

## CHAPTER 3

### LEGISLATURE

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#### 3.02 EVIDENCE OF MEMBERSHIP.

For all purposes of organization of either house of the legislature, a certificate of election to it, duly executed by the secretary of state, is prima facie evidence of the right to membership of the person named in it.

**History:** 1999 c 132 s 1

#### 3.096 TRANSFER OF LEAVE.

An employee in the classified or unclassified service who accepts a position as a permanent employee of the legislature shall have accrued vacation and sick leave transferred and placed to the employee's credit on the legislative records. A permanent employee of the legislature who accepts a position in the classified or unclassified service shall have accrued vacation and sick leave transferred and placed to the employee's credit on the records of the new appointing authority. Vacation and sick leave are not transferred if the new position does not provide for the leave. The amount of vacation and sick leave that may be transferred is subject to any limitations imposed by the receiving agency's collective bargaining agreement or compensation plan.

**History:** 1999 c 221 s 2

#### 3.098 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. These reports are public information.

**History:** 1993 c 370 s 9; 1999 c 99 s 6

#### 3.17 JOURNALS.

A journal of the daily proceedings in each house shall be printed and laid before each member at the beginning of the next day's session. After it has been publicly read and corrected, a copy, kept by the secretary and chief clerk, respectively, and a transcript as approved shall be certified by the secretary or clerk to the printer, who shall print the corrected permanent journal. Executive messages, addresses, reports, communications, and voluminous documents other than amendments to the constitution or to bills and resolutions and the protests of members submitted under the constitution, article 4, section 11, shall be omitted from the journals, unless otherwise ordered by vote. Before distributing journals and other publications to members, legislative staff, and others, each house shall notify prospective recipients of the cost of the publications and the availability of the same information on the Internet.

**History:** 1999 c 250 art 1 s 36

#### 3.3005 FEDERAL MONEY; EXPENDITURE REVIEW.

*[For text of subs 1 to 3, see M.S.1998]*

Subd. 3a. **Change in purpose.** If a request to spend federal money is included in a governor's budget request and approved according to subdivision 2a, but the purpose for which the money is to be used changes from the time of the request and approval, the amount may be allotted for expenditure after a revised request is submitted according to subdivision 2 or the requirements of subdivision 5 are met.

*[For text of subs 4 and 5, see M.S.1998]*

**History:** 1999 c 250 art 1 s 35

### 3.738 INJURY OR DEATH OF PATIENT OR INMATE.

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Evaluation of claims.** Claims that are approved under this section shall be paid pursuant to legislative appropriation following evaluation of each claim by the appropriate committees of the senate and house of representatives. Compensation will not be paid for pain and suffering.

*[For text of subd 3, see M.S.1998]*

**History:** 1999 c 169 s 6

### 3.739 INJURY OR DEATH OF CONDITIONALLY RELEASED INMATE.

Subdivision 1. **Permissible claims.** Claims and demands arising out of the circumstances described in this subdivision shall be presented to, heard, and determined as provided in subdivision 2:

(1) an injury to or death of an inmate of a state, regional, or local correctional facility or county jail who has been conditionally released and ordered to perform compensated or uncompensated work for a state agency, a political subdivision or public corporation of this state, a nonprofit educational, medical, or social service agency, or a private business or individual, as a condition of the release, while performing the work;

(2) an injury to or death of a person sentenced by a court, granted a suspended sentence by a court, or subject to a court disposition order, and who, under court order, is performing work (a) in restitution, (b) in lieu of or to work off fines or court ordered costs, (c) in lieu of incarceration, or (d) as a term or condition of a sentence, suspended sentence, or disposition order, while performing the work;

(3) an injury to or death of a person, who has been diverted from the court system and who is performing work as described in paragraph (1) or (2) under a written agreement signed by the person, and if a juvenile, by a parent or guardian;

(4) an injury to or death of any person caused by an individual who was performing work as described in paragraph (1), (2), or (3); or

(5) necessary medical care of offenders sentenced to the Camp Ripley work program described in section 241.277.

*[For text of subd 2, see M.S.1998]*

Subd. 2a. **Limitations.** Compensation paid under this section is limited to reimbursement for medical expenses and compensation for permanent total disability, permanent partial disability, or death. Reimbursement for medical expenses under this section is limited to the amount which would be payable for the same expenses under the medical assistance program authorized under chapter 256B. No compensation shall be paid under this section for pain and suffering. Payments made under this section shall be reduced by any proceeds received by the claimant or the medical care provider from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chapter 256B or the general assistance medical care program authorized under chapter 256D.

*[For text of subd 3, see M.S.1998]*

**History:** 1999 c 126 s 1; 1999 c 169 s 7

**3.751 CONTRACT CLAIMS.**

Subdivision 1. **Waiver of immunity.** When a controversy arises out of a contract for work, services, the delivery of goods, debt obligations of the state incurred under article XI of the Minnesota Constitution, or revenue obligations of a retirement fund incurred under section 356.89 entered into by a state agency through established procedure, in respect to which controversy a party to the contract would be entitled to redress against the state in a court, if the state were suable, and no claim against the state has been made in a bill pending in the legislature for the same redress against it, the state waives immunity from suit in connection with the controversy and confers jurisdiction on the district court to determine it in the manner provided for civil actions in the district court. Only a party to the contract may bring action against the state.

*[For text of subs 2 to 5, see M.S.1998]*

**History:** 1999 c 222 art 22 s 1

**3.85 LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT.**

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Membership.** The commission consists of five members of the senate appointed by the subcommittee on committees of the committee on rules and administration and five members of the house of representatives appointed by the speaker. Members shall be appointed at the commencement of each regular session of the legislature for a two-year term beginning January 16 of the first year of the regular session. Vacancies that occur while the legislature is in session shall be filled like regular appointments. If the legislature is not in session, senate vacancies shall be filled by the last subcommittee on committees of the senate committee on rules and administration or other appointing authority designated by the senate rules, and house vacancies shall be filled by the last speaker of the house, or if the speaker is not available, by the last chair of the house rules committee.

*[For text of subs 4 to 10, see M.S.1998]*

Subd. 11. **Valuations and reports to legislature.** (a) The commission shall contract with an established actuarial consulting firm to conduct annual actuarial valuations for the retirement plans named in paragraph (b). The contract must include provisions for performing cost analyses of proposals for changes in benefit and funding policies.

(b) The contract for actuarial valuation must include the following retirement plans:

- (1) the teachers retirement plan, teachers retirement association;
- (2) the general state employees retirement plan, Minnesota state retirement system;
- (3) the correctional employees retirement plan, Minnesota state retirement system;
- (4) the state patrol retirement plan, Minnesota state retirement system;
- (5) the judges retirement plan, Minnesota state retirement system;
- (6) the Minneapolis employees retirement plan, Minneapolis employees retirement fund;
- (7) the public employees retirement plan, public employees retirement association;
- (8) the public employees police and fire plan, public employees retirement association;
- (9) the Duluth teachers retirement plan, Duluth teachers retirement fund association;
- (10) the Minneapolis teachers retirement plan, Minneapolis teachers retirement fund association;
- (11) the St. Paul teachers retirement plan, St. Paul teachers retirement fund association;
- (12) the legislators retirement plan, Minnesota state retirement system;
- (13) the elective state officers retirement plan, Minnesota state retirement system; and
- (14) local government correctional service retirement plan, public employees retirement association.

(c) The contract must specify completion of annual actuarial valuation calculations on a fiscal year basis with their contents as specified in section 356.215, and the standards for actuarial work adopted by the commission.

The contract must specify completion of annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and (7), as provided for in the standards for actuarial work adopted by the commission. The experience data collection, processing, and analysis must evaluate the following:

- (1) individual salary progression;
- (2) rate of return on investments based on current asset value;
- (3) payroll growth;
- (4) mortality;
- (5) retirement age;
- (6) withdrawal; and
- (7) disablement.

(d) The actuary retained by the commission shall annually prepare a report to the legislature, including the commentary on the actuarial valuation calculations for the plans named in paragraph (b) and summarizing the results of the actuarial valuation calculations. The commission-retained actuary shall include with the report the actuary's recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement funds by the required funding dates. The commission-retained actuary shall, as part of the quadrennial published experience study, include recommendations to the legislature on the appropriateness of the actuarial valuation assumptions required for evaluation in the study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, as directed by the commission, the actuary retained by the commission shall prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (6), (8), (9), (10), (11), (12), (13), or (14), in the manner provided for in the standards for actuarial work adopted by the commission.

(f) The term of the contract between the commission and the actuary retained by the commission is four years. The contract is subject to competitive bidding procedures as specified by the commission.

**Subd. 12. Allocation of actuarial cost.** (a) The commission shall assess each retirement plan specified in subdivision 11, paragraph (b), its appropriate portion of the compensation paid to the actuary retained by the commission for the actuarial valuation calculations, quadrennial projection valuations, and quadrennial experience studies. The total assessment is 100 percent of the amount of contract compensation for the actuarial consulting firm retained by the commission for actuarial valuation calculations, including the public employees police and fire plan consolidation accounts of the public employees retirement association established before March 2, 1999, for which the municipality declined merger under section 353.665, subdivision 1, or established after March 1, 1999, annual experience data collection and processing, and quadrennial experience studies and quadrennial projection valuations.

The portion of the total assessment payable by each retirement system or pension plan must be determined as follows:

(1) Each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (14), must pay the following indexed amount based on its total active, deferred, inactive, and benefit recipient membership:

up to 2,000 members, inclusive	\$2.55 per member
2,001 through 10,000 members	\$1.13 per member
over 10,000 members	\$0.11 per member

The amount specified is applicable for the assessment of the July 1, 1991, to June 30, 1992, fiscal year actuarial compensation amounts. For the July 1, 1992, to June 30, 1993, fiscal year and subsequent fiscal year actuarial compensation amounts, the amount specified must be increased at the same percentage increase rate as the implicit price deflator for state and local government purchases of goods and services for the 12-month period ending with the first quarter of the calendar year following the completion date for the actuarial valuation calculations, as published by the federal Department of Commerce, and rounded upward to the nearest full cent.

(2) The total per-member portion of the allocation must be determined, and that total per-member amount must be subtracted from the total amount for allocation. Of the remainder dollar amount, the following per-retirement system and per-pension plan charges must be determined and the charges must be paid by the system or plan:

(i) 37.87 percent is the total additional per-retirement system charge, of which one-seventh must be paid by each retirement system specified in subdivision 11, paragraph (b), clauses (1), (2), (6), (7), (9), (10), and (11).

(ii) 62.13 percent is the total additional per-pension plan charge, of which one-fourteenth must be paid by each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (14).

(b) The assessment must be made following the completion of the actuarial valuation calculations and the experience analysis. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan. Receipts from assessments must be deposited in the state treasury and credited to the general fund.

**History:** 1999 c 222 art 2 s 1,2; art 4 s 1; art 20 s 1

**3.873** [Repealed, 1999 c 86 art 1 s 83]

### **3.922 INDIAN AFFAIRS COUNCIL.**

*[For text of subs 1 to 5, see M.S.1998]*

Subd. 6. **Duties.** The primary duties of the council are to:

(1) clarify for the legislature and state agencies the nature of tribal governments and the relationship of tribal governments to the Indian people of Minnesota;

(2) assist the secretary of state in establishing an election of at-large members of the council;

(3) make recommendations to members of the legislature on desired and needed legislation to benefit the statewide Indian community and communicate to the members of the legislature when legislation has or will have an adverse effect on the statewide Indian community;

(4) provide, through the elected apparatus of the council, an effective conduit to the legislature for programs, proposals, and projects submitted by tribal governments, organizations, committees, groups, or individuals;

(5) provide a continuing dialogue with members of the tribal governments to improve their knowledge of the legislative process, state agencies, and governmental due process;

(6) assist in establishing Indian advisory councils in cooperation with state agencies that deliver services to the Indian community;

(7) assist state agencies in defining what groups, organizations, committees, councils, or individuals are eligible for delivery of their respective services;

(8) assist in providing resources, tribal and other, in the delivery of services to the statewide Indian community;

(9) act as a liaison between local, state, and national units of government in the delivery of services to the Indian population of Minnesota;

(10) assist state agencies in implementing and updating studies of services delivered to the Indian community;

(11) provide, for the benefit of all levels of state government, a continuing liaison between governmental bodies and elected tribal governments and officials;

(12) interact with private organizations involved with Indian concerns to develop and implement programs to assist Indian people, as they affect state agencies and departments;

(13) act as an intermediary, when requested and if necessary, between Indian interests and state agencies and departments when questions, problems, or conflicts exist or arise;

(14) provide information for and direction to a program to assist Indian citizens to assume all the rights, privileges, and duties of citizenship, and to coordinate and cooperate with local, state, and national private agencies providing services to the Indian people;

(15) develop educational programs, community organization programs, leadership development programs, motivational programs, and business development programs for Indian persons who have been, are, or will be subject to prejudice and discrimination;

(16) cooperate and consult with appropriate commissioners and agencies to develop plans and programs to most effectively serve the needs of Indians; and

(17) review data provided by the commissioner of human services under section 260C.215, subdivision 5, and present recommendations on the out-of-home placement of Indian children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter.

*[For text of subs 7 and 8, see M.S.1998]*

**History:** 1999 c 139 art 4 s 2

### 3.9225 COUNCIL ON BLACK MINNESOTANS.

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Duties.** The council shall:

(a) advise the governor and the legislature on the nature of the issues confronting Black people in this state;

(b) advise the governor and the legislature on statutes or rules necessary to ensure that Black people have access to benefits and services provided to people in this state;

(c) recommend to the governor and the legislature any revisions in the state's affirmative action program and other steps that are necessary to eliminate underutilization of Blacks in the state's work force;

(d) recommend to the governor and the legislature legislation to improve the economic and social condition of Black people in this state;

(e) serve as a conduit to state government for organizations of Black people in the state;

(f) serve as a referral agency to assist Black people to secure access to state agencies and programs;

(g) serve as a liaison with the federal government, local government units, and private organizations on matters relating to the Black people of this state;

(h) perform or contract for the performance of studies designed to suggest solutions to problems of Black people in the areas of education, employment, human rights, health, housing, social welfare, and other related areas;

(i) implement programs designed to solve problems of Black people when authorized by other statute, rule, or order;

(j) review data provided by the commissioner of human services under section 260C.215, subdivision 5, and present recommendations on the out-of-home placement of Black children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter; and

(k) publicize the accomplishments of Black people and their contributions to this state.

*[For text of subs 4 to 7, see M.S.1998]*

**History:** 1999 c 139 art 4 s 2

## LEGISLATIVE AUDITS

### 3.97 POWERS AND DUTIES OF THE LEGISLATIVE AUDIT COMMISSION.

Subdivision 1. **Policy.** Continuous legislative review of the spending of public funds and financing at all levels of government is required in the public interest to enable the enactment of appropriate legislation.

Subd. 2. **Membership; terms; meetings; compensation; powers.** The legislative audit 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 governmental operations and reform or a designee who is a member of the committee;
- (3) a chair of a senate committee on finance designated by the majority leader;
- (4) four members of the senate appointed by the senate minority leader;
- (5) the speaker of the house and the chair of the house committee on rules or their designees;
- (6) the chair of the house committee on governmental operations and gaming or a designee who is a member of the committee;
- (7) the chair of the house ways and means committee or a designee who is a member of the committee; and
- (8) 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. **Transfer of department.** The department of public examiner is transferred from the executive to the legislative branch.

Subd. 3a. **Evaluation topics.** 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.

Subd. 4. [Renumbered 3.971, subdivision 1]

Subd. 5. [Renumbered 3.971, subd. 2]

Subd. 6. [Renumbered 3.971, subd. 3a]

Subd. 7. [Renumbered 3.971, subd. 4]

Subd. 8. [Renumbered 3.971, subd. 5]

Subd. 9. [Renumbered 3.979, subd. 1]

Subd. 10. [Renumbered 3.979, subd. 2]

Subd. 11. [Renumbered 3.979, subd. 3]

Subd. 11a. [Renumbered 3.979, subd. 4]

Subd. 12. [Renumbered subdivision 3a]

**History:** 1999 c 99 s 1, 23

**NOTE:** The amendment to subdivision 2 by Laws 1999, chapter 99, section 1, is effective January 1, 2001. Laws 1999, chapter 99, section 25.

### 3.971 POWERS AND DUTIES OF LEGISLATIVE AUDITOR.

Subdivision 1. **Appointment and term.** 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 may not at any time hold any other public office. The legislative auditor may not be removed from office before the expiration of the term of service except for cause after public hearing.

Subd. 2. **Staff; compensation.** The legislative auditor shall establish a financial audits division and a program evaluation division to fulfill the duties prescribed in this section. Each division 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 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 legislative 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. 3a. **Transfer of powers, duties, and responsibilities.** 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. 4. **Prescribed duties.** 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.

Subd. 5. **Testimonial powers.** 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. 6. **Financial audits.** The legislative auditor shall 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, state agencies, departments, boards, commissions, courts, and other state 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 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.

Subd. 7. **Program evaluations.** 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 eliminate services of one agency that overlap with or duplicate the services performed by another agency. At the direction of the commission the legislative auditor may 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. 8. **Best practices reviews.** (a) The legislative auditor shall conduct best practices reviews that examine the procedures and practices used to deliver local government services, 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 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.

**History:** (53-13, 3286-9, 3286-16) 1925 c 426 art 3 s 10; 1939 c 431 art 4 s 2,9; 1949 c 33 s 1; 1973 c 492 s 12,27; 1973 c 720 s 76 subd 2; 1975 c 204 s 90,91; 1980 c 484 s 1-3; 1981 c 311 s 39; 1982 c 545 s 24; 1983 c 317 s 1; 1984 c 638 s 1; 1985 c 248 s 70; 1986 c 444; 1988 c 469 art 1 s 1; 1988 c 703 art 1 s 7; 1989 c 351 s 1; 1991 c 345 art 1 s 38,39; 1993 c 4 s 5; 1993 c 192 s 35; 1994 c 632 art 3 s 15,16; 1997 c 184 s 1,2; 1998 c 325 s 1; 1999 c 99 s 23

**3.973** [Repealed, 1999 c 99 s 24]

### **3.974 TO FILE WRITTEN REPORTS.**

For each audit, evaluation, or other review completed, the legislative auditor shall provide a written report to the organization or individual audited, evaluated, or reviewed; the legislative reference library; and the legislative audit commission.

**History:** 1999 c 99 s 3

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

If a legislative auditor's examination discloses misuse of public money or other public resources, the legislative auditor shall file a report with the legislative audit commission, the attorney general, and the appropriate county attorney. The attorney general shall seek recovery of money and other resources as the evidence may warrant. The county attorney shall cause criminal proceedings to be instituted as the evidence may warrant.

**History:** 1999 c 99 s 4

### **3.978 AUXILIARY POWERS.**

Subdivision 1. **Subpoena power.** In all matters relating to official duties, the legislative auditor has the powers possessed by courts of law to issue and have subpoenas served.

Subd. 2. **Inquiry and inspection power; duty to aid legislative auditor.** All public officials and their deputies and employees, and all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds shall at all times afford reasonable facilities for examinations by the legislative auditor, make returns and reports required by the legislative auditor, attend and answer under oath the legislative auditor's lawful inquiries, produce and exhibit all books, accounts, documents, and property that the legislative auditor may desire to inspect, and in all things aid the legislative auditor in the performance of duties.

Subd. 3. **Penalties.** (a) If a person refuses or neglects to obey any lawful direction of the legislative auditor, a deputy or assistant, or withholds any information, book, record, paper or other document called for by the legislative auditor for the purpose of examination, after having been lawfully required by order or subpoena, upon application by the auditor, a judge of the district court in the county where the order or subpoena was made returnable shall compel obedience or punish disobedience as for contempt, as in the case of a similar order or subpoena issued by the court.

(b) A person who swears falsely concerning any matter stated under oath is guilty of a gross misdemeanor.

**History:** 1974 c 118 s 1; 1986 c 444; 1988 c 469 art 1 s 1

**3.979 DATA CLASSIFICATION AND DISCLOSURE.**

Subdivision 1. **Data practices.** 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. 2. **Access to data by commission members.** 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 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. 3. **Audit data.** (a) "Audit" as used in this subdivision means a financial audit, review, program evaluation, best practices review, or 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 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 related to an audit but not published in the audit report and that the legislative auditor reasonably believes will 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.

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

Subd. 4. **Review of data; data protection.** 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.

**History:** 1973 c 492 s 12; 1973 c 720 s 76 subd 2; 1975 c 204 s 90; 1980 c 484 s 1-3; 1981 c 311 s 39; 1982 c 545 s 24; 1983 c 317 s 1; 1985 c 248 s 70; 1986 c 444; 1988 c 469 art 1 s 1; 1989 c 351 s 1; 1991 c 345 art 1 s 38; 1993 c 4 s 5; 1994 c 632 art 3 s 15; 1997 c 184 s 1; 1999 c 99 s 23

**LOCAL FISCAL IMPACTS****3.986 DEFINITIONS.**

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Local fiscal impact.** (a) "Local fiscal impact" means increased or decreased costs or revenues that a political subdivision would incur as a result of a law enacted after June 30, 1997, or rule proposed after December 31, 1999:

(1) that mandates a new program, eliminates an existing mandated program, requires an increased level of service of an existing program, or permits a decreased level of service in an existing mandated program;

(2) that implements or interprets federal law and, by its implementation or interpretation, increases or decreases program or service levels beyond the level required by the federal law;

(3) that implements or interprets a statute or amendment adopted or enacted pursuant to the approval of a statewide ballot measure by the voters and, by its implementation or interpretation, increases or decreases program or service levels beyond the levels required by the ballot measure;

(4) that removes an option previously available to political subdivisions, or adds an option previously unavailable to political subdivisions, thus requiring higher program or service levels or permitting lower program or service levels, or prohibits a specific activity and so forces political subdivisions to use a more costly alternative to provide a mandated program or service;

(5) that requires that an existing program or service be provided in a shorter time period and thus increases the cost of the program or service, or permits an existing mandated program or service to be provided in a longer time period, thus permitting a decrease in the cost of the program or service;

(6) that adds new requirements to an existing optional program or service and thus increases the cost of the program or service because the political subdivisions have no reasonable alternative other than to continue the optional program;

(7) that affects local revenue collections by changes in property or sales and use tax exemptions;

(8) that requires costs previously incurred at local option that have subsequently been mandated by the state; or

(9) that requires payment of a new fee or increases the amount of an existing fee, or permits the elimination or decrease of an existing fee mandated by the state.

(b) When state law is intended to achieve compliance with federal law or court orders, state mandates shall be determined as follows:

(1) if the federal law or court order is discretionary, the state law is a state mandate;

(2) if the state law exceeds what is required by the federal law or court order, only the provisions of the state law that exceed the federal requirements are a state mandate; and

(3) if the state law does not exceed what is required by the federal statute or regulation or court order, the state law is not a state mandate.

*[For text of subds 3 to 5, see M.S.1998]*

**History:** 1999 c 243 art 16 s 1

### 3.987 LOCAL IMPACT NOTES FOR STATE-MANDATED ACTIONS.

Subdivision 1. **Local impact notes.** The commissioner of finance shall coordinate the development of a local impact note for any proposed legislation introduced after June 30, 1997, or any rule proposed after December 31, 1999, upon request of the chair or the ranking minority member of either legislative tax committee. Upon receipt of a request to prepare a local impact note, the commissioner must notify the authors of the proposed legislation or, for an administrative rule, the head of the relevant executive agency or department, that the request has been made. The local impact note must be made available to the public upon request. If the action is among the exceptions listed in section 3.988, a local impact note need not be requested nor prepared. The commissioner shall make a reasonable and timely estimate of the local fiscal impact on each type of political subdivision that would result from the proposed legislation. The commissioner of finance may require any political subdivision or the commissioner of an administrative agency of the state to supply in a timely manner any information determined to be necessary to determine local fiscal impact. The political subdivision, its representative association, or commissioner shall convey the requested information to the commissioner of finance with a signed statement to the effect that the information is accurate and complete to the best of its ability. The political subdivision, its representative association, or commissioner, when requested, shall update its determination of local fiscal impact based on actual cost or revenue figures, improved estimates, or both. Upon completion of the note, the commissioner must provide a copy to the authors of the proposed legislation or, for an administrative rule, to the head of the relevant executive agency or department.

*[For text of subds 2 and 4, see M.S.1998]*

**History:** 1999 c 243 art 16 s 2