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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2783

04/01/2019 Authored by Albright
The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to state government; creating a Department of Direct Care and Treatment
1.3 and Office of Inspector General; transferring duties from the Department of Human
1.4 Services and other state agencies to the new state agency and office; requiring
1.5 reports; amending Minnesota Statutes 2018, sections 15.01; 15.06, subdivision 1;
1.6 15A.0815, subdivision 2; 43A.08, subdivision 1a; proposing coding for new law
1.7 as Minnesota Statutes, chapters 245I; 246C.

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

1.9 ARTICLE 1
1.10 DEPARTMENT OF DIRECT CARE AND TREATMENT

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

1.12 15.01 DEPARTMENTS OF THE STATE.

1.13 The following agencies are designated as the departments of the state government: the
1.14 Department of Administration; the Department of Agriculture; the Department of Commerce;
1.15 the Department of Corrections; the Department of Direct Care and Treatment; the Department
1.16 of Education; the Department of Employment and Economic Development; the Department
1.17 of Health; the Department of Human Rights; the Department of Human Services; the
1.18 Department of Iron Range Resources and Rehabilitation; the Department of Labor and
1.19 Industry; the Department of Management and Budget; the Department of Military Affairs;
1.20 the Department of Natural Resources; the Department of Public Safety; the Department of
1.21 Human Services; the Department of Revenue; the Department of Transportation; the
1.22 Department of Veterans Affairs; and their successor departments.

1.23 EFFECTIVE DATE. This section is effective July 1, 2020.

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

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

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

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

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

2.20 Commissioner of administration;

2.21 Commissioner of agriculture;

2.22 Commissioner of education;

2.23 Commissioner of commerce;

2.24 Commissioner of corrections;

2.25 Commissioner of direct care and treatment;

2.26 Commissioner of health;

2.27 Commissioner, Minnesota Office of Higher Education;

2.28 Commissioner, Housing Finance Agency;

2.29 Commissioner of human rights;

2.30 Commissioner of human services;

- 3.1 Commissioner of labor and industry;
- 3.2 Commissioner of management and budget;
- 3.3 Commissioner of natural resources;
- 3.4 Commissioner, Pollution Control Agency;
- 3.5 Commissioner of public safety;
- 3.6 Commissioner of revenue;
- 3.7 Commissioner of employment and economic development;
- 3.8 Commissioner of transportation; and
- 3.9 Commissioner of veterans affairs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.22 (b) "Community preparation services" means specialized inpatient or outpatient services  
 4.23 or programs that are operated outside of a secure environment but administered by a secure  
 4.24 treatment facility.

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

4.26 **Sec. 6. [246C.05] TRANSFER OF DUTIES.**

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

4.28 (b) The commissioner of administration, with the approval of the governor, may issue  
 4.29 reorganization orders under section 16B.37 as necessary to carry out the transfer of duties  
 4.30 required by this chapter. The provision of section 16B.37, subdivision 1, stating that transfers

5.1 under section 16B.37 may be made only to an agency that has been in existence for at least  
 5.2 one year does not apply to transfers to an agency created by this chapter.

5.3 (c) The initial salary for the commissioner of direct care and treatment is the same as  
 5.4 the salary for the health systems chief executive officer of direct care and treatment at the  
 5.5 Department of Human Services immediately before the effective date of this chapter. The  
 5.6 salary may be changed in the manner specified in section 15A.0815.

5.7 (d) The commissioner of management and budget must ensure that the aggregate cost  
 5.8 for the commissioner of direct care and treatment is not more than the aggregate cost of the  
 5.9 primary executives in the Department of Human Services responsible for management of  
 5.10 direct care and treatment immediately before the effective date of this chapter.

5.11 (e) For an employee affected by the transfer of duties required by this chapter, the  
 5.12 seniority accrued by the employee at the employee's former agency transfers to the employee's  
 5.13 new agency.

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

5.15 Sec. 7. **REVISOR INSTRUCTION.**

5.16 The revisor of statutes, in consultation with staff from the House Research Department;  
 5.17 House Fiscal Analysis; the Office of Senate Counsel, Research, and Fiscal Analysis; and  
 5.18 the respective departments shall prepare legislation for introduction in the 2020 legislative  
 5.19 session proposing the statutory changes needed to implement the transfers of duties required  
 5.20 by this article.

5.21 **EFFECTIVE DATE.** This section is effective July 1, 2019.

## 5.22 **ARTICLE 2**

### 5.23 **OFFICE OF INSPECTOR GENERAL**

5.24 Section 1. **[245I.01] OFFICE OF INSPECTOR GENERAL.**

5.25 Subdivision 1. **Creation.** A state Office of Inspector General is created.

5.26 Subd. 2. **Director.** (a) The office shall be under the direction of an inspector general  
 5.27 who shall be appointed by the governor, with the advice and consent of the senate, for a  
 5.28 term ending on June 30 of the sixth calendar year after appointment. Senate confirmation  
 5.29 of the inspector general shall be as provided by section 15.066. The inspector general shall  
 5.30 appoint deputies to serve in the office as necessary to fulfill the duties of the office. The  
 5.31 inspector general may delegate to a subordinate employee the exercise of a specified statutory

6.1 power or duty, subject to the control of the inspector general. Every delegation must be by  
6.2 written order filed with the secretary of state.

6.3 (b) The inspector general shall be in the unclassified service, but may be removed only  
6.4 for cause.

6.5 Subd. 3. **Duties.** The inspector general shall, in coordination with counties where  
6.6 applicable:

6.7 (1) develop and maintain the licensing and regulatory functions related to hospitals,  
6.8 boarding care homes, outpatient surgical centers, birthing centers, nursing homes, home  
6.9 care agencies, supplemental nursing services agencies, hospice providers, housing with  
6.10 services establishments, assisted living facilities, prescribed pediatric extended care centers,  
6.11 and board and lodging establishments with special services consistent with chapters 144A,  
6.12 144D, 144G, and 144H, and sections 144.50 to 144.58, 144.615, and 157.17;

6.13 (2) notwithstanding the requirement under section 144A.52, subdivision 1, that the  
6.14 director of the Office of Health Facility Complaints be appointed by the commissioner of  
6.15 health, assume the role of director of the Office of Health Facility Complaints;

6.16 (3) develop and maintain the licensing and regulatory functions related to adult day care,  
6.17 child care and early education, children's residential facilities, foster care, home and  
6.18 community-based services, independent living assistance for youth, outpatient mental health  
6.19 clinics or centers, residential mental health treatment for adults, and substance use disorder  
6.20 treatment consistent with chapters 245, 245A, 245D, 245F, 245G, 245H, 252, and 256;

6.21 (4) conduct background studies according to sections 144.058, 144A.476, 144A.62,  
6.22 144A.754, and 157.17 and chapter 245C. For the purpose of completing background studies,  
6.23 the inspector general shall have authority to access maltreatment data maintained by local  
6.24 welfare agencies or agencies responsible for assessing or investigating reports under section  
6.25 626.556, and names of substantiated perpetrators related to maltreatment of vulnerable  
6.26 adults maintained by the commissioner of human services under section 626.557;

6.27 (5) develop and maintain the background study requirements consistent with chapter  
6.28 245C;

6.29 (6) be responsible for ensuring the detection, prevention, investigation, and resolution  
6.30 of fraudulent activities or behavior by applicants, recipients, providers, and other participants  
6.31 in the human services programs administered by the Department of Human Services;

7.1 (7) require county agencies to identify overpayments, establish claims, and utilize all  
 7.2 available and cost-beneficial methodologies to collect and recover these overpayments in  
 7.3 the human services programs administered by the Department of Human Services; and

7.4 (8) develop, maintain, and administer the common entry point established on July 1,  
 7.5 2015, under section 626.557, subdivision 9.

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

7.7 Sec. 2. **[245I.05] TRANSFER OF DUTIES.**

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

7.9 (b) The commissioner of administration, with approval of the governor, may issue  
 7.10 reorganization orders under section 16B.37 as necessary to carry out the transfer of duties  
 7.11 required by this chapter. The provision of section 16B.37, subdivision 1, stating that transfers  
 7.12 under that section may be made only to an agency that has been in existence for at least one  
 7.13 year does not apply to transfers to an agency created by this chapter.

7.14 (c) The commissioner of management and budget must ensure that the aggregate cost  
 7.15 for the inspector general of the Office of Inspector General is not more than the aggregate  
 7.16 cost of the primary executives in the Office of Inspector General at the Department of  
 7.17 Human Services and the Health Regulation Division at the Department of Health immediately  
 7.18 before the effective date of this chapter.

7.19 (d) For an employee affected by the transfer of duties required by this chapter, the  
 7.20 seniority accrued by the employee at the employee's former agency transfers to the employee's  
 7.21 new agency.

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

7.23 Sec. 3. **REVISOR INSTRUCTION.**

7.24 The revisor of statutes, in consultation with staff from the House Research Department;  
 7.25 House Fiscal Analysis; the Office of Senate Counsel, Research, and Fiscal Analysis; and  
 7.26 the respective departments shall prepare legislation for introduction in the 2020 legislative  
 7.27 session proposing the statutory changes needed to implement the transfers of duties required  
 7.28 by this article.

7.29 **EFFECTIVE DATE.** This section is effective July 1, 2019.