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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2809

02/20/2018 Authored by Grossell and Nash The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to state government; amending provisions related to emergency operations
1.3 and the continuity of government; requiring the adoption of emergency operations
1.4 and continuity of government plans by the legislative branch, judicial branch, and
1.5 state constitutional officers; amending Minnesota Statutes 2016, sections 1.26,
1.6 subdivisions 1, 2, 4; 3.303, by adding a subdivision; 12.09, subdivision 2; 12.21,
1.7 subdivision 3; 480.15, by adding a subdivision; proposing coding for new law in
1.8 Minnesota Statutes, chapter 12; repealing Minnesota Statutes 2016, sections 3.93;
1.9 3.94; 3.95; 3.96.

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

1.11 Section 1. Minnesota Statutes 2016, section 1.26, subdivision 1, is amended to read:

1.12 Subdivision 1. ~~Political subdivision defined~~ Definitions. As used in this section:

1.13 (1) "political subdivision" includes counties, home rule charter and statutory cities,
1.14 towns, townships, school districts, authorities, and other public corporations and entities
1.15 whether organized and existing under charter or general law; and

1.16 (2) "declared emergency" has the meaning provided in section 12.03, subdivision 1e.

1.17 Sec. 2. Minnesota Statutes 2016, section 1.26, subdivision 2, is amended to read:

1.18 Subd. 2. **State government**. When, due to ~~an emergency resulting from the effects of~~
1.19 ~~enemy attack, or the anticipated effects of a threatened enemy attack~~ a declared emergency,
1.20 it becomes imprudent, inexpedient or impossible to conduct the affairs of state government
1.21 in the city of St. Paul, Ramsey County, Minnesota, the governor shall, as often as the
1.22 exigencies of the situation require, by proclamation, declare an emergency temporary
1.23 location, or locations, for the seat of government at a place, or places, in or out of the state
1.24 as the governor deems advisable under the circumstances, and shall take action and issue

2.1 orders as necessary for an orderly transition of the affairs of state government to the
 2.2 emergency temporary location, or locations. To the extent practical, the governor's orders
 2.3 must be consistent with the state comprehensive emergency operations plan required by
 2.4 section 12.21, subdivision 3. The emergency temporary location, or locations, shall remain
 2.5 the seat of government until the legislature by law establishes a new location, or locations,
 2.6 or until the emergency is declared to be ended by the governor and the seat of government
 2.7 is returned to its normal location.

2.8 Sec. 3. Minnesota Statutes 2016, section 1.26, subdivision 4, is amended to read:

2.9 Subd. 4. **Local governments.** When, due to ~~an emergency resulting from the effects of~~
 2.10 ~~enemy attack, or the anticipated effects of a threatened enemy attack~~ a declared emergency,
 2.11 it becomes imprudent, inexpedient or impossible to conduct the affairs of local government
 2.12 at their regular or usual place or places, the governing body of each political subdivision of
 2.13 this state may meet at any place in or out of the territorial limits of the political subdivision
 2.14 on the call of the presiding officer or any two members of the governing body, and shall
 2.15 designate by ordinance, resolution or other manner, alternate or substitute places as the
 2.16 emergency temporary location, or locations, of government where all, or any part, of the
 2.17 public business may be conducted during the emergency situation. The places may be in or
 2.18 out of the territorial limits of the political subdivision and the state.

2.19 Sec. 4. Minnesota Statutes 2016, section 3.303, is amended by adding a subdivision to
 2.20 read:

2.21 Subd. 12. **Emergency operations and continuity of the legislative branch.** The
 2.22 commission must adopt and regularly review an emergency operations and continuity of
 2.23 government plan for the legislative branch, as required by section 12.401.

2.24 Sec. 5. Minnesota Statutes 2016, section 12.09, subdivision 2, is amended to read:

2.25 Subd. 2. **State emergency plan.** The division shall develop and maintain a comprehensive
 2.26 state emergency operations plan and emergency management program in accord with section
 2.27 12.21, subdivision 3, ~~clause (2) paragraph (b),~~ and ensure that other state emergency plans
 2.28 that may be developed are coordinated and consistent with the comprehensive state
 2.29 emergency operations plan. The director of the division must provide assistance to the
 2.30 legislative branch, the judicial branch, and the executive council in developing the plans
 2.31 required by sections 12.401, 12.402, and 12.403.

3.1 Sec. 6. Minnesota Statutes 2016, section 12.21, subdivision 3, is amended to read:

3.2 Subd. 3. **Specific authority.** (a) In performing duties under this chapter and to effect its
3.3 policy and purpose, the governor may:

3.4 (1) make, amend, and rescind the necessary orders and rules to carry out the provisions
3.5 of this chapter and section 216C.15 within the limits of the authority conferred by this
3.6 section, with due consideration of the plans of the federal government and without complying
3.7 with sections 14.001 to 14.69, but no order or rule has the effect of law except as provided
3.8 by section 12.32;

3.9 ~~(2) ensure that a comprehensive emergency operations plan and emergency management~~
3.10 ~~program for this state are developed and maintained, and are integrated into and coordinated~~
3.11 ~~with the emergency plans of the federal government and of other states to the fullest possible~~
3.12 ~~extent;~~

3.13 ~~(3)~~ (2) in accordance with the emergency operations plan and the emergency management
3.14 program of this state, procure supplies, equipment, and facilities; institute training programs
3.15 and public information programs; and take all other preparatory steps, including the partial
3.16 or full activation of emergency management organizations in advance of actual disaster to
3.17 ensure the furnishing of adequately trained and equipped forces of emergency management
3.18 personnel in time of need;

3.19 ~~(4)~~ (3) make studies and surveys of the industries, resources, and facilities in this state
3.20 as may be necessary to ascertain the capabilities of the state for emergency management
3.21 and to plan for the most efficient emergency use of those industries, resources, and facilities;

3.22 ~~(5)~~ (4) on behalf of this state, enter into mutual aid arrangements or cooperative
3.23 agreements with other states, tribal authorities, and Canadian provinces, and coordinate
3.24 mutual aid plans between political subdivisions of this state;

3.25 ~~(6)~~ (5) delegate administrative authority vested in the governor under this chapter, except
3.26 the power to make rules, and provide for the subdelegation of that authority;

3.27 ~~(7)~~ (6) cooperate with the president and the heads of the armed forces, the Emergency
3.28 Management Agency of the United States and other appropriate federal officers and agencies,
3.29 and with the officers and agencies of other states in matters pertaining to the emergency
3.30 management of the state and nation, including the direction or control of:

3.31 (i) emergency preparedness drills and exercises;

3.32 (ii) warnings and signals for drills or actual emergencies and the mechanical devices to
3.33 be used in connection with them;

4.1 (iii) shutting off water mains, gas mains, electric power connections and the suspension
4.2 of all other utility services;

4.3 (iv) the conduct of persons in the state, including entrance or exit from any stricken or
4.4 threatened public place, occupancy of facilities, and the movement and cessation of
4.5 movement of pedestrians, vehicular traffic, and all forms of private and public transportation
4.6 during, prior, and subsequent to drills or actual emergencies;

4.7 (v) public meetings or gatherings; and

4.8 (vi) the evacuation, reception, and sheltering of persons;

4.9 ~~(8)~~ (7) contribute to a political subdivision, within the limits of the appropriation for
4.10 that purpose, not more than 25 percent of the cost of acquiring organizational equipment
4.11 that meets standards established by the governor;

4.12 ~~(9)~~ (8) formulate and execute, with the approval of the Executive Council, plans and
4.13 rules for the control of traffic in order to provide for the rapid and safe movement over
4.14 public highways and streets of troops, vehicles of a military nature, and materials for national
4.15 defense and war or for use in any war industry, for the conservation of critical materials, or
4.16 for emergency management purposes; and coordinate the activities of the departments or
4.17 agencies of the state and its political subdivisions concerned directly or indirectly with
4.18 public highways and streets, in a manner that will best effectuate those plans;

4.19 ~~(10)~~ (9) alter or adjust by executive order, without complying with sections 14.01 to
4.20 14.69, the working hours, workdays and work week of, and annual and sick leave provisions
4.21 and payroll laws regarding all state employees in the executive branch as the governor
4.22 deems necessary to minimize the impact of the disaster or emergency, conforming the
4.23 alterations or adjustments to existing state laws, rules, and collective bargaining agreements
4.24 to the extent practicable;

4.25 ~~(11)~~ (10) authorize the commissioner of education to alter school schedules, curtail
4.26 school activities, or order schools closed as defined in section 120A.05, subdivisions 9, 11,
4.27 13, and 17, and including charter schools under chapter 124E, and elementary schools
4.28 enrolling prekindergarten pupils in district programs; and

4.29 ~~(12)~~ (11) transfer the direction, personnel, or functions of state agencies to perform or
4.30 facilitate response and recovery programs.

4.31 (b) In performing duties under this chapter and to effect its policy and purpose, the
4.32 governor must direct the Division of Emergency Management to adopt and maintain a
4.33 comprehensive emergency operations plan and emergency management program for this

5.1 state that is integrated into and coordinated with the emergency plans of the federal
5.2 government and other states to the fullest possible extent. The comprehensive emergency
5.3 operations plan must incorporate plans for the secure, continued operation of state
5.4 government in the event of a disaster or emergency, including those adopted under sections
5.5 12.401, 12.402, and 12.403.

5.6 **Sec. 7. [12.401] EMERGENCY OPERATIONS AND CONTINUITY PLAN;**
5.7 **LEGISLATIVE BRANCH.**

5.8 Subdivision 1. **Adoption of the plan required.** (a) The Legislative Coordinating
5.9 Commission must adopt and maintain an emergency operations and continuity of government
5.10 plan to ensure the secure, continued operation of the house of representatives, senate, and
5.11 joint legislative offices in the event of a disaster, emergency, or declared emergency. In
5.12 developing the plan, the commission must consult and cooperate with the state director of
5.13 emergency management to ensure the plan's compatibility with the comprehensive state
5.14 emergency operations plan and emergency management program. The commission must
5.15 also consult with the governor or the governor's designee, and the chief justice of the Supreme
5.16 Court or the chief justice's designee, to ensure the plan's compatibility with those adopted
5.17 for the judicial branch under section 12.402 and the executive council under section 12.403,
5.18 to the extent practical.

5.19 (b) At a minimum, the commission's plan must address reasonably foreseeable effects
5.20 of a disaster, emergency, or declared emergency on the ability of the legislature to perform
5.21 its constitutional functions, including but not limited to the following:

5.22 (1) identification of at least three suitable locations within the state at which the legislature
5.23 could conduct operations in the event of a disaster or declared emergency that makes the
5.24 State Capitol unsafe or inaccessible, with one location designated as a primary alternate
5.25 location and two designated as backup alternate locations if the primary location is unsafe
5.26 or inaccessible;

5.27 (2) plans to provide timely and secure communications regarding a disaster, emergency,
5.28 or declared emergency to all affected members and personnel, including alternate methods
5.29 of communication if a primary method is unavailable;

5.30 (3) plans to securely transport all members, designated personnel, and necessary
5.31 equipment and records to an alternate location and begin legislative operations at that location
5.32 in a timely manner;

6.1 (4) plans to ensure reasonable public notice of the legislature's operations and access to
6.2 its proceedings in-person or by electronic, broadcast, or other means as the circumstances
6.3 of the emergency allow;

6.4 (5) additional procedures, as necessary, to implement the requirements of subdivisions
6.5 2 and 3;

6.6 (6) procedures for the orderly return of legislative operations to the State Capitol, as
6.7 soon as circumstances allow; and

6.8 (7) policy decisions that address any other procedures or protocols recommended for
6.9 inclusion by the state director of emergency management.

6.10 (c) The plan must be adopted and maintained by the Legislative Coordinating Commission
6.11 no later than January 30, 2019, and may be subsequently amended at any time. At a minimum,
6.12 the plan must be reviewed by the full commission and designated legislative staff no later
6.13 than January 30 of each odd-numbered year. A meeting of the commission may be closed
6.14 to the public for any of these purposes.

6.15 (d) Copies of the plan must be filed with the governor, the secretary of state, the state
6.16 director of emergency management, and at each of the alternate locations designated in the
6.17 plan. Unless otherwise directed by the Legislative Coordinating Commission, the copies of
6.18 the plan must be securely maintained and may not be further disclosed to any person except
6.19 as required by this chapter, or as necessary to develop and implement the plan's requirements.
6.20 To the extent data regarding the plan is held by a government entity, as defined in section
6.21 13.02, subdivision 7a, the data are security information under section 13.37.

6.22 Subd. 2. **Implementation of plan.** (a) The governor or the chair of the Legislative
6.23 Coordinating Commission may order that the legislature's emergency operations and
6.24 continuity of government plan be implemented in whole or in part, if an emergency is
6.25 declared or if circumstances indicate a disaster or emergency is occurring or a declared
6.26 emergency may be imminent. If a change in location is ordered, the legislature must be
6.27 directed to a location designated in the plan, or if those designated locations are unsafe or
6.28 inaccessible, to any other location within or outside of the state which the governor or chair
6.29 deems safe and accessible. If implementation of the plan is ordered by the chair of the
6.30 Legislative Coordinating Commission, the chair must notify the governor and the state
6.31 director of emergency management as soon as practicable following implementation.

6.32 (b) A legislative session convened at an alternate location must be reconvened at the
6.33 State Capitol as soon as practical after the capitol is secured and restored to accessibility.

7.1 Subd. 3. **Special session at an alternate location; legislative procedure.** (a) In the
 7.2 event of a declared emergency, if the legislature is not in session, the governor shall convene
 7.3 a special session when required by section 12.31, subdivisions 1 and 2.

7.4 (b) If the governor fails to convene a special session after declaring a national security
 7.5 emergency, the chair of the Legislative Coordinating Commission shall order implementation
 7.6 of the legislature's emergency operations and continuity of government plan, and the
 7.7 legislature shall convene at the State Capitol, or alternate location designated by the plan,
 7.8 on the first Tuesday after the first Monday more than 30 days after the national security
 7.9 emergency was declared.

7.10 (c) At a special session convened at an alternate location due to a disaster, emergency,
 7.11 or declared emergency, the quorum requirement for the legislature is a majority of the
 7.12 members of each house who convene for the session. If the affirmative vote of a specified
 7.13 proportion of members of the legislature would otherwise be required to approve a bill,
 7.14 resolution, or for any other action, the same proportion of the members of each house
 7.15 convening at the session is sufficient. At the time the special session convenes, the legislature
 7.16 shall adopt temporary joint rules as necessary to ensure the orderly conduct of legislative
 7.17 business in the alternate location, including compliance with the requirements of the
 7.18 Minnesota Constitution and the rules of parliamentary practice.

7.19 **Sec. 8. [12.402] EMERGENCY OPERATIONS AND CONTINUITY PLAN;**
 7.20 **JUDICIAL BRANCH.**

7.21 Subdivision 1. **Adoption of plan required.** (a) The Supreme Court must adopt and
 7.22 maintain an emergency operations and continuity of government plan to ensure the secure,
 7.23 continued operation of the judicial branch in the event of a disaster, emergency, or declared
 7.24 emergency. In developing the plan, the court must consult and cooperate with the state
 7.25 director of emergency management to ensure the plan's compatibility with the comprehensive
 7.26 state emergency operations plan and emergency management program. The court must also
 7.27 consult the governor or the governor's designee, and the chair of the Legislative Coordinating
 7.28 Commission, or the chair's designee, to ensure the plan's compatibility with those adopted
 7.29 for the executive council and legislative branch under sections 12.401 and 12.403, to the
 7.30 extent practical.

7.31 (b) At a minimum, the Supreme Court's plan must address reasonably foreseeable effects
 7.32 of a disaster, emergency, or declared emergency, on the ability of the judicial branch to
 7.33 perform its constitutional functions, including but not limited to the following:

8.1 (1) identification of at least three suitable locations within the state at which the Supreme
8.2 Court, Court of Appeals, and central administrative functions of the judicial branch could
8.3 operate in the event of a disaster or declared emergency that make its regular location unsafe
8.4 or inaccessible, with one location designated as a primary alternate location and two
8.5 designated as backup alternate locations if the primary location is unsafe or inaccessible;

8.6 (2) plans to provide timely and secure communications regarding a disaster, emergency,
8.7 or declared emergency to all affected personnel, including alternate methods of
8.8 communication if a primary method is unavailable;

8.9 (3) plans to securely transport affected justices, judges, designated personnel, and
8.10 necessary equipment and records to an alternate location and begin judicial operations at
8.11 that location in a timely manner;

8.12 (4) plans to ensure reasonable public notice of the judicial branch's operations and access
8.13 to its proceedings and records in-person or by electronic, broadcast, or other means as the
8.14 rules of the court require and the circumstances of the emergency allow;

8.15 (5) plans to ensure the rights and protections guaranteed by the federal and state
8.16 constitutions to criminal defendants, petitioners, and civil litigants are preserved;

8.17 (6) procedures for the orderly return of judicial branch operations to their regular location,
8.18 as soon as circumstances allow; and

8.19 (7) policy decisions that address any other procedures or protocols recommended for
8.20 inclusion by the state director of emergency management.

8.21 (c) The plan must be adopted and maintained by the Supreme Court no later than January
8.22 30, 2019, and may be subsequently amended at any time. At a minimum, the plan must be
8.23 reviewed by the justices and judges of the Supreme Court and Court of Appeals, and
8.24 designated staff, no later than January 30 of each odd-numbered year.

8.25 (d) Copies of the plan must be filed with the governor, the secretary of state, the state
8.26 director of emergency management, and at each of the alternate locations designated in the
8.27 plan. Unless otherwise directed by the court, the copies of the plan must be securely
8.28 maintained and may not be further disclosed to any person except as required by this chapter,
8.29 or as necessary to develop and implement the plan's requirements. To the extent data
8.30 regarding the plan is held by a government entity, as defined in section 13.02, subdivision
8.31 7a, the data are security information under section 13.37.

8.32 Subd. 2. **Implementation of plan.** (a) The governor or the chief justice may order that
8.33 the judiciary's emergency operations and continuity of government plan be implemented in

9.1 whole or in part, if an emergency is declared or if circumstances indicate a disaster or
 9.2 emergency is occurring or a declared emergency may be imminent. If a change in location
 9.3 is ordered, the affected personnel must be directed to a location designated in the plan, or
 9.4 if those designated locations are unsafe or inaccessible, to any other location within or
 9.5 outside of the state which the governor or chief justice deems safe and accessible. If
 9.6 implementation of the plan is ordered by the chief justice, the chief justice must notify the
 9.7 governor and the state director of emergency management as soon as practicable following
 9.8 implementation.

9.9 (b) A court convened at an alternate location must be reconvened at its regular location
 9.10 as soon as practical after the location is secured and restored to accessibility.

9.11 **Sec. 9. [12.403] EMERGENCY OPERATIONS AND CONTINUITY PLAN;**
 9.12 **CONSTITUTIONAL OFFICERS.**

9.13 Subdivision 1. **Adoption of plan required.** (a) The executive council must adopt and
 9.14 maintain an emergency operations and continuity of government plan to ensure the secure,
 9.15 continued operation of each constitutional office in the event of a disaster, emergency, or
 9.16 declared emergency. In developing the plan, the council must consult and cooperate with
 9.17 the state director of emergency management to ensure the plan's compatibility with the
 9.18 comprehensive state emergency operations plan and emergency management program. The
 9.19 council must also consult the chair of the Legislative Coordinating Commission or the chair's
 9.20 designee, and the chief justice of the Supreme Court or the chief justice's designee, to ensure
 9.21 the plan's compatibility with those adopted for the legislative branch and judicial branch
 9.22 under sections 12.401 and 12.402, to the extent practical.

9.23 (b) At a minimum, the council's plan must address reasonably foreseeable effects of a
 9.24 disaster, emergency, or declared emergency, on the ability of the state constitutional officers
 9.25 to perform their constitutional functions, including but not limited to the following:

9.26 (1) identification of at least three suitable locations within the state at which the
 9.27 constitutional officers could conduct operations in the event of a disaster, emergency, or
 9.28 declared emergency that make their regular locations unsafe or inaccessible, with one
 9.29 location designated as a primary alternate location and two designated as backup alternate
 9.30 locations if the primary location is unsafe or inaccessible;

9.31 (2) plans to provide timely and secure communications regarding a disaster, emergency,
 9.32 or declared emergency to all affected constitutional officers and personnel, including alternate
 9.33 methods of communication if a primary method is unavailable;

10.1 (3) plans to securely transport all constitutional officers, designated personnel, and
10.2 necessary equipment and records to an alternate location and begin operations at that location
10.3 in a timely manner;

10.4 (4) plans to ensure reasonable public notice of each constitutional officer's operations
10.5 and access to the officers and records in person or by electronic, broadcast, or other means
10.6 as the circumstances of the emergency allow;

10.7 (5) procedures for the orderly return of operations to the State Capitol, as soon as
10.8 circumstances allow; and

10.9 (6) policy decisions that address any other procedures or protocols recommended for
10.10 inclusion by the state director of emergency management.

10.11 (c) The plan must be adopted no later than January 30, 2019, and may be subsequently
10.12 amended at any time. At a minimum, the plan must be reviewed by the executive council
10.13 and designated staff no later than January 30 of each odd-numbered year. A meeting of the
10.14 council may be closed to the public for any of these purposes.

10.15 (d) Copies of the plan must be filed with each constitutional officer, the state director
10.16 of emergency management, and at each of the alternate locations designated in the plan.
10.17 Unless otherwise directed by the executive council, the copies of the plan are security data
10.18 under section 13.37, must be securely maintained, and may not be further disclosed to any
10.19 person except as required by this chapter, or as necessary to develop and implement its
10.20 requirements.

10.21 Subd. 2. **Implementation of plan.** (a) The governor or any constitutional officer, with
10.22 respect to that officer's constitutional office, may order that the executive council's emergency
10.23 operations and continuity of government plan be implemented in whole or in part, if an
10.24 emergency is declared or if circumstances indicate a disaster or emergency is occurring or
10.25 a declared emergency may be imminent. If a change in location is ordered, affected personnel
10.26 must be directed to a location designated in the plan, or if those designated locations are
10.27 unsafe or inaccessible, to any other location within or outside of the state which the governor
10.28 or constitutional officer deems safe and accessible. If implementation of the plan is ordered
10.29 by a constitutional officer other than the governor, the officer must notify the governor and
10.30 the state director of emergency management as soon as practicable following implementation.

10.31 (b) A constitutional officer's primary office must be returned to its regular location as
10.32 soon as practical after that location is secured and restored to accessibility.

11.1 Sec. 10. Minnesota Statutes 2016, section 480.15, is amended by adding a subdivision to
11.2 read:

11.3 Subd. 13. **Emergency operations and continuity of the judicial branch.** The court
11.4 administrator shall assist the Supreme Court in developing an emergency operations and
11.5 continuity of government plan, as required by section 12.402.

11.6 Sec. 11. **REPEALER.**

11.7 Minnesota Statutes 2016, sections 3.93; 3.94; 3.95; and 3.96, are repealed.

3.93 DEFINITIONS.

As used in sections 3.93 to 3.96 "attack" means an action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means.

3.94 PLACE OF SESSION.

Whenever, in the event of an attack, or a finding by the executive council that an attack may be imminent, the governor deems the place of the legislative session then prescribed to be unsafe, the governor may change it to any other place within or without the state which the governor deems safe and convenient.

3.95 SPECIAL SESSION IN EVENT OF ATTACK.

In the event of an attack, if the legislature is not in session, the governor shall convene a special session as soon as practicable, but within 30 days after the inception of the attack. If the governor fails to issue the call, the legislature, on the first Tuesday after the first Monday more than 30 days after the inception of the attack, shall convene without call at the place where the governor then maintains official office.

3.96 QUORUM AND VOTE REQUIREMENTS.

In the event of an attack the quorum requirement for the legislature is a majority of the members of each house who convene for the session. If the affirmative vote of a specified proportion of members of the legislature would otherwise be required to approve a bill, resolution, or for any other action, the same proportion of the members of each house convening at the session is sufficient.