, not to exceed 65 percent in any one area. Allows any remaining funding after June 30, 2023, to be distributed without regard to geographic area.

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Subd. 10. Exemptions. Exempts the program, until December 31, 2023, from some of the usual state rules about grants management, allotment and encumbrance, grant agreements, grant payments, and audits. Requires the commissioner of employment and economic development to audit the use of grant funds in accordance with standard accounting practices.

Subd. 11. Reports. Requires a report by January 31, 2022, and annually until December 31, 2026, biennially thereafter with legislative permission, from each partner organization to the commissioner about projects funded, any economic development gains attributable to the project, and administrative expenses. Requires a report by February 15, 2022, and annually until December 31, 2026, biennially thereafter with legislative permission, from the commissioner to the legislature that includes the information from the reports from the partner organizations and a report on the performance of the loan guarantee trust fund.

Subd. 12. Expiration. Sets December 31, 2036, as the date the program expires.

6 **Automation technology.**

Adds a definition of “automation technology” to the job training grants program.

7 **Employee.**

Broadens the definition of “employee” to include workers in existing jobs for the job training grants program.

8 **Employer.**

Broadens the definition of “employer” to include those investing in automation, as well as those creating new jobs, for the job training grants program.

9 **Program costs.**

Conforming change to the job training grants program.

10 **Program services.**

Expands the definition of “program services” to include both new and existing jobs for the job training grants program.

11 **Service provision.**

Makes job training grants under section 116L.41, rather than 116L.42.

12 **Job training incentive program.**

Creates a job training incentive program, as part of the job training grants, which provides up to \$200,000 to employers in greater Minnesota for training and education for new jobs the commissioner approves, with a preference for programs

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serving disadvantaged people or areas. Reimburses employer education and training program costs of up to \$10,000 per job and an additional \$1,000 for employees with disabilities.

13 Automation incentive program.

Creates a new automation incentive program, as part of the job training grants, which provides up to \$35,000 to manufacturing or skilled assembly employers in greater Minnesota with less than 150 employees that invested in new automation technology in the past year or plan to in the near future. Reimburses employers for the cost of training and educating employees to work with this new technology, with preference for programs serving disadvantaged people or areas, up to \$5,000 per employee.

14 Agreements; required terms.

Changes the wage requirement for the job training grants from the prevailing wage in that county to 120 percent of the federal poverty level for a family of four, plus benefits.

15 Recovery of program costs.

Conforming change, broadening the job training grants to both new and existing employees.

16 Reports.

Requires a new report to the legislature about the job training grants by February 1, 2024, which must include an analysis of the effectiveness of the grants in encouraging investments in automation.

17 Business and community development.

Transforms a fiscal year 2018 \$700,000 appropriation for a loan for an effluent pipe into a grant to the Metropolitan Council for wastewater infrastructure in Rosemount, leaving funds available until the end of fiscal year 2025.

(Please note, only the underlined text is changing.)

Effective date: This section is effective retroactively from July 1, 2017.

18 Business and community development.

Modifies a fiscal year 2020 appropriation for a paper mill in Duluth to support the conversion of the mill to the manufacturing of new paper grades. Increases the amount of the appropriation from \$2,000,000 to \$3,000,000, increases the amount the company is required to invest from \$20,000,000 to \$25,000,000, decreases the

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number of jobs that must be retained from 150 to 80, and modifies dates according to the new schedule.

(Please note, only the underlined text is changing.)

Effective date: This section is effective retroactively from July 1, 2019.

19 Launch Minnesota.

Amends the section of the 2019 Jobs Omnibus law that established the Launch Minnesota program to refine program definitions and priorities, as well as make technical corrections. Changes substantively the following significant elements:

- Modifies the program to focus on “innovative technology” businesses rather than “high technology” businesses, with a definition based on the novelty of the business and excluding a specific list of fields instead of a definition based on including a specific list of fields.
- Includes a lawful permanent resident who is Asian, Pacific Islander, Black, Hispanic, or Native American in the definition of “minority group member,” along with United States citizens from those groups.
- Adds individuals with disabilities to those who are given priority by the program.
- Stops providing grants for housing or child care expenses of entrepreneurs.
- Allows grants of up to \$35,000 to be made to businesses that have been awarded a first time Phase 1 award under the Small Business Innovation Research (SBIR) or Small Business Technology Transfer (STTR), in addition to the \$50,000 Phase 2 grants already allowed.
- Requires a report to the legislature by December 31, 2024, on Launch Minnesota’s comprehensive plan for transferring all activities to an entity outside of state government, including the projected date of transfer and a description of any ongoing role for the state in the program.
- Adds a requirement that at least three members of the advisory board be members of minority groups.
- Extends the program until January 1, 2026.

20 Onetime exception to restrictions on use of Minnesota investment fund local government loan repayment funds.

Allows local governments a onetime exception to the rules that apply to locally-held revolving loan funds created by repayments of Minnesota Investment Fund loans. Gives option to transfer 20 percent of the balance of the local fund to the state general fund in exchange for permission for the local government to use the

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remaining 80 percent of the money for any lawful expenditure. Requires a report to the legislature of what the money was used for if this option is exercised.

21 Minnesota Investment Fund and Minnesota Job Creation Fund requirements extensions.

Grants all recipients of grants from the Minnesota Investment Fund or Job Creation Fund that were unable to meet the requirements of a business subsidy agreement during the COVID-19 peacetime emergency or the 12 months following it, an extension until December 31, 2022, to meet those requirements before the grant must be repaid.

Effective date: This section is effective retroactively from March 15, 2020.

22 Main Street COVID-19 relief grant program.

Subd. 1. Definitions. Defines key terms including:

- “Business” means both for-profit businesses and nonprofit organizations that earn revenue in ways similar to businesses.
- “Partner organization” means the Minnesota Initiative Foundations and nonprofit corporations on the certified lenders list that the commissioner determines to be qualified.

Subd. 2. Establishment. Establishes the Main Street COVID-19 relief grant program to assist businesses impacted by the pandemic.

Subd. 3. Grants to partner organizations. Establishes procedures for the commissioner to make grants to partner organizations. Allows up to four percent of a grant to be used for administrative and monitoring costs. Returns any funds not spent by June 30, 2022 to the state general fund.

Subd. 4. Grants to businesses. Establishes procedures for partner organizations to make grants to businesses. Sets eligibility criteria that a business must:

- 1) have primary business operations located in Minnesota;
- 2) be at least 50 percent owned by a resident of Minnesota;
- 3) employ less than the equivalent of 200 full-time workers;
- 4) be able to demonstrate hardship as a result of the pandemic; and
- 5) include in the application a business plan for continued operation.

Gives preference for awards to businesses that did not receive previous state assistance under any of the following programs: Small Business Emergency Loans, Small Business Relief Grants, Grants to Move Theaters and Convention Centers, or County Relief Grants to Local Businesses. Awards all grants via a

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randomized selection process after a ten day or less application collection period. Sets tiered amounts for grant awards based on the number of employees the business has. Limits businesses to a single grant under this section and allows funds to be used for working capital and operating expenses incurred since March 13, 2020, but not the refinancing of preexisting debt.

Subd. 5. Grants to businesses renting space to other businesses. Establishes procedures for partner organizations to make grants to operators of permanent indoor retail spaces with ethnic cultural emphasis and at least 12 small employer tenants. Sets eligibility criteria similar to those under subdivision 4. Allows grants in amounts proportional to the number of tenants, but no more than \$300,000, all but \$25,000 of which must be used for rent relief for existing tenants of the operator.

Subd. 6. Distribution of awards. Sets aside a minimum of:

- \$18,000,000 for grants to businesses with less than the equivalent of six full-time workers;
- \$10,000,000 for grants to minority-owned and operated businesses;
- \$2,500,000 for grants to veteran-owned and operated businesses;
- \$2,500,000 for grants to women-owned and operated businesses;
- \$2,500,000 for grants to operators of permanent indoor retail and food services spaces that have an ethnic cultural emphasis and house many small businesses; and
- \$3,000,000 for grants to operators under subdivision 5.

Subd. 7. Exemptions. Exempts the program, until December 31, 2021, from some of the usual state rules about grants management, allotment and encumbrance, grant agreements, grant payments, and audits. Requires the commissioner of employment and economic development to audit the use of grant funds in accordance with standard accounting practices.

Subd. 8. Reports. Requires a report by January 31, 2022, from each partner organization to the commissioner about grants made and administrative expenses under the program. Requires a report by February 15, 2022, from the commissioner to the legislature that includes the information from the reports from the partner organizations.

23 **Career and technical educator pilot project.**

Requires Winona State University, in partnership with Minnesota State College Southeast, to develop a teacher preparation program for career and technical educators by the 2024-2025 academic year.

Section Description – Article 2: Department of Employment and Economic Development

24 Forgivable loan program for remote recreational businesses.

Establishes a program for Lake of the Woods County to make forgivable loans to recreation businesses in the Northwest Angle that are not reachable by land without crossing the Canadian border and which have suffered at least a 30 percent loss of revenue during the first year of the pandemic, versus the previous year. Forgives loans after one year of remaining in business after the loan is issued, minus any amount received in other federal assistance. Bars receiving funds from both this program and the main street COVID-19 relief grant program and caps loans at 75 percent of the business's gross annual receipts in fiscal year 2020 or \$500,000, whichever is less. Requires a report to the legislature on the program by January 15, 2023.

Effective Date: This section is effective July 1, 2021.

Article 3: Labor and Industry Policy

Department of Labor and Industry (DLI) Policy.

Sections Description – Article 3: Labor and Industry Policy

1 Data on individuals who are minors [§ 13.7905, subd. 8].

Makes conforming change on child labor data with section 4.

2 Apprenticeship rules [§ 178.012, subd. 1].

Makes changes to state apprenticeship law to conform to federal requirements.

3 Nursing mothers, lactating employees, and pregnancy accommodations [§ 181.939].

Requires an employer with one or more employees to provide reasonable paid break times for nursing and lactating employees to express milk for the first year after their child's birth unless it would cause undue disruption. An employee must use existing break times provided by the employer if possible.

Incorporates existing pregnancy accommodations language into the lactation break section, now requiring an employer with 15 or more employees to provide a requesting employee with reasonable accommodations for health conditions related to pregnancy or childbirth, unless the employer shows it would be an undue hardship. Some accommodations may require advice from a medical provider.

Sections Description – Article 3: Labor and Industry Policy

Prohibits retaliation against an employee for requesting pregnancy accommodations or break times for lactation.

Effective date: This section is effective January 1, 2022.

4 Data on individuals who are minors [§ 181A.112].

Makes child labor data obtained by the commissioner of labor and industry private data on individuals, unless it is considered public under the Minnesota Government Data Practices Act. Protects a minor’s name, date of birth, social security number, email and mailing addresses, phone number, online access information, and other identifying information from disclosure.

5 Automatic sprinkler systems in existing public housing buildings [§ 299F.48]

Subd. 1. Requirements. Requires existing public housing buildings to have automatic sprinkler systems installed, to code, in every area where one would be required if the building was built on the effective date of this section. Sets August 1, 2033, as the deadline for having sprinklers fully installed.

Subd. 2. Reporting. Sets a two year deadline for the owners of buildings subject to this section to inform the state fire marshal of their plans for complying and installing an automatic sprinkler system.

Subd. 3. Extensions. Allows the state fire marshal to grant extensions to the deadlines for both reporting a compliance plan and fully installing sprinklers. Requires building owners to apply for an extension and demonstrate a genuine inability to comply within the deadline despite appropriate effort to do so.

Subd. 4. Effect on other laws. Clarifies that this section does not supersede the State Building Code or State Fire Code.

6 Construction Codes Advisory Council membership [§ 326B.07, subd. 1].

Adds two members to the Construction Codes Advisory Council, one from the energy conservation industry and the other with expertise in building accessibility.

7 License fees and license renewal fees [§ 326B.092, subd. 7]

Extends construction industry licensing fee reductions that were enacted in 2015 and extended in 2017 for construction contractors, electricians, plumbers, high pressure pipefitters, boiler operators, and also for permit and plan review fees. Clarifies continuing education fees.

Sections Description – Article 3: Labor and Industry Policy

- 8 **Definition. [§ 326B.108, subd. 1].**
Modifies the definition of “place of public accommodation” by lowering the occupancy from 200 or more people to 100 or more.

Effective date: This section is effective July 1, 2021.
- 9 **Enforcement [§ 326B.108, subd. 3].**
Clarifies effective date for enforcement by the DLI commissioner.

Effective date: This section is effective July 1, 2021.
- 10 **Fire sprinklers required [§ 326B.108, subd. 5].**
Requires fire sprinklers to be installed in a place of public accommodation if, on or after August 1, 2008, the facility was constructed, added to, altered, or has an occupant load of 300 or more people.

Effective date: This section is effective July 1, 2021.
- 11 **Continuing education requirements; extension of time [§ 326B.133, subd. 8].**
Reduces continuing education hours required for certified building officials from 38 to 35 hours within each two-year certification period.

Effective date: This section is effective July 1, 2021.
- 12 **Commercial chemical dispensing system [§ 326B.42, subd. 1d].**
Defines commercial chemical dispensing system.
- 13 **Commercial dishwashing machine [§ 326B.42, subd. 1e].**
Defines commercial dishwashing machine.
- 14 **License required [§ 326B.46, subd. 1].**
Exempts from licensure as a plumber installers of commercial chemical dispensing systems and dishwashers under certain circumstances. Namely when the person servicing or installing such a system or machine is an employee of the distributor or manufacturer, meets minimum training requirements, is properly insured by the manufacturer or distributor, and the connections the system or machine are fitted to were initially installed by a licensed plumber. Additionally a commercial chemical dispensing system installed under this exemption must comply with a technical standard or contain code-approved integral backflow protection.

Sections Description – Article 3: Labor and Industry Policy

- 15-18 **Contractor recovery fund [§ 326.89, subds. 1, 4, 5, and 9].**
Makes changes to the definitions, payment limitations, and applications for compensation for the contractor recovery fund. Limits use of funds in the contractor recovery fund to the stated purposes. Modifies the payment cycle for the contractor recovery fund from once a year to twice a year and increases the limit on total claims against a single contractor to \$550,000.
- 19 **Public Employment Relations Board (PERB) delay.**
Delays implementation of the PERB until July 1, 2023, retroactive to June 30, 2020. Specifies that unfair labor practice cases currently pending before the PERB will remain under PERB’s jurisdiction and under the process in place as of July 1, 2020.
- 20 **Workers’ compensation funding extension.**
Keeps a fiscal year 2020 appropriation for workers’ compensation system upgrades available until June 30, 2023.
- 21 **Loggers safety grant program.**
Establishes a program to make matching grants of up to \$25,000 to logging industry employers for training and safety equipment recommended by an on-site safety survey to reduce the risk of employee injury or illness. Requires a report to the legislature about the program by January 15, 2023.
- 22 **Repealer [§ 181.9414].**
Repeals existing pregnancy accommodations section (section 181.9414), which is made part of the lactation breaks section (section 181.939, subdivision 2). See section 3.

Article 4: Unemployment Insurance

Makes changes to the Minnesota unemployment insurance law. Extends some temporary COVID-19 unemployment provisions.

Section Description – Article 4: Unemployment Insurance

- 23 **Reemployment assistance training.**
Allows more types of training to be pursued while still qualifying for unemployment insurance. To qualify for unemployment insurance, an applicant must be engaged in either a job search or qualified training that will increase their employment prospects. Currently, adult basic education, such as English as a second language, high school equivalency, or basic computer skills, is not a “qualified training.” This

Section Description – Article 4: Unemployment Insurance

section would modify that definition so that applicants could still qualify for benefits while pursuing these and other similar skills that while not specifically tailored to any one occupation, do broadly enhance an applicant’s future employability.

Effective date: This section is effective July 3, 2022.

24 Unemployment eligibility for high school students.

Allows high school students to qualify for unemployment insurance if they otherwise meet eligibility requirements. Currently, high school students are excluded from receiving unemployment benefits under Minnesota law but may be eligible for temporary Pandemic Unemployment Assistance under federal law following a recent Minnesota Court of Appeals decision.

Effective date: This section is effective July 3, 2022.

25 Social Security benefits; offset removed.

This section and section 9 eliminate the Social Security old age and Social Security disability offset (deduction) from unemployment benefits for applicants who otherwise qualify for unemployment insurance. Under the current law, 50 percent of the weekly equivalent of Social Security benefits is deducted from an applicant’s weekly unemployment benefit payment if the applicant is receiving, has received, or has filed for Social Security benefits, unless the applicant received Social Security the entire time they were earning wage credits.

Effective date: This section is effective July 3, 2022.

26 Unemployment benefits while in entrepreneurial training.

Makes conforming change to section 2.

Effective date: This section is effective July 3, 2022.

27 Shared work plan requirements.

Shortens the length of employment requirement to participate in a shared work plan from 12 months to three months. A shared work plan is an alternative to layoffs. Participating employees work reduced hours for their employer and are eligible for partial unemployment insurance benefits. They also continue to receive health and pension benefits. Under the current law, only full-time or regular part-time employees who work for their employer for one year or more can participate in a shared work plan. Seasonal, temporary, or intermittent workers would remain ineligible.

Effective date: This section is effective July 1, 2021.

Section Description – Article 4: Unemployment Insurance

- 28 Continued suspension of five-week business owner benefit limitation.**
Between December 27, 2020, and September 4, 2021, suspends the five-week limitation on business owners, so business owners may be eligible for more than five weeks of unemployment insurance benefits during the COVID-19 pandemic.

Effective date: Applies retroactively to December 27, 2020. Continues Laws 2020, chapter 71, article 2, section 22.
- 29 Leave of absence due to COVID-19.**
Between December 27, 2020, and September 4, 2021, certain “leaves of absence” by an applicant are considered involuntary, so the leave does not make the applicant ineligible for unemployment insurance benefits. Leaves considered involuntary during the COVID-19 pandemic include: (1) determination by a health authority or health care professional that the applicant’s presence in the workplace is a risk to the health of others; (2) quarantine or isolation order; (3) self-isolation or self-quarantine; (4) direction by employer not to come to work; or (5) schools or child care are cancelled or unavailable and no other child care or time off from employer is available.

Effective date: Applies retroactively to December 27, 2020. Continues Laws 2020, chapter 71, article 2, section 23.
- 30 Report on impact to unemployment insurance trust fund.**
Requires a report to the legislature by January 14, 2022, which must detail the impact to the unemployment insurance trust fund of expanding unemployment eligibility to high school students under section 2 and removing the social security offset under sections 3 and 9.
- 31 Repealer.**
Repeals the Social Security old age offset (deduction) provision (section 268.085, subdivision 4). See section 3.

Effective date: This section is effective July 3, 2022.



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