

CHAPTER 3

LEGISLATURE

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NOTE: For Iron Range Resources and Rehabilitation Board, see section 298.22; for Legislative Commission on

Minnesota Resources, see section 86.06; and for the Legislative Advisory Commission to the Minnesota-Wisconsin Boundary Commission, see section 1.34.

LEGISLATURE

3.01 Subdivision 1. [Repealed, 1973 c 1 s 3]

Subd. 2. [Repealed, 1971 c 71 s 1]

3.011 SESSIONS.

The legislature shall assemble at the seat of government on the first Tuesday after the first Monday in January of each odd numbered year; provided, however, that when the first Monday in January falls on January 1, the legislature shall assemble on the first Wednesday after the first Monday in January of that year; and at such other times as it may be called by the governor to meet in extra session.

History: 1973 c 1 s 1

3.012 LEGISLATIVE DAY.

A legislative day is any day when either house of the legislature is called to order. A legislative day shall commence at seven o'clock a.m. and continue until seven o'clock a.m. of the following calendar day.

History: 1973 c 1 s 2

3.02 EVIDENCE OF MEMBERSHIP.

For all purposes of organization of either house of the legislature, a certificate of election thereto, duly executed by the auditor of the proper county, or by the secretary of state when the member is elected from more than one county, shall be prima facie evidence of the right to membership of the person therein named.

History: (25) RL s 10; 1969 c 9 s 1

3.03 [Repealed, 1961 c 561 s 17]

3.04 [Repealed, 1961 c 561 s 17]

3.05 ORGANIZATION.

At noon of the day appointed for the convening of the legislature, the members thereof shall meet in their respective chambers. The lieutenant governor shall call the senate to order; and the secretary of state, the house of representatives. In the absence of either of these officers, the oldest member present shall act in the officer's place. The person so acting shall appoint, from the members present, a clerk pro tem, who shall call the legislative districts in the order of their numbers; and, as each is called, the persons claiming to be members therefrom shall present their certificates to be filed. All whose certificates are so presented shall then stand and be sworn.

History: (28) RL s 13; 1986 c 444

3.06 OFFICERS AND EMPLOYEES.

Thereupon, a quorum being present, the respective houses shall elect the following officers, any of whom may be removed by resolution of the appointing body:

The senate, a secretary, a first and a second assistant secretary, an enrolling clerk, an engrossing clerk, a sergeant-at-arms, an assistant sergeant-at-arms, and a chaplain; and

The house, a speaker, who shall be a member thereof, a chief clerk, a first and a second assistant clerk, an index clerk, a chief sergeant-at-arms, a first and a second assistant sergeant-at-arms, a postmaster, an assistant postmaster, and a chaplain.

History: (29,30) GS 1894 s 220; RL s 14; 1905 c 52 s 1; Ex1936 c 4 s 1; 1947 c 233 s 1

3.07 ADDITIONAL EMPLOYEES.

Each house, after its organization, may appoint and at pleasure remove such employees as are provided for by its permanent rules or recommended by its committee on legislative expense. All officers and employees shall be paid by the day and shall receive such compensation as is provided by the permanent rules of the electing or appointing body or recommended by its committee on legislative expense; and, unless otherwise expressly provided by law, no such officer or employee shall receive any other compensation for services.

History: (31) *RL s 15; 1947 c 233 s 2; 1986 c 444*

3.073 ORGANIZATION OF SPECIAL SESSION.

The officers elected, the rules adopted, and the committees established by the legislature and by each house during the preceding regular session shall serve and be in effect during any special session, except as the legislature or a house provides otherwise.

History: 1978 c 566 s 1

3.08 ELECTION; DUTIES.

In addition to the duties prescribed by law, such officers and employees shall perform such services as may be required of them by rule or vote of the appointing body or by direction of any committee thereof.

History: (32) *RL s 16; 1947 c 233 s 3*

3.081 [Repealed, 1977 c 286 s 21]**3.082 MEMBERS' EMPLOYMENT; CONTINUATION.**

Any member of the legislature of the state of Minnesota who held a position, other than a temporary position, in the employ of any private employer in Minnesota at the commencement of service in any legislative session, who makes application for reemployment not later than 30 days after the last legislative day in each calendar year, shall be continued in or restored to such position, or to a position of like seniority, status and pay. Retirement benefits under an employer-sponsored pension or retirement plan shall not be reduced by reason of time spent in legislative service.

History: 1974 c 306 s 1; 1984 c 574 s 1; 1986 c 444

3.083 RETENTION OF SENIORITY, FRINGE BENEFITS AND TENURE.

Subdivision 1. Any member of the legislature who is continued in or restored to a position in accordance with the provisions of section 3.082 shall be so continued or restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to its established rules and practices, and shall not be discharged from such position for a period of three years after the continuation or restoration except in the reverse order of seniority with the employer within the field of the legislator's training and experience without good cause after such continuation or restoration.

Subd. 2. No employer or employee organization may at any time discharge or otherwise discriminate against an employee or member who is or was a member of the legislature in retribution for statements made or beliefs held by the employee or member in the capacity as a member of the legislature. For purposes of this subdivision "employee organization" means any union or organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or term or conditions of employment.

History: 1974 c 306 s 2; 1978 c 650 s 1; 1986 c 444

3.085 [Repealed, 1974 c 306 s 5]

3.086 [Repealed, 1974 c 306 s 5]

3.087 RIGHT OF ACTION IN DISTRICT COURT.

In case any private employer fails or refuses to comply with the provisions of sections 3.082 and 3.083, the district court of the state of Minnesota for the district in which such private employer maintains a place of business, shall have the power, upon the filing of a memorandum, petition or other appropriate pleading by the member of the legislature entitled to the benefits of such provisions, to specifically require such employer to comply with such provisions, and, as an incident thereto, to compensate such member of the legislature for any loss of wages or benefits suffered by reason of such employer's unlawful action. The court shall order a speedy hearing in any such case and shall advance it on the calendar.

History: 1955 c 690 s 3; 1974 c 306 s 3

3.088 LEAVE OF ABSENCE.

Subdivision 1. Leave of absence without pay. Subject to the conditions prescribed by this section, any appointed officer or employee of any political subdivision, municipal corporation, or school district of the state or institution of learning maintained by the state who serves as a state legislator during a session or is elected to any full time city or county office in Minnesota shall be entitled to a leave of absence from the public office or employment without pay during any part or all of the service, with right of reinstatement as provided in this section.

Subd. 2. Reinstatement. Except as otherwise provided in this section, upon the completion of the last legislative day in each calendar year, or in the case of an elected city or county official, on the completion of the final day of the term to which the official was elected, the officer or employee shall be reinstated in the public position held at the time of entry into the legislature or at the time of taking office as a city or county officer, or shall be placed in a public position of like seniority, status, and pay if it is available at the same salary which would have been received if the leave had not been taken, upon the following conditions: (1) that the position has not been abolished or that the term thereof, if limited, has not expired; (2) that the legislator makes written application for reinstatement to the appointing authority within 30 days after the last legislative day in a calendar year or, in the case of an elected city or county official, within 30 days after the expiration of the term to which the official was elected and; (3) that the request for reinstatement is made not later than 10 years after the granting of the leave. Upon reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, insurance benefits, sick leave, and other benefits as if actually employed during the time of the leave. No public employer shall be required to compensate a reinstated employee or officer for any time spent by that employee or officer away from work for the employer and on the business of the state legislature at any time during the period between the first and last legislative day in each calendar year or on the business of any other elected city or county office. No officer or employee reinstated shall be removed or discharged within one year thereafter except for cause, after notice and hearing; but this shall not operate to extend a term of service limited by law.

Subd. 3. Officers and employees to preserve pension and retirement rights. Any public officer or employee receiving leave of absence under this section or who is elected as a state constitutional officer and having rights in any state, municipal, or other public pension, retirement, or relief system shall retain all the rights accrued up to the time of taking leave. The time spent by the employee as a member of the legislature or as an elected city or county official or who is elected as a state constitutional officer shall be calculated in the same manner as if the employee had spent that time in the service of the public employer for the purpose of determining vesting of the employee's rights in the employer's pension, retirement or relief system. Under no circumstances shall two governmental units pay the employee's share of pension contributions for that period on which the employee is on leave of absence to serve in the legislature or as an elected city or county official.

Subd. 4. **Vacancies to be filled temporarily.** When a public officer or employee is absent with leave under the provisions of this section and it is necessary in the public interest to provide for the performance of the duties of the absentee's position during the absence, the authority having power to fill a vacancy in the position may appoint a substitute, to be known as acting incumbent, who shall qualify as required for the regular incumbent, receive the same compensation as fixed by law, or otherwise the compensation as fixed by proper authority, and have all the powers and perform all the duties of the position until the return of the regular incumbent. This section shall not preclude the making of any other provision for the discharge of the duties of the position which may be otherwise authorized by law.

Subd. 5. **Supplementary.** The rights and privileges granted by this section shall not apply when the elected office is constitutionally or legally incompatible with the public office or employment or when the elected person chooses to take leave as provided by other law.

Subd. 6. Notwithstanding the provisions of any other law or ordinance or the provisions of any state, municipal, or other public retirement or relief association rule or bylaw, a person who has served as a member of the legislature and has qualified for a legislative retirement pension or allowance shall not be disqualified from receiving that retirement pension or allowance by reason of the fact that the person is entitled to receive a public pension or retirement benefit as a result of employment by another public employer, and the person shall receive both the legislative retirement pension or allowance and any state, municipal or other public pension or retirement benefit for which the person has qualified.

History: 1974 c 306 s 4; 1977 c 140 s 1-4; 1985 c 248 s 70; 1986 c 444

3.09 COMPENSATION OF EMPLOYEES.

The compensation of officers and employees shall be at the rates per day fixed by the permanent rules of the electing or appointing body or recommended by its committee on legislative expense.

History: (33) RL s 17; 1907 c 229 s 1; 1909 c 132 s 1; Ex1936 c 115 s 1; Ex1937 c 82 s 1; 1947 c 233 s 5

3.095 LEGISLATIVE EMPLOYEES, LEAVES.

The legislative coordinating commission shall adopt plans pertaining to sick leave and annual leave which shall apply to all permanent employees of the legislature and of legislative committees and commissions.

History: 1965 c 901 s 76; 1973 c 507 s 45; 1980 c 617 s 47; 1981 c 210 s 47

3.096 TRANSFER OF LEAVE.

An employee in the classified service who accepts a position as a permanent employee of the legislature shall have any accrued vacation or 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 service shall have any accrued vacation or sick leave transferred and placed to the employee's credit on the records of the new appointing authority.

History: Ex1967 c 48 s 65; 1986 c 444

3.099 MEMBERS; COMPENSATION AND EXPENSES, FLEXIBLE SESSIONS.

Subdivision 1. The compensation of each member of the legislature shall be due on the first day of the regular legislative session of the term and payable in equal parts on the fifteenth day of January in the first month of each term and on the first day of each month thereafter, during the term for which the member was elected. The compensation of each member of the legislature elected at a special election is due on the day the member takes the oath of office and payable within ten days of taking the oath, for the remaining part of the month in which the oath was taken, and in equal

parts thereafter on the first day of each month during the term for which the member was elected.

Each member shall receive mileage for necessary travel in going to and returning from the place of meeting to the member's place of residence in such amount and for such trips as may be authorized by the senate as to senate members, and by the house of representatives as to house members.

Each member shall receive in addition to the foregoing, such per diem living expenses during a regular or special session of the legislature in such amounts and for such purposes as may be determined by the senate as to senate members and by the house of representatives as to house members; provided, that because of the salary increases provided in subdivision 2, the amount of the per diem living expenses payable pursuant to this section during the 71st legislative session shall be set at a level not to exceed \$27 for each member who has moved from the member's usual place of lodging during a substantial part of the session and not to exceed \$17 for each member who has not so changed the place of lodging.

On the fifteenth day of January in the first month of each term and on the first day of each month thereafter, the secretary of the senate and the chief clerk of the house of representatives, shall certify to the commissioner of finance, in duplicate, the amount of compensation then payable to each member of their respective houses, and the aggregate thereof.

Subd. 2. Effective January 1, 1980, the compensation of each member of the legislature will be \$18,500 per year. Commencing with the start of the legislative session in 1985, the compensation of each member of the legislature shall be \$21,140 per year. Effective January 1, 1986, the compensation of each member of the legislature will be \$22,350 per year.

Subd. 3. Commencing with the start of the legislative session in 1979, the senate committee on rules and administration for the senate and the house committee on rules and legislative administration for the house may each designate for their respective body up to three leadership positions to receive up to 140 percent of the compensation of other members.

At the commencement of each biennial legislative session, each house of the legislature shall adopt a resolution designating the majority and minority leader of that respective body.

The majority leader shall be that person elected by a caucus of members in each house which constitutes the largest political affiliation within that body and the minority leader shall be that person elected by a caucus of members in each house which constitutes the second largest political affiliation within that body.

History: *Ex1971 c 32 s 22 subd 1; 1973 c 492 s 14; 1977 c 35 s 10; 1984 c 654 art 2 s 30; 1Sp1985 c 13 s 59; 1986 c 444*

3.10 [Repealed, Ex1971 c 32 s 22 subd 2]

3.101 LIVING EXPENSES.

A member of the legislature in addition to the compensation and mileage otherwise provided for by law shall be reimbursed for living and other expenses incurred in the performance of duties or engaging in official business during a regular session, a special session, and when the legislature is not in session in the manner and in such amount as may be prescribed by the senate committee on rules and administration as to senate members and by the house committee on rules and legislative administration as to house members.

History: *1969 c 1139 s 70; 1984 c 648 s 1; 1986 c 444*

3.102 [Repealed, 1984 c 648 s 2]

3.103 SPECIAL SESSION LIVING EXPENSES.

Each member of the legislature, during a special session thereof, shall be reimbursed for expenses incurred in the performance of duties in the same amounts, for the same purposes, and in the same manner as were authorized for the members of the senate and the members of the house of representatives at the last regular session occurring immediately prior to such special session. Reimbursement for travel, however, shall not exceed more than one round trip per member per each seven calendar days in which the legislature meets in such special session. This section applies to each special session of the legislature commencing after May 24, 1971.

History: *Ex1971 c 3 s 70; 1986 c 444*

3.11 [Repealed, 1957 c 811 s 2]

3.12 [Repealed, 1961 c 561 s 17]

3.13 [Repealed, 1977 c 35 s 21]

3.14 CONTEMPTS.

Each house may punish, as a contempt, any breach of its privileges, or of the privileges of its members, but only for one or more of the following offenses:

(1) Arresting or causing to be arrested, any member or officer thereof, in violation of the member's privilege from arrest;

(2) Disorderly conduct in its view and presence, or in the view and presence of any of its committees, tending to interrupt their proceedings;

(3) Giving or offering a bribe to any member, or attempting by menace or by any corrupt or improper means, directly or indirectly, to control or influence a member in giving or withholding the member's vote. No person shall be excused from attending and testifying before either house of the legislature, or a committee thereof, for an alleged offense upon an investigation in reference to such giving or offering of a bribe, or attempting by menace or by any corrupt or improper means, directly or indirectly, to control or influence a member in giving or withholding the member's vote upon the ground, or for the reason that the person's required testimony or evidence, documentary or otherwise, may tend to convict the person of a crime or subject the person to a penalty or forfeiture; but no person shall be prosecuted, or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which the person may so testify, or produce evidence, documentary or otherwise, and no testimony, so given or produced, shall be received against the person upon any criminal investigation or proceeding.

History: *(38) RL s 19; 1907 c 319 s 1; 1971 c 227 s 2; 1986 c 444*

3.15 PUNISHMENT FOR CONTEMPT.

Punishment for contempt shall be by imprisonment, but the term thereof shall not extend beyond the session at which it is inflicted. When either house shall direct the imprisonment of any person for a contempt the keeper of the common jail of the county in which the seat of government is situated shall receive, and then detain in close confinement, the person during the term fixed by the order of commitment, or until the detainee is discharged by vote of the committing body or by due process of law.

History: *(39) RL s 20; 1986 c 444*

3.151 DISTURBING LEGISLATURE OR INTIMIDATING MEMBER.

Every person who shall willfully disturb the legislature, or either house thereof, while in session, or who shall commit any disorderly conduct in the presence and view of either house thereof, tending to interrupt its proceedings or impair the respect due to its authority, or who, willfully, by intimidation or otherwise, shall prevent any member of the legislature from attending any session of the house of the member, or of any committee thereof, or from giving the member's vote upon any question which

may come before such house, or from performing any other official act, shall be guilty of a gross misdemeanor.

History: (10000) *RL s 4815; 1986 c 444*

3.152 [Repealed, 1971 c 227 s 3]

3.153 LEGISLATIVE SUBPOENAS.

Subdivision 1. Any standing or interim legislative committee by a two-thirds vote of its members, may request the issuance of subpoenas, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records, and the giving of relevant testimony. Subpoenas shall be issued by the chief clerk of the house or the secretary of the senate upon receipt of such request. A person subpoenaed to attend a meeting of the legislature or a hearing of a legislative committee shall receive the same fees and expenses provided by law for witnesses in district court.

Subd. 2. Service of a subpoena authorized by this section shall be made in the manner provided by law for the service of subpoenas in civil actions at least seven days prior to the date fixed in the subpoena for appearance or production of records unless a shorter period of time is authorized by a majority vote of all the members of the legislative committee.

Subd. 3. Any person served with a subpoena may choose and be accompanied by counsel in the event a personal appearance is required and shall be served with a notice to that effect. In addition, any person served with a subpoena issued by a legislative committee shall also be served with a copy of the resolution or statute establishing the committee, and a general statement of the subject matter of the committee's investigation or inquiry.

Subd. 4. In order to carry out the authority granted by Laws 1971, Chapter 227, any committee authorized by subdivision 1 to request the issuance of subpoenas may, by a two-thirds vote of its members, request the issuance of attachments to compel the attendance of witnesses who, having been duly subpoenaed to attend, fail to do so. The chief clerk of the house or the secretary of the senate upon receipt of the request shall apply to the district court of Ramsey county for issuance of the attachment.

Subd. 5. Any person who without lawful excuse fails to respond to subpoenas issued pursuant to Laws 1971, Chapter 227 or who, having been subpoenaed, willfully refuses to be sworn or affirm or to answer any material or proper question before a committee of the legislature is guilty of a misdemeanor and upon conviction thereof may be punished accordingly.

History: 1971 c 227 s 1; 1986 c 444

3.16 MEMBERS, OFFICERS OF, OR ATTORNEYS EMPLOYED BY, EXCUSED FROM COURT DUTY.

No member or officer of, or any attorney employed by, the legislature shall be compelled to attend as a witness in any court of this state during the session of the legislature, or while attending meetings of any legislative committee or commission when the legislature is not in session unless the court in which the action is pending, upon sufficient showing, shall otherwise order with the consent of the presiding officer of the body of which such witness is an employee or the consent of the body of which such witness is a member. No cause or proceeding, civil or criminal, in court or before any commission or officer or referee thereof or motion or hearing therein, in which a member or officer of, or any attorney employed by, the legislature is a party, attorney, or witness shall be tried or heard during the session of the legislature or while any member, officer of, or attorney employed by the legislature is attending meetings of any legislative committee or commission when the legislature is not in session but shall be continued until the legislature or the committee or commission meeting shall have adjourned. The member or officer of, or any attorney employed by, the legislature may, with the consent of the body of the legislature of which the person is a member or

officer, or employed by, waive this privilege and in this case the cause or proceeding, motion, or hearing may be tried or heard at such time as will not conflict with legislative duties.

History: (40) 1909 c 51 s 1; 1925 c 18 s 1; 1927 c 47 s 1; 1929 c 19 s 1; 1941 c 45 s 1; 1957 c 183 s 1; 1986 c 444

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 of the journal, kept by the secretary and chief clerk, respectively, and a transcript thereof as approved shall be certified by the secretary or clerk to the printer, who shall print the corrected sheets for the permanent journal. Executive messages, addresses, reports, communications, and all voluminous documents other than amendments to the constitution or to bills and resolutions and the protests of members submitted under the Constitution of the State of Minnesota, Article 4, Section 11, shall be omitted from the journals, unless otherwise ordered by vote.

History: (41) RL s 21; 1976 c 2 s 172

3.18 OTHER RECORDS.

Each house may determine, by rule or resolution, what number of copies of its journal shall be printed, and the form and contents of the other records it may see fit to keep. In like manner it may cause to be printed, in an appendix to its journal, the documents it shall desire to so preserve; but, if both houses shall order the same document to be so printed, it shall be inserted only in the appendix to the senate journal.

History: (42) RL s 22

3.185 ALTERING DRAFT OF BILL.

Every person who shall fraudulently alter the draft of any bill or resolution which has been presented to either house of the legislature to be passed or adopted, with intent to procure it to be passed or adopted by either house, or certified by its presiding officer, in language different from that intended by such house, shall be guilty of a gross misdemeanor.

History: (10001) RL s 4816

3.19 ENGROSSING AND ENROLLING.

All bills, joint resolutions, and legislative acts shall be engrossed or enrolled in the manner provided by the rules of the senate and the house of representatives or the joint rules thereof. In the engrossing or enrolling of bills copying machines and other labor saving devices and equipment shall be used to the greatest possible extent.

History: (43) 1905 c 153 s 1; 1959 c 366 s 1

3.191 ALTERING ENGROSSED BILL.

Every person who shall fraudulently alter the engrossed copy or enrollment of any bill which has been passed by the legislature, with intent to procure it to be approved by the governor, or certified by the secretary of state, or printed or published by the printer of the statutes, in language different from that in which it was passed by the legislature, shall be guilty of a felony.

History: (10002) RL s 4817

3.195 REPORTS TO THE LEGISLATURE.

Subdivision 1. Distribution of reports. Whenever a report to the legislature is required of a department or agency of government, it shall be made, unless otherwise specifically required by law, by the filing of one copy with the secretary of the senate,

one copy with the chief clerk of the house of representatives, and ten copies with the legislative reference library. The same distribution procedure shall be followed for other reports and publications unless otherwise requested by a legislator or the legislative reference library.

Subd. 2. Identification of documents. Whenever a report or publication as defined in section 3.302, subdivision 3, is submitted by a department or agency to the legislative reference library, the department or agency shall supply to the legislative reference library the information necessary to identify the document as required in section 3.302, subdivision 3a.

Subd. 3. Checklist of state documents. The legislative reference library shall monthly publish and distribute to legislators a checklist of state documents. Additional copies of the checklist sufficient for distribution to all state agencies, public, university and college libraries shall be provided by the documents section, department of administration.

History: 1974 c 456 s 1; 1976 c 30 s 1; 1983 c 255 s 1

EDUCATION COMPUTER INFORMATION

3.198 COMPUTER TERMINALS; ACCESS TO INFORMATION SYSTEM PROVIDED BY MECC.

The Minnesota state senate and the Minnesota state house of representatives are hereby authorized to obtain computer terminals for the purpose of gaining access to the statewide management information system provided for school districts through the Minnesota Educational Computing Consortium. Further, the Minnesota Educational Computing Consortium is directed to provide the staff of the senate and house of representatives with training for use of that system.

History: 1978 c 764 s 138

AMENDMENTS TO CONSTITUTION

3.20 FORM OF ACT; SUBMISSION.

Every act for the submission of an amendment to the constitution shall set forth the section as the same will read in case the amendment is adopted, with such other matter only as may be necessary to show in what section or article the alteration is proposed. It shall be submitted and voted upon at the general election next ensuing in the manner provided for by the general law relating to such elections. If adopted, the governor shall announce the fact by proclamation.

History: (45) RL s 24

3.21 NOTICE.

At least four months preceding the election, the attorney general shall furnish to the secretary of state a statement of the purpose and effect of all amendments proposed showing clearly the form of the existing sections, and of the same as they will read if amended, except that when any section to which an amendment is proposed exceeds 150 words in length, the statement shall show that part of the section in which a change is proposed, both in its existing form and as it will read when amended, together with portions of the context as the attorney general deems necessary to an understanding of the proposed amendment. In the month of October prior to the election, the secretary of state shall publish the statement once in all qualified newspapers of the state. The secretary of state shall furnish the statement to the newspapers in reproducible form approved by the secretary of state, set in 7-1/2-point type on an 8-point body. The maximum rate for publication shall be as provided in section 331A.06 or 18 cents per standard line, whichever is less. If any newspaper shall refuse the publication of the amendments, this refusal and failure of the publication shall have no effect on the validity of the amendments. The secretary of state shall also forward to each county

auditor copies of the statement, in poster form, in quantities sufficient to supply each election district of the county with two copies thereof. The auditor shall cause two copies to be conspicuously posted at or near each polling place on election day. Willful or negligent failure by any official named to perform any duty imposed by this section shall be deemed a misdemeanor.

History: (46) *RL s 25; 1907 c 152; 1913 c 299 s 1; 1941 c 136 s 1; 1951 c 699 s 1; 1974 c 38 s 1; 1974 c 184 s 1; 1978 c 725 s 1; 1979 c 252 s 2; 1984 c 543 s 1; 1Sp1985 c 13 s 60; 1986 c 444*

3.22 PAYMENT.

The publisher of any newspaper publishing the proposed amendments shall, before receiving fees for the publication and prior to the first day of January following an election year, file with the secretary of state an affidavit showing the qualification and legality of the newspaper and stating that the amendments have been published as required by law.

History: *1913 c 299 s 2; 1977 c 42 s 1; 1986 c 444*

STANDING APPROPRIATIONS

3.23 APPROPRIATIONS.

A standing appropriation, within the meaning of sections 3.23 and 3.24, is one which sets apart a specified or unspecified and open amount of public money or funds of the state general fund for expenditure for any purpose and makes that amount, or some part of it, available for use continuously and at a time more distant than the end of the second fiscal year after the session of the legislature at which the appropriation is made.

Every appropriation stated to be an "annual appropriation," "payable annually," "appropriated annually," or "annually appropriated," and every appropriation described by equivalent terms or language is to be included among the standing appropriations as hereinbefore defined.

History: (48) *1913 c 140 s 1; 1969 c 399 s 1*

3.24 STANDING APPROPRIATION REPEALED.

Each and every provision of the laws of Minnesota constituting a standing appropriation of money from the general fund, or derived from any revenue of the state, or in any way justifying the continuous payment of any money from the treasury of the state, is hereby repealed, except in cases where there is a provision for a tax levy or fees or receipts for any purpose and set apart in a special fund, and also excepting the miscellaneous receipts of all state educational, charitable, and penal institutions, and the state agricultural society; and all standing or continuous appropriations not based on a tax levy, fees, or receipts, as heretofore provided, are hereby abolished and terminated and each and every word, clause, and paragraph providing for such appropriations is hereby stricken from the laws of this state, respectively, in which they occur.

All acts containing provisions for standing appropriations shall remain unaffected by sections 3.23 and 3.24, except as to such appropriations and the amount thereof.

History: (49) *1913 c 140 s 2; 1969 c 399 s 1*

3.25 APPROPRIATIONS; NOT DISCLOSING SOURCE.

Whenever moneys are appropriated from the state treasury and the appropriation does not disclose the source thereof, the appropriation is from the general fund.

History: *Ex1971 c 3 s 97*

UNIFORM LEGISLATION

3.251 COMMISSION ON UNIFORM STATE LAWS.

A commission on uniform state laws consisting of four commissioners is created. Before the first day of June, each odd-numbered year, the governor, the attorney general, and the chief justice of the supreme court shall appoint three persons learned in the law to serve as commissioners for a term of two years, and until their successors are appointed. The fourth commissioner is the revisor of statutes or the revisor's designated assistant. If a vacancy occurs in the commission the appointing officers shall fill the vacancy for the remainder of the term.

History: 1943 c 348 s 1; 1969 c 39 s 1; 1986 c 444

3.252 COMMISSIONERS TO REPRESENT STATE.

The commissioners shall represent this state in the National Conference of Commissioners on Uniform State Laws; examine into legal subjects on which uniformity of legislation in the different states is desirable; ascertain the best means to effect uniformity; represent Minnesota in conventions of like commissioners of other states; cooperate in the consideration and drafting of uniform acts for submission to the legislatures of the several states; prepare bills adapting such uniform acts to our statutes for introduction in the legislature. The commission shall keep a record of all its transactions.

History: 1943 c 348 s 2; 1969 c 540 s 1

3.253 NO COMPENSATION FOR COMMISSIONERS.

The commissioners shall serve without compensation for services as commissioners.

History: 1943 c 348 s 3

3.254 [Expired]

3.29 [Repealed, 1985 c 285 s 54]

LEGISLATIVE ADVISORY COMMISSION

3.30 LEGISLATIVE ADVISORY COMMISSION.

Subdivision 1. **Appropriation; transfers.** There is hereby authorized one general contingent appropriation for each year of the biennium in such amount as the legislature may deem sufficient. There is further authorized such additional special contingent appropriations as the legislature may deem necessary. Transfers from such appropriations to the appropriations of the various departments and agencies may be made by the commissioner of finance subject to the following provisions:

(a) Transfers may be authorized by the commissioner of finance not exceeding \$5,000 for the same purpose for any quarterly period;

(b) Transfers exceeding \$5,000 but not exceeding \$10,000 may be authorized by the commissioner of finance with the approval of the governor;

(c) Transfers exceeding \$10,000 may be authorized by the governor; provided, that no such transfer shall be made until the governor has consulted the legislative advisory commission hereinafter provided for and such commission has made its recommendation thereon. Such recommendation shall be advisory only. Failure or refusal of the commission to make a recommendation promptly shall be deemed a negative recommendation.

The commissioner of finance shall return to the appropriate contingent account any funds transferred under this subdivision that the commissioner determines are not needed.

Subd. 2. **Members; duties.** The chair of the senate committee on taxes and tax

laws, the chair of the senate committee on finance, the chair of the house committee on taxes and tax laws, and the chair of the house committee on appropriations shall constitute the legislative advisory commission. The governor shall preside over the meetings of the commission but shall not be a member thereof. If any of the legislative members elect not to serve on the commission, the house of which they are members, if in session, shall select some other member for such vacancy. If the legislature is not in session, vacancies in the legislative membership of the commission shall be filled by the last speaker of the house or, if the speaker be not available, by the last chair of the house rules committee, in case of a house vacancy, and by the last senate committee on committees or other appointing authority designated by the senate rules in case of a senate vacancy. The commissioner of finance shall act as secretary of the commission and shall keep a permanent record and minutes of its proceedings, which shall be public records. The commissioner of finance shall transmit, under the provisions of section 3.195, a report to the next legislature of all actions of said commission. The members of the commission shall receive traveling and subsistence expenses in attending meetings of the commission. The commission shall meet from time to time upon the call of the governor or upon the call of the secretary at the request of three or more of its members.

Subd. 2a. [Repealed, 1976 c 231 s 34]

Subd. 3. **Limitations.** The provisions of this section shall not be construed to prevent the appropriation of separate contingent funds to the governor and the attorney general, or to limit the use of said funds as otherwise authorized by law.

Subd. 4. **Public relief advisory committee; abolition.** The Minnesota public relief advisory committee is abolished, and its powers and duties are transferred to the legislative advisory commission.

History: 1943 c 594 s 1; 1971 c 713 s 1,2; Ex1971 c 48 s 3; 1973 c 492 s 4 subd 2, s 14; 1975 c 271 s 6; 1976 c 149 s 1; 1976 c 231 s 1; 1986 c 444

3.3005 FEDERAL MONEY; EXPENDITURE REVIEW.

Subdivision 1. As used in this section, the term "state agency" means all agencies in the executive branch of state government, but does not include the Minnesota historical society, the University of Minnesota, state universities, or community colleges.

Subd. 2. A state agency shall not expend money received by it under any federal law for any purpose unless a request to spend federal money from that source for that purpose in that fiscal year has been submitted by the governor to the legislature as a part of the governor's biennial budget request or as part of a supplementary or deficiency budget request, or unless specifically authorized by law or as provided by this section.

Subd. 3. When a request to spend federal money has been included in the governor's budget or authorized by law as described in subdivision 2, but the amount of federal money received will require a state match greater than that included in the governor's budget request or authorized by law, the federal money that will require an additional state match shall not be allotted for expenditure until the requirements of subdivision 5 are met.

Subd. 4. If federal money becomes available to the state for expenditure while the legislature is not in session, and the availability of money from that source or for that purpose or in that fiscal year could not reasonably have been anticipated and included in the governor's budget request, and an urgency requires that all or a portion of the money be allotted before the legislature reconvenes, all or a portion of the money may be allotted to a state agency after the requirements of subdivision 5 are met.

Subd. 5. Federal money that becomes available under subdivisions 3 and 4 may not be allotted until the commissioner of finance has first submitted the request to the members of the legislative advisory commission for their review and recommendation for further review. If a recommendation is not made within ten days, no further review

by the legislative advisory commission is required, and the commissioner shall approve or disapprove the request. If the recommendation by any member is for further review the governor shall submit the request to the legislative advisory commission for its review and recommendation. Failure or refusal of the commission to make a recommendation promptly is a negative recommendation.

History: *Ex1979 c 1 s 14; 1980 c 614 s 35; 1981 c 356 s 250; 1984 c 654 art 2 s 31; 1986 c 444*

LEGISLATIVE SERVICES

3.301 [Repealed, 1973 c 598 s 5]

3.302 LEGISLATIVE REFERENCE LIBRARY.

Subdivision 1. A legislative reference library is established under the jurisdiction and control of the legislative coordinating commission.

Subd. 2. The legislative reference library shall collect, index, and make available in suitable form information relative to governmental and legislative subjects which will aid members of the legislature in the performance of their duties in an efficient and economical manner. It shall maintain an adequate collection of public documents of Minnesota and other states and may enter into loan agreements with other libraries.

Subd. 3. The legislative reference library is a depository of all documents published by the state and shall receive such materials automatically without cost. As used in this chapter, "document" shall include any publication issued by the state, constitutional officers, departments, commissions, councils, bureaus, research centers, societies, task forces, including advisory task forces created under section 15.014 or 15.0593, or other agencies supported by state funds, or any publication prepared for the state by private individuals or organizations and issued in print, including all forms of duplicating other than by the use of carbon paper, considered to be of interest or value to the legislative reference library. Intraoffice or interoffice memos and forms and information concerning only the internal operation of an agency are not included.

Subd. 3a. **Identification of documents.** For all documents deposited under subdivision 3, the legislative reference library shall require that the issuing agency supply proper bibliographic identification. The identification shall appear on the title page of each volume and shall include complete title, statement of authorship, name of publisher, and the date and place of publication. Whenever possible the document shall be consecutively paged. Whenever applicable the issuing agency shall include a statement indicating the section number of statute or the chapter number and year of the law with which the report complies.

Subd. 4. The legislative reference library may utilize the materials assembled to prepare studies and reports providing pertinent information regarding subjects which are or may become items of concern to members of the legislature and where warranted publish such studies and reports.

History: *1969 c 1130 s 2; 1973 c 598 s 3; 1975 c 271 s 6; 1976 c 30 s 2; 1983 c 255 s 2; 1Sp1985 c 13 s 61*

3.3025 DIRECTOR OF LEGISLATIVE REFERENCE LIBRARY.

Subdivision 1. The legislative coordinating commission shall appoint a director of the legislative reference library who is qualified to perform the duties imposed upon the office at an annual salary which it shall fix unless otherwise provided for by law. The director of the legislative reference library shall serve at the pleasure of the commission and shall be reimbursed for any necessary travel expenses.

Subd. 2. Subject to the approval of the legislative coordinating commission, the director of the legislative reference library shall employ and may fix the compensation of technical research, clerical, and stenographic assistants as necessary to expeditiously and efficiently discharge the duties imposed upon the office and shall procure the necessary furniture and supplies.

Subd. 3. The legislative reference library shall be kept open during the time provided by law for other state offices. When the legislature is in session the office shall be kept open at the hours most convenient to members of the legislature.

History: 1975 c 252 s 1; 1975 c 271 s 6

3.3026 INFORMATION SYSTEMS DIRECTORY.

Subdivision 1. **Policy.** The state must make maximum use of its information files and data processing systems. A statewide directory of information systems will direct users to existing information systems maintained by state agencies, minimize duplication of information systems already developed, and encourage the sharing of information systems within the state. A directory will assist users in contacting agencies about information files and about experience with hardware and software configurations. It will reduce overall costs, promote communication among agencies, and permit more efficient use of personnel resources for information systems development.

Subd. 2. **Definitions.** The terms used in this section have the meanings given them in this subdivision.

(a) "Directory" means an indexed listing of descriptive data about information systems. The descriptions will include agency name, information system name, contact person, software used, hardware used, and other information which in the discretion of the legislative reference library will assist users.

(b) "Information system" or "information systems" means an organized collection of data, either manually organized or automated, used by an agency in performing its duties or assisting in the making of administrative and budgetary decisions. An information system includes the data organized and any hardware or software used to process it.

Every state agency shall file a description of its existing information systems with the legislative reference library by January 31, 1984. These descriptions shall be in accordance with specifications and on forms provided by the library. Each agency shall file an updated description, noting additions, deletions, and changes by November 30 and by May 31 each year.

(c) "State agency" or "state agencies" means any office, department, agency, commission, council, bureau, research center, or society of state government, and other agencies supported by state funds.

Subd. 3. **Legislative reference library; development of plan.** The legislative reference library shall prepare a plan for the directory by January 1, 1984. The plan shall include a definition of the types of systems that will be included in the directory, an enumeration of the types of information required for each system reported, and a description of the method selected for production and dissemination of the directory.

Subd. 4. **Legislative reference library director; duties.** The legislative reference library director shall employ and fix the salary of the technical, clerical, and other assistants necessary to produce the directory. The director may enter into contracts for equipment and services necessary in the production and dissemination of the directory.

Subd. 5. **Publication.** The legislative reference library shall prepare a directory by June 30, 1985. The directory shall be prepared in a format which the legislative reference library, in its discretion, believes is most efficient and beneficial to the user.

Subd. 6. **Updating.** The legislative reference library shall continually update the directory and shall reissue it at intervals it finds, in its discretion, are reasonable and cost efficient.

Subd. 7. **Agency cooperation.** Every state agency shall appoint one person within the agency as a data processing liaison, responsible for working with the legislative reference library. The appointment shall be made and the name forwarded to the legislative reference library by July 1, 1983. The department of administration shall provide access to its library listing of systems and programs produced under section 16.90 and shall produce this information in hard copy form or on magnetic tape media, as requested by the legislative reference library director.

History: 1983 c 301 s 57; 1984 c 654 art 2 s 32

3.303 LEGISLATIVE COORDINATING COMMISSION; CREATION AND ORGANIZATION.

Subdivision 1. A legislative commission is hereby created to be known as the legislative coordinating commission, designated herein as the "commission," to coordinate the legislative activities of the senate and the house of representatives.

Subd. 2. The membership of the commission shall consist of the majority leader of the senate, the president of the senate, two senators appointed by the majority leader, the minority leader of the senate, and one senator appointed by the minority leader; and the majority leader of the house of representatives, the speaker of the house of representatives, two representatives appointed by the speaker, the minority leader of the house of representatives, and one representative appointed by the minority leader. Each member shall serve until a successor is named during a regular session following appointment. A vacancy shall be filled for the unexpired term in the same manner as the original appointment.

Subd. 3. The president of the senate and the speaker of the house shall alternate annually as chair of the commission.

Subd. 4. The members of the commission shall serve without compensation but shall be reimbursed in the same manner as members of standing committees of the senate and the house of representatives.

Subd. 5. The commission shall assist state agencies in making arrangements for the accommodation and appropriate recognition of individuals or groups visiting Minnesota as direct or indirect representatives of foreign governments, other states, or any of the subdivisions or agencies of foreign governments or other states; and provide other services determined by the commission. The commission may make grants, employ staff and obtain office space, equipment, and supplies necessary to perform the designated duties.

History: 1973 c 598 s 1; 1975 c 271 s 6; 1Sp1985 c 13 s 62; 1986 c 444

3.304 OFFICE OF LEGISLATIVE RESEARCH.

Subdivision 1. **Revisor and legislative reference library; jurisdiction of legislative coordinating commission.** The legislative coordinating commission may establish under its jurisdiction and control an office of legislative research, and may include within such office the office of revisor of statutes and the legislative reference library. The commission may appoint, set salaries for, and delegate authority to, such personnel as it deems necessary to perform the functions required.

Subd. 2. **Employees in unclassified service.** All employees under the jurisdiction and control of the legislative coordinating commission are employees of the legislature in the unclassified service of the state.

Subd. 2a. **Joint legislative studies.** The legislative coordinating commission shall oversee and coordinate all joint legislative studies mandated by the legislature and may require regular progress reports to the legislative coordinating commission and to appropriate standing committees of the house of representatives and the senate. Appropriations for all joint legislative studies except those specifically assigned to an existing legislative commission shall be made to the legislative coordinating commission. Responsibility and appropriations for a joint legislative study may be delegated by the legislative coordinating commission to an existing staff office of the house of representatives or senate, a legislative commission, a joint legislative committee or office or a state agency. The office, commission, joint committee, or agency responsible for the study may contract with another agent for assistance.

Subd. 3. **State agencies to cooperate with legislative coordinating commission.** The legislative coordinating commission may call upon any agency of the state or political subdivision thereof for such data as may be available, and such agencies shall cooperate with the commission to the fullest possible extent.

Subd. 4. [Repealed, 1975 c 252 s 10]

Subd. 5. **Expenses of legislative coordinating commission.** One-half the expenses

of the legislative coordinating commission not including the expenses of the office of the revisor of statutes and the legislative reference library, as determined by the commission, shall be allocated from the legislative expense fund of each house of the legislature to a legislative research account. The expenses of the commission other than the expenses of the office of the revisor of statutes and the legislative reference library, shall be paid from the legislative research account upon vouchers signed by the chair of the commission.

Subd. 6. [Repealed, 1975 c 252 s 10]

Subd. 7. [Repealed, 1975 c 252 s 10]

History: 1973 c 598 s 2; 1974 c 404 s 1,2; 1975 c 252 s 2-5; 1975 c 271 s 6; 1981 c 356 s 251; 1986 c 444

3.305 LEGISLATIVE COORDINATING COMMISSION; BUDGET REVIEW.

The administrative budget request of any statutory commission the majority of whose members are members of the legislature shall be submitted to the legislative coordinating commission for review and comment prior to submission to the finance committee of the senate and the appropriations committee of the house of representatives. No such commission shall employ additional personnel without first having received the recommendation of the legislative coordinating commission. The commission shall establish the compensation of all employees of any statutory commission, except classified employees of the legislative audit commission, the majority of whose members are members of the legislature.

History: 1978 c 548 s 1; 1983 c 299 s 1

3.31 [Repealed, 1969 c 1130 s 4 subd 6]

3.32 [Repealed, 1969 c 1130 s 4 subd 6]

3.33 [Repealed, 1969 c 1130 s 4 subd 6]

3.34 [Repealed, 1969 c 1130 s 4 subd 6]

3.35 [Repealed, 1969 c 1130 s 4 subd 6]

3.351 LEGISLATIVE COMMISSION ON ENERGY.

Subdivision 1. Composition. The legislative commission on energy is composed of five senators of the majority party and three senators of the minority party appointed by the subcommittee on committees of the committee on rules and administration, and five representatives of the majority party and three representatives of the minority party appointed by the speaker of the house. The commission shall be appointed by June 1, 1980. The commission shall elect a chair from among its members.

Subd. 2. General duties. The commission shall:

(a) Make a continuing study of matters relating to energy supply and use in the state;

(b) Identify the potential for enhanced economic growth and job creation from increased energy efficiency and the production and utilization of renewable energy systems;

(c) Identify ways to assure the provision of necessary energy supplies to all Minnesotans;

(d) Coordinate resources and programs on energy conservation;

(e) Review overall legislative policy concerning energy; and

(f) Review and comment on receipt and expenditure of money received by the state under federal law for energy programs.

Subd. 3. Review of plans to receive and spend federal energy money. The plan for receipt and expenditure of money resulting from litigation or settlements of alleged violations of federal petroleum pricing regulations shall be submitted to the commission for review and comment prior to submission to the federal government; provided

that, if the commission fails to review and comment within 30 days, the plan may be submitted without commission review. If the use of the money is not governed by federal requirements or restrictions, the commission shall develop its own plan for the expenditure of the money. A plan developed by the commission must provide that, to the extent feasible, the money will be expended for energy projects or other public projects that provide direct benefit to classes of consumers affected by the petroleum pricing violations. The plan must allocate the money to projects that benefit classes of consumers in proportion to their consumption of petroleum products. The plan may also provide for expenditure of the money for programs of the commission. The commission shall submit its plan to the governor or the state agency eligible to receive the money from the federal government. The plan is advisory only. The commission by resolution may request the governor or any state agency eligible to receive money from the federal government for other energy programs to submit a plan for expenditure to the commission for review and comment prior to submission to the federal government. If the governor or the agency is required to submit a request to spend the money to the legislative advisory commission under section 3.3005, the commission shall forward its comments to the legislative advisory commission for consideration during its preparation of a recommendation.

Subd. 4. Energy plan; report to legislature. The commission shall develop legislative energy plans based on the provisions of subdivision 2 and consistent with appropriate long term energy goals for Minnesota. The plans shall be reported to the legislature no later than February 15 of each year.

Subd. 5. Staff. The commission shall use existing legislative facilities and staff.

History: 1980 c 579 s 1; 1984 c 654 art 2 s 33; 1Sp1985 c 13 s 63; 1986 c 444

NOTE: This section expires July 1, 1987. See Laws 1980, Chapter 579, Section 34.

- 3.36 [Repealed, 1969 c 1130 s 4 subd 6]
- 3.37 [Repealed, 1969 c 1130 s 4 subd 6]
- 3.38 [Repealed, 1969 c 1130 s 4 subd 6]
- 3.39 [Repealed, 1969 c 1130 s 4 subd 6]
- 3.40 [Expired]
- 3.41 [Repealed, 1951 c 37 s 1]
- 3.42 [Expired, 1953 c 749 s 26]
- 3.421 [Repealed, 1973 c 660 s 1]
- 3.43 [Expired, 1953 c 749 s 26]
- 3.431 [Repealed, 1973 c 660 s 1]
- 3.44 [Expired, 1953 c 749 s 26]
- 3.441 [Repealed, 1973 c 660 s 1]
- 3.45 [Expired, 1953 c 749 s 26]
- 3.451 [Repealed, 1973 c 660 s 1]
- 3.46 [Expired, 1953 c 749 s 26]
- 3.461 [Repealed, 1973 c 660 s 1]
- 3.47 [Expired, 1953 c 749 s 26]
- 3.471 [Repealed, 1973 c 660 s 1]
- 3.472 [Repealed, 1983 c 301 s 235]
- 3.48 [Expired, 1953 c 749 s 26]
- 3.49 [Expired, 1953 c 749 s 26]
- 3.50 [Expired, 1953 c 749 s 26]
- 3.51 [Expired, 1953 c 749 s 26]
- 3.52 [Expired, 1953 c 749 s 26]
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3.57	[Expired, 1953 c 749 s 26]
3.58	[Expired, 1953 c 749 s 26]
3.59	[Expired, 1953 c 749 s 26]
3.60	[Expired, 1953 c 749 s 26]
3.61	[Expired, 1953 c 749 s 26]
3.62	[Expired, 1953 c 749 s 26]
3.63	[Expired, 1953 c 749 s 26]
3.64	[Expired, 1953 c 749 s 26]
3.65	[Expired, 1953 c 749 s 26]
3.66	[Repealed, 1976 c 331 s 42]
3.67	[Repealed, 1976 c 331 s 42]
3.68	[Repealed, 1976 c 331 s 42]
3.69	[Repealed, 1976 c 331 s 42]
3.70	[Repealed, 1976 c 331 s 42]
3.71	[Repealed, 1976 c 331 s 42]
3.72	[Repealed, 1976 c 331 s 42]
3.73	[Repealed, 1969 c 886 s 8]
3.731	[Repealed, 1971 c 962 s 12 subd 3]
3.7311	[Repealed, 1976 c 331 s 42]

SETTLEMENT OF CLAIMS

3.732 SETTLEMENT OF CLAIMS.

Subdivision 1. **Definitions.** As used in this section and section 3.736 the terms defined in this section have the meanings given them.

(1) "State" includes each of the departments, boards, agencies, commissions, courts, and officers in the executive, legislative, and judicial branches of the state of Minnesota and includes but is not limited to the Minnesota housing finance agency, the Minnesota higher education coordinating board, the Minnesota higher education facilities authority, the armory building commission, the Minnesota zoological board, the University of Minnesota, state universities, community colleges, state hospitals, and state penal institutions. It does not include a city, town, county, school district, or other local governmental body corporate and politic.

(2) "Employee of the state" means all present or former officers, members, directors or employees of the state, members of the Minnesota national guard, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation, but does not include either an independent contractor or members of the Minnesota national guard while engaged in training or duty under United States Code, title 10, or United States Code, title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983.

(3) "Scope of office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authority.

Subd. 2. The head of each department or agency of the state, or a designee, acting on behalf of the state, shall attempt to determine, adjust and settle, at any time, any claim for money damages of \$2,500 or less against the state for injury to or loss of property or personal injury or death caused by an act or omission of any employee of the state while acting within the scope of office or employment, under circumstances where the state, if a private person, would be liable to the claimant. Any such settlement shall be final and conclusive on all officers of the state, except where procured by fraud.

The acceptance by the claimant of any such settlement shall be final and conclusive on the claimant and shall constitute a complete release of any claim against the state and against the employee of the state whose act or omission gave rise to the claim, by reason of the same subject matter.

Subd. 3. No settlement made under the provisions of this section shall be valid unless it is supported by a claim in writing, and is approved in writing by the attorney general as to its form and legality. The claim shall be in such form as the attorney general may prescribe.

Subd. 4. [Repealed, 1978 c 793 s 98]

Subd. 5. Nothing in this section is to be construed as to deny a claimant who is not paid pursuant to the provisions hereof from bringing an action at law in the courts of this state.

Subd. 6. The head of each department or agency, or a designee, acting on behalf of the state, may enter into structured settlements, through the negotiation, creation, and utilization of annuities or similar financial plans for claimants, to resolve claims arising from the alleged negligence of the state, its agencies, or employees. The requirements set forth in sections 16.07, 16.08, and 16.098 shall not apply to the state's selection of and contracts with structured settlement consultants or purveyors of structured settlement plans.

History: 1971 c 962 s 13; 1973 c 123 art 5 s 7; 1973 c 349 s 2; 1974 c 557 s 8-10; 1975 c 271 s 6; 1975 c 321 s 2; 1976 c 331 s 30-32; 1978 c 669 s 1; 1983 c 193 s 1; 1983 c 258 s 9; 1983 c 301 s 58; 1984 c 619 s 10; 1985 c 166 s 1; 1Sp1985 c 13 s 374; 1986 c 444

3.735 [Repealed, 1976 c 331 s 42]

3.736 TORT CLAIMS.

Subdivision 1. General rule. The state will pay compensation for injury to or loss of property or personal injury or death caused by an act or omission of any employee of the state while acting within the scope of office or employment or peace officer who is not acting on behalf of a private employer and who is acting in good faith pursuant to section 629.40, subdivision 4, under circumstances where the state, if a private person, would be liable to the claimant, whether arising out of a governmental or proprietary function. Nothing in this section waives the defense of judicial or legislative immunity except to the extent provided in subdivision 8.

Subd. 2. Procedure. Claims of various kinds shall be considered and paid only in accordance with the statutory procedures provided. Where there is no other applicable statute, a claim shall be brought pursuant to this section as a civil action in the courts of the state.

Subd. 3. Exclusions. Without intent to preclude the courts from finding additional cases where the state and its employees should not, in equity and good conscience, pay compensation for personal injuries or property losses, the legislature declares that the state and its employees are not liable for the following losses:

(a) Any loss caused by an act or omission of a state employee exercising due care in the execution of a valid or invalid statute or rule;

(b) Any loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

(c) Any loss in connection with the assessment and collection of taxes;

(d) Any loss caused by snow or ice conditions on any highway or public sidewalk that does not abut a publicly-owned building or a publicly-owned parking lot, except when the condition is affirmatively caused by the negligent acts of a state employee;

(e) Any loss caused by wild animals in their natural state;

(f) Any loss other than injury to or loss of property or personal injury or death;

(g) Any loss caused by the condition of unimproved real property owned by the

state, which means land that the state has not improved, and appurtenances, fixtures and attachments to land that the state has neither affixed nor improved;

(h) Any loss incurred by a user within the boundaries of the outdoor recreation system and arising from the construction, operation, or maintenance of the system, as defined in section 86A.04, or from the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, or from the construction, operation, or maintenance of a water access site created by the iron range resources and rehabilitation board, except that the state is liable for conduct that would entitle a trespasser to damages against a private person;

(i) Any loss of benefits or compensation due under a program of public assistance or public welfare, except where state compensation for loss is expressly required by federal law in order for the state to receive federal grants-in-aid;

(j) Any loss based on the failure of any person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents;

(k) Any loss based on the usual care and treatment, or lack of care and treatment, of any person at a state hospital or state corrections facility where reasonable use of available appropriations has been made to provide care;

(l) Any loss, damage, or destruction of property of a patient or inmate of a state institution;

(m) Any loss for which recovery is prohibited by section 169.121, subdivision 9. The state will not pay punitive damages.

Subd. 4. Limits. The total liability of the state and its employees acting within the scope of their employment on any tort claim shall not exceed:

(a) \$200,000 when the claim is one for death by wrongful act or omission and \$200,000 to any claimant in any other case.

(b) \$600,000 for any number of claims arising out of a single occurrence. If the amount awarded to or settled upon multiple claimants exceeds \$600,000, any party may apply to any district court to apportion to each claimant a proper share of the \$600,000. The share apportioned each claimant shall be in the proportion that the ratio of the award or settlement bears to the aggregate awards and settlements for all claims arising out of the occurrence.

The limitation imposed by this subdivision on individual claimants includes damages claimed for loss of services or loss of support arising out of the same tort.

Subd. 4a. Securities claims limits. The total liability of the state and its employees acting within the scope of their employment on any claim of whatever matter arising from the issuance and sale of securities by the state shall not exceed:

(a) \$100,000 to any one person or

(b) \$500,000 to all claimants in respect of the securities of the same series.

The foregoing limitations in clauses (a) and (b) shall not affect the obligation of the issuing state entity to pay the indebtedness under the securities in accordance with their terms and from the sources pledged to their payment.

Subd. 5. Notice required. Except as provided in subdivision 6, every person, whether plaintiff, defendant or third party plaintiff or defendant, who claims compensation from the state or a state employee acting within the scope of employment for or on account of any loss or injury shall present to the attorney general of the state or, in the case of a claim against the university of Minnesota, to the person designated by the regents of the university as the university attorney, and any state employee from whom the claimant will seek compensation, within 180 days after the alleged loss or injury is discovered, a notice stating the time, place and circumstances thereof, the names of any state employees known to be involved, and the amount of compensation or other relief demanded. Actual notice of sufficient facts to reasonably put the state or its insurer on notice of a possible claim complies with the notice requirements of this section. Failure to state the amount of compensation or other relief demanded does not invalidate the notice, but the claimant shall furnish full information available

regarding the nature and extent of the injuries and damages within 15 days after demand by the state. The time for giving the notice does not include the time during which the person injured is incapacitated by the injury from giving the notice.

Subd. 6. Claims for wrongful death; notice. When the claim is one for death by wrongful act or omission, the notice may be presented by the personal representative, surviving spouse, or next of kin, or the consular officer of the foreign country of which the deceased was a citizen, within one year after the alleged injury or loss resulting in the death. If the person for whose death the claim is made has presented a notice that would have been sufficient had the person lived, an action for wrongful death may be brought without any additional notice.

Subd. 7. Payment. A state agency, including any entity defined as part of the state in section 3.732, subdivision 1, clause (1), incurring a tort claim judgment or settlement obligation or whose employees acting within the scope of their employment incur the obligation shall seek approval to make payment by submitting a written request to the commissioner of finance. The request shall contain a description of the tort claim precipitating the request, specify the amount of the obligation and be accompanied by copies of judgments, settlement agreements or other documentation relevant to the obligation for which the agency is seeking payment. Upon receipt of the request and review of the claim, the commissioner of finance shall determine the proper appropriation from which to make payment. If there is sufficient money in an appropriation or combination of appropriations to the agency for its general operations and management to allow the claim to be paid from that source without unduly hindering the operation of the agency, the commissioner shall direct that payment be made from that source. Claims relating to activities paid for by appropriations of dedicated receipts shall be paid from those appropriations if practicable. On determining that an agency has sufficient money in these appropriations to pay only part of a claim, the commissioner shall pay the remainder of the claim from the money appropriated to the commissioner for this purpose. On determining that the agency does not have sufficient money to pay any part of the claim, the commissioner shall pay all of the claim from money appropriated to the commissioner for this purpose. On January 1 and July 1 of each year, the commissioner of finance shall transmit to the legislature and to the chair of the house appropriations and senate finance committees copies of all requests in the preceding six months together with a report on the payments made with respect to each request. Payment shall be made only upon receipt of a written release by the claimant in a form approved by the attorney general, or the person designated as the university attorney, as the case may be.

No attachment or execution shall issue against the state.

Subd. 8. Liability insurance. A state agency, including any entity defined as a part of the state in section 3.732, subdivision 1, clause (1), may procure insurance against liability of the agency and its employees for damages resulting from the torts of the agency and its employees. The procurement of this insurance constitutes a waiver of the defense of governmental immunity to the extent of the liability stated in the policy but has no effect on the liability of the agency and its employees beyond the coverage so provided.

Subd. 9. Indemnification. The state of Minnesota shall defend, save harmless, and indemnify any employee of the state against expenses, attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by the employee of the state in connection with any tort, civil, or equitable claim or demand, or expenses, attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by the employee of the state in connection with any claim or demand arising from the issuance and sale of any securities by the state, whether groundless or otherwise, arising out of an alleged act or omission occurring heretofore or hereafter during the period of employment if the employee provides complete disclosure and cooperation in the defense of the claim or demand and if the employee was acting within the scope of employment. Except for elected employees, an employee of the state shall be conclusively presumed to have been acting within the scope of

employment if the employee's appointing authority issues a certificate to that effect. This determination may be overruled by the attorney general. The determination of whether an employee of the state was acting within the scope of employment shall be a question of fact to be determined by the trier of fact based upon the circumstances of each case (i) in the absence of a certification, (ii) if a certification is overruled by the attorney general, (iii) if an unfavorable certification is made, or (iv) with respect to an elected official. The absence of the certification or an unfavorable certification shall not be evidence relevant to such a determination. It is the express intent of this provision to defend, save harmless, and indemnify any employee of the state against the full amount of any final judgment rendered by a court of competent jurisdiction arising from a claim or demand described herein, regardless of whether the limitations on liability specified in subdivision 4 or 4a hereof are, for any reason, found to be inapplicable. This subdivision does not apply in case of malfeasance in office or willful or wanton actions or neglect of duty, nor does it apply to expenses, attorneys' fees, judgments, fines, and amounts paid in settlement of claims for proceedings brought by or before responsibility or ethics boards or committees.

Subd. 9a. Peace officer indemnification. The state of Minnesota shall defend, save harmless, and indemnify a peace officer who is not acting on behalf of a private employer and who is acting in good faith pursuant to section 629.40, subdivision 4, the same as if the officer were an employee of the state.

Subd. 10. Judgment as bar. The judgment in an action under this section is a complete bar to any action by the claimant, by reason of the same subject matter, against the state employee whose act or omission gave rise to the claim.

Subd. 11. Statute of limitation. The statute of limitations for all tort claims brought against the state shall be as set forth in chapter 541 and other applicable laws.

History: 1976 c 331 s 33; 1978 c 669 s 2,3; 1978 c 793 s 32; 1982 c 423 s 1; 1983 c 331 s 1; 1985 c 84 s 1,2; 1985 c 166 s 2,3; 1985 c 248 s 70; 1Sp1985 c 13 s 64; 1Sp1985 c 16 art 1 s 1; 1986 c 444; 1986 c 455 s 1,2

3.737 LIVESTOCK OWNERS; COMPENSATION FOR DESTROYED OR CRIPPLED ANIMALS.

Subdivision 1. Notwithstanding section 3.736, subdivision 3, paragraph (e) or any other law to the contrary, a livestock owner shall be compensated by the commissioner of agriculture for livestock that is destroyed or is crippled so that it must be destroyed after July 1, 1977 by an animal classified as endangered under the federal endangered species act of 1973. The owner shall be entitled to the fair market value of the destroyed livestock, not to exceed \$400 per animal destroyed, as determined by the commissioner of agriculture, upon recommendation of the county extension agent for the owner's county and a conservation officer. The commissioner, upon recommendation of the agent and conservation officer, shall determine whether the livestock was destroyed by an animal described in this subdivision. The owner shall file a claim on forms provided by the commissioner of agriculture and available at the county extension agent's office.

Subd. 2. Any payments made pursuant to this section shall be reduced by amounts received by the owner as proceeds from any insurance policy covering livestock losses, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 3. The commissioner of agriculture shall adopt and may amend rules to carry out the provisions of this section which shall include: (a) methods of valuation of livestock destroyed; (b) criteria for determination of the cause for livestock loss; (c) notice requirements by the owner of destroyed livestock; and (d) any other matters determined necessary by the commissioner to carry out the provisions of this section.

Subd. 4. Commissioner's determination; appeals. If the commissioner finds that the livestock owner has shown that the loss of the livestock was caused more probably than not by an animal classified as an endangered species, the commissioner shall pay compensation as provided in this section and in the rules of the department.

If the commissioner denies any compensation claimed by a livestock owner under this section, the commissioner shall issue a written decision based upon the available evidence which shall include specification of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision shall be transmitted to the livestock owner by first class mail.

A decision denying compensation claimed under this section is not subject to the contested case review procedures of chapter 14, but may be reviewed upon a trial de novo in the county court in the county where the loss occurred. The decision of the county court may be appealed as in other civil cases. Review in the county court may be obtained by the filing of a petition for review with the administrator of the county court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator of the county court shall mail a copy of it to the commissioner and set a time for hearing which shall be held within 90 days of the filing of the petition.

History: 1977 c 450 s 4; 1982 c 424 s 130; 1982 c 629 s 1; 1983 c 247 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82

3.738 INJURY OR DEATH OF PATIENT OR INMATE.

Subdivision 1. **Legislative authority.** Claims and demands arising out of injury to or death of a patient of a state institution under the control of the commissioner of human services or an inmate of a state correctional facility while performing assigned duties shall be presented to, heard and determined by the legislature.

Subd. 2. **Evaluation of claims.** Claims arising 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.

Subd. 3. **Exclusive remedy.** The procedure established by this section is exclusive of all other legal, equitable and statutory remedies.

History: 1977 c 450 s 6; 1979 c 260 s 1; 1984 c 654 art 5 s 58

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 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, pursuant to 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) pursuant to a written agreement signed by the person, and if a juvenile, by a parent or guardian; or

(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).

Subd. 2. **Evaluation and payment of claims.** Claims not to exceed \$500 arising out of this section shall be investigated by the state or local agency responsible for supervising the work to determine if the claim is valid and if the loss is covered by the claimant's insurance. The investigating agency shall submit all appropriate claims to the department of corrections. The department shall pay the portion of any approved claim that is not covered by the claimant's insurance within a reasonable period of

time. On or before the first day of each legislative session, the department shall submit to the appropriate committees of the senate and the house of representatives a list of the claims paid by it during the preceding calendar year, and shall be reimbursed pursuant to legislative appropriation for the claims paid. For the purposes of this paragraph, in the case of a juvenile claimant the term "claimant's insurance" includes the insurance policy of the juvenile's parents if the juvenile is covered by the policy.

Any claim in excess of \$500, and any claim that was not paid by the department may be presented to, heard, and determined by the appropriate committees of the senate and the house of representatives and, if approved, shall be paid pursuant to legislative claims procedure.

No juvenile claimant receiving payment pursuant to this section may be identified by name either in the list of claimants submitted by the department or in the legislative appropriation.

Subd. 2a. Limitations. Compensation paid under this section is limited to reimbursement for medical expenses and compensation for permanent total or partial disability or death. No compensation shall be paid pursuant to this section for pain and suffering. Payments made pursuant to this section shall be reduced by any proceeds received by the claimant 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.

Subd. 3. Exclusive remedy. The procedure established by this section is exclusive of all other legal, equitable and statutory remedies against the state, its political subdivisions, or any employees thereof.

History: 1979 c 260 s 2; 1984 c 513 s 1-3; 1985 c 242 s 1-3; 1986 c 444

- 3.74 [Expired]
- 3.741 [Expired]
- 3.742 [Expired]
- 3.743 [Expired]
- 3.744 [Expired]
- 3.745 [Expired]
- 3.746 [Expired]
- 3.747 [Expired]
- 3.748 [Expired]
- 3.75 [Repealed, 1969 c 1066 s 19 subd 2]

3.751 CONTRACT CLAIMS.

Subdivision 1. When a controversy arises out of any contract for work, services, the delivery of goods, or debt obligations of the state incurred pursuant to Article XI of the Minnesota Constitution entered into by any state agency through established procedure, in respect to which controversy a person to the contract would be entitled to redress against the state, in a court of appropriate jurisdiction, if the state were suable, and when no claim against the state has been made in a bill pending in the legislature for the same redress against it, the state hereby waives immunity from suit in connection with such controversy and confers jurisdiction on the district court to hear and determine any such controversy in the manner provided for the trial of causes in the district court. Only a party to the contract may bring action against the state.

Subd. 2. No action shall be maintained unless commenced within 90 days after the plaintiff has been furnished by the state with a final estimate under the contract, or, at the election of the plaintiff, within six months after the work provided for under the contract is completed.

Subd. 3. The action may be brought in the district court of the county in which the cause of action or some part thereof arose, or in the district court of Ramsey county.

The action shall be commenced by filing a complaint with the administrator of court, and serving a summons and copy of the complaint upon the attorney general at the state capitol. The state shall have 40 days from the date of such service within which to serve an answer upon the plaintiff. The action shall proceed in the district court as other actions at law.

Subd. 4. **Appeal.** An appeal from any final order or judgment in the action may be taken as in other civil cases.

Subd. 5. This section does not apply to controversies arising out of any contract for the construction or repair of a state trunk highway.

History: 1961 c 453 s 4; 1975 c 271 s 6; 1976 c 331 s 34; 1Sp1982 c 3 s 1; 1983 c 247 s 3; 1986 c 444; 1Sp1986 c 3 art 1 s 82

3.752 [Repealed, 1976 c 331 s 42]

3.753 [Repealed, 1976 c 331 s 42]

3.754 BUDGET REQUESTS; PROPERTY IMPROVEMENT CLAIMS.

All state departments and agencies including the state university board and the state board for community colleges shall include in their budget requests the amounts necessary to reimburse counties and municipalities for claims involving assessments for improvements benefiting state owned property located in their communities.

History: 1973 c 349 s 2; 1974 c 557 s 14; 1975 c 321 s 2

3.755 DAMAGE BY ESCAPING INMATES.

The department of corrections and the department of human services are directed to pay all claims involving property damage, not covered by insurance, resulting from actions of escaping inmates or runaway patients occurring while perfecting their escape, provided that the departments have verified the reasonableness of the amounts claimed. Upon the approval of the commissioner of human services or the commissioner of corrections as to the institutions under their respective control, the superintendent or chief executive officer of any such institution may pay out of the current expense appropriation of the institution to any employee thereof the amount of any property damage sustained by the employee, not in excess of \$250, by reason or as a result of action of any patient or inmate of the institution.

History: 1974 c 557 s 12; 1976 c 163 s 1; 1979 c 102 s 13; 1984 c 654 art 5 s 58

3.76 [Repealed, 1976 c 331 s 42]

COSTS AND ATTORNEY FEES

3.761 DEFINITIONS.

Subdivision 1. **Terms defined.** For purposes of this section and sections 3.762 to 3.765, the terms defined in this section have the meanings given them.

Subd. 2. **Administrative law judge.** "Administrative law judge" means the official assigned to conduct a contested case hearing under chapter 14.

Subd. 3. **Contested case.** "Contested case" means a proceeding defined in section 14.02, subdivision 3, in which the position of the state is represented by counsel, but excludes a contested case for the purpose of establishing or fixing a rate or for granting or renewing a license.

Subd. 4. **Expenses.** "Expenses" means the costs incurred by the party in the litigation, including:

- (1) filing fees;
- (2) subpoena fees and mileage;
- (3) transcript costs and court reporter fees;

- (4) expert witness fees;
- (5) photocopying and printing costs;
- (6) postage and delivery costs; and
- (7) service of process fees.

Subd. 5. Fees. "Fees" means the reasonable attorney fees or reasonable fees by a person not an attorney who is authorized by law or rule to represent the party and may include reasonable charges by the party, the party's employee, or agent. The amount of fees must be based upon prevailing market rates for the kind and quality of the services furnished, subject to the following limitations:

(a) In a court action, an expert witness may not be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States.

(b) In a contested case proceeding, an expert witness may not be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the state agency involved.

(c) Attorney or agent fees may not be awarded in excess of \$100 per hour unless the court or administrative law judge determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys or agents for the proceedings involved, justifies a higher fee.

Subd. 6. Party. (a) Except as modified by paragraph (b), "party" means a person named or admitted as a party, or seeking and entitled as of right to be admitted as a party, in a court action or contested case proceeding, or a person admitted by an administrative law judge for limited purposes, and who is:

(1) an unincorporated business, partnership, corporation, association, or organization, having not more than 50 employees at the time the civil action was filed or the contested case proceeding was initiated; and

(2) an unincorporated business, partnership, corporation, association, or organization whose annual revenues did not exceed \$4,000,000 at the time the civil action was filed or the contested case proceeding was initiated.

(b) "Party" also includes a partner, officer, shareholder, member, or owner of an entity described in paragraph (a), clauses (1) and (2).

(c) "Party" does not include any person providing services pursuant to licensure or reimbursement on a cost basis by the department of health or the department of human services, when that person is named or admitted or seeking to be admitted as a party in any matter which involves the licensing or reimbursement rates, procedures, or methodology applicable to those services.

Subd. 7. State. "State" means the state of Minnesota or an agency or official of the state of Minnesota acting in an official capacity.

Subd. 8. Substantially justified. "Substantially justified" means that the state's position had a reasonable basis in law and fact, based on the totality of the circumstances prior to and during the litigation or contested case proceeding.

History: 1986 c 377 s 1

3.762 FEES AND EXPENSES; CIVIL ACTION OR CONTESTED CASE PROCEEDING INVOLVING STATE.

(a) If a prevailing party other than the state, in a civil action or contested case proceeding other than a tort action, brought by or against the state, shows that the position of the state was not substantially justified, the court or administrative law judge shall award fees and other expenses to the party unless special circumstances make an award unjust.

(b) The court or administrative law judge may reduce the amount to be awarded under this section, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of an administrative law judge under this section must be made a part of the record containing the final decision of the agency and must include written findings and conclusions.

(c) This section does not preclude a party from recovering costs, disbursements, fees, and expenses under other applicable law.

History: 1986 c 377 s 2

3.763 PAYMENT OF COSTS AND FEES.

Subdivision 1. **Civil action.** A judgment against the state in a civil action for fees and expenses under section 3.762 must be paid from funds of the agency.

Subd. 2. **Contested case proceeding.** Fees and other expenses awarded in a contested case proceeding under section 3.762 must be paid by the agency over which the party prevails from funds of the agency.

History: 1986 c 377 s 3

3.764 PROCEDURE FOR AWARD OF FEES; CONTESTED CASE.

Subdivision 1. **Applications.** The chief administrative law judge shall by rule establish uniform procedures for the submission and consideration of applications for an award of fees and expenses in a contested case proceeding. If a court reviews the underlying decision of the contested case under sections 14.63 to 14.68, an award for fees and expenses may be made only pursuant to subdivision 3.

Subd. 2. **Appeal.** A party dissatisfied with the fee determination made under subdivision 1 may petition for leave to appeal to the court having jurisdiction to review the merits of the underlying decision of the contested case. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

Subd. 3. **Judicial review.** (a) In awarding fees and expenses under subdivision 1 to a prevailing party in an action for judicial review of a contested case under sections 14.63 to 14.68, the court shall include in that award fees and expenses to the extent authorized in section 3.762.

(b) Fees and expenses awarded under this subdivision may be paid in accordance with section 3.763, subdivision 2.

History: 1986 c 377 s 4

3.765 REPORTS ON AWARDS.

The state court administrator and the chief administrative law judge shall report annually to the legislature on the amount of fees and expenses awarded under section 3.762 during the preceding fiscal year in court actions and contested case proceedings. The reports shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information that may aid the legislature in evaluating the scope and impact of the awards. State agencies shall provide the chief administrative law judge with information needed to comply with the requirements of this section.

History: 1986 c 377 s 5

3.77 [Repealed, 1976 c 331 s 42]

3.78 [Repealed, 1976 c 331 s 42]

3.79 [Repealed, 1976 c 331 s 42]

3.80 [Repealed, 1976 c 331 s 42]

3.81 [Repealed, 1976 c 331 s 42]

3.82 [Repealed, 1976 c 331 s 42]

3.83 [Repealed, 1976 c 331 s 42]

3.84 MISDEMEANOR.

A person who knowingly and willfully presents, or attempts to present, a false or

fraudulent claim; or a state officer who knowingly and willfully participates, or assists, in the preparation or presentation of a false or fraudulent claim is guilty of a misdemeanor. A state officer convicted of such offense also forfeits the office.

History: 1957 c 899 s 19; 1986 c 444

PUBLIC RETIREMENT COMMISSION

3.85 LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT.

Subdivision 1. Creation. A permanent commission to continually study and investigate public retirement systems is hereby created.

Subd. 2. Powers. The name of the commission is the legislative commission on pensions and retirement. The commission shall make a continuing study and investigation of retirement benefit plans applicable to nonfederal government employees in this state. The powers and duties of the commission include, but are not limited to the following:

(a) The study of retirement benefit plans applicable to nonfederal government employees in the state of Minnesota, including federal plans available to such employees;

(b) the making of recommendations within the scope of the study, including attention to financing of the various pension funds and financing of accrued liabilities;

(c) the consideration of all aspects of pension planning and operation and the making of recommendations designed to establish and maintain sound pension policy as to all funds;

(d) the filing of a report at least biennially to each session of the legislature;

(e) the analyzing of each item of proposed pension and retirement legislation, including amendments thereon, with particular reference to analysis as to cost, actuarial soundness, and adherence to sound pension policy, and the reporting of its findings to the legislature;

(f) the creation and maintenance of a library for reference concerning pension and retirement matters, including information as to laws and systems in other states; and

(g) to study, analyze, and have prepared reports in regard to subjects certified to the commission for such study.

Subd. 3. Membership. The commission consists of five members of the senate to be appointed by the subcommittee on committees of the committee on rules and administration and five members of the house of representatives to be appointed by the speaker. Members of the commission 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 on the commission occurring while the legislature is in session shall be filled in the same manner as regular appointments to the commission. If the legislature is not in session, vacancies in the membership of the commission 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 in case of a senate vacancy, and by the last speaker of the house, or if the speaker be not available, by the last chair of the house rules committee in case of a house vacancy.

Subd. 4. Office, meetings, officers. The commission shall maintain an office in the capitol group of buildings in space which the commissioner of administration shall provide. The commission shall hold meetings at such times and places as it may designate. It shall select a chair, a vice-chair and such other officers from its membership as it may deem necessary.

Subd. 5. Staff. The commission may employ such professional, clerical, and technical assistants as it deems necessary in order to perform the duties herein prescribed.

Subd. 6. Assistance of other agencies. The commission may request information

from any state officer or agency or any public pension fund or plan as defined in section 356.61, including any volunteer firefighters' relief association to which sections 69.771 to 69.776 applies, in order to assist in carrying out the terms of this section and the officer, agency, or public pension fund or plan, is authorized and directed to promptly furnish any data requested.

Subd. 7. Legislative bills furnished. The secretary of the senate and the chief clerk of the house shall provide the commission with a copy of each bill introduced in the legislature concerning retirement and pensions.

Subd. 8. Expenses, reimbursement. The members of the commission and its assistants shall be reimbursed for all expenses actually and necessarily incurred in the performance of their duties hereunder. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees.

Subd. 9. Expenses and reports. Expenses of the commission shall be approved by the chair or such other member as the rules of the commission may provide and the expenses shall then be paid in the same manner as other state expenses are paid. A general summary or statement of expenses incurred by the commission and paid shall be made to the legislature by November 15 of each even numbered year.

Subd. 10. Effective date. This section is effective May 1, 1967.

Subd. 11. Standards for pension valuations and cost estimates. The commission shall by June 30, 1985, adopt standards prescribing specific detailed methods of calculating, evaluating, and displaying current and proposed law liabilities, costs, and actuarial equivalents of all public employee pension plans in Minnesota. These standards shall be consistent with chapter 356 and shall be updated annually thereafter.

Subd. 12. Valuations and reports to legislature. (a) The commission shall contract with an established actuarial consulting firm to conduct annual valuations and financial adequacy studies for the funds specified in (b). The contract shall also include provisions for performing cost analyses of proposals for changes in benefit and funding policies.

(b) The plans which shall be included in the contract for valuation and analysis are:

- (1) the Statewide Teachers Retirement Association;
- (2) the General Plan, Minnesota State Retirement System;
- (3) the Correctional Plan, Minnesota State Retirement System;
- (4) the State Patrol Plan, Minnesota State Retirement System;
- (5) the Judges Plan, Minnesota State Retirement System;
- (6) the Minneapolis Employees Retirement Fund;
- (7) the General Plan, Public Employees Retirement Association;
- (8) the Police and Fire Plan, Public Employees Retirement Association;
- (9) the Duluth Teachers Retirement Association;
- (10) the Minneapolis Teachers Retirement Association;
- (11) the St. Paul Teachers Retirement Association; and
- (12) the Legislator's Retirement Plan.

(c) The contract shall include the following:

(1) Every year beginning in fiscal year 1986, the contract shall specify completion of standard valuations for the preceding fiscal year with contents as described in section 356.215, subdivisions 4 to 4k; and cash flow forecasts through the amortization target date. For funds using a calendar year valuation period the first valuation shall be for the period ending December 31, 1985.

(2) Every four years, beginning in fiscal year 1988, the contract shall specify completion of an experience study for the four-year period ending June 30 of the preceding fiscal year. The experience study shall evaluate the appropriateness of continuing to use for future valuations the assumptions relating to: individual salary progression; rate of return on investments; payroll growth; mortality; withdrawal; disability;

retirement; and any other experience-related factor that could impact the future financial condition of the retirement funds.

(d) The commission shall annually prepare a report to the legislature summarizing the results of the valuations and cash flow projections and shall include with its report recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement funds by the required funding dates. It shall also, within two months of the completion of the quadrennial experience studies, prepare a report to the legislature on the appropriateness of the valuation assumptions listed in paragraph (c), clause (2).

History: 1967 c 549 s 1-6; 1969 c 399 s 1; 1971 c 818 s 1,2; 1974 c 406 s 53; 1975 c 271 s 6; 1981 c 224 s 1; 1984 c 564 s 1,2; 1Sp1985 c 7 s 1,2,35; 1Sp1985 c 13 s 65; 1986 c 359 s 1; 1986 c 444

LEGISLATIVE COMMISSION ON EMPLOYEE RELATIONS

3.855 LEGISLATIVE COMMISSION ON EMPLOYEE RELATIONS.

Subdivision 1. Establishment. There is created the legislative commission on employee relations. The commission shall consist of six members of the senate and six members of the house of representatives. The senate members shall include the leader of the majority caucus of the senate, the leader of the minority caucus of the senate, the chair of the governmental operations committee, the chair of the finance committee, the chair of the committee on taxes and tax laws, and an additional member designated by the leader of the minority caucus. The house members shall include the speaker, the leader of the minority caucus of the house, the chair of the governmental operations committee, the chair of the appropriations committee, the chair of the taxes committee, and an additional member designated by the leader of the minority caucus. In the event that the membership of the house is evenly divided, the house members shall be selected pursuant to the rules of the house. Any member of the commission may resign by providing notice to the chair. In the event of a resignation by a member of the: (1) senate, a replacement shall be selected from among the members of the senate by the committee on rules; (2) house, a replacement shall be selected from among the members of the house pursuant to house rules. The commission shall elect its own officers who shall serve for terms of two years. The office of chair of the commission shall alternate between a member of the senate and a member of the house.

Subd. 2. State employee negotiations. The commissioner of employee relations shall regularly advise the commission on the progress of collective bargaining activities with state employees pursuant to the state public employment labor relations act. During the course of the negotiations, the commission may make recommendations to the commissioner as it deems appropriate but no recommendation shall impose any obligation or grant any right or privilege to the parties. The commissioner shall submit to the chair of the commission any negotiated agreements or arbitration awards. Approved negotiated agreements shall be submitted within five days of the date of approval by the commissioner or the date of approval by the affected state employees whichever occurs later. Arbitration awards shall be submitted within five days of their receipt by the commissioner. If the commission disapproves of any agreement or award, the commission shall specify in writing to the parties those portions with which it disagrees and the reasons therefor. If the commission approves of an agreement or award, it shall cause the matter to be submitted to the legislature to be accepted or rejected pursuant to section 179A.22, subdivision 4. Failure of the commission to disapprove of an agreement or award within 30 days of its receipt shall be deemed approval. Approval or disapproval by the commission shall not be binding on the entire legislature.

After adjournment of the legislature in an odd-numbered year, the commission may give interim approval to a negotiated agreement or arbitration award. It shall submit the negotiated agreement or arbitration award to the entire legislature for ratification as provided in section 179A.22, subdivision 4.

Subd. 3. Other duties. In addition to the duties specified in subdivision 2, the commission shall perform the following:

(a) review and approve, reject, or modify a plan for compensation, terms and conditions of employment prepared and submitted by the commissioner of employee relations pursuant to section 43A.18, subdivision 2 covering all state employees who are not represented by an exclusive bargaining representative and whose compensation is not provided for by chapter 43A or other law;

(b) review and approve, reject or modify a plan for total compensation and terms and conditions of employment for employees of those positions identified as being managerial pursuant to section 43A.18, subdivision 3, whose salaries and benefits are not otherwise provided for in law or other plans established under chapter 43A;

(c) review and approve, reject or modify recommendations for salaries submitted by the governor pursuant to section 43A.18, subdivision 5, covering agency head positions listed in section 15A.081;

(d) continually monitor the state's civil service system as provided for in chapter 43A, rules of the commissioner of employee relations and the collective bargaining process as provided for in sections 179A.01 to 179A.25, as applied to state employees;

(e) research and analyze the need for improvements in those statutory sections;

(f) adopt rules not inconsistent with this section relating to the scheduling and conduct of commission business and other organizational and procedural matters; and

(g) perform such other related functions as are delegated to it by the legislature.

History: 1979 c 332 art 1 s 2; 1980 c 617 s 1; 1981 c 314 s 1; 1982 c 560 s 1; 1983 c 299 s 2; 1984 c 462 s 27; 1986 c 444

3.86 [Repealed, 1983 c 301 s 235]

LEGISLATIVE COMMISSION ON PUBLIC EDUCATION

3.865 LEGISLATIVE COMMISSION ON PUBLIC EDUCATION.

Subdivision 1. Establishment. There is established a legislative commission on public education. The commission shall study issues relating to elementary and secondary education, including at least the following:

(a) education policy development and planning and recommendations for change to make education more effective;

(b) current and alternative financing formulas for education and recommendations for changes in the use of public money to fund education;

(c) current school district organization and administration and recommendations for more efficient use of available resources;

(d) current technology and alternative education delivery systems for Minnesota; and

(e) teacher preparation, certification, salaries, employment policies, and retention.

Subd. 2. Membership and terms. The commission shall consist of 12 members. Six members shall be from the senate, including members of the minority caucus, and shall be appointed by the subcommittee on committees of the committee on rules and administration. Six members shall be from the house of representatives, including members of the minority caucus, and shall be appointed by the speaker. The chairs of the senate education committee, senate education aids subcommittee, house education committee, and house education finance division shall be members of the commission. The members shall be appointed for two-year terms beginning on January 1 of each odd-numbered year. Vacancies on the commission shall be filled in the same manner as the original appointments.

Subd. 3. Terms and officers. The commission shall elect a chair and a vice-chair from among its members. The chair shall alternate biennially between a member of the senate and a member of the house. The vice-chair shall be a house member when the chair is a senate member, and senate member when the chair is a house member.

Subd. 4. **Governor's representative.** The governor shall appoint a person to serve as liaison between the governor and the commission.

Subd. 5. **Advisory committee.** The commission may appoint advisory committees to assist it as needed. The advisory committees shall meet at the discretion of the commission.

Subd. 6. **Assistance of other agencies.** The commission may request information from any state officer or agency to assist the commission in performing its duties. The officer or agency is authorized and directed to promptly furnish any data requested.

Subd. 7. **Staff.** The commission may employ professional, technical, consulting, and clerical services. The commission may use legislative staff to provide legal counsel, research, secretarial, and clerical assistance.

Subd. 8. **Expenses and reimbursement.** The members of the commission and its assistants shall be reimbursed for all expenses actually incurred in the performance of their duties. Expenses of the commission shall be approved by the chair and the expenses shall be paid in the same manner as other state expenses are paid.

Subd. 9. **Report.** By January 15 of each year, the commission shall report to the education committees of the legislature on its findings and recommendations, including information related to the funding of education.

History: 1983 c 314 art 7 s 1

3.866 SCHOOL DISTRICT REVENUE STUDY.

The legislative commission on public education is encouraged to conduct a study of school district foundation and retirement revenue. The study may address at least the following topics:

(1) alternative means of funding school district retirement costs, including means of funding retirement costs through the foundation revenue formulas;

(2) the financial constraints and costs faced by districts with highly educated and experienced staff, the adequacy of the current training and experience allowance and revenue in tiers two through five in recognizing these constraints and costs, and the impact of the training and experience allowance on program differences among districts and on incentives for district personnel decisions;

(3) the financial constraints and costs faced by small and isolated districts, and the adequacy of the current sparsity allowance in recognizing these constraints and costs;

(4) an analysis of the financial constraints and costs faced by districts with low salaries, and the need for additional revenue to enable such districts to raise salaries;

(5) an analysis of the financial constraints and costs faced by districts with declining enrollments, and the need for additional revenue in such districts;

(6) an analysis of the financial constraints and costs faced by districts with large concentrations of low-income and disadvantaged pupils, the adequacy of the current AFDC pupil unit formula in providing revenue in these districts, and possible alternative formulas for education overburden revenue;

(7) differences in the average costs of educating elementary and secondary pupils, and the adequacy of the current pupil unit weightings in addressing these differences;

(8) trends in the degree of equalization of school district revenues and tax rates;

(9) the relationship of the basic formula allowance and foundation revenue to school district operating expenditures;

(10) the adequacy of unappropriated balances in school district operating funds, including the implications of fund balances regarding the revenue needs of school districts;

(11) the advantages, disadvantages, and cost implications of program-based funding; and

(12) means to simplify and improve understanding of school district funding formulas and laws.

The department of finance and the department of education shall provide assistance to the commission upon request.

History: *1Sp1985 c 12 art 1 s 34*

3.87 [Repealed, 1974 c 470 s 43]

LEGISLATIVE COMMISSION ON ECONOMIC DEVELOPMENT STRATEGY

3.875 LEGISLATIVE COMMISSION ON ECONOMIC DEVELOPMENT STRATEGY.

Subdivision 1. Commission created. A legislative commission on economic development strategy is created to review state economic development efforts and recommend a strategy for state economic development activities.

Subd. 2. Membership. The commission consists of ten members: 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. The members shall elect the chair.

Subd. 3. Compensation. Members of the commission shall be compensated in the manner provided by section 3.101.

Subd. 4. Staff assistance. The commission may appoint an executive director in the unclassified service and hire staff who may request and shall receive reasonable assistance from other state agencies. The director of state planning, the commissioner of energy and economic development, and the commissioner of agriculture shall provide, to the extent requested by the commission, necessary office space, equipment, and staff assistance to the commission to enable the commission to carry out its duties. These agencies shall share the costs of the executive director and support staff. The legislative coordinating commission shall also provide office space and administrative support to the commission.

Subd. 5. Duties. The commission shall:

- (1) review existing data and collect additional data when needed regarding existing, proposed, and potential economic development programs;
- (2) review existing economic development programs and assess their effectiveness and appropriateness;
- (3) study state economic development options and develop a long-term strategy for state economic development efforts, including suggested goals and measurable objectives; and
- (4) report on the results of those matters specified by clauses (1), (2), and (3) to the legislature by February 1, 1987. The report shall include but is not limited to the strategy required by clause (3), and proposed legislation to repeal, revise, or create new or existing economic development programs.

Subd. 6. Powers. The commission may:

- (1) contract for consulting or research services;
- (2) establish advisory task forces consisting of individuals including agency heads or their designees, University of Minnesota personnel or their designees, and persons in the private sector having knowledge in commerce and economic development; and
- (3) vote to discontinue its work if it reasonably concludes that it has complied with subdivision 1 and that there is nothing remaining for the commission or its staff to accomplish.

Subd. 7. Factual considerations. In carrying out the duties required by subdivision 6, the commission shall consider:

- (1) the economic and noneconomic strengths and weaknesses of the state;
- (2) economic and noneconomic costs and benefits of development, including effects on people, communities, and businesses;

(3) the proper role and limitations of government efforts to aid economic development, including any necessary reorganization of state government and any necessary interagency coordination and communication;

(4) the effect of past and present economic development policies and programs, as well as the possibility and results of cooperation with the federal government and other midwestern states;

(5) the proper role of local government, including coordination of local programs;

(6) the industries or segments of industry and types of businesses that should be the focus of state economic development efforts;

(7) whether the focus of state decision makers should be on new firms or businesses, or limited to expansion of existing firms or businesses, and what guidelines should be established to assure that the development or expansion would not occur without state assistance;

(8) the effectiveness, including cost effectiveness, considering the state's kind and number of resources, of current economic development tools, such as job training, grants, loans, loan guarantees, tax incentives, subsidies, venture capital, technical support, and project incubation;

(9) the potential effectiveness of other policies or tools not currently provided for;

(10) the importance to economic development of state educational programs, tax structures, infrastructure, and regulation;

(11) the effects of existing and potential international trade activities and federal fiscal and monetary policy on economic development within the state; and

(12) the extent to which economic development programs should be directed to industries in which Minnesota has a comparative advantage or directed to maintaining a diversified economy.

Subd. 8. **Sunset.** This section is repealed July 1, 1987.

History: *1Sp1985 c 13 s 66*

3.88 [Repealed, 1974 c 470 s 43]

3.89 [Repealed, 1974 c 470 s 43]

3.90 [Repealed, 1974 c 470 s 43]

3.91 [Repealed, 1974 c 470 s 43]

3.92 [Repealed, 1974 c 470 s 43]

STANDING COMMITTEES OF THE LEGISLATURE

3.921 STANDING COMMITTEES AS INTERIM STUDY COMMITTEES.

Subdivision 1. Each standing committee or subcommittee existing in the senate and house of representatives is continued during the intervals between sessions of the legislature to make studies and investigations within the general jurisdiction of each such committee, as directed by the committee on rules and administration of the senate and the committee on rules and legislative administration of the house of representatives, or as otherwise prescribed by resolution duly adopted or by law.

Subd. 2. Vacancies in any such committee or subcommittee during such intervals shall be filled by the last elected speaker of the house of representatives as to house committees and by the last elected senate committee on committees as to senate committees.

Subd. 3. Any standing committee of the senate that requires an appropriation of funds to defray expenses of its operations during the interim shall prepare a budget, which budget shall be submitted to the senate committee on rules and administration for its approval. No funds shall be expended by such standing committee without prior approval of the senate committee on rules and administration. Any standing commit-

tee of the house of representatives that requires an appropriation of funds to defray expenses of its operations during the interim shall prepare a budget, which budget shall be submitted to the rules committee of the house of representatives for its approval. No funds shall be expended by such standing committee without prior approval of the rules committee of the house of representatives.

Subd. 4. The expenses of any such committee shall be paid upon the certification to the commissioner of finance of the amount thereof. Payment of such expenses is hereby directed from any direct appropriation therefor to the legislature or either branch thereof.

History: 1963 c 887 s 1; 1973 c 492 s 14; 1973 c 720 s 69

INDIAN AFFAIRS COUNCIL

3.922 INDIAN AFFAIRS COUNCIL.

Subdivision 1. Creation, membership. There is created a state Indian affairs council to consist of the following ex officio members: The governor or a member of the governor's official staff designated by the governor, the commissioner of education, the commissioner of human services, the commissioner of natural resources, the commissioner of human rights, the commissioner of energy and economic development, the commissioner of corrections, the executive director of the Minnesota housing finance agency, the commissioner of iron range resources and rehabilitation, and the commissioner of health each of whom may designate a staff member to serve instead, three members of the state house of representatives appointed by the speaker of the house of representatives, and three members of the state senate appointed by the committee on committees of the senate. Voting members of the council shall be: the duly elected tribal chair of the Fond du Lac Reservation business committee; the Grand Portage Reservation business committee; the Mille Lacs Reservation business committee; the White Earth Reservation business committee; the Bois Forte (Nett Lake) Reservation business committee; the Leech Lake Reservation business committee; the Red Lake tribal council; the Upper Sioux board of trustees; the Lower Sioux tribal council; the Shakopee-Mdewankanton general council; the Prairie Island tribal council; and two members to be selected pursuant to subdivision 2. The chairs of the above Indian committees, trusts, or councils may designate in writing a member who shall have been elected at large to an office in the committee, trust, or council, to serve instead. Council members appointed to represent the state house of representatives, the state senate or tribal governments shall no longer serve on the council at such time as they are no longer members of the bodies which they represent, and upon such circumstances, their offices shall be vacant. A member who is a designee of a tribal chair shall cease to be a member at the end of the term of the designating tribal chair. Ex officio members or their designees on the council shall not be voting members of the council.

Subd. 2. Additional members. Two members of the council shall be elected at large by Indian residents of Minnesota who (1) are legal members and eligible voters of a federally recognized tribe in accordance with the criteria of said tribe and (2) are not members of any federally recognized tribe with a reservation in Minnesota. The election of at large members shall be in a manner prescribed by the secretary of state with the first such election for at large members to take place at a reasonable time, but no later than April 14, 1977. The manner of election, certification, and contest shall, insofar as reasonably possible, be consistent with procedures employed in general elections in the state so as to insure a fair election and ready access to the election process by eligible voters. The voting procedure shall include voting by absentee ballot. A person shall be eligible to serve as an at large member of the council if at the time of the election the person is a qualified voter within the requirements of the Minnesota Constitution, article VII and a member of a federally recognized tribe that does not have a reservation in Minnesota. The at large election described herein shall be certified and regulated by the secretary of state. The term for at large members elected in 1977

shall expire on April 20, 1981. At large elections shall be held no later than April 14, 1981, and no later than every fourth April 14 thereafter, and the term of office for at large members shall be four years commencing on the April 20 following each at large election and ending at 12:01 a.m., April 20 four years thereafter.

Subd. 3. Compensation; expenses. Compensation of nonlegislator members shall be as provided in section 15.059. Expenses of the council shall be approved by two of any three members of the council designated by the council and shall then be paid in the same manner as other state expenses are paid. The commissioner of finance shall be informed in writing by the executive secretary of the names of the persons authorized to approve expenses.

Subd. 4. Meetings. Meetings may be called by the chair or at the written request of five members of the council. A majority of the voting members of the council constitutes a quorum.

Subd. 5. Officers; personnel; authority. The council shall annually elect a chair and such other officers as it may deem necessary. The chair shall have the authority to appoint subcommittees necessary to fulfill the duties of the council. It shall also employ, and prescribe the duties of such employees and agents as it deems necessary. The compensation of the executive director of the board shall be as provided by section 43A.18. All employees are in the unclassified service. The chair shall be an ex officio member of the state board of human rights. The appropriations and other funds of this council are subject to the provisions of chapter 16B. The council shall have power to contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and spend in its own name, grants and gifts of money consistent with the powers and duties specified in this section. The council shall maintain its primary office in Bemidji and shall also maintain personnel and office space in St. Paul.

Subd. 6. Duties. The primary duties of the council shall be to:

(1) clarify for the legislature and state agencies the nature of tribal governments, 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 for the benefit of 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 for programs, proposals and projects to the legislature submitted by tribal governments, organizations, committees, groups or individuals;

(5) provide a continuing dialogue with members of the appropriate tribal governments in order 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 delivering 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 the implementation and updating of studies of services delivered to the Indian community;

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

(12) interreact with private organizations involved with Indian concerns in the

development and implementation of programs designed to assist Indian people, insofar as they affect state agencies and departments; and

(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.

Subd. 7. State officials and departments; cooperation. In carrying out these objectives and to ascertain Indian needs the council shall have the right to confer with state officials and other governmental units, and to have access to such records as are necessary to obtain needed information. The council also shall have the right to call upon various state departments for such technical advice and service as are needed to fulfill the purposes of the council.

Subd. 8. Advisory council. An advisory council on urban Indians is created to advise the board on the unique problems and concerns of Minnesota Indians who are residing in urban areas of the state. The council shall be appointed by the board and shall consist of five Indians residing in the vicinity of Minneapolis, St. Paul and Duluth. At least one member of the council shall be a resident of each of the aforementioned cities. The council shall expire, and terms, compensation and removal of members shall be as provided in section 15.059.

Subd. 9. Annual report. The council shall make an annual report to the governor and the legislature on its activities, its findings, and its recommendations prior to November 15 in each year.

History: 1963 c 888 s 2 subd 2-4,6-8; 1965 c 888 s 7 subd 1,3; 1967 c 299 s 9; Ex 1967 c 55 s 1,2; 1969 c 540 s 3; 1969 c 975 s 17; 1969 c 1005 s 1,2; 1969 c 1129 art 3 s 1; 1974 c 539 s 1; 1975 c 54 s 1; 1975 c 271 s 6; 1976 c 314 s 1; 1980 c 374 s 1; 1981 c 356 s 68; 1983 c 260 s 1; 1983 c 289 s 115 subd 1; 1983 c 299 s 3; 1983 c 301 s 59; 1984 c 654 art 5 s 58; 1986 c 344 s 1; 1986 c 444

NOTE: Laws 1965, Chapter 888, Section 8, Subdivision 3 reads in part as follows:

"Subd. 3. (a) Commissions referred to in this act may subpoena witnesses and records. In case of the refusal by any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the district court of any county, on application of the commission, may issue an order requiring the person to comply with the subpoena and to testify. Any failure to obey the order of the court may be punished by the court as a contempt thereof."

NOTE: Laws 1976, Chapter 134, Section 2, also amended section 3.922, subdivision 2, to read as follows:

"Subd. 2. **Terms, compensation, removal, vacancies.** To ensure a continuity of work, the initial appointments shall be: One of the three members selected from the Indian tribes shall be for a term of one year, one thereof for a term of two years, and one thereof for a term of three years, and two of the members selected from the cities shall be for a term of one year, one for a term of two years, and one for a term of three years, and until their successors are appointed and qualified. Appointments for succeeding terms shall all be for four years, and until their successors are appointed and qualified. The compensation of members in respect to commission members other than legislator and ex officio members shall be as provided in section 1."

Laws 1976, Chapter 134, Section 79, also repealed section 3.922, subdivision 3.

3.9222 LEGISLATIVE COMMISSION ON THE ECONOMIC STATUS OF WOMEN.

Subdivision 1. A legislative commission is created to study and report on the economic status of women in Minnesota.

Subd. 2. The commission shall consist of five members of the house of representatives appointed by the speaker and five members of the senate appointed by the committee on committees. Members shall serve until the expiration of their legislative terms.

Subd. 3. The commission shall study all matters relating to the economic status of women in Minnesota, including economic security of homemakers and women in the labor force, opportunities for education and vocational training, employment opportunities, the contributions of women to the economy, their access to benefits and services provided to citizens of this state, and laws and business practices constituting barriers to the full participation by women in the economy. In addition, the commission shall study the adequacy of programs and services relating to families in Minnesota, including single-parent families and members beyond the nuclear or immediate family.

Subd. 4. The commission shall report its findings and recommendations to the governor and the legislature not later than December 15 of each even-numbered year and shall supplement its findings and recommendations not later than December 15 of each odd-numbered year. The report shall recommend legislation and administrative action designed to enable women to achieve full participation in the economy. The report shall also recommend methods to encourage the development of coordinated, interdepartmental goals and objectives and the coordination of programs, services and facilities among all state departments and public and private providers of services related to children, youth and families.

Subd. 5. The commission may hold meetings and hearings at the times and places it designates to accomplish the purposes set forth in this section. It shall select a chair and other officers from its membership as it deems necessary.

Subd. 6. The legislative coordinating commission shall supply the commission with necessary staff, office space and administrative services.

Subd. 7. When any person, corporation, the United States government, or any other entity offers funds to the commission by way of gift, grant or loan, for the purpose of assisting the commission to carry out its powers and duties, the commission may accept the offer by majority vote and upon acceptance the chair shall receive the funds subject to the terms of the offer, but no money shall be accepted or received as a loan nor shall any indebtedness be incurred except in the manner and under the limitations otherwise provided by law.

History: 1976 c 337 s 1; 1978 c 793 s 82,83; 1981 c 356 s 371-373; 3Sp1981 c 2 art 1 s 7; 1983 c 301 s 60; 1984 c 655 art 1 s 1; 1986 c 444

3.9223 COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE.

Subdivision 1. **Membership.** There is created a state council on affairs of Spanish-speaking people to consist of seven members appointed by the governor. The demographic composition of the council members shall accurately reflect the demographic composition of Minnesota's Spanish-speaking community, including migrant workers, as determined by the state demographer. Membership, terms, compensation, removal of members and filling of vacancies shall be as provided in section 15.0575. The council shall annually elect from its membership a chair and other officers it deems necessary. The council shall expire on the date provided by section 15.059, subdivision 5.

Subd. 2. **Spanish-speaking people.** For purposes of subdivisions 3 to 7, the term "Spanish-speaking person" means a person who uses Spanish as a primary method of communication, or who is a spouse of a person who does.

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

(a) Advise the governor and the legislature on the nature of the issues and disabilities confronting Spanish-speaking people in this state including the unique problems encountered by Spanish-speaking migrant agricultural workers;

(b) Advise the governor and the legislature on statutes or rules necessary to insure Spanish-speaking people access to benefits and services provided to people in this state;

(c) Recommend to the governor and the legislature legislation designed to improve the economic and social condition of Spanish-speaking people in this state;

(d) Serve as a conduit to state government for organizations of Spanish-speaking people in the state;

(e) Serve as a referral agency to assist Spanish-speaking people in securing access to state agencies and programs;

(f) Serve as a liaison with the federal government, local government units and private organizations on matters relating to the Spanish-speaking people of this state;

(g) Perform or contract for the performance of studies designed to suggest solutions to problems of Spanish-speaking people in the areas of education, employment, human rights, health, housing, social welfare and other related programs;

(h) Implement programs designed to solve problems of Spanish-speaking people when so authorized by other statute, rule or order;

(i) Publicize the accomplishments of Spanish-speaking people and the contributions made by them to this state.

Subd. 4. Review and recommendation authority. All applications for the receipt of federal money and all proposed rules of any state agency which will have their primary effect on Spanish-speaking people shall be submitted to the council for review and recommendation at least 15 days prior to submission to a federal agency or initial publication in the State Register.

Subd. 5. Powers. The council shall have power to contract in its own name. Contracts shall be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in this section.

The council shall appoint, subject to the approval of the governor, an executive director who shall be experienced in administrative activities and familiar with the problems and needs of Spanish-speaking people. The council may delegate to the executive director any powers and duties under this section which do not require council approval. The executive director and council staff shall serve in the unclassified service. The executive director may be removed at any time by a majority vote of the entire council. The executive director shall recommend to the council the appropriate staffing patterns necessary to carry out its duties. The commissioner of administration shall provide the council with necessary administrative services, and the council shall reimburse the commissioner for the cost of these services.

Subd. 6. State agency assistance. Other state agencies shall supply the council upon request with advisory staff services on matters relating to the jurisdiction of the council and the council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. Report. The council shall prepare and distribute a report to the governor and legislature by November 15 of each even-numbered year. The report shall summarize the activities of the council since its prior report, list receipts and expenditures, identify the major problems and issues confronting Spanish-speaking people, and list the specific objectives which the council seeks to attain during the next biennium.

History: 1978 c 510 s 1-7; 1981 c 356 s 374,375; 1983 c 260 s 2; 1983 c 305 s 2; 1Sp1985 c 13 s 67; 1986 c 444

3.9225 COUNCIL ON BLACK MINNESOTANS.

Subdivision 1. Creation. There is created a state council on Black Minnesotans to consist of seven members appointed by the governor. The members of the council shall be broadly representative of the Black community of the state and shall include at least three males and at least three females. Membership terms, compensation, removal of members and filling of vacancies for nonlegislative members shall be as provided in section 15.059. In addition, two members of the house of representatives appointed by the speaker and two members of the senate appointed by the subcommittee on committees of the committee on rules and administration shall serve as ex officio, nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary.

Subd. 2. Definitions. For the purpose of this section, the term "Black" describes persons who consider themselves as having origin in any of the black racial groups of Africa.

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 insure Black people 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 any 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 designed 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 in securing 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 so authorized by other statute, rule or order; and

(j) Publicize the accomplishments of Black people and the contributions made by them to this state.

Subd. 4. Review of grant applications. All applications by a state department or agency for the receipt of federal funds which will have their primary effect on Black Minnesotans shall be submitted to the council for review and recommendation at least 30 days prior to submission to a federal agency.

Subd. 5. Powers. The council shall have power to contract in its own name, provided that no money shall be accepted or received as a loan nor shall any indebtedness be incurred except as otherwise provided by law. Contracts shall be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in subdivisions 1 to 7.

The council shall appoint an executive director who shall be experienced in administrative activities and familiar with the problems and needs of Black people. The council may delegate to the executive director any powers and duties under subdivisions 1 to 7 which do not require council approval. The executive director shall serve in the unclassified service and may be removed at any time by the council. The executive director shall recommend to the council, and the council may appoint, the appropriate staff necessary to carry out its duties. All staff members shall also serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services, and the council shall reimburse the commissioner for the cost of these services.

Subd. 6. State agency assistance. Other state agencies shall supply the council upon request with advisory staff services on matters relating to the jurisdiction of the council and the council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. Report. The council shall prepare and distribute a report to the governor and legislature by November 15 of each even-numbered year. The report shall summarize the activities of the council since its prior report, list receipts and expenditures, identify the major problems and issues confronting Black people, and list the specific objectives which the council seeks to attain during the next biennium.

History: 1980 c 614 s 187; 1981 c 20 s 1; 1986 c 444

3.9226 COUNCIL ON ASIAN-PACIFIC MINNESOTANS.

Subdivision 1. Creation. The state council on Asian-Pacific Minnesotans consists of 13 members. Nine members are appointed by the governor and shall be broadly representative of the Asian-Pacific community of the state. Terms, compensation, removal, and filling of vacancies for these members are as provided in section 15.059.

In addition, two members of the house of representatives appointed under the rules of the house of representatives and two members of the senate appointed under the rules of the senate shall serve as nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary.

Subd. 2. **Definition.** For the purpose of this section, the term Asian-Pacific means a person from any of the countries in Asia or the Pacific Islands.

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

(1) advise the governor and the legislature on issues confronting Asian-Pacific people in this state, including the unique problems of non-English-speaking immigrants and refugees;

(2) advise the governor and the legislature of administrative and legislative changes necessary to ensure Asian-Pacific people access to benefits and services provided to people in this state;

(3) 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 Asian-Pacific people in the state's work force;

(4) recommend to the governor and the legislature legislation designed to improve the economic and social condition of Asian-Pacific people in this state;

(5) serve as a conduit to state government for organizations of Asian-Pacific people in the state;

(6) serve as a referral agency to assist Asian-Pacific people in securing access to state agencies and programs;

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

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

(9) implement programs designed to solve the problems of Asian-Pacific people when authorized by other law;

(10) publicize the accomplishments of Asian-Pacific people and their contributions to this state;

(11) work with other state and federal agencies and organizations to develop small business opportunities and promote economic development for Asian-Pacific Minnesotans;

(12) supervise development of an Asian-Pacific trade primer, outlining Asian and Pacific customs, cultural traditions, and business practices, including language usage, for use by Minnesota's export community; and

(13) cooperate with other state and federal agencies and organizations to develop improved state trade relations with Asian and Pacific countries.

Subd. 4. **Review of grant applications and budget requests.** State departments and agencies shall consult with the council concerning any application for federal money that will have its primary effect on Asian-Pacific Minnesotans before development of the application. The council shall advise the governor and the commissioner of finance concerning any state agency request that will have its primary effect on Asian-Pacific Minnesotans.

Subd. 5. **Powers.** (a) The council may contract in its own name but may not accept or receive a loan or incur indebtedness except as otherwise provided by law. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this section.

(b) The council shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Asian-Pacific people. The council may delegate to the executive director any powers and duties under this section

that do not require council approval. The executive director serves in the unclassified service and may be removed at any time by the council. The executive director shall recommend to the council, and the council may appoint, the appropriate staff necessary to carry out the duties of the council. All staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services, for which the council shall reimburse the commissioner.

Subd. 6. **State agency assistance.** On the request of the council, state agencies shall supply the council with advisory staff services on matters relating to the jurisdiction of the council. The council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. **Report.** The council shall prepare and distribute a report to the governor and legislature by November 15 of each even-numbered year. The report shall summarize the activities of the council since its last report, list receipts and expenditures, identify the major problems and issues confronting Asian-Pacific people, and list the specific objectives that the council seeks to attain during the next biennium.

Subd. 8. **Repealer.** This section is repealed June 30, 1988.

History: 1Sp1985 c 13 s 68; 1986 c 444

- 3.923 [Repealed, 1973 c 377 s 1]
- 3.924 [Renumbered 129B.01]
- 3.925 [Renumbered 129B.02]
- 3.9251 [Renumbered 129B.03]
- 3.926 [Renumbered 129B.04]
- 3.927 [Renumbered 129B.05]
- 3.9271 [Repealed, 1979 c 334 art 7 s 7]
- 3.9272 [Repealed, 1979 c 334 art 7 s 7]
- 3.9273 [Repealed, 1979 c 334 art 7 s 7]
- 3.9274 [Repealed, 1979 c 334 art 7 s 7]
- 3.9275 [Repealed, 1979 c 334 art 7 s 7]
- 3.9276 [Renumbered 129B.06]
- 3.9277 [Renumbered 129B.07]
- 3.9278 [Renumbered 129B.08]
- 3.9279 Subdivision 1. [Renumbered 129B.09, subdivision 1]
 - Subd. 2. [Renumbered 129B.09, subd. 2]
 - Subd. 3. [Renumbered 129B.09, subd. 3]
 - Subd. 4. [Renumbered 129B.09, subd. 4]
 - Subd. 5. [Renumbered 129B.09, subd. 5]
 - Subd. 6. [Renumbered 129B.09, subd. 6]
 - Subd. 7. [Renumbered 129B.09, subd. 7]
 - Subd. 8. [Renumbered 129B.09, subd. 8]
 - Subd. 9. [Renumbered 129B.09, subd. 9]
 - Subd. 10. [Renumbered 129B.09, subd. 10]
 - Subd. 11. [Renumbered 129B.09, subd. 11]
 - Subd. 12. [Renumbered 129B.09, subd. 12]
 - Subd. 13. [Repealed, 1981 c 358 art 6 s 45]

CONTINUITY OF THE LEGISLATURE

3.93 DEFINITIONS.

As used in sections 3.93 to 3.96 "attack" means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons

or property in this state whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means.

History: 1961 c 572 s 1

3.94 PLACE OF SESSION.

Whenever, in the event of an attack, or a finding by the executive council that an attack may be imminent, the governor deems the place of the legislative session then prescribed to be unsafe, the governor may change it to any other place within or without the state which the governor deems safe and convenient.

History: 1961 c 572 s 2; 1986 c 444

3.95 SPECIAL SESSION IN EVENT OF ATTACK.

In the event of an attack, if the legislature is not then in session, the governor shall convene a special session thereof, as soon as practicable, and in no case later than 30 days following the inception of the attack. If the governor fails to issue such a call, the legislature, on the first Tuesday after the first Monday after the expiration of 30 days following the date of the inception of the attack, shall convene without call at the place where the governor then maintains official office.

History: 1961 c 572 s 3; 1986 c 444

3.96 QUORUM AND VOTE REQUIREMENTS.

In the event of an attack the quorum requirement for the legislature shall be a majority of the members of each house who convene for the session. Where the affirmative vote of a specified proportion of members of the legislature would otherwise be required for approval of a bill, resolution, or for any other action, the same proportion of those members of each house convening at the session shall be sufficient.

History: 1961 c 572 s 4

3.965 Subdivision 1. [Renumbered 14.39]

Subd. 2. [Renumbered 14.40]

Subd. 3. [Renumbered 14.41]

Subd. 4. [Renumbered 14.42]

Subd. 5. [Renumbered 14.43]

Subd. 6. [Repealed, 3Sp1981 c 2 art 1 s 75]

LEGISLATIVE AUDIT COMMISSION

3.97 AUDIT POLICY; CREATION OF COMMISSION; TRANSFER OF FUNCTIONS OF PUBLIC EXAMINER; 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. A legislative commission to be known as the legislative audit commission, designated herein as "the commission" is hereby created. The commission shall consist of the majority leader of the senate and the president of the senate, or their respective designees; the chair of the senate committee on taxes or a designee, who shall be a member of the senate tax committee; the chair of the senate committee on governmental operations or a designee, who shall be a member of the governmental operations committee; the chair of the senate committee on finance or a designee, who shall be a member of the senate finance committee; and three members of the senate appointed by the senate minority leader; the speaker of the house and the chair of the house committee on rules, or their respective designees; the chair of the house committee on taxes or a designee, who shall be a member of the house tax committee; the chair of the house committee on governmental operations or a designee, who shall be a

member of the house governmental operations committee; the chair of the house appropriations committee or a designee, who shall be a member of the house appropriations committee; and three 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 such a manner as to preserve the representation established by this subdivision.

The commission shall elect its chair and such other officers as it may determine necessary. It shall meet at the call of the chair or at the call of its executive secretary. The members of the commission shall serve without compensation but shall 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. The legislative auditor shall not at any time while in office hold any other public office. The legislative auditor shall 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 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 of the deputy auditors and confidential secretaries. The deputy auditors may perform and exercise the powers, duties and responsibilities imposed by law on the legislative auditor when authorized so to do by the legislative auditor. The deputy auditors and the confidential secretaries shall serve in the unclassified civil service, but all other employees of the legislative auditor shall be in the classified civil service.

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 hereby transferred to the legislative auditor. Nothing in this subdivision shall be deemed to 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 such duties as may be prescribed by rule of the legislature or either body thereof 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 provide by rule such testimonial powers as are conferred by law on legislative standing commissions or committees on the legislative auditor.

Subd. 9. The legislative auditor is subject to the government data practices act, chapter 13. If data provided by the legislative auditor to the commission is disseminated by the commission or members or agents of the commission 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 legislative audit 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 legislative audit commission. The legislative audit commission shall 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. "Audit" as used in this subdivision means a financial audit, a program evaluation, 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 or the audit is no longer being actively pursued. Data that support the conclusions of the report and that the legislative auditor reasonably believes will result in litigation are not public and with respect to data on individuals are confidential until the litigation has been completed or until the litigation is no longer being actively pursued. Data on individuals that could reasonably be used to determine the identity of an individual supplying data for an audit are private if (a) the data supplied by the individual were needed for an audit and (b) the individual would not have provided the data to the legislative auditor without an assurance that the individual's identity would remain private. The definitions of terms provided in section 13.02 apply for purposes of this subdivision.

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

LEGISLATIVE AUDITOR

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 all state departments, boards, commissions, and other state agencies at least once a year, if funds 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. The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds are complied with by all departments and agencies of the state government.

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 determine the degree to which the activities and programs entered into or funded by the state are accomplishing their goals and objectives, including an evaluation of goals and objectives, measurement of program results and effectiveness, alternative means of achieving the same results, and efficiency in the allocation of resources. At the direction of the commission the legislative auditor may perform program evaluations of any state department, board, commission, or agency and any metropolitan agency, board, or commission created under chapter 473.

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 27; 1975 c 204 s 91; 1984 c 638 s 1

3.972 AGENCIES; AUDITS; DEFINITIONS.

Subdivision 1. **Public accountant.** For the purposes of this section, "public accountant" means a certified public accountant, certified public accounting firm, or a licensed public accountant licensed by the board of accountancy pursuant to sections 326.17 to 326.23.

Subd. 2. **Audits of state and semistate agencies.** The legislative auditor shall make a constant audit of all financial affairs of all departments and agencies of the state, and of the financial records and transactions of public boards, associations, and societies

supported, wholly or in part, by state funds. Once in each year, if funds and personnel permit, without previous notice, the legislative auditor shall visit each of such state departments and agencies, associations or societies and, so far as practicable, inspect such agencies, thoroughly examine the books and accounts thereof, verifying the funds, securities and other assets, check the items of receipts and disbursements with the voucher records thereof, ascertain the character of the official bonds for the officers thereof and the financial ability of the bonding institution, inspect the sources of revenue thereof, the use and disposition of state appropriations and property, investigate the methods of purchase and sale, the character of contracts on public account, ascertain proper custody and depository for the funds and securities thereof, verify the inventory of public property and other assets held in trust, and ascertain that all financial transactions and operations involving the public funds and property of the state comply with the spirit and purpose of the law, are sound by modern standards of financial management and are for the best protection of the public interest.

Subd. 3. Audit contracts. Notwithstanding any other law to the contrary, a state department, board, commission, or other state agency shall not negotiate a contract with a public accountant for an audit, except a contract negotiated by the state auditor for an audit of a local government, unless the contract has been reviewed by the legislative auditor. The legislative auditor shall not participate in the selection of the public accountant, but shall review and submit written comments on the proposed contract within seven days of its receipt. Upon completion of the audit, the legislative auditor shall be given a copy of the final report.

History: (3276) 1913 c 555 s 3; 1949 c 33 s 2; 1973 c 492 s 28; 1983 c 317 s 2; 1986 c 444

3.973 STATE TREASURER; AUDIT.

At least once each year, and at such other times as the legislative auditor may deem appropriate, without previous notice to the state treasurer, the legislative auditor shall examine and audit the accounts, books, and vouchers of the state treasurer, ascertain the amounts of the several funds which should be in the treasury, count the sums actually on hand, and make a record of the facts found. The legislative auditor shall report to the legislature, on or before the third day of each regular session, the results of such examinations and the legislative auditor's doings in the premises. The legislative auditor shall also witness and attest the transfer of books, accounts, vouchers, and funds from the outgoing treasurer to a successor in office, verify the official record of all redeemed bonds, certificates of indebtedness, and interest coupons issued by the state; and, from time to time, shall cause to be destroyed all such obligations which shall have been redeemed for at least one year. A notation shall be made by the treasurer in the treasurer's records of all such obligations destroyed and the legislative auditor shall certify to the correctness thereof. A copy of each such legislative auditor's certificate shall be filed with the commissioner of finance and treasurer.

History: (96) 1925 c 150 s 1; 1953 c 14 s 1; 1961 c 586 s 1; 1973 c 492 s 12 subd 6; 1977 c 347 s 1; 1986 c 444

3.974 TO FILE WRITTEN REPORTS.

For each audit done, the legislative auditor shall file a written report with the department, agency, society, or association concerned, and the legislative audit commission for its consideration and action.

Such audit reports shall set forth:

- (1) Whether all funds have been expended for the purposes authorized in the appropriations therefor;
- (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) Assessment of the financial control practices used in the agency, measurement of performance and recommendations for improved effectiveness; and

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

History: (3286-10) 1939 c 431 art 4 s 3; 1973 c 492 s 29; 1986 c 444

3.9741 COST OF EXAMINATION, BILLING, PAYMENT.

Upon the audit of the financial accounts and affairs of any commission pursuant to section 473.413, 473.595, 473.604, or 473.703, the affected metropolitan commission is liable to the state for the total cost and expenses of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The legislative auditor may bill the metropolitan commission either monthly or at the completion of the audit. All collections received for the audits must be deposited in the general fund.

History: 1984 c 638 s 2

3.975 DUTIES WHEN VIOLATIONS ARE DISCOVERED.

If any such legislative auditor's examinations shall disclose malfeasance, misfeasance, or nonfeasance in office on the part of any officer or employee, a copy of such report shall be signed and verified, and it shall be the duty of the legislative auditor to file such report with the legislative audit commission and the attorney general. It shall be the duty of the attorney general to institute and prosecute such civil proceedings against such delinquent officer or employee, or upon the officer's or employee's official bond, or both, as may be appropriate to secure to the state the recovery of any funds or other assets misappropriated, and the attorney general shall cause such criminal proceedings to be instituted by the proper authorities as the evidence may warrant.

History: (3286-11) 1939 c 431 art 4 s 4; 1973 c 492 s 30; 1986 c 444

3.976 MS1978 [Renumbered 6.74]

3.977 MS1978 [Renumbered 6.75]

3.978 LEGISLATIVE AUDITOR; SUBPOENA POWERS; PENALTIES.

In all matters relating to official duties, the legislative auditor shall have the powers possessed by courts of law to issue and have subpoenas served. All public officials and their respective 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. 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. 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

3.98 FISCAL NOTES.

Subdivision 1. The head or chief administrative officer of each department or agency of the state government shall prepare a fiscal note at the request of the chair of the standing committee to which a bill has been referred, or the chair of the house appropriations committee, or the chair of the senate committee on finance.

Subd. 2. The fiscal note, where possible, shall: (1) cite the effect in dollar amounts;

(2) cite the statutory provisions affected; (3) estimate the increase or decrease in revenues or expenditures; (4) include the costs which may be absorbed without additional funds; and (5) specify the long-range implication if any. The fiscal note may comment on technical or mechanical defects in the bill but shall express no opinions concerning the merits of the proposal.

Subd. 3. A copy of the fiscal note shall be delivered to the chair of the committee of appropriations of the house of representatives, the chair of the committee of finance of the senate, the chair of the standing committee to which the bill has been referred, to the chief author of the bill and to the commissioner of finance.

Subd. 4. The commissioner of finance shall prescribe a uniform procedure to govern the departments and agencies of the state in complying with the requirements of this section.

History: 1974 c 355 s 34; 1978 c 793 s 33,34; 1986 c 444

3.981 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 3.981 to 3.983 and 14.131 have the meanings given them in this section.

Subd. 2. **Costs mandated by the state.** "Costs mandated by the state" means increased costs that a local agency or a school district is required to incur as a result of:

(a) a law enacted after June 30, 1985, which mandates a new program or an increased level of service of an existing program;

(b) an executive order issued after June 30, 1985, which mandates a new program;

(c) an executive order issued after June 30, 1985, which implements or interprets a state statute and, by this implementation or interpretation, increases program levels above the levels required before July 1, 1985;

(d) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which implements or interprets a federal statute or regulation and, by this implementation or interpretation, increases program or service levels above the levels required by this federal statute or regulation;

(e) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which implements or interprets a statute or amendment adopted or enacted pursuant to the approval of a statewide ballot measure by the voters and, by this implementation or interpretation, increases program or service levels above the levels required by the ballot measure;

(f) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which removes an option previously available to local agencies and thus increases program or service levels or prohibits a specific activity and so forces local agencies to use a more costly alternative to provide a mandated program or service;

(g) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which requires that an existing program or service be provided in a shorter time period and thus increases the cost of the program or service;

(h) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which adds new requirements to an existing optional program or service and thus increases the cost of the program or service as the local agencies have no reasonable alternatives other than to continue the optional program;

(i) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which creates new revenue losses stemming from new property or sales and use tax exemptions;

(j) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which requires costs previously incurred at local option that have subsequently been mandated by the state; or

(k) a statute enacted or an executive order issued after March 26, 1986 which requires payment of a new fee or increases the amount of an existing fee.

Subd. 3. **Executive order.** "Executive order" means an order, plan, requirement, or rule issued by the governor, an official serving at the pleasure of the governor, or an agency, department, board, or commission of state government. "Executive order" does not include an order, plan, requirement, or rule issued by a regional water quality control board.

Subd. 4. **Local agency.** "Local agency" means a home rule charter or statutory city, county, town, or special district.

Subd. 5. **Mandate.** A "mandate" means a requirement which applies to a local agency or school district and which, if not complied with, results in civil liability, criminal penalty, substantial economic sanction such as loss of funding, or severe administrative sanctions such as closure or nonlicensure of a facility or program. "To mandate" means to impose such a requirement.

Subd. 6. **Requiring an increased level of service.** "Requiring an increased level of service" includes requiring that an existing service be provided in a shorter time.

Subd. 7. **Rule.** "Rule" means a rule, order, or standard of general application adopted by a state agency to implement, interpret, or make specific the law it enforces or administers or to govern its procedure. "Rule" includes an amendment to a rule. "Rule" does not include rules that relate only to the internal management of a state agency.

Subd. 8. **Savings.** "Savings" includes budget reductions and the freeing of staff or resources to be reassigned to a local agency's or school district's other areas of concern.

Subd. 9. **School district.** "School district" includes school districts, community college districts, and county superintendents of schools.

History: *1Sp1985 c 10 s 34; 1986 c 436 s 1*

3.982 FISCAL NOTES FOR STATE-MANDATED ACTIONS.

When the state proposes to mandate that a local agency or school district take an action, and when reasonable compliance with that action would force the local agency or school district to incur costs mandated by the state, a fiscal note shall be prepared as provided in section 3.98, subdivision 2 and shall be made available to the public upon request. If the action is among the exceptions listed in section 3.983, a fiscal note need not be prepared.

When a bill proposing a mandate is introduced and referred to a standing committee, the chair of the standing committee to which the bill is referred shall request the appropriate state agency or department to prepare a fiscal note before the bill is heard in the committee. Before a proposed mandate is issued in an executive order, the governor or appropriate agency head assigned by the governor shall prepare the fiscal note and make it available to the public.

History: *1Sp1985 c 10 s 35; 1986 c 444*

3.983 EXCEPTIONS TO FISCAL NOTES.

Subdivision 1. **Costs resulting from inflation.** A fiscal note need not be prepared for increases in the cost of providing an existing service if the increases result directly from inflation. "Resulting directly from inflation" means attributable to maintaining an existing level of service rather than increasing the level of service. A cost-of-living increase in welfare benefits is an example of a cost resulting directly from inflation.

Subd. 2. **Costs not result of new program or increased service.** A fiscal note need not be prepared for increased local costs that do not result from a new program or an increased level of service.

Subd. 3. **Miscellaneous exceptions.** A fiscal note need not be prepared for the cost of a mandated action if the law containing the mandate:

- (a) accommodates a specific local request;
- (b) results in no new local government duties;

(c) leads to revenue losses from exemptions to taxes other than sales, use, or property taxes;

(d) provides only clarifying or conforming, nonsubstantive changes on local government;

(e) imposes additional net local costs which are minor (less than \$200 for any single local government if the mandate does not apply statewide or less than one-tenth of a mill times the entire value of taxable property in the state if the mandate is statewide) and do not cause a financial burden on local government;

(f) is a legislative mandate or executive order enacted before July 1, 1985, or a rule initially implementing legislation enacted before July 1, 1985;

(g) implements something other than a state statute or executive order, such as a federal, court, or voter-approved mandate;

(h) appears in rules that are permissive or discretionary in nature;

(i) defines a new crime or redefines an existing crime or infraction;

(j) provides, or falls within the purview of existing, revenue sources or other financing mechanisms; or

(k) results in savings that equal or exceed costs.

History: 1985 c 248 s 70; 1Sp1985 c 10 s 36