

1.1 Senator moves to amend the delete-everything amendment (SCS4165A-2)
1.2 to S.F. No. 4165 as follows:

1.3 Page 97, after line 17, insert:

1.4 **"ARTICLE 5**
1.5 **DIRECT CARE AND TREATMENT**

1.6 Section 1. Minnesota Statutes 2020, section 246.12, is amended to read:

1.7 **246.12 BIENNIAL ESTIMATES; SUGGESTIONS FOR LEGISLATION.**

1.8 Subdivision 1. Biennial estimates. The commissioner of human services shall prepare,
1.9 for the use of the legislature, biennial estimates of appropriations necessary or expedient to
1.10 be made for the support of the institutions and for extraordinary and special expenditures
1.11 for buildings and other improvements. The commissioner shall, in connection therewith,
1.12 make suggestions relative to legislation for the benefit of the institutions. The commissioner
1.13 shall report the estimates and suggestions to the legislature on or before November 15 in
1.14 each even-numbered year. The commissioner of human services on request shall appear
1.15 before any legislative committee and furnish any required information in regard to the
1.16 condition of any such institution.

1.17 Subd. 2. Annual projections. (a) The commissioner shall submit a report of the census
1.18 data and fiscal projections for state-operated services and the Minnesota sex offender program
1.19 with the February budget forecast.

1.20 (b) This subdivision expires January 1, 2023.

1.21 Sec. 2. Minnesota Statutes 2020, section 246.131, is amended to read:

1.22 **246.131 REPORT ON ANOKA-METRO REGIONAL TREATMENT CENTER**
1.23 **(AMRTC), MINNESOTA SECURITY HOSPITAL (MSH), AND COMMUNITY**
1.24 **BEHAVIORAL HEALTH HOSPITALS (CBHH).**

1.25 The commissioner of human services shall issue a public ~~quarterly~~ annual report to the
1.26 chairs and ranking minority leaders of the senate and house of representatives committees
1.27 having jurisdiction over health and human services issues on the AMRTC, MSH, and CBHH.
1.28 The report shall contain information on the number of licensed beds, budgeted capacity,
1.29 occupancy rate, number of Occupational Safety and Health Administration (OSHA)
1.30 recordable injuries and the number of OSHA recordable injuries due to patient aggression
1.31 or restraint, number of clinical positions budgeted, the percentage of those positions that

2.1 are filled, the number of direct care positions budgeted, and the percentage of those positions
2.2 that are filled.

2.3 Sec. 3. Minnesota Statutes 2020, section 253B.18, subdivision 6, is amended to read:

2.4 Subd. 6. **Transfer.** (a) A patient who is a person who has a mental illness and is
2.5 dangerous to the public shall not be transferred out of a secure treatment facility unless it
2.6 appears to the satisfaction of the commissioner, after a hearing and favorable recommendation
2.7 by a majority of the special review board, that the transfer is appropriate. Transfer may be
2.8 to another state-operated treatment program. In those instances where a commitment also
2.9 exists to the Department of Corrections, transfer may be to a facility designated by the
2.10 commissioner of corrections.

2.11 (b) The following factors must be considered in determining whether a transfer is
2.12 appropriate:

2.13 (1) the person's clinical progress and present treatment needs;

2.14 (2) the need for security to accomplish continuing treatment;

2.15 (3) the need for continued institutionalization;

2.16 (4) which facility can best meet the person's needs; and

2.17 (5) whether transfer can be accomplished with a reasonable degree of safety for the
2.18 public.

2.19 (c) If a committed person has been transferred out of a secure treatment facility pursuant
2.20 to this subdivision, that committed person may voluntarily return to a secure treatment
2.21 facility for a period of up to 60 days with the consent of the head of the treatment facility.

2.22 (d) If the committed person is not returned to the original, nonsecure transfer facility
2.23 within 60 days of being readmitted to a secure treatment facility, the transfer is revoked and
2.24 the committed person shall remain in a secure treatment facility. The committed person
2.25 shall immediately be notified in writing of the revocation.

2.26 (e) Within 15 days of receiving notice of the revocation, the committed person may
2.27 petition the special review board for a review of the revocation. The special review board
2.28 shall review the circumstances of the revocation and shall recommend to the commissioner
2.29 whether or not the revocation shall be upheld. The special review board may also recommend
2.30 a new transfer at the time of the revocation hearing.

3.1 (f) No action by the special review board is required if the transfer has not been revoked
3.2 and the committed person is returned to the original, nonsecure transfer facility with no
3.3 substantive change to the conditions of the transfer ordered under this subdivision.

3.4 (g) The head of the treatment facility may revoke a transfer made under this subdivision
3.5 and require a committed person to return to a secure treatment facility if:

3.6 (1) remaining in a nonsecure setting does not provide a reasonable degree of safety to
3.7 the committed person or others; or

3.8 (2) the committed person has regressed clinically and the facility to which the committed
3.9 person was transferred does not meet the committed person's needs.

3.10 (h) Upon the revocation of the transfer, the committed person shall be immediately
3.11 returned to a secure treatment facility. A report documenting the reasons for revocation
3.12 shall be issued by the head of the treatment facility within seven days after the committed
3.13 person is returned to the secure treatment facility. Advance notice to the committed person
3.14 of the revocation is not required.

3.15 (i) The committed person must be provided a copy of the revocation report and informed,
3.16 orally and in writing, of the rights of a committed person under this section. The revocation
3.17 report shall be served upon the committed person, the committed person's counsel, and the
3.18 designated agency. The report shall outline the specific reasons for the revocation, including
3.19 but not limited to the specific facts upon which the revocation is based.

3.20 (j) If a committed person's transfer is revoked, the committed person may re-petition for
3.21 transfer according to subdivision 5.

3.22 (k) A committed person aggrieved by a transfer revocation decision may petition the
3.23 special review board within seven business days after receipt of the revocation report for a
3.24 review of the revocation. The matter shall be scheduled within 30 days. The special review
3.25 board shall review the circumstances leading to the revocation and, after considering the
3.26 factors in paragraph (b), shall recommend to the commissioner whether or not the revocation
3.27 shall be upheld. The special review board may also recommend a new transfer out of a
3.28 secure treatment facility at the time of the revocation hearing.

3.29 Sec. 4. Laws 2009, chapter 79, article 13, section 3, subdivision 10, as amended by Laws
3.30 2009, chapter 173, article 2, section 1, is amended to read:

3.31 **Subd. 10. State-Operated Services**

4.1 The amounts that may be spent from the
4.2 appropriation for each purpose are as follows:

4.3 **Transfer Authority Related to**
4.4 **State-Operated Services.** Money
4.5 appropriated to finance state-operated services
4.6 may be transferred between the fiscal years of
4.7 the biennium with the approval of the
4.8 commissioner of finance.

4.9 **County Past Due Receivables.** The
4.10 commissioner is authorized to withhold county
4.11 federal administrative reimbursement when
4.12 the county of financial responsibility for
4.13 cost-of-care payments due the state under
4.14 Minnesota Statutes, section 246.54 or
4.15 253B.045, is 90 days past due. The
4.16 commissioner shall deposit the withheld
4.17 federal administrative earnings for the county
4.18 into the general fund to settle the claims with
4.19 the county of financial responsibility. The
4.20 process for withholding funds is governed by
4.21 Minnesota Statutes, section 256.017.

4.22 **Forecast and Census Data.** The
4.23 commissioner shall include census data and
4.24 fiscal projections for state-operated services
4.25 and Minnesota sex offender services with the
4.26 November and February budget forecasts.

4.27 ~~Notwithstanding any contrary provision in this~~
4.28 ~~article, this paragraph shall not expire.~~

4.29 **(a) Adult Mental Health Services** 106,702,000 107,201,000

4.30 **Appropriation Limitation.** No part of the
4.31 appropriation in this article to the
4.32 commissioner for mental health treatment
4.33 services provided by state-operated services

5.1 shall be used for the Minnesota sex offender
5.2 program.

5.3 **Community Behavioral Health Hospitals.**

5.4 Under Minnesota Statutes, section 246.51,
5.5 subdivision 1, a determination order for the
5.6 clients served in a community behavioral
5.7 health hospital operated by the commissioner
5.8 of human services is only required when a
5.9 client's third-party coverage has been
5.10 exhausted.

5.11 **Base Adjustment.** The general fund base is
5.12 decreased by \$500,000 for fiscal year 2012
5.13 and by \$500,000 for fiscal year 2013.

5.14 **(b) Minnesota Sex Offender Services**

5.15	Appropriations by Fund		
5.16	General	38,348,000	67,503,000
5.17	Federal Fund	26,495,000	0

5.18 **Use of Federal Stabilization Funds.** Of this
5.19 appropriation, \$26,495,000 in fiscal year 2010
5.20 is from the fiscal stabilization account in the
5.21 federal fund to the commissioner. This
5.22 appropriation must not be used for any activity
5.23 or service for which federal reimbursement is
5.24 claimed. This is a onetime appropriation.

5.25 **(c) Minnesota Security Hospital and METO**
5.26 **Services**

5.27	Appropriations by Fund		
5.28	General	230,000	83,735,000
5.29	Federal Fund	83,505,000	0

5.30 **Minnesota Security Hospital.** For the
5.31 purposes of enhancing the safety of the public,
5.32 improving supervision, and enhancing
5.33 community-based mental health treatment,
5.34 state-operated services may establish

6.1 additional community capacity for providing
6.2 treatment and supervision of clients who have
6.3 been ordered into a less restrictive alternative
6.4 of care from the state-operated services
6.5 transitional services program consistent with
6.6 Minnesota Statutes, section 246.014.

6.7 **Use of Federal Stabilization Funds.**

6.8 \$83,505,000 in fiscal year 2010 is appropriated
6.9 from the fiscal stabilization account in the
6.10 federal fund to the commissioner. This
6.11 appropriation must not be used for any activity
6.12 or service for which federal reimbursement is
6.13 claimed. This is a onetime appropriation.

6.14 Sec. 5. **REPEALER.**

6.15 Minnesota Statutes 2020, sections 246.0136; 252.025, subdivision 7; and 252.035, are
6.16 repealed."

6.17 Amend the title accordingly