

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 4128

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DATE	D-PG	OFFICIAL STATUS
03/09/2020	5340	Introduction and first reading
		Referred to Health and Human Services Finance and Policy
03/11/2020	5391a	Comm report: To pass as amended and re-refer to State Government Finance and Policy and Elections

1.1 A bill for an act

1.2 relating to state government; creating Department of Direct Care and Treatment

1.3 and Office of Human Services Licensing and Integrity; transferring duties from

1.4 the Department of Human Services to a new state office; directing commissioners

1.5 of health and human services to contract with third party to administer grant

1.6 programs administered by Department of Health and Department of Human

1.7 Services; directing commissioner of human services to contract with third party

1.8 to review appropriations for information technology projects; requiring reports;

1.9 providing for performance-based budgeting for Department of Human Services;

1.10 amending Minnesota Statutes 2018, sections 15.01; 15.06, subdivision 1; 15A.0815,

1.11 subdivision 2; 16A.103, subdivision 1a; 16A.11, subdivision 3; 43A.08, subdivision

1.12 1a; 256.974; 256.9742, subdivision 1; 256.975, by adding a subdivision; Minnesota

1.13 Statutes 2019 Supplement, section 15A.0815, subdivision 3; proposing coding for

1.14 new law in Minnesota Statutes, chapters 16A; 256; proposing coding for new law

1.15 as Minnesota Statutes, chapters 245I; 246C; repealing Minnesota Statutes 2018,

1.16 section 256.01, subdivision 9.

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

1.18 **ARTICLE 1**

1.19 **DEPARTMENT OF DIRECT CARE AND TREATMENT**

1.20 Section 1. Minnesota Statutes 2018, section 15.01, is amended to read:

1.21 **15.01 DEPARTMENTS OF THE STATE.**

1.22 The following agencies are designated as the departments of the state government: the

1.23 Department of Administration; the Department of Agriculture; the Department of Commerce;

1.24 the Department of Corrections; the Department of Direct Care and Treatment; the Department

1.25 of Education; the Department of Employment and Economic Development; the Department

1.26 of Health; the Department of Human Rights; the Department of Human Services; the

1.27 Department of Iron Range Resources and Rehabilitation; the Department of Labor and

1.28 Industry; the Department of Management and Budget; the Department of Military Affairs;

2.1 the Department of Natural Resources; the Department of Public Safety; ~~the Department of~~
 2.2 ~~Human Services~~; the Department of Revenue; the Department of Transportation; the
 2.3 Department of Veterans Affairs; and their successor departments.

2.4 **EFFECTIVE DATE.** This section is effective July 1, 2021.

2.5 Sec. 2. Minnesota Statutes 2018, section 15.06, subdivision 1, is amended to read:

2.6 Subdivision 1. **Applicability.** This section applies to the following departments or
 2.7 agencies: the Departments of Administration;₂ Agriculture;₂ Commerce;₂ Corrections;₂ Direct
 2.8 Care and Treatment; Education;₂ Employment and Economic Development;₂ Health;₂ Human
 2.9 Rights;₂ Human Services; Labor and Industry;₂ Management and Budget;₂ Natural Resources;₂
 2.10 Public Safety; ~~Human Services~~; Revenue;₂ Transportation;₂ and Veterans Affairs; the
 2.11 Housing Finance and Pollution Control Agencies; the Office of Commissioner of Iron Range
 2.12 Resources and Rehabilitation; the Office of MN.IT Services; the Bureau of Mediation
 2.13 Services; and their successor departments and agencies. The heads of the foregoing
 2.14 departments or agencies are "commissioners."

2.15 **EFFECTIVE DATE.** This section is effective July 1, 2021.

2.16 Sec. 3. Minnesota Statutes 2018, section 15A.0815, subdivision 2, is amended to read:

2.17 Subd. 2. **Group I salary limits.** The salary for a position listed in this subdivision shall
 2.18 not exceed 133 percent of the salary of the governor. This limit must be adjusted annually
 2.19 on January 1. The new limit must equal the limit for the prior year increased by the percentage
 2.20 increase, if any, in the Consumer Price Index for all urban consumers from October of the
 2.21 second prior year to October of the immediately prior year. The commissioner of management
 2.22 and budget must publish the limit on the department's website. This subdivision applies to
 2.23 the following positions:

2.24 Commissioner of administration;

2.25 Commissioner of agriculture;

2.26 Commissioner of education;

2.27 Commissioner of commerce;

2.28 Commissioner of corrections;

2.29 Commissioner of direct care and treatment;

2.30 Commissioner of health;

- 3.1 Commissioner, Minnesota Office of Higher Education;
- 3.2 Commissioner, Housing Finance Agency;
- 3.3 Commissioner of human rights;
- 3.4 Commissioner of human services;
- 3.5 Commissioner of labor and industry;
- 3.6 Commissioner of management and budget;
- 3.7 Commissioner of natural resources;
- 3.8 Commissioner, Pollution Control Agency;
- 3.9 Commissioner of public safety;
- 3.10 Commissioner of revenue;
- 3.11 Commissioner of employment and economic development;
- 3.12 Commissioner of transportation; and
- 3.13 Commissioner of veterans affairs.

3.14 **EFFECTIVE DATE.** This section is effective July 1, 2021.

3.15 Sec. 4. Minnesota Statutes 2018, section 43A.08, subdivision 1a, is amended to read:

3.16 Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following
3.17 agencies may designate additional unclassified positions according to this subdivision: the
3.18 Departments of Administration; Agriculture; Commerce; Corrections; Direct Care and
3.19 Treatment; Education; Employment and Economic Development; Explore Minnesota
3.20 Tourism; Management and Budget; Health; Human Rights; Human Services; Labor and
3.21 Industry; Natural Resources; Public Safety; ~~Human Services~~; Revenue; Transportation; and
3.22 Veterans Affairs; the Housing Finance and Pollution Control Agencies; the State Lottery;
3.23 the State Board of Investment; the Office of Administrative Hearings; the Office of MN.IT
3.24 Services; the Offices of the Attorney General, Secretary of State, and State Auditor; the
3.25 Minnesota State Colleges and Universities; the Minnesota Office of Higher Education; the
3.26 Perpich Center for Arts Education; and the Minnesota Zoological Board.

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

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

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

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

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

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

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

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

4.14 **EFFECTIVE DATE.** This section is effective July 1, 2021.

4.15 Sec. 5. **[246C.01] DEPARTMENT OF DIRECT CARE AND TREATMENT.**

4.16 (a) The Department of Direct Care and Treatment is created. The governor shall appoint
4.17 the commissioner of direct care and treatment under section 15.06. The commissioner shall
4.18 develop and maintain direct care and treatment in a manner consistent with sections 245.461
4.19 and 245.487 and chapters 246, 246B, 252, 253, 253B, 253C, 253D, 254A, 254B, and 256.
4.20 The Department of Direct Care and Treatment shall provide direct care and treatment services
4.21 in coordination with counties and other vendors. Direct care and treatment services shall
4.22 include: specialized inpatient programs at secure treatment facilities as defined in sections
4.23 253B.02, subdivision 18a, and 253D.02, subdivision 13; community preparation services;
4.24 regional treatment centers; enterprise services; consultative services; aftercare services;
4.25 community-based services and programs; transition services; nursing home services; and
4.26 other services consistent with the mission of the Department of Direct Care and Treatment.

4.27 (b) "Community preparation services" means specialized inpatient or outpatient services
4.28 or programs operated outside of a secure environment but administered by a secure treatment
4.29 facility.

4.30 **EFFECTIVE DATE.** This section is effective July 1, 2021.

5.1 Sec. 6. [246C.05] TRANSFER OF DUTIES.

5.2 (a) Section 15.039 applies to the transfer of duties required by this chapter.

5.3 (b) The commissioner of administration, with the governor's approval, shall issue
 5.4 reorganization orders under section 16B.37 as necessary to carry out the transfer of duties
 5.5 required by section 246C.01. The provision of section 16B.37, subdivision 1, stating that
 5.6 transfers under section 16B.37 may only be to an agency that has existed for at least one
 5.7 year does not apply to transfers to an agency created by this chapter.

5.8 (c) The initial salary for the commissioner of direct care and treatment is the same as
 5.9 the salary for the health systems chief executive officer of direct care and treatment at the
 5.10 Department of Human Services immediately before July 1, 2021. The salary may change
 5.11 in the manner specified in section 15A.0815.

5.12 (d) The commissioner of management and budget shall ensure that the aggregate cost
 5.13 for the commissioner of direct care and treatment is not more than the aggregate cost of the
 5.14 primary executives in the Department of Human Services responsible for management of
 5.15 direct care and treatment immediately before July 1, 2021.

5.16 (e) For an employee affected by the transfer of duties required by section 246C.01, the
 5.17 employee's seniority accrual at the employee's former agency transfers to the employee's
 5.18 new agency.

5.19 **EFFECTIVE DATE.** This section is effective July 1, 2021.

5.20 Sec. 7. REVISOR INSTRUCTION.

5.21 The revisor of statutes, in consultation with staff from the House Research Department;
 5.22 House Fiscal Analysis; the Office of Senate Counsel, Research and Fiscal Analysis; and
 5.23 the respective departments shall prepare legislation for introduction in the 2021 legislative
 5.24 session proposing the statutory changes necessary to implement the transfers of duties that
 5.25 this article requires.

5.26 **EFFECTIVE DATE.** This section is effective July 1, 2020.

5.27 **ARTICLE 2**

5.28 **OFFICE OF HUMAN SERVICES LICENSING AND INTEGRITY**

5.29 Section 1. Minnesota Statutes 2018, section 15.06, subdivision 1, is amended to read:

5.30 Subdivision 1. **Applicability.** This section applies to the following departments or
 5.31 agencies: the Departments of Administration, Agriculture, Commerce, Corrections,

6.1 Education, Employment and Economic Development, Health, Human Rights, Labor and
 6.2 Industry, Management and Budget, Natural Resources, Public Safety, Human Services,
 6.3 Revenue, Transportation, and Veterans Affairs; the Housing Finance and Pollution Control
 6.4 Agencies; the Office of Commissioner of Iron Range Resources and Rehabilitation; the
 6.5 Office of MN.IT Services; the Bureau of Mediation Services; and their successor departments
 6.6 and agencies. The heads of the foregoing departments or agencies are "commissioners."
 6.7 This subdivision also applies to the Office of Human Services Licensing and Integrity.

6.8 **EFFECTIVE DATE.** This section is effective July 1, 2021.

6.9 Sec. 2. Minnesota Statutes 2019 Supplement, section 15A.0815, subdivision 3, is amended
 6.10 to read:

6.11 Subd. 3. **Group II salary limits.** The salary for a position listed in this subdivision shall
 6.12 not exceed 120 percent of the salary of the governor. This limit must be adjusted annually
 6.13 on January 1. The new limit must equal the limit for the prior year increased by the percentage
 6.14 increase, if any, in the Consumer Price Index for all urban consumers from October of the
 6.15 second prior year to October of the immediately prior year. The commissioner of management
 6.16 and budget must publish the limit on the department's website. This subdivision applies to
 6.17 the following positions:

6.18 Executive director of Gambling Control Board;

6.19 Commissioner of Iron Range resources and rehabilitation;

6.20 Commissioner, Bureau of Mediation Services;

6.21 Director, Office of Human Services Licensing and Integrity;

6.22 Ombudsman for mental health and developmental disabilities;

6.23 Ombudsperson for corrections;

6.24 Chair, Metropolitan Council;

6.25 School trust lands director;

6.26 Executive director of pari-mutuel racing; and

6.27 Commissioner, Public Utilities Commission.

6.28 **EFFECTIVE DATE.** This section is effective July 1, 2021.

6.29 Sec. 3. **[245I.01] DEFINITIONS.**

6.30 Subdivision 1. **Definitions.** The definitions in this section apply to chapter 245I.

7.1 Subd. 2. **Department.** "Department" means the Department of Human Services, unless
 7.2 otherwise specified.

7.3 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of human services,
 7.4 unless otherwise specified.

7.5 Subd. 4. **Director.** "Director" means the director of the Office of Human Services
 7.6 Licensing and Integrity.

7.7 Subd. 5. **Office.** "Office" means the Office of Human Services Licensing and Integrity.

7.8 Sec. 4. **[245I.02] OFFICE OF HUMAN SERVICES LICENSING AND INTEGRITY;**
 7.9 **CREATION; DIRECTOR; RESPONSIBILITIES.**

7.10 Subdivision 1. **Creation.** The Office of Human Services Licensing and Integrity is
 7.11 created.

7.12 Subd. 2. **Director.** The director of the Office of Human Services Licensing and Integrity
 7.13 shall be appointed by the governor with the advice and consent of the senate.

7.14 Subd. 3. **Responsibilities.** The office shall, in coordination with local human services
 7.15 agencies, where applicable, perform licensing, background studies, and program integrity
 7.16 functions for all programs administered by the department, which includes the following
 7.17 specific activities:

7.18 (1) conduct licensing functions related to programs administered by the Department of
 7.19 Human Services, including adult day care, child care and early education, children's
 7.20 residential facilities, foster care, home and community-based services, independent living
 7.21 assistance for youth, outpatient mental health clinics or centers, residential mental health
 7.22 treatment for adults, and substance use disorder treatment consistent with chapters 245,
 7.23 245A, 245D, 245F, 245G, 245H, 252, and 256;

7.24 (2) conduct background studies according to sections 144.057, 144A.476, 144A.62,
 7.25 144A.754, and 157.17, and chapter 245C;

7.26 (3) ensure the detection, prevention, and investigation of fraudulent activities or behavior
 7.27 by applicants, recipients, providers, and other participants in all programs administered by
 7.28 the department;

7.29 (4) require county agencies to identify overpayments, establish claims, and utilize all
 7.30 available and cost-beneficial methodologies to collect and recover overpayments in all
 7.31 programs administered by the department;

8.1 (5) refer cases of fraudulent activities or behavior by applicants, recipients, providers,
8.2 and other participants in human services programs to the department or to law enforcement
8.3 for resolution as required by law;

8.4 (6) conduct program evaluations and audits of the department to ensure the absence of
8.5 waste, fraud, or abuse in any program administered by the department; and

8.6 (7) contract with an independent third party to audit the financial activities of the
8.7 Department of Human Services relating to its administration of human services programs.
8.8 The third-party auditor shall not duplicate any ongoing audit by the legislative auditor.

8.9 Subd. 4. **Annual report.** The director shall report annually by February 1 to the chairs
8.10 and ranking minority members of the legislative committees with jurisdiction over human
8.11 services on the activities of the office to carry out the duties under this section. The annual
8.12 report shall include the following:

8.13 (1) information relating to investigations undertaken by the office, including the number
8.14 of cases investigated, categorized by type, with a specific section detailing investigations
8.15 or audits of the department;

8.16 (2) an accounting of funds recovered as a result of the activities of the office;

8.17 (3) the monetary value that resulted from fraud prevention activities conducted by the
8.18 office; and

8.19 (4) any specific recommendations to reduce waste, fraud, or abuse in any program
8.20 administered by the department.

8.21 Subd. 5. **Access to records.** The director or designee has access to data of any state
8.22 agency necessary for the discharge of the duties in subdivision 3, including records classified
8.23 as confidential data on individuals or private data on individuals under chapter 13, or any
8.24 other law. The director's data request must relate to a specific case and is subject to section
8.25 13.03, subdivision 4.

8.26 Subd. 6. **Access to employees.** The director or designee has access to any official or
8.27 employee of any state or local agency necessary for the discharge of its duties in subdivision
8.28 3. No person may interfere with or impede an investigation or audit conducted by the office.

8.29 **EFFECTIVE DATE.** This section is effective July 1, 2021.

8.30 Sec. 5. **[245I.03] RELATIONSHIP TO DEPARTMENT OF HUMAN SERVICES.**

8.31 (a) The responsibilities in section 245I.02, subdivision 3, shall belong solely to the office
8.32 and no other state agency or office. The activities of the office shall be limited to those

9.1 necessary to carry out licensing, background studies, and program integrity functions for
9.2 all programs administered by the Department of Human Services. The office shall not have
9.3 responsibility to develop policies, standards, or legislative proposals regarding licensing,
9.4 background studies, or program integrity functions for programs administered by the
9.5 Department of Human Services.

9.6 (b) The director is authorized to enter agreements with the commissioner to establish
9.7 how the office shall carry out the duties in section 245I.02, subdivision 3, in conformity
9.8 with the applicable program policies, procedures, and standards developed by the department.
9.9 The director is authorized to enter additional agreements with the commissioner or any
9.10 other state agency or office as needed to carry out the duties in section 245I.02, subdivision
9.11 3.

9.12 **Sec. 6. TRANSFER OF DUTIES; OFFICE OF HUMAN SERVICES LICENSING**
9.13 **AND INTEGRITY.**

9.14 (a) Minnesota Statutes, section 15.039, applies to the transfer of duties required by
9.15 Minnesota Statutes, chapter 245I.

9.16 (b) The commissioner of administration, with approval of the governor, shall issue
9.17 reorganization orders under Minnesota Statutes, section 16B.37, as necessary to carry out
9.18 the transfer of duties required by Minnesota Statutes, chapter 245I. The provision of
9.19 Minnesota Statutes, section 16B.37, subdivision 1, stating that transfers under that section
9.20 may be made only to an agency that has been in existence for at least one year does not
9.21 apply to transfers to the Office of Human Services Licensing and Integrity created by
9.22 Minnesota Statutes, section 245I.02.

9.23 (c) The commissioner of management and budget shall ensure that the aggregate cost
9.24 for the Office of Human Services Licensing and Integrity is not more than the aggregate
9.25 amount of the Department of Human Services budget activities that relate to the
9.26 responsibilities listed in Minnesota Statutes, section 245I.02, subdivision 3, as of June 30,
9.27 2021.

9.28 (d) For an employee affected by the transfer of duties required by Minnesota Statutes,
9.29 chapter 245I, the seniority accrued by the employee at the employee's former agency transfers
9.30 to the employee's new position at the Office of Human Services Licensing and Integrity.

9.31 **EFFECTIVE DATE.** This section is effective July 1, 2021.

10.1 **Sec. 7. DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES AND**
 10.2 **DIRECTOR OF THE OFFICE OF HUMAN SERVICES LICENSING AND**
 10.3 **INTEGRITY.**

10.4 (a) Prior to July 1, 2021, the commissioner of human services and the director of the
 10.5 Office of Human Services Licensing and Integrity shall review examples from states that
 10.6 operate decentralized offices of licensing, background studies, or program integrity activities
 10.7 for state human services programs in order to develop any necessary agreements or policies
 10.8 for the Office of Human Services Licensing and Integrity to conduct the responsibilities in
 10.9 Minnesota Statutes, section 245I.02, subdivision 3.

10.10 (b) By February 1, 2021, the commissioner of human services, in consultation with the
 10.11 director of the Office of Human Services Licensing and Integrity, shall identify any divisions
 10.12 of the Department of Human Services that, by being transferred to the Office of Human
 10.13 Services Licensing and Integrity, would result in avoidable financial waste. The commissioner
 10.14 of human services and director of the Office of Human Services Licensing and Integrity
 10.15 shall report to the chairs and ranking minority members of the legislative committees with
 10.16 jurisdiction over human services on the divisions of the Department of Human Services
 10.17 that both the commissioner and director agree should remain within the Department of
 10.18 Human Services.

10.19 (c) Effective July 1, 2021, the Department of Human Services shall not duplicate any
 10.20 activity performed by the Office of Human Services Licensing and Integrity to carry out
 10.21 the responsibilities in Minnesota Statutes, section 245I.02, subdivision 3. Prior to July 1,
 10.22 2021, the commissioner of human services shall seek any federal waivers necessary to
 10.23 comply with this paragraph.

10.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

10.25 **Sec. 8. REVISOR INSTRUCTION.**

10.26 The revisor of statutes, in consultation with staff from the House Research Department;
 10.27 House Fiscal Analysis; the Office of Senate Counsel, Research and Fiscal Analysis; and
 10.28 the Department of Human Services, shall prepare legislation by January 31, 2021, to make
 10.29 any statutory changes necessary to achieve the transfer of duties from the Department of
 10.30 Human Services to the Office of Human Services Licensing and Integrity required by this
 10.31 article.

10.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.1 **ARTICLE 3**

11.2 **DEPARTMENT OF HUMAN SERVICES**
 11.3 **PERFORMANCE-BASED BUDGETING;**
 11.4 **GRANT PROGRAM ADMINISTRATION;**
 11.5 **IT APPROPRIATIONS REVIEW**

11.6 Section 1. Minnesota Statutes 2018, section 16A.103, subdivision 1a, is amended to read:

11.7 Subd. 1a. **Forecast parameters.** (a) Except as provided in paragraph (b), the forecast
 11.8 must assume the continuation of current laws and reasonable estimates of projected growth
 11.9 in the national and state economies and affected populations. Revenue must be estimated
 11.10 for all sources provided for in current law. Expenditures must be estimated for all obligations
 11.11 imposed by law and those projected to occur as a result of variables outside the control of
 11.12 the legislature. Expenditure estimates must not include an allowance for inflation.

11.13 (b) Notwithstanding paragraph (a) and any appropriations established in law, all
 11.14 expenditures for the Department of Human Services and the Department of Direct Care and
 11.15 Treatment estimated for the November forecast must be zero. The forecasted expenditures
 11.16 in the February forecast must be zero for the Department of Human Services and the
 11.17 Department of Direct Care and Treatment if they were zero in the preceding November
 11.18 forecast as a result of the requirements of this paragraph. The commissioner shall not apply
 11.19 this paragraph to forecasted expenditures for the current biennium, but shall apply the
 11.20 requirements of this paragraph to the forecasted expenditures for the next two biennia.

11.21 **EFFECTIVE DATE.** This section is effective July 1, 2020.

11.22 Sec. 2. Minnesota Statutes 2018, section 16A.11, subdivision 3, is amended to read:

11.23 Subd. 3. **Part two: detailed budget.** (a) Part two of the budget, the detailed budget
 11.24 estimates both of expenditures and revenues, must contain any statements on the financial
 11.25 plan which the governor believes desirable or which may be required by the legislature.
 11.26 The detailed estimates shall include the governor's budget arranged in tabular form.

11.27 (b) Tables listing expenditures for the next biennium must show the appropriation base
 11.28 for each year. The appropriation base is the amount appropriated for the second year of the
 11.29 current biennium. The tables must separately show any adjustments to the base required by
 11.30 current law or policies of the commissioner of management and budget. For forecasted
 11.31 programs, the tables must also show the amount of the forecast adjustments, based on the
 11.32 most recent forecast prepared by the commissioner of management and budget under section
 11.33 16A.103. For all programs, the tables must show the amount of appropriation changes

12.1 recommended by the governor, after adjustments to the base and forecast adjustments, and
12.2 the total recommendation of the governor for that year.

12.3 (c) The detailed estimates must include a separate line listing the total cost of professional
12.4 and technical service contracts for the prior biennium and the projected costs of those
12.5 contracts for the current and upcoming biennium. They must also include a summary of the
12.6 personnel employed by the agency, reflected as full-time equivalent positions.

12.7 (d) The detailed estimates for internal service funds must include the number of full-time
12.8 equivalents by program; detail on any loans from the general fund, including dollar amounts
12.9 by program; proposed investments in technology or equipment of \$100,000 or more; an
12.10 explanation of any operating losses or increases in retained earnings; and a history of the
12.11 rates that have been charged, with an explanation of any rate changes and the impact of the
12.12 rate changes on affected agencies.

12.13 (e) Notwithstanding paragraph (b) and any appropriation established in law in the year
12.14 prior to the year in which part two of the budget under paragraph (a) must be submitted,
12.15 the appropriation base for any appropriation made to the Department of Human Services
12.16 or the Department of Direct Care and Treatment for the next two biennia must be zero. The
12.17 commissioner must display the appropriation base established under this paragraph in the
12.18 tables and narrative of part two of the budget under paragraph (a).

12.19 **EFFECTIVE DATE.** This section is effective July 1, 2020.

12.20 Sec. 3. **[16A.111] PERFORMANCE-BASED BUDGET.**

12.21 **Subdivision 1. Performance-based budget.** (a) By November 30, 2020, and annually
12.22 thereafter, the Department of Human Services and the Department of Direct Care and
12.23 Treatment must each submit to the commissioner a proposed detailed operating budget for
12.24 the biennium beginning July 1 of the following year using performance-based budgeting,
12.25 including a performance-based budget plan. The commissioner of management and budget
12.26 shall provide technical assistance to enable the Department of Human Services and the
12.27 Department of Direct Care and Treatment to each complete a proposed detailed operating
12.28 budget as specified by the commissioner of management and budget.

12.29 (b) The commissioner of management and budget shall adopt policies and procedures
12.30 for the Department of Human Services and the Department of Direct Care and Treatment
12.31 to implement this section.

13.1 (c) As used in this section, "performance-based budgeting" means a method of
 13.2 determining the budget of a department, institution, or agency for which the budget of the
 13.3 department, institution, or agency:

13.4 (1) is deemed to be zero in the November forecast, the February forecast, and the
 13.5 governor's budget recommendations that precede the establishment of a biennial budget;
 13.6 and

13.7 (2) has justified each proposed expenditure for the biennium covered by the budget as
 13.8 if it were a new expenditure.

13.9 (d) The Department of Human Services and the Department of Direct Care and Treatment
 13.10 must each submit to the legislature a detailed operating budget and performance-based
 13.11 budget plan developed under this subdivision. The information must be submitted to the
 13.12 legislature at the same time that part two under section 16A.11, subdivision 3, paragraph
 13.13 (a), of the governor's budget is required to be submitted under section 16A.11, subdivision
 13.14 1.

13.15 Subd. 2. **Performance-based budget plan.** A performance-based budget plan includes
 13.16 the following information:

13.17 (1) a description of activities that comprise the agency and a justification for the existence
 13.18 of each activity by reference to statute or other legal authority;

13.19 (2) for each activity, a quantitative estimate of any adverse impacts that could reasonably
 13.20 occur if the activity is discontinued and a description of the methods by which the adverse
 13.21 impact is estimated;

13.22 (3) a list of quantifiable program outcomes that measure the efficiency and effectiveness
 13.23 of each program;

13.24 (4) for each activity, an itemized account of expenditures required to maintain the activity
 13.25 at the minimum level of service required by statutory authority and a concise statement of
 13.26 the quantity and quality of services required at that minimum level;

13.27 (5) for each activity, an itemized account of expenditures required to maintain the quantity
 13.28 and quality of services being provided and the number of personnel necessary to accomplish
 13.29 each program; and

13.30 (6) a ranking of all activities that shows the relative contribution of each activity to the
 13.31 overall goals and purposes of the agency at current service levels.

13.32 **EFFECTIVE DATE.** This section is effective July 1, 2020.

14.1 Sec. 4. **DIRECTION TO COMMISSIONERS OF HEALTH AND HUMAN**
14.2 **SERVICES; GRANT PROGRAM ADMINISTRATION CONTRACT.**

14.3 By December 31, 2020, the commissioner of health and the commissioner of human
14.4 services shall contract with an independent third party to administer, beginning July 1, 2021,
14.5 all grant programs administered by the Department of Health and the Department of Human
14.6 Services as of December 31, 2020. The contract shall include the Department of Health and
14.7 the Department of Human Services amounts to administer grants and the amounts for grants.
14.8 Notwithstanding any law to the contrary, the contract shall allow a maximum of two percent
14.9 for administration of the grant funds by the independent third party.

14.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.11 Sec. 5. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; HUMAN**
14.12 **SERVICES INFORMATION TECHNOLOGY APPROPRIATIONS REVIEW.**

14.13 (a) By December 31, 2020, the commissioner of human services shall contract with a
14.14 third party to review, assess, and report on all appropriations for active information
14.15 technology projects at the Department of Human Services, beginning January 1, 2021. At
14.16 a minimum, the contractor's report shall include:

14.17 (1) a technical assessment of the information technology projects, including whether
14.18 the project complies with any legislative requirements;

14.19 (2) an assessment of the feasibility of each information technology project, including
14.20 whether each project is on schedule or meets applicable deadlines or performance measures;

14.21 (3) an assessment of the funding for information technology projects, including
14.22 identifying waste, insufficient funding, or overspending; and

14.23 (4) recommendations to improve the efficiency or outcome of an information technology
14.24 project.

14.25 (b) The contractor shall report its findings to the commissioner and the chairs and ranking
14.26 minority members of the legislative committees with jurisdiction over human services by
14.27 December 31, 2021.

14.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.1

ARTICLE 4

15.2

MINNESOTA BOARD ON AGING;

15.3

OFFICE OF OMBUDSMAN FOR LONG-TERM CARE

15.4

Section 1. Minnesota Statutes 2018, section 256.974, is amended to read:

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256.974 OFFICE OF OMBUDSMAN FOR LONG-TERM CARE.

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The ombudsman for long-term care is appointed by the governor, serves in the ~~classified~~ unclassified service under section 256.01, subdivision 7, and may be removed only for just cause. The ombudsman must be selected without regard to political affiliation and must be a person who has knowledge and experience concerning the treatment, needs, and rights of consumers of long-term care and who is highly competent and qualified. A person may not serve as ombudsman while holding another public office or being employed by the Department of Human Services. The ombudsman serves in an office within the Minnesota Board on Aging that incorporates the long-term care ombudsman program required by the Older Americans Act, as amended, United States Code, title 42, sections 3027(a)(9) and 3058g(a), and Code of Federal Regulations, title 45, parts 1321 and 1327. The office shall be a distinct entity, separately identifiable from other state agencies and may not be an agency engaged in the provision of nursing home care, hospital care, or home care services either directly or by contract, or have the responsibility for planning, coordinating, funding, or administering nursing home care, hospital care, or home care services.

15.20

Sec. 2. Minnesota Statutes 2018, section 256.9742, subdivision 1, is amended to read:

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Subdivision 1. **Duties.** The ~~office~~ ombudsman shall:

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(1) gather information and evaluate any act, practice, policy, procedure, or administrative action of a long-term care facility, acute care facility, home care service provider, or government agency that may adversely affect the health, safety, welfare, or rights of any client;

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(2) mediate or advocate on behalf of clients;

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(3) monitor and evaluate the development and implementation of federal, state, or local laws, rules, regulations, and policies affecting the rights and benefits of clients;

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(4) comment on and ~~recommend~~ make recommendations to public and private agencies, the governor, and the legislature regarding laws, rules, regulations, and policies affecting clients;

15.32

(5) inform public agencies about the problems of clients;

16.1 (6) provide for training of volunteers and promote the development of citizen participation
 16.2 in the work of the office;

16.3 (7) conduct public forums to obtain information about and publicize issues affecting
 16.4 clients;

16.5 (8) provide public education regarding the health, safety, welfare, and rights of clients;
 16.6 and

16.7 (9) collect and analyze data relating to complaints, conditions, and services.

16.8 Sec. 3. **[256.9746] ORGANIZATION OF OFFICE OF OMBUDSMAN FOR**
 16.9 **LONG-TERM CARE.**

16.10 Subdivision 1. **Staff.** The ombudsman may appoint two deputies and a confidential
 16.11 secretary in the unclassified service and may appoint other employees as authorized by the
 16.12 legislature. The ombudsman and the full-time staff are members of the Minnesota State
 16.13 Retirement Association.

16.14 Subd. 2. **Delegation.** The ombudsman may delegate to representatives of the office any
 16.15 authority or duties of the ombudsman except the duty of formally making recommendations
 16.16 to an agency or facility or reports to the governor or the legislature.

16.17 Sec. 4. **[256.9747] REIMBURSEMENT TO OFFICE OF OMBUDSMAN FOR**
 16.18 **LONG-TERM CARE.**

16.19 The commissioner of human services shall obtain federal financial participation for
 16.20 eligible activity by the ombudsman for long-term care. The ombudsman shall maintain and
 16.21 transmit to the Department of Human Services documentation that is necessary to obtain
 16.22 federal funds.

16.23 Sec. 5. **[256.9748] RECOMMENDATIONS AND REPORTS TO GOVERNOR.**

16.24 Subdivision 1. **Specific reports.** The ombudsman may send to the governor or the
 16.25 legislature conclusions and suggestions concerning any matter. Before making public a
 16.26 conclusion or recommendation that expressly or implicitly criticizes an agency, facility,
 16.27 program, or person, the ombudsman shall consult with the governor and the agency, facility,
 16.28 program, or person concerning the conclusion or recommendation. When sending a
 16.29 conclusion or recommendation to the governor or legislature that is adverse to an agency,
 16.30 facility, program, or person, the ombudsman shall include a statement made by that agency,
 16.31 facility, program, or person in defense or mitigation of the office's conclusion or

17.1 recommendation. The governor may not prohibit the ombudsman from sending conclusions
17.2 or suggestions to the legislature or prohibit the ombudsman from making conclusions or
17.3 recommendations public.

17.4 Subd. 2. **General reports.** In addition to conclusions or recommendations the ombudsman
17.5 makes to the governor or legislature on an ad hoc basis, the ombudsman shall, at the end
17.6 of each biennium, report to the governor concerning the exercise of the ombudsman's
17.7 functions during the preceding biennium.

17.8 Sec. 6. Minnesota Statutes 2018, section 256.975, is amended by adding a subdivision to
17.9 read:

17.10 Subd. 1b. **Executive director; staff.** The board may select an executive director of the
17.11 board by a vote of a majority of council members. The executive director shall be in the
17.12 unclassified service of the state and shall provide administrative support for the council and
17.13 provide administrative leadership to implement council mandates, policies, and objectives.
17.14 A person may not serve as executive director of the board while being employed by the
17.15 Department of Human Services. The executive director shall employ and direct staff
17.16 authorized according to state law and necessary to carry out board mandates, policies,
17.17 activities, and objectives. The salary of the executive director and staff shall be established
17.18 pursuant to chapter 43A. The executive director and staff shall be reimbursed for the actual
17.19 and necessary expenses incurred as a result of their council responsibilities.

17.20 Sec. 7. **SMALL AGENCY ADMINISTRATIVE SUPPORT SERVICES.**

17.21 The commissioner of administration shall, under Minnesota Statutes, section 16B.371,
17.22 evaluate the needs of the Board on Aging for administrative support services. If, after an
17.23 evaluation, the commissioner requires the board to receive administrative support services,
17.24 the commissioner may not designate the Department of Human Services to provide the
17.25 required administrative support services.

17.26 Sec. 8. **REPEALER.**

17.27 Minnesota Statutes 2018, section 256.01, subdivision 9, is repealed.

APPENDIX
Repealed Minnesota Statutes: S4128-1

256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.

Subd. 9. **Staff assistance to the Minnesota Board on Aging.** The board shall be provided staff assistance from the Department of Human Services through the special consultant on aging, who shall serve as the executive secretary to the board and its committees.