

violation" means that before commission of the offense for which the person is convicted under this chapter, the person received a disposition for a felony-level offense under section 152.18, subdivision 1, was convicted in Minnesota of a felony violation of this chapter or a felony-level attempt or conspiracy to violate this chapter, or was convicted elsewhere for conduct that would have been a felony under this chapter if committed in Minnesota. An earlier disposition for a felony-level offense under section 152.18, subdivision 1, or an earlier conviction is not relevant if ten years have elapsed since: (1) the person was restored to civil rights; or (2) the sentence has expired, whichever occurs first discharge from sentence or stay of adjudication.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective August 1, 1999, and applies to dispositions entered under Minnesota Statutes, section 152.18, subdivision 1, and crimes committed on or after that date.

Presented to the governor April 22, 1999

Signed by the governor April 26, 1999, 4:15 p.m.

CHAPTER 99—H.F.No. 1003

An act relating to legislature; prescribing the powers and duties of the legislative audit commission and the legislative auditor; making various technical changes; amending Minnesota Statutes 1998, sections 3.97; 3.971; 3.974; 3.975; 6.74; 10.48; 13.46, subdivision 8; 16A.27, subdivision 2; 37.06; 37.07; 85A.02, subdivision 5c; 89.05; 161.08; 192.551; 352.03, subdivision 6; 353.03, subdivision 3a; 353A.05, subdivision 1; 354.06, subdivision 2a; 360.015, subdivision 19; 574.20; and 609.456; Laws 1990, chapter 535, section 5; repealing Minnesota Statutes 1998, sections 3.973; 116.072, subdivision 12; 469.207, subdivision 1; and 574.02.

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

Section 1. Minnesota Statutes 1998, section 3.97, is amended to read:

3.97 AUDIT POLICY; CREATION OF COMMISSION; TRANSFER OF FUNCTIONS OF PUBLIC EXAMINER; DUTIES OF LEGISLATIVE AUDITOR; ACCESS TO DATA.

Subdivision 1. Continuous legislative review of the effect of ~~grant-in-aid programs, the spending of public funds and their financing at all levels of government is required in the public interest to enable the enactment of appropriate legislation.~~

Subd. 2. The legislative audit commission is created. ~~The commission~~ consists of:

- (1) the majority leader of the senate and the president of the senate or their designees;
- (2) ~~the chair of the senate committee on taxes or a designee who is a member of the committee;~~
- (3) the chair of the senate committee on governmental operations and reform or a designee who is a member of the committee;

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(4) ~~(3)~~ the a chair of the a senate committee on finance or a designee who is a member of the committee designated by the majority leader;

(5) ~~(4)~~ five four members of the senate appointed by the senate minority leader;

(6) ~~(5)~~ the speaker of the house and the chair of the house committee on rules or their designees;

(7) ~~the chair of the house committee on taxes or a designee who is a member of the committee;~~

~~(8)~~ ~~(6)~~ the chair of the house committee on governmental operations and gaming or a designee who is a member of the committee;

~~(9)~~ ~~(7)~~ the chair of the house ways and means committee or a designee who is a member of the committee; and

~~(10)~~ ~~(8)~~ five four members of the house appointed by the house minority leader.

The appointed members of the commission shall serve for a term commencing upon appointment and expiring at the opening of the next regular session of the legislature in the odd-numbered year and until a successor is appointed. A vacancy in the membership of the commission shall be filled for the unexpired term in a manner that will preserve the representation established by this subdivision.

The commission shall meet in January of each odd-numbered year to elect its chair and other officers as it may determine necessary. A chair shall serve a two-year term, expiring on January 1 in the odd-numbered year following election, and until a successor is elected. The chair shall alternate biennially between the senate and the house. The commission shall meet at the call of the chair or the executive secretary. The members shall serve without compensation but be reimbursed for their reasonable expenses as members of the legislature. The commission may exercise the powers prescribed by section 3.153.

Subd. 3. The department of public examiner is transferred from the executive to the legislative branch.

Subd. 4. The legislative auditor is the executive secretary of the commission. The legislative auditor shall be appointed by the commission for a six-year term and serve in the unclassified service. When in office, the legislative auditor shall ~~may not~~ at any time ~~while in office~~ hold any other public office. The legislative auditor ~~shall~~ may not be removed from office before the expiration of the term of service except for cause after public hearing.

Subd. 5. The legislative auditor shall establish a financial audits division and a program evaluation division to fulfill the duties prescribed in this section. Each division ~~shall~~ must be supervised by a deputy auditor, appointed by the legislative auditor, with the approval of the commission, for a term coterminous with the legislative auditor's term. The deputy auditors may be removed before the expiration of their terms only for cause. The legislative auditor and deputy auditors may each appoint a confidential secretary to serve at pleasure. ~~The commission shall fix the salaries and benefits of the legislative auditor, deputy auditors and confidential secretaries shall be determined by the compensation plan approved by the legislative coordinating commission.~~ The deputy auditors may perform and exercise the powers, duties and responsibilities imposed by law on the legisla-

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tive auditor when authorized by the legislative auditor. The deputy auditors and the confidential secretaries serve in the unclassified civil service, but all other employees of the legislative auditor are in the classified civil service. While in office, a person appointed deputy for the financial audit division must hold an active license as a certified public accountant.

Subd. 6. All the powers, duties, and responsibilities of the department of public examiner relating to the state of Minnesota, its departments and agencies as described in Minnesota Statutes 1971, section 215.03, and any other law concerning powers, duties, and responsibilities of the public examiner not otherwise dealt with by Laws 1973, chapter 492, are transferred to the legislative auditor. Nothing in this subdivision shall supersede the powers conferred upon the commissioner of finance under section 16A.055.

Subd. 7. In addition to the legislative auditing duties concerning state financial matters, the legislative auditor shall also exercise and perform duties prescribed by rule of the legislature or either body of it or by the commission. ~~The legislative auditor shall review department policies and evaluate projects or programs requested by the commission. Any standing legislative committee having legislative jurisdiction may request the commission to review projects or programs.~~

Subd. 8. The legislature may, by rule, provide to the legislative auditor the testimonial powers that are conferred by law on legislative standing commissions or committees.

Subd. 9. The legislative auditor is subject to the Government Data Practices Act, chapter 13, and shall protect from unlawful disclosure data classified as not public. If data provided by the legislative auditor to the commission is disseminated by the commission or its members or agents in violation of section 13.05, subdivision 4, the commission is subject to liability under section 13.08, subdivisions 1 and 3.

Subd. 10. Members of the commission have access to data that is collected or used by the legislative auditor and classified as not public or as private or confidential only as authorized by resolution of the commission. The commission shall may not authorize its members to have access to private or confidential data on individuals collected or used in connection with the collection of any tax.

Subd. 11. (a) "Audit" as used in this subdivision means a financial audit, a review, program evaluation, a best practices review, or an investigation. Data relating to an audit are not public or with respect to data on individuals are confidential until the final report of the audit has been published released by the legislative auditor or the audit is no longer being actively pursued. Upon release of a final audit report by the legislative auditor, data relating to an audit are public except data otherwise classified as not public.

(b) Data that support the conclusions of the related to an audit but not published in the audit report and that the legislative auditor reasonably believes will result be used in litigation are not public and with respect to data on individuals are confidential until the litigation has been completed or is no longer being actively pursued.

(c) Data on individuals that could reasonably be used to determine the identity of an individual supplying data for an audit are private if the data supplied by the individual were needed for an audit and the individual would not have provided the data to the legislative auditor without an assurance that the individual's identity would remain private, or the legislative auditor reasonably believes that the subject would not have provided the data.

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(d) The definitions of terms provided in section 13.02 apply for purposes of this subdivision.

Subd. 11a. If, before releasing a report, the legislative auditor provides a person with data relating to the audit for the purpose of review and verification of the data, the person must protect the data from unlawful disclosure or be subject to the penalties and liabilities provided in sections 13.08 and 13.09.

Subd. 12. The commission shall periodically select topics for the legislative auditor to evaluate. Topics may include any agency, program, or activity established by law to achieve a state purpose, or any topic that affects the operation of state government, but the commission shall give primary consideration to topics that are likely, upon examination, to produce recommendations for cost savings, increased productivity, or the elimination of duplication among public agencies. Legislators and legislative committees may suggest topics for evaluation, but the legislative auditor shall only conduct evaluations approved by the commission.

Sec. 2. Minnesota Statutes 1998, section 3.971, is amended to read:

3.971 POWERS AND DUTIES OF LEGISLATIVE AUDITOR.

Subdivision 1. To perform financial audits The legislative auditor shall ~~postaudit and make a complete examination and verification of all accounts, records, inventories, vouchers, receipts, funds, securities, and other assets of~~ audit the financial statements of the state of Minnesota required by section 16A.50 and, as resources permit, shall audit Minnesota state colleges and universities, the University of Minnesota, all state agencies, departments, boards, commissions, courts, and other state agencies at least once a year, if money and personnel permit, and oftener if deemed necessary or as directed by the legislature or the legislative audit commission. Audits may include detailed checking of every transaction or test checking as the legislative auditor deems best. The books of the state treasurer and commissioner of finance may be examined monthly. organizations subject to audit by the legislative auditor, including the state agricultural society, agricultural utilization research institute, Minnesota Technology, Inc., Minnesota historical society, labor interpretive center, Minnesota partnership for action against tobacco, metropolitan sports facilities commission, metropolitan airports commission, and metropolitan mosquito control district. Financial audits must be conducted according to generally accepted government auditing standards. The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds are complied with ~~by all and may, as part of a financial audit or separately, investigate allegations of noncompliance by employees of departments and agencies of the state government and the other organizations listed in this subdivision.~~

~~A copy of all postaudits, reports, and results of examinations made by the legislative auditor shall be deposited with the legislative reference library.~~

Subd. 2. To perform program evaluation, The legislative auditor shall conduct program evaluations to determine the degree to which the activities and programs entered into or funded by the state are accomplishing their goals and objectives, including a critical analysis of goals and objectives, measurement of program results and effectiveness, alternative means of achieving the same results, and efficiency in the allocation of resources. The legislative auditor shall recommend ways to improve the effectiveness of the programs, reduce the cost of providing state services, and to eliminate services of one

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agency that overlap with or duplicate the services performed by another agency. At the direction of the commission the legislative auditor may ~~perform~~ conduct program evaluations of any state department, board, commission, or agency and any metropolitan agency, board, or commission created under chapter 473; or any program or activity established or funded, in whole or in part, by the state. After an evaluation report has been released, the legislative auditor may periodically conduct a follow-up review to assess what changes have occurred.

Subd. 4. (a) ~~To perform best practices reviews,~~ The legislative auditor ~~through the program evaluation division shall conduct best practices reviews that examine the procedures and practices used to deliver local government services, including those of municipalities and counties, determine the methods of local government service delivery, identify variations in cost and effectiveness, and identify practices to save money or provide more effective service delivery. The legislative auditor shall recommend to local governments service delivery methods and practices to improve the cost-effectiveness of services. The legislative auditor and the board of government innovation and cooperation shall notify each other of projects being conducted relating to improving local government services.~~

(b) The commission shall identify approve local government services to be reviewed with advice from an advisory council appointed by the legislative auditor and consisting of:

- (1) three representatives from the Association of Minnesota Counties;
 - (2) three representatives from the League of Minnesota Cities;
 - (3) two representatives from the Association of Metropolitan Municipalities;
 - (4) one representative from the Minnesota Association of Townships; and
 - (5) one representative from the Minnesota Association of School Administrators.
- (e) ~~This subdivision expires June 30, 1999.~~

Sec. 3. Minnesota Statutes 1998, section 3.974, is amended to read:

3.974 TO FILE WRITTEN REPORTS.

For each ~~audit done, evaluation, or other review completed,~~ the legislative auditor shall ~~file~~ provide a written report with to the department, agency, society, or association concerned, organization or individual audited, evaluated, or reviewed; the legislative reference library; and the legislative audit commission for its consideration and action.

Each audit report shall set forth:

- (1) whether all funds have been expended for the purposes authorized in their appropriation;
- (2) whether all receipts have been accounted for and paid into the state treasury as required by law;
- (3) all illegal and unbusinesslike practices, if any;
- (4) an assessment of the financial control practices used in the agency, a measurement of performance, and recommendations for improved effectiveness; and

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(5) other data, information, and recommendations as the legislative auditor may deem advisable and necessary.

Sec. 4. Minnesota Statutes 1998, section 3.975, is amended to read:

3.975 DUTIES WHEN VIOLATIONS MISUSE OF PUBLIC MONEY OR OTHER RESOURCES ARE DISCOVERED.

If a legislative auditor's examination discloses malfeasance, misfeasance, or non-feasance in office on the part of an officer or employee, a copy of the report shall be signed and verified, and it shall be the duty of misuse of public money or other public resources, the legislative auditor to shall file the a report with the legislative audit commission and, the attorney general, and the appropriate county attorney. It shall be the duty of the attorney general to institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, as appropriate to secure to the state the shall seek recovery of funds or money and other assets misappropriated resources as the evidence may warrant. The attorney general county attorney shall cause criminal proceedings to be instituted by the proper authorities as the evidence may warrant.

Sec. 5. Minnesota Statutes 1998, section 6.74, is amended to read:

6.74 INFORMATION COLLECTED FROM LOCAL GOVERNMENTS.

The state auditor, or a designated agent, shall collect annually from all city, county, and other local units of government, information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, borrowing, debts, principal and interest payments on debts, and such other information as may be needful. The data shall be supplied upon blanks prescribed by the state auditor, and all public officials so called upon shall fill out properly and return promptly all blanks so transmitted. The state auditor or assistants, may examine local records in order to complete or verify the information. Copies of all reports so received shall be forwarded by the state auditor to the legislative auditor.

Sec. 6. Minnesota Statutes 1998, section 10.48, is amended to read:

10.48 EXPENSE REPORTS.

The house of representatives and senate shall by rule require detailed quarterly reports of expenditures by the house of representatives and senate to their respective committees on rules and legislative administration. ~~Each constitutional officer, the district courts, court of appeals, and supreme court shall submit detailed quarterly reports of their expenditures to the legislative auditor. These reports are public information.~~

Sec. 7. Minnesota Statutes 1998, section 13.46, subdivision 8, is amended to read:

Subd. 8. **ACCESS FOR AUDITING.** To the extent required by state or federal law, representatives of federal, state, or local agencies shall have access to data maintained by public or private community mental health centers, mental health divisions of counties, and other providers under contract to deliver mental health services which is necessary to achieve the purpose of auditing. Public or private community mental health centers, mental health divisions of counties, and other providers under contract to deliver mental health services shall not permit this data to identify any particular patient or client by

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name or contain any other unique personal identifier, ~~except data provided to the legislative auditor. Notwithstanding any statute or rule to the contrary, and solely for the purposes of conducting an audit approved by the legislative audit commission in 1988, the legislative auditor shall be given access to all data, records, and files classified as not public. The legislative auditor shall maintain all data collected under this subdivision in accordance with chapter 13 and may not disclose data that identify a patient or client by name or that contain any other personal identifier.~~

Sec. 8. Minnesota Statutes 1998, section 16A.27, subdivision 2, is amended to read:

Subd. 2. **DAILY REPORT.** By 9:00 a.m. every business day, a depository holding a total of over \$100,000 in non-interest-bearing state deposits shall report the balances as of the close of the last business day to the treasurer and the commissioner. The commissioner shall record the balances, and send a copy of them to the legislative reference library, and report them monthly to the legislative audit commission.

Sec. 9. Minnesota Statutes 1998, section 37.06, is amended to read:

37.06 SECRETARY; LEGISLATIVE AUDITOR; DUTIES; REPORT.

The secretary shall keep a complete record of the proceedings of the annual meetings of the state agricultural society and all meetings of the board of managers and any committee of the board, keep all accounts of the society other than those kept by the treasurer of the society, and perform other duties as directed by the board of managers. On or before December 31 each year, the secretary shall report to the governor for the fiscal year ending October 31 all the proceedings of the society during the current year and its financial condition as appears from its books. This report must contain a full, detailed statement of all receipts and expenditures during the year.

The books and accounts of the society for the fiscal year must be examined and audited annually by the legislative auditor. The cost of the examination must be paid by the society to the state and credited to the legislative auditor's revolving general fund.

A summary of this examination, certified by the legislative auditor, must be appended to the secretary's report, along with the legislative auditor's recommendations and the proceedings of the first annual meeting of the society held following the secretary's report, including addresses made at the meeting as directed by the board of managers. The summary, recommendations, and proceedings must be printed in the same manner as the reports of state officers. Copies of the report must be printed annually and distributed as follows: to each society or association entitled to membership in the society, to each newspaper in the state, and the remaining copies as directed by the board of managers.

Sec. 10. Minnesota Statutes 1998, section 37.07, is amended to read:

37.07 MONTHLY STATEMENTS BY SECRETARY; PURCHASES, EXPENDITURES.

The secretary of the state agricultural society shall prepare a signed statement each month summarizing receipts and expenditures for the preceding month, which must be approved by the president or a vice-president of the board of managers. The secretary's affidavit must be attached to this statement. The affidavit must state:

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(1) that all articles were purchased by or under the secretary's direction, and that to the secretary's best information and belief, all articles purchased by the board of managers were purchased at a fair cash market value and received by the society, and that all services charged for were actually provided;

(2) that neither the secretary nor any person in the secretary's behalf, or the board of managers, to the secretary's best information and belief, had any pecuniary or other interest in any purchase made or services rendered, or received any pecuniary or other benefit from the purchases or services, directly or indirectly, by commission, percentage, deduction, or otherwise; and

(3) that the articles specified conformed in every respect to the goods ordered, in both quality and quantity.

The report must also show the amount of money in the hands of the treasurer of the society.

Copies of the secretary's monthly report must be furnished to the commissioner of finance ~~and the office of the legislative auditor~~ and to each member of the board of managers no later than the tenth of the month following the month's activities reported.

The board of managers shall designate one or more national or state banks, or trust companies authorized to do a banking business, as official depositories for the society's money, and shall then require the treasurer to deposit all or part of that money in the designated bank or banks. The designation must be in writing and must set forth all the terms and conditions upon which the deposits are made, and it must be signed by the president and secretary and made a part of the minutes of the board. Any bank or trust company designated must qualify as a depository by furnishing a corporate surety bond or collateral as required by section 118A.03, and must, as long as any of the society's money is on deposit with it, maintain the bond or collateral in the amounts required by that section. No bond or collateral is required to secure any deposit if it is insured under federal law, as provided in section 118A.03.

Sec. 11. Minnesota Statutes 1998, section 85A.02, subdivision 5c, is amended to read:

Subd. 5c. **FINANCIAL REPORT.** The board shall employ a certified public accountant to audit and examine its financial records each year. The board shall submit to the legislative auditor a report of the accountant's examination or audit. The legislative auditor shall review the report and ~~accept it or~~ may make additional examinations if these would be in the public interest. The working papers of the certified public accountant relating to the board must be made available to the legislative auditor on request.

Sec. 12. Minnesota Statutes 1998, section 89.05, is amended to read:

89.05 ACCOUNTING SYSTEM.

The department of natural resources shall consolidate and simplify the accounting system within the department for receipts from department managed lands, disbursements made on a regular basis, and the program for federal aids and grant reimbursements. The new accounting system shall be implemented with the cooperation and under the supervision of the department of finance, ~~utilizing the assistance and recommendations of the office of the legislative auditor.~~

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Sec. 13. Minnesota Statutes 1998, section 161.08, is amended to read:

161.08 BOOKS OF ACCOUNT.

The commissioner shall keep accurate and complete books of account of such character as may be prescribed by the ~~legislative auditor~~ commissioner of finance, the same to show in detail itemized receipts and disbursements of the trunk highway fund. The books of account shall show the following facts, among others:

(1) The expenses of maintaining the transportation department, including the salaries and expenses of the individual members thereof;

(2) The amounts of money expended in each county of the state for the construction of trunk highways, and when, where, and upon what job or portion of road expended so that the cost per mile of such construction can be easily ascertained;

(3) Any other money expended by the state in connection with any roads other than trunk highways and when, where, and upon what portion of road so expended; and

(4) The amount of road equipment and materials purchased, and when, where, and from whom purchased, and the price paid for each item. The original invoices shall form a part of the permanent files and records in the department of transportation and be open to public inspection.

Sec. 14. Minnesota Statutes 1998, section 192.551, is amended to read:

192.551 ARMY REGULATIONS TO APPLY.

All money and property received from any source for the military forces ~~shall~~ must be kept, disbursed, and accounted for as prescribed by army regulations, where applicable, otherwise as prescribed by state rules. All such accounts ~~shall~~ must be examined and audited at least once annually by officers of the military forces detailed by the adjutant general as military auditors. ~~The legislative auditor may appoint any military auditor as an assistant examiner, with all the powers incident thereto, in connection with the examination of such accounts. The provisions of the state Civil Service Act shall not be applicable to such appointments~~ also audit those activities of the accounts that are subject to state law or rule.

Sec. 15. Minnesota Statutes 1998, section 352.03, subdivision 6, is amended to read:

Subd. 6. DUTIES AND POWERS OF EXECUTIVE DIRECTOR. The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director with the approval of the board;
- (5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;

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(6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;

(7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. The contracts are not subject to competitive bidding under chapter 16C. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission and to the legislative auditor at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;

(8) with the advice and consent of the board provide in-service training for the employees of the system;

(9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;

(10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board request the state board of investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and annual budgets to the board and with the approval of the board submit the budgets to the department of finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

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Sec. 16. Minnesota Statutes 1998, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. **EXECUTIVE DIRECTOR.** (a) **APPOINTMENT.** The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.0815.

(b) **DUTIES.** The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

(1) attend all meetings of the board;

(2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;

(3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

(4) designate, with the approval of the board, up to two persons who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;

(5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;

(6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16C. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission and to the legislative auditor at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;

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(7) with the approval of the board provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner;

(13) reduce all or part of the accrued interest payable under section 353.27, subdivisions 12, 12a, and 12b, or 353.28, subdivision 5, upon receipt of proof by the association of an unreasonable processing delay or other extenuating circumstances of the employing unit. The executive director shall prescribe and submit for approval by the board the conditions under which such interest may be reduced; and

(14) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 17. Minnesota Statutes 1998, section 353A.05, subdivision 1, is amended to read:

Subdivision 1. **COMMISSION ACTIONS.** Upon initiation of consolidation as provided in section 353A.04, the executive director of the commission shall direct the actuary retained by the commission to undertake the preparation of the actuarial calculations necessary to complete the consolidation.

These actuarial calculations shall include for each active member, each deferred former member, each retired member, and each current beneficiary the computation of the present value of future benefits, the future normal costs, if any, and the actuarial accrued liability on the basis of the existing relief association benefit plan and on the basis of the public employees police and fire fund benefit plan. These actuarial calculations shall also include for the total active, deferred, retired, and benefit recipient membership the sum of the present value of future benefits, the future normal costs, if any, and the actuarial accrued liability on the basis of the existing relief association benefit plan, on the basis of the public employees police and fire fund benefit plan, and on the basis of the benefit plan which produced the largest present value of future benefits for each person. The actuarial calculations shall be prepared using the entry age actuarial cost method for all components of the benefit plan and using the actuarial assumptions applicable to the fund for the most recent actuarial valuation prepared under section 356.215, except that the actuarial

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calculations on the basis of the existing relief association benefit plan shall be prepared using an interest rate actuarial assumption during the postretirement period which is in the same amount as the interest rate actuarial assumption applicable to the preretirement period. The actuarial calculations shall include the computation of the present value of the initial postretirement adjustment anticipated by the executive director of the state board as payable after the effective date of the consolidation from the Minnesota postretirement investment fund under section 11A.18.

The chief administrative officer of the relief association shall, upon request, provide in a timely manner to the executive director of the commission and to the actuary retained by the commission the most current available information or documents, whichever applies, regarding the demographics of the active, deferred, retired, and benefit recipient membership of the relief association, the financial condition of the relief association, and the existing benefit plan of the relief association.

Upon completion of the actuarial calculations required by this subdivision, the actuary retained by the commission shall issue a report in the form of an appropriate summary of the actuarial calculations and shall provide a copy of that report to the executive director of the commission, the executive director of the public employees retirement association, the chief administrative officer of the relief association, the chief administrative officer of the municipality in which the relief association is located, and the state auditor, and the legislative auditor.

Sec. 18. Minnesota Statutes 1998, section 354.06, subdivision 2a, is amended to read:

Subd. 2a. **DUTIES OF EXECUTIVE DIRECTOR.** The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as advisor to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of this chapter;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the director's control and under such conditions as the director may prescribe;
- (6) with the approval of the board, contract and set the compensation for the services of an approved actuary, professional management services, and any other consulting services. These contracts are not subject to the competitive bidding procedure prescribed by

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chapter 16C. An approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission ~~and to the legislative auditor~~ at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the executive director;

(7) with the approval of the board, provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased members or deceased former members, under this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, under this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board, request the state board of investment to sell securities on determining that funds are needed for the purposes of the association;

(14) prepare and submit biennial and annual budgets to the board and with the approval of the board submit those budgets to the department of finance; and

(15) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business. The executive director may:

(i) reduce all or part of the accrued interest and fines payable by an employing unit for reporting requirements under section 354.52, based on an evaluation of any extenuating circumstances of the employing unit;

(ii) assign association employees to conduct field audits of an employing unit to ensure compliance with the provisions of this chapter; and

(iii) recover overpayments, if not repaid to the association, by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity under this chapter until the overpayment, plus interest, has been recovered.

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Sec. 19. Minnesota Statutes 1998, section 360.015, subdivision 19, is amended to read:

Subd. 19. **KEEP BOOKS AND RECORDS.** The commissioner shall keep accurate and complete books of account of such character as may be prescribed by the legislative auditor, the same accounts to show in detail itemized receipts and disbursements of the airports fund. The books shall show, and it shall be the duty of the legislative auditor to so prescribe, the following facts, among others:

(a) The expenses of maintaining the department, including the salaries and expenses of the individual members thereof;

(b) The amounts of money expended in each county of the state for the construction or maintenance of airports or restricted landing areas, when, where, and upon what airport or restricted landing area expended, so that the cost for each such airport or restricted landing area can be easily ascertained;

(c) The amount of equipment and materials purchased and when, where, and from whom purchased; these books shall show the price paid for each item; the original invoice shall form a part of the permanent files and records in the department and shall be open to public inspection.

Sec. 20. Minnesota Statutes 1998, section 574.20, is amended to read:

574.20 BONDS, BY WHOM APPROVED.

Except as otherwise provided by law in particular cases, bonds shall be approved as follows:

(1) The official bonds of all state officers, including those of the treasurers, superintendents, and other officials, and employees of the several public educational, charitable, penal, and reformatory institutions belonging to the state, shall be approved, as to form, by the attorney general, and in all other respects by the governor and the legislative auditor, or one of them;

(2) The official bonds of county, town, city, and school district officers and employees by the governing body of the political subdivision for whose security they are, respectively, given; and

(3) Those required or permitted by law to be given in any court, by the judge or justice of the court in which the proceeding is begun or pending.

No officer, official, or employee required to give bond shall enter upon duties until the bond is duly approved and filed.

Sec. 21. Minnesota Statutes 1998, section 609.456, is amended to read:

609.456 REPORTING TO STATE AUDITOR AND LEGISLATIVE AUDITOR REQUIRED.

Subdivision 1. STATE AUDITOR. Whenever a public employee or public officer of a political subdivision discovers evidence of theft, embezzlement, or unlawful use of public funds or property, the employee or elected official shall, except when to do so would knowingly impede or otherwise interfere with an ongoing criminal investigation, promptly report in writing to the state auditor a detailed description of the alleged incident or incidents.

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Subd. 2. LEGISLATIVE AUDITOR. Whenever an employee or officer of the state, University of Minnesota, or other organization listed in section 3.971, subdivision 1, discovers evidence of theft, embezzlement, or unlawful use of public funds or property, the employee or officer shall, except when to do so would knowingly impede or otherwise interfere with an ongoing criminal investigation, promptly report in writing to the legislative auditor a detailed description of the alleged incident or incidents.

Sec. 22. Laws 1990, chapter 535, section 5, is amended to read:

Sec. 5. ACCOUNTS; AUDITS.

The corporation may establish funds and accounts that it finds convenient. The board shall provide for and pay the cost of an independent annual audit of its official books and records by the legislative state auditor subject to Minnesota Statutes, sections 3.971 and 3.972. A copy of this audit shall be filed with the secretary of state.

Sec. 23. REVISOR INSTRUCTION.

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall make necessary cross-reference changes consistent with the renumbering. The revisor shall provide appropriate section and subdivision headnotes in Minnesota Statutes, sections 3.97, 3.971, and 3.979.

Column A	Column B
<u>3.97, subd. 4</u>	<u>3.971, subd. 1</u>
<u>3.97, subd. 5</u>	<u>3.971, subd. 2</u>
<u>3.97, subd. 6</u>	<u>3.971, subd. 3a</u>
<u>3.97, subd. 7</u>	<u>3.971, subd. 4</u>
<u>3.97, subd. 8</u>	<u>3.971, subd. 5</u>
<u>3.97, subd. 9</u>	<u>3.979, subd. 1</u>
<u>3.97, subd. 10</u>	<u>3.979, subd. 2</u>
<u>3.97, subd. 11</u>	<u>3.979, subd. 3</u>
<u>3.97, subd. 11a</u>	<u>3.979, subd. 4</u>
<u>3.97, subd. 12</u>	<u>3.97, subd. 3a</u>
<u>3.971, subd. 1</u>	<u>3.971, subd. 6</u>
<u>3.971, subd. 2</u>	<u>3.971, subd. 7</u>
<u>3.971, subd. 4</u>	<u>3.971, subd. 8</u>

Sec. 24. REPEALER.

Minnesota Statutes 1998, sections 3.973; 116.072, subdivision 12; 469.207, subdivision 1; and 574.02, are repealed.

Sec. 25. EFFECTIVE DATE.

The amendments made to Minnesota Statutes 1998, section 3.97, subdivision 2, in section 1, are effective January 1, 2001. The remainder of the act is effective the day following final enactment.

Presented to the governor April 22, 1999

Signed by the governor April 26, 1999, 1:12 p.m.

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