

**Legislature
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 [Repealed, 1973 c 1 s 3]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 [Repealed, 1971 c 71 s 1]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 meet at the seat of government on the first Tuesday after the first Monday in January of each odd-numbered year. When the first Monday in January falls on January 1, it shall meet on the first Wednesday after the first Monday. It shall also meet when called by the governor to meet in special session.

History: 1973 c 1 s 1; 1988 c 469 art 1 s 1

3.012 LEGISLATIVE DAY.

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

History: 1973 c 1 s 2; 1988 c 469 art 1 s 1

3.02 EVIDENCE OF MEMBERSHIP.

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

History: (25) RL s 10; 1969 c 9 s 1; 1988 c 469 art 1 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3.03 [Repealed, 1961 c 561 s 17]

3.04 [Repealed, 1961 c 561 s 17]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 convening the legislature, the members 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 officer, 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. As each is called, the persons claiming to be members from each 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; 1988 c 469 art 1 s 1

3.055 OPEN MEETINGS.

Subdivision 1. Meetings to be open. Meetings of the legislature shall be open to the public, including sessions of the senate, sessions of the house of representatives, joint sessions of the senate and the house of representatives, and meetings of a standing committee, committee division, subcommittee, conference committee, or legislative commission, but not including a caucus of the members of any of those bodies from the

same house and political party nor a delegation of legislators representing a geographic area or political subdivision. For purposes of this section, a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction of the body.

Subd. 2. Enforcement. The house of representatives and the senate shall adopt rules to implement this section. Remedies provided by rules of the house and senate are exclusive. No court or administrative agency has jurisdiction to enforce, enjoin, penalize, award damages, or otherwise act upon a violation or alleged violation of this section, to invalidate any provision of law because of a violation of this section, or to otherwise interpret this section.

History: 1990 c 608 art 6 s 1

3.06 OFFICERS AND EMPLOYEES.

Subdivision 1. Election. Thereupon, if a quorum is present, the houses shall elect the following officers, any of whom may be removed by resolution of the appointing body.

The senate shall elect 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.

The house shall elect a speaker, who shall be a member of the house, 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.

Subd. 2. Successors. If an officer of the house of representatives or senate resigns or dies, the duties of the officer shall be performed by a successor as provided in the rules of the officer's house until a successor is elected at a regular or special session.

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; 1Sp1987 c 2 s 1; 1988 c 469 art 1 s 1

3.07 ADDITIONAL EMPLOYEES.

Each house, after its organization, may appoint and at pleasure remove the employees 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 the compensation provided by the permanent rules of the electing or appointing body or recommended by its committee on legislative expense. Unless otherwise expressly provided by law, no officer or employee shall receive any other compensation for services.

History: (31) RL s 15; 1947 c 233 s 2; 1986 c 444; 1988 c 469 art 1 s 1

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 a special session, except as the legislature or a house provides otherwise.

History: 1978 c 566 s 1; 1988 c 469 art 1 s 1

3.08 ELECTION; DUTIES.

In addition to the duties prescribed by law, the officers and employees shall perform the services required of them by rule or vote of the appointing body or by direction of a committee of the appointing body.

History: (32) RL s 16; 1947 c 233 s 3; 1988 c 469 art 1 s 1

3.081 [Repealed, 1977 c 286 s 21]

3.082 MEMBERS' EMPLOYMENT; CONTINUATION.

A member of the legislature of the state of Minnesota who held a position, other than a temporary position, in the employ of a private employer in Minnesota at the commencement of service in a legislative session, who applies for reemployment not later than 30 days after the last legislative day in each calendar year, shall be continued in or restored to the 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 because of time spent in legislative service.

History: 1974 c 306 s 1; 1984 c 574 s 1; 1986 c 444; 1988 c 469 art 1 s 1

3.083 RETENTION OF SENIORITY, FRINGE BENEFITS AND TENURE.

Subdivision 1. **Entitlement to benefits and position.** A member of the legislature who is continued in or restored to a position in accordance with section 3.082:

- (1) shall be continued or restored without loss of seniority;
- (2) may participate in insurance or other benefits offered by the employer under its established rules and practices; and
- (3) shall not be discharged without good cause from the position for 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.

Subd. 2. **No employer discrimination.** No employer or employee organization may 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 a union or organization of employees which exists, in whole or in part, for collective bargaining or 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; 1988 c 469 art 1 s 1

3.085 [Repealed, 1974 c 306 s 5]

3.086 [Repealed, 1974 c 306 s 5]

3.087 RIGHT OF ACTION IN DISTRICT COURT.

If a private employer fails or refuses to comply with sections 3.082 and 3.083, the district court where the private employer maintains a place of business may, upon the filing of a complaint by the member entitled to the benefits of sections 3.082 and 3.083, specifically require the employer to comply with their provisions and compensate the member for any loss of wages or benefits suffered by reason of the employer's unlawful action. The court shall order a speedy hearing in the case and advance it on the calendar.

History: 1955 c 690 s 3; 1974 c 306 s 3; 1988 c 469 art 1 s 1

3.088 LEAVE OF ABSENCE.

Subdivision 1. **Leave of absence without pay.** Subject to this section, any appointed officer or employee of a political subdivision, municipal corporation, or school district of the state or an institution of learning maintained by the state who serves as a legislator during a session or is elected to a full-time city or county office in Minnesota is entitled to a leave of absence from the public office or to 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 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 taking city or county office, or 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 its term, if limited, has not expired;

(2) that the legislator makes a 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 elected term; and

(3) that the request for reinstatement is made not later than ten 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 is required to compensate a reinstated employee or officer for time spent by that employee or officer away from work for the employer and on the business of the state legislature during the period between the first and last legislative day in each calendar year or on the business of an elected city or county office. No officer or employee reinstated shall be removed or discharged within one year after reinstatement except for cause and after notice and hearing, but this does not extend a term of service limited by law.

Subd. 3. Pension and retirement rights. A public officer or employee who receives leave of absence under this section or is elected as a state constitutional officer and has rights in a state, municipal, or other public pension, retirement, or relief system shall retain all the rights accrued up to the time of taking leave. Time spent by the employee as a member of the legislature or as an elected city or county official or 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 when 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 this section and it is necessary 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 an acting incumbent, who shall qualify as required for the regular incumbent, receive the same compensation as fixed by law or proper authority, and have the powers and perform the duties of the position until the return of the regular incumbent. This section does not preclude making other lawful provision for the discharge of the duties of the position.

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

Subd. 6. Pensions. Notwithstanding any other law or ordinance or state, municipal, or other public retirement or relief association rule or bylaw, a person shall not be disqualified from receiving a legislative retirement pension or allowance because the person is entitled to receive a public pension or retirement benefit as a result of employment by another public employer. 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; 1988 c 469 art 1 s 1

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; 1988 c 469 art 1 s 1

3.095 LEGISLATIVE EMPLOYEES, LEAVES.

The legislative coordinating commission shall adopt plans for sick leave and annual leave for the 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; 1988 c 469 art 1 s 1

3.096 TRANSFER OF LEAVE.

An employee in the classified service who accepts a position as a permanent employee of the legislature shall have 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 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; 1988 c 469 art 1 s 1

3.099 MEMBERS; COMPENSATION AND EXPENSES, FLEXIBLE SESSIONS.

Subdivision 1. **Pay days; mileage; per diem.** The compensation of each member of the legislature is due on the first day of the regular legislative session of the term and payable in equal parts on January 15, in the first month of each term and on the first day of each following month 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 then in equal parts on the first day of each following month during the term for which the member was elected.

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

Each member shall also receive per diem living expenses during a regular or special session of the legislature in the amounts and for the purposes as determined by the senate for senate members and by the house of representatives for house members.

On January 15 in the first month of each term and on the first day of each following month, 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 its total.

Subd. 2. [Repealed, 1987 c 404 s 191]

Subd. 3. **Leaders.** 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 its majority and minority leader.

The majority leader is the person elected by the caucus of members in each house which is its largest political affiliation. The minority leader is the person elected by the caucus which is its second largest political affiliation.

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; 1988 c 469 art 1 s 1

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 by law shall be reimbursed for living and other expenses incurred in the per-

formance of duties or engaging in official business during a regular or special session and when the legislature is not in session in the manner and amount prescribed by the senate committee on rules and administration for senators and by the house committee on rules and legislative administration for house members.

History: 1969 c 1139 s 70; 1984 c 648 s 1; 1986 c 444; 1988 c 469 art 1 s 1

3.102 [Repealed, 1984 c 648 s 2]

3.103 SPECIAL SESSION LIVING EXPENSES.

Each member of the legislature, during a special session, 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 authorized for senators and members of the house of representatives at the last regular session before the special session. Reimbursement for travel shall not exceed one round trip per member for each seven calendar days in which the legislature meets in the special session.

History: Ex1971 c 3 s 70; 1986 c 444; 1988 c 469 art 1 s 1

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, a breach of its privileges, or of the privileges of its members, but only for the following offenses:

- (1) arresting or causing to be arrested, a member or officer 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 its proceedings;
- (3) giving or offering a bribe to a member, or attempting by menace or 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 of either house, for an alleged offense upon an investigation of giving or offering a bribe, or attempting by menace or corrupt or improper means, directly or indirectly, to control or influence a member in giving or withholding the member's vote upon the ground 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. No person shall be prosecuted, or subjected to a penalty for a transaction, matter, or thing concerning which the person may so testify, or produce evidence, documentary or otherwise. No testimony, so given or produced, shall be received against the person in any criminal investigation or proceeding.

History: (38) RL s 19; 1907 c 319 s 1; 1971 c 227 s 2; 1986 c 444; 1988 c 469 art 1 s 1

3.15 PUNISHMENT FOR CONTEMPT.

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

History: (39) RL s 20; 1986 c 444; 1988 c 469 art 1 s 1

3.151 DISTURBING LEGISLATURE OR INTIMIDATING MEMBER.

A person is guilty of a gross misdemeanor who:

- (1) willfully disturbs the legislature, or either house of it, while in session;
- (2) commits disorderly conduct in the presence and view of either house, tending to interrupt its proceedings or impair the respect due to its authority; or
- (3) willfully, by intimidation or otherwise, prevents a member of the legislature from attending a session of the member's house, or of a committee of it, or from giving the member's vote upon a question which may come before the house, or from performing any other official act.

History: (10000) *RL s 4815; 1986 c 444; 1988 c 469 art 1 s 1*

3.152 [Repealed, 1971 c 227 s 3]**3.153 LEGISLATIVE SUBPOENAS.**

Subdivision 1. A 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 the 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 for the service of subpoenas in civil actions at least seven days before the date fixed in the subpoena for appearance or production of records unless a shorter period is authorized by a majority vote of all the members of the committee.

Subd. 3. Any person served with a subpoena may choose to be accompanied by counsel if a personal appearance is required and shall be served with a notice to that effect. The person 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. To carry out the authority granted by this section, a committee authorized by subdivision 1 to request the issuance of subpoenas may, by a two-thirds vote of its members, request the issuance of an attachment to compel the attendance of a witness who, having been duly subpoenaed to attend, fails 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 in Ramsey county for issuance of the attachment.

Subd. 5. Any person who without lawful excuse fails to respond to a subpoena issued under this section or who, having been subpoenaed, willfully refuses to be sworn or affirm or to answer any material or proper question before a committee is guilty of a misdemeanor.

History: *1971 c 227 s 1; 1986 c 444; 1988 c 469 art 1 s 1*

3.16 MEMBERS, OFFICERS AND ATTORNEYS EXCUSED FROM COURT DUTY.

No member or officer of, or attorney employed by, the legislature shall be compelled to attend as a witness in a court of this state during a session of the legislature, or while attending a meeting of a legislative committee or commission when the legislature is not in session unless the court in which the action is pending orders it, upon sufficient showing and with the consent of the presiding officer of the body of which the witness is an employee or the consent of the body of which the witness is a member. No cause or proceeding, civil or criminal, in court or before a commission or an officer or referee of a court or commission or a motion or hearing on the cause or proceeding, in which a member or officer of, or an attorney employed by, the legislature is a party, attorney, or witness shall be tried or heard during a session of the legislature or while the member, officer, or attorney is attending a meeting of a legislative committee or

commission when the legislature is not in session. The matter shall be continued until the legislature or the committee or commission meeting has adjourned.

The member, officer, or attorney may, with the consent of the body of the legislature of which the person is a member, officer, or employee, waive this privilege. The cause or proceeding, motion, or hearing may then be tried or heard at a time that 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; 1988 c 469 art 1 s 1

3.17 JOURNALS.

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

History: (41) RL s 21; 1976 c 2 s 172; 1988 c 469 art 1 s 1

3.18 OTHER RECORDS.

Each house may determine, by rule or resolution, the number of copies of its journal to be printed, and the form and contents of its other records.

It may have printed, in an appendix to its journal, the documents it desires. If both houses 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; 1988 c 469 art 1 s 1

3.185 ALTERING DRAFT OF BILL.

A person who fraudulently alters the draft of a bill or resolution which has been presented to either house of the legislature to be passed or adopted, with intent to procure its passage or adoption by either house or certification by the presiding officer in language different from that intended by the house, is guilty of a gross misdemeanor.

History: (10001) RL s 4816; 1988 c 469 art 1 s 1

3.19 ENGROSSING AND ENROLLING.

All bills shall be engrossed or enrolled as provided by section 3C.04 and the rules of the senate and the house of representatives or their joint rules. In engrossing or enrolling 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; 1988 c 469 art 1 s 1; 1988 c 479 s 1

3.191 ALTERING ENGROSSED BILL.

A person who fraudulently alters the engrossed copy or enrollment of a bill which has been passed by the legislature, with intent to procure its approval by the governor, certification by the secretary of state, or printing or publication by the printer of the statutes, in language different from that in which it was passed by the legislature, is guilty of a felony.

History: (10002) RL s 4817; 1988 c 469 art 1 s 1

3.195 REPORTS TO THE LEGISLATURE.

Subdivision 1. Distribution of reports. A report to the legislature required of a department or agency shall be made, unless otherwise specifically required by law, by

filing 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. When 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 library the information necessary to identify the document as required by 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. Enough copies of the checklist 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; 1988 c 469 art 1 s 1

EDUCATION COMPUTER INFORMATION

3.198 COMPUTER TERMINALS; MECC INFORMATION SYSTEM.

The senate and house of representatives may obtain computer terminals for access to the statewide management information system provided for school districts through the Minnesota Educational Computing Corporation. The corporation shall provide the staff of the senate and house of representatives with training for use of that system.

History: 1978 c 764 s 138; 1988 c 469 art 1 s 1

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 it will read if the amendment is adopted, with only the other matter necessary to show in what section or article the alteration is proposed. It shall be submitted and voted upon at the next general election as provided by the law relating to general elections. If adopted, the governor shall announce the fact by proclamation.

History: (45) RL s 24; 1988 c 469 art 1 s 1

3.21 NOTICE.

At least four months before 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 how they will read if amended. If a section to which an amendment is proposed exceeds 150 words in length, the statement shall show the part of the section in which a change is proposed, both its existing form and as it will read when amended, together with the portions of the context that the attorney general deems necessary to understand the amendment. In October before 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 is that provided in section 331A.06 or 18 cents per standard line, whichever is less. If a newspaper refuses to publish the amendments, the refusal shall have no effect on the validity of the amendments. The secretary of state shall also forward to each county auditor enough copies of the statement, in poster form, to supply each election district of the county with two copies. The auditor shall have two copies conspicuously posted at or near each polling place on election day. Willful or negligent failure by an official named to perform a duty imposed by this section is 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; 1988 c 469 art 1 s 1

3.22 PAYMENT.

The publisher of each newspaper publishing the proposed amendments shall, before receiving fees for the publication and before 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; 1988 c 469 art 1 s 1*

STANDING APPROPRIATIONS

3.23 APPROPRIATIONS.

A standing appropriation, within the meaning of this section and section 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 a purpose and makes the amount, or a 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 a standing appropriation as defined in this section.

History: *(48) 1913 c 140 s 1; 1969 c 399 s 1; 1988 c 469 art 1 s 1*

3.24 STANDING APPROPRIATION REPEALED.

Every provision of law constituting a standing appropriation of money from the general fund, or derived from revenue of the state, or in any way justifying the continuous payment of money from the treasury of the state, is repealed, except:

- (1) a provision for a tax levy or fees or receipts for a purpose and set apart in a special fund; and
- (2) the miscellaneous receipts of state educational, charitable, and penal institutions, and the state agricultural society.

Acts containing provisions for standing appropriations shall remain unaffected by this section and 3.23, except as to the appropriations.

History: *(49) 1913 c 140 s 2; 1969 c 399 s 1; 1988 c 469 art 1 s 1*

3.25 [Renumbered 16A.575]

UNIFORM LEGISLATION

3.251 COMMISSION ON UNIFORM STATE LAWS.

The commission on uniform state laws consists of four appointed commissioners and any persons who have served as appointed commissioners for 20 or more years. 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 appointed 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; 1988 c 469 art 1 s 1; 1989 c 68 s 1*

3.252 COMMISSIONERS TO REPRESENT STATE.

The commissioners shall:

- (1) represent this state in the National Conference of Commissioners on Uniform State Laws;
- (2) examine legal subjects on which uniformity of legislation in the different states is desirable;
- (3) ascertain the best means to effect uniformity;
- (4) represent Minnesota in conventions of similar commissioners of other states;
- (5) cooperate in the consideration and drafting of uniform acts for submission to the legislatures of the several states; and
- (6) prepare bills adapting the 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; 1988 c 469 art 1 s 1

3.253 NO COMPENSATION FOR COMMISSIONERS.

The commissioners serve without compensation for services as commissioners.

History: 1943 c 348 s 3; 1988 c 469 art 1 s 1

3.254 [Expired]

3.29 [Repealed, 1985 c 285 s 54]

LEGISLATIVE ADVISORY COMMISSION**3.30 LEGISLATIVE ADVISORY COMMISSION.**

Subdivision 1. **Appropriation; transfers.** A general contingent appropriation for each year of the biennium is authorized in the amount the legislature deems sufficient. Additional special contingent appropriations as the legislature deems necessary are authorized. Transfers from the 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 but no transfer exceeding \$10,000 may be made until the governor has consulted the legislative advisory commission and it has made its recommendation on the transfer. Its recommendation is advisory only. Failure or refusal of the commission to make a recommendation is 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 majority leader of the senate or a designee, the chair of the senate committee on finance, and the chair of the senate division of finance responsible for overseeing the items being considered by the commission, the speaker of the house of representatives or a designee, the chair of the house committee on appropriations, and the chair of the division of the house appropriations committee responsible for overseeing the items being considered by the commissioner constitute the legislative advisory commission. The division chair of the finance committee in the senate and the division chair of the appropriations committee in the house shall rotate according to the items being considered by the commission. If any of the members elect not to serve on the commission, the house of which they are members, if in session,

shall select some other member for the vacancy. If the legislature is not in session, vacancies in the house membership of the commission shall be filled by the last speaker of the house or, if the speaker is not available, by the last chair of the house rules committee, 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 be secretary of the commission and keep a permanent record and minutes of its proceedings, which are public records. The commissioner of finance shall transmit, under section 3.195, a report to the next legislature of all actions of the commission. Members shall receive traveling and subsistence expenses incurred 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 two or more of its members. A recommendation of the commission must be made at a meeting of the commission unless a written recommendation is signed by all the members entitled to vote on the item, except that a recommendation under section 298.2213, subdivision 4, or 298.296, subdivision 1, need only be signed by a majority of the members entitled to vote on the item.

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

Subd. 3. **Limitations.** This section does not prevent the appropriation of separate contingent funds to the governor and the attorney general or limit their use as authorized by other law.

Subd. 4. [Repealed by amendment, 1988 c 469 art 1 s 1]

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; 1987 c 404 s 60; 1988 c 469 art 1 s 1; 1989 c 139 s 1,2

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 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 a budget request, or unless specifically authorized by law or as provided by this section.

Subd. 3. If a request to spend federal money is included in the governor's budget or spending the money is authorized by law but the amount of federal money received requires a state match greater than that included in the budget request or authorized by law, the amount that requires an additional state match may be allotted for expenditure after 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 part of the money be allotted before the legislature reconvenes, it 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 be allotted after the commissioner of finance has 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 a 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; 1988 c 469 art 1 s 1

LEGISLATIVE SERVICES

3.301 [Repealed, 1973 c 598 s 5]

3.302 LEGISLATIVE REFERENCE LIBRARY.

Subdivision 1. **Establishment.** A legislative reference library is established under the control of the legislative coordinating commission.

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

Subd. 3. **State documents.** The library is a depository of all documents published by the state and shall receive them automatically without cost. As used in this chapter, "document" includes 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 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 library shall require that the issuing agency supply proper bibliographic identification. The identification shall appear on the title page of each volume and include a complete title, a statement of authorship, the name of the publisher, and the date and place of publication. If possible the document shall be consecutively paged. The issuing agency shall include a statement citing the statute or session law with which the report complies, if there is one.

Subd. 4. **Studies and reports.** The library may use its collection to prepare studies and reports to provide pertinent information about subjects of concern to members of the legislature. It may publish the 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; 1988 c 469 art 1 s 1

3.3025 DIRECTOR OF LEGISLATIVE REFERENCE LIBRARY.

Subdivision 1. The legislative coordinating commission shall appoint a qualified director of the legislative reference library. It shall fix the director's salary if it is not provided by law. The director shall serve at the pleasure of the commission and be reimbursed for necessary travel expenses.

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

Subd. 3. The library shall be kept open during the time provided by law for other state offices. When the legislature is in session, the library 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; 1988 c 469 art 1 s 1

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 sharing information systems within the state. A directory will assist users to contact agencies about information

files and about experience with hardware and software. 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, at the discretion of the legislative reference library, that will assist users.

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

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

Subd. 3. Information systems; filing. Each state agency shall file with the legislative reference library an updated description of its information systems, noting additions, deletions, and changes, by November 30 and May 31 each year. The descriptions must be in accordance with specifications and on forms provided by the library.

Subd. 4. 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 to produce and disseminate the directory.

Subd. 5. Publication. The directory shall be prepared in a format which the 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 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 name of the person appointed shall be forwarded to the library.

The department of administration shall provide access to its library listing of systems and programs produced under section 16B.40, subdivision 2, clause (3), 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; 1987 c 384 art 2 s 1; 1988 c 469 art 1 s 1

3.303 LEGISLATIVE COORDINATING COMMISSION; CREATION AND ORGANIZATION.

Subdivision 1. The legislative coordinating commission is created to coordinate the legislative activities of the senate and house of representatives.

Subd. 2. The commission consists 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

be reimbursed in the same manner as members of standing committees of the senate and the house of representatives.

Subd. 5. The commission shall represent the legislature and assist state agencies to make arrangements to accommodate and appropriately recognize individuals or groups visiting Minnesota as direct or indirect representatives of foreign governments, other states, or subdivisions or agencies of foreign governments or other states and to provide other services determined by the commission. The commission may make grants, employ staff, and obtain office space, equipment, and supplies necessary to perform its duties.

History: 1973 c 598 s 1; 1975 c 271 s 6; 1Sp1985 c 13 s 62; 1986 c 444; 1987 c 404 s 61; 1988 c 469 art 1 s 1

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 it the office of revisor of statutes and the legislative reference library. The commission may appoint, set salaries for, and delegate authority to, the personnel it deems necessary to perform the functions required.

Subd. 2. **Employees in unclassified service.** All employees under the 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 commission and 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 or political subdivision of the state for available data, and the 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; 1988 c 469 art 1 s 1

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 before its 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; 1988 c 469 art 1 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 [Expired, 1980 c 579 s 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]
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- 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 housing finance agency, the higher education coordinating board, the higher education facilities authority, the armory building commission, the zoological board, the iron range resources and rehabilitation board, the state agricultural society, 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, members of a bomb disposal unit approved by the commissioner of public safety and employed by a municipality defined in section 466.01 when engaged in the disposal or neutralization of bombs outside the jurisdiction of the municipality but within the state, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation. It 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 title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983. "Employee of the state" includes a public defender appointed by the state board of public defense.

(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.

(4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.

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. The settlement is final and conclusive on all officers of the state, unless procured by fraud. The acceptance by the claimant of a settlement is final and conclusive on the claimant and constitutes a complete release of any claim against the state and the employee of the state whose act or omission gave rise to the claim, by reason of the same subject matter.

Subd. 3. A settlement made under this section is not 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 the form that the attorney general prescribes.

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

Subd. 5. Nothing in this section is to be construed to deny a claimant who is not paid under this section 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 use of annuities or similar financial plans for claimants, to resolve claims arising from the alleged negligence of the state, its agencies, or employees. Sections 16B.06, 16B.07, 16B.08, and 16B.09 do 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; 1987 c 7 s 1; 1988 c 469 art 1 s 1; 1988 c 530 s 1; 1988 c 602 s 1; 1988 c 717 s 1; 1989 c 335 art 3 s 1

NOTE: Please see text and note to section 480.181.

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 an employee of the state while acting within the scope of office or employment or a peace officer who is not acting on behalf of a private employer and who is acting in good faith under 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. If there is no other applicable statute, a claim shall be brought under 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) a 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) a loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

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

(d) a loss caused by snow or ice conditions on a 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) a loss caused by wild animals in their natural state, except as provided in section 3.7371;

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

(g) a loss caused by the condition of unimproved real property owned by the state, which means land that the state has not improved, state land that contains idled or abandoned mine pits or shafts, and appurtenances, fixtures, and attachments to land that the state has neither affixed nor improved;

(h) a loss incurred by a user arising from the construction, operation, or mainte-

nance of the outdoor recreation system, as defined in section 86A.04, or for a loss arising from the construction, operation, maintenance, or administration of grants-in-aid trails as defined in section 85.018, or for a loss arising 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. For the purposes of this clause, a water access site, as defined in section 86A.04 or created by the iron range resources and rehabilitation board, that provides access to an idled, water filled mine pit, also includes the entire water filled area of the pit and, further, includes losses caused by the caving or slumping of the mine pit walls;

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

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

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

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

(m) a loss for which recovery is prohibited by section 169.121, subdivision 9;

(n) a loss caused by an aeration, bubbler, water circulation, or similar system used to increase dissolved oxygen or maintain open water on the ice of public waters, that is operated under a permit issued by the commissioner of natural resources; and

(o) a loss incurred by a visitor to the Minnesota zoological garden, except that the state is liable for conduct that would entitle a trespasser to damages against a private person.

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 the district court to apportion to each claimant a proper share of the \$600,000. The share apportioned to 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 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 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 its time, place and circumstances, 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 additional notice.

Subd. 7. Payment. A state agency, including an 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 that causes 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 seeks 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 enough money in an appropriation or combination of appropriations to the agency for its general operations and management to pay the claim 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 the purpose. On determining that the agency does not have enough money to pay any part of the claim, the commissioner shall pay all of the claim from money appropriated to the commissioner for the purpose. 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 an 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. Procurement of the insurance is 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 provided by the policy.

Subd. 9. Indemnification. The state 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 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 in connection with any claim or demand arising from the issuance and sale of securities by the state, whether groundless or otherwise, arising out of an alleged act or omission occurring 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 is 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 was acting within the scope of employment is 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 is not evidence relevant to a determination by the trier of fact. 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 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 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 under 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 is as provided in chapter 541 and other 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; 1987 c 184 s 1; 1987 c 373 s 1; 1988 c 469 art 1 s 1; 1988 c 530 s 2; 1989 c 331 s 1; 1990 c 594 art 1 s 39

3.737 LIVESTOCK OWNERS; COMPENSATION FOR DESTROYED OR CRIPPLED ANIMALS.

Subdivision 1. Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law, 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 by an animal classified as endangered under the federal endangered species act of 1973. The owner is entitled to the fair market value of the destroyed livestock, not to exceed \$400 per animal destroyed, as determined by the commissioner, 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 and available at the county extension agent's office.

Subd. 2. Payments made under this section shall be reduced by amounts received by the owner as proceeds from an 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 shall adopt and may amend rules to carry out this section which shall include: methods of valuation of livestock destroyed; criteria for determination of the cause for livestock loss; notice requirements by the owner of destroyed livestock; and other matters determined necessary by the commissioner to carry out this section.

Subd. 4. 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 compensation claimed by an owner under this section, the commissioner shall issue a written decision based upon the available evidence. It 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 mailed to the owner.

A decision to deny 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 a court in the county where the loss occurred. The decision of the court may be appealed as in other civil cases. Review in court may be obtained by filing a petition for review with the administrator of the court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator shall mail a copy to the commissioner and set a time for hearing within 90 days of the filing.

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; 1988 c 469 art 1 s 1

3.7371 COMPENSATION FOR CROP DAMAGE CAUSED BY ELK.

Subdivision 1. **Authorization.** Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law, a person who owns an agricultural crop shall be compensated by the commissioner of agriculture for an agricultural crop that is damaged or destroyed by elk as provided in this section.

Subd. 2. **Claim form.** The crop owner must prepare a claim on forms provided by the commissioner and available at the county extension agent's office. The claim form must be filed with the commissioner. A claim form may not be filed for crop damage or destruction that occurs before June 3, 1987.

Subd. 3. **Compensation.** The crop owner is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner, upon recommendation of the county extension agent for the owner's county or a federal crop adjuster. The commissioner, upon recommendation of the agent or adjuster, shall determine whether the crop damage or destruction is caused by elk and, if so, the amount of the crop that is damaged or destroyed. In any calendar year, a crop owner may not be compensated for a damaged or destroyed crop that is less than \$100 in value and may be compensated up to \$20,000, as determined under this section, if normal harvest procedures for the area are followed.

Subd. 4. **Insurance deduction.** Payments authorized by this section must be reduced by amounts received by the owner as proceeds from an insurance policy covering crop losses, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 5. **Decision on claims; opening land to hunting.** If the commissioner finds that the crop owner has shown that the damage or destruction of the owner's crop was caused more probably than not by elk, the commissioner shall pay compensation as provided in this section and the rules of the commissioner. Total compensation to all claimants shall not exceed the amount of funds appropriated for Laws 1987, chapter 373. A crop owner who receives compensation under this section may, by written permission, permit hunting on the land at the landowner's discretion.

Subd. 6. **Denial of claim; appeal.** (a) If the commissioner denies compensation claimed by a crop owner under this section, the commissioner shall issue a written decision based upon the available evidence including a statement of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision must be mailed to the crop owner.

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

Subd. 7. Rules. The commissioner shall adopt rules and may adopt emergency rules and amend rules to carry out this section. The rules must include:

- (1) methods of valuation of crops damaged or destroyed;
- (2) criteria for determination of the cause of the crop damage or destruction;
- (3) notice requirements by the owner of the damaged or destroyed crop; and
- (4) any other matters determined necessary by the commissioner to carry out this section.

History: 1987 c 373 s 2; 1988 c 469 art 1 s 1

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 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; 1988 c 469 art 1 s 1

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, under court order, is performing work (a) in restitution, (b) in lieu of or to work off fines or court ordered costs, (c) in lieu of incarceration, or (d) as a term or condition of a sentence, suspended sentence, or disposition order, while performing the work;

(3) an injury to or death of a person, who has been diverted from the court system and who is performing work as described in paragraph (1) or (2) under a written agreement signed by the person, and if a juvenile, by a parent or guardian; 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 of \$500 or less subject to 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 an approved claim that is not

covered by the claimant's insurance within a reasonable 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 by 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 of the juvenile's parents if the juvenile is covered by the insurance.

A claim in excess of \$500, and a 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 under 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 under this section for pain and suffering. Payments made under 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 employees of the state or its political subdivisions.

History: 1979 c 260 s 2; 1984 c 513 s 1-3; 1985 c 242 s 1-3; 1986 c 444; 1988 c 469 art 1 s 1

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

Subd. 2. No action shall be maintained unless it is 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 in the county where the

cause of action or some part of it arose or in the district court in 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 the service to serve an answer upon the plaintiff. The action shall proceed in the district court as other actions at law.

Subd. 4. An appeal from a 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 a contract to construct or repair 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; 1988 c 469 art 1 s 1

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 in their communities.

History: 1973 c 349 s 2; 1974 c 557 s 14; 1975 c 321 s 2; 1988 c 469 art 1 s 1

3.755 DAMAGE BY ESCAPING INMATES.

The department of corrections and the department of human services shall pay all claims involving property damage, not covered by insurance, resulting from actions of escaping inmates or runaway patients occurring while making their escape. The departments must verify 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 an institution may pay out of the current expense appropriation of the institution to an employee of the institution the amount of any property damage sustained by the employee, not in excess of \$250, because of action of a 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; 1988 c 469 art 1 s 1

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. It does not include a contested case to establish or fix a rate or grant or renew 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 charged 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 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 a 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 a 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 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 before and during the litigation or contested case proceeding.

History: 1986 c 377 s 1; 1988 c 469 art 1 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 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; 1988 c 469 art 1 s 1

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; 1988 c 469 art 1 s 1

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 under 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; 1988 c 469 art 1 s 1

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 this section.

History: 1986 c 377 s 5; 1988 c 469 art 1 s 1

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 an offense also forfeits office.

History: 1957 c 899 s 19; 1986 c 444; 1988 c 469 art 1 s 1

3.841 LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES; COMPOSITION; MEETINGS.

A legislative commission for review of administrative rules, consisting of five senators appointed by the committee on committees of the senate and five representatives appointed by the speaker of the house of representatives shall be appointed. The commission shall meet at the call of its chair or upon a call signed by two of its members or signed by five members of the legislature. The office of chair of the legislative commission shall alternate between the two houses of the legislature every two years.

History: 1974 c 355 s 69; 1975 c 271 s 6; 1980 c 615 s 1; 1980 c 618 s 26; 1981 c 112 s 1,2; 1981 c 253 s 1; 1981 c 342 art 2 s 1; 1982 c 424 s 130; 1986 c 444; 1989 c 155 s 6

3.842 REVIEW OF RULES BY COMMISSION.

Subdivision 1. **Purpose.** The commission shall promote adequate and proper rules by agencies and an understanding upon the part of the public respecting them.

Subd. 2. **Jurisdiction.** The jurisdiction of the commission includes all rules as defined in section 14.02, subdivision 4. The commission also has jurisdiction of rules which are filed with the secretary of state in accordance with section 14.38, subdivisions 5, 6, 7, 8, 9, and 11 or were filed with the secretary of state in accordance with the provisions of section 14.38, subdivisions 5 to 9, which were in effect on the date the rules were filed.

The commission may periodically review statutory exemptions to the rulemaking provisions of this chapter.

Subd. 3. **Hearings.** The commission may hold public hearings to investigate complaints with respect to rules if it considers the complaints meritorious and worthy of attention. If the rules that are the subject of the public hearing were adopted without a rulemaking hearing, it may request the office of administrative hearings to hold the public hearing and prepare a report summarizing the testimony received at the hearing. The office of administrative hearings shall assess the costs of the public hearing to the agency whose rules are the subject of the hearing.

Subd. 4. **Suspensions.** The commission may, on the basis of the testimony received at the public hearings, suspend any rule complained of by the affirmative vote of at least six members provided the provisions of section 3.844 have been met. If any rule is suspended, the commission shall as soon as possible place before the legislature, at the next year's session, a bill to repeal the suspended rule. If the bill is not enacted in that year's session, the rule is effective upon adjournment of the session unless the agency has repealed it. If the bill is enacted, the rule is repealed.

Subd. 5. **Biennial report.** The commission shall make a biennial report to the legislature and governor of its activities and include its recommendations to promote adequate and proper rules and public understanding of the rules.

History: 1974 c 355 s 69; 1975 c 271 s 6; 1980 c 615 s 1; 1980 c 618 s 26; 1981 c 112 s 1,2; 1981 c 253 s 1; 1981 c 342 art 2 s 1; 1982 c 424 s 130; 1984 c 655 art 1 s 4; 1Sp1985 c 13 s 84; 1989 c 155 s 2,6

3.843 PUBLIC HEARINGS BY STATE AGENCIES.

By a vote of a majority of its members, the commission may request any agency issuing rules to hold a public hearing in respect to recommendations made pursuant to section 3.842, including recommendations made by the commission to promote adequate and proper rules by that agency and recommendations contained in the commission's biennial report. The agency shall give notice as provided in section 14.14, subdivision 1 of a hearing thereon, to be conducted in accordance with sections 14.05

to 14.36. The hearing shall be held not more than 60 days after receipt of the request or within any other longer time period specified by the commission in the request.

History: 1974 c 355 s 69; 1975 c 271 s 6; 1980 c 615 s 1; 1980 c 618 s 26; 1981 c 112 s 1,2; 1981 c 253 s 1; 1981 c 342 art 2 s 1; 1982 c 424 s 130; 1989 c 155 s 6

3.844 REVIEW BY STANDING COMMITTEES.

Before the commission suspends any rule, it shall request the speaker of the house and the president of the senate to refer the question of suspension of the given rule or rules to the appropriate committee or committees of the respective houses for the committees' recommendations. No suspension shall take effect until the committees' recommendations are received, or 60 days after referral of the question of suspension to the speaker of the house and the president of the senate. However, the recommendations shall be advisory only.

History: 1974 c 355 s 69; 1975 c 271 s 6; 1980 c 615 s 1; 1980 c 618 s 26; 1981 c 112 s 1,2; 1981 c 253 s 1; 1981 c 342 art 2 s 1; 1982 c 424 s 130; 1989 c 155 s 6

3.845 NOTICE OF SUSPENSION.

In addition to the other requirements of this section, no suspension shall take effect until notice has been published in compliance with section 14.38, subdivision 4. The commission shall send the notice to the State Register.

History: 1974 c 355 s 69; 1975 c 271 s 6; 1980 c 615 s 1; 1980 c 618 s 26; 1981 c 112 s 1,2; 1981 c 253 s 1; 1981 c 342 art 2 s 1; 1982 c 424 s 130; 1989 c 155 s 6

3.846 PUBLICATION OF NOTICE OF EXEMPT RULES.

Subdivision 1. Requirement. (a) Except as provided in paragraph (b), no rule, as defined in section 14.02, subdivision 4, that is exempt from the rulemaking provisions of chapter 14, has the force and effect of law unless a notice has been published and filed under subdivision 2 before its effective date.

(b) Rules of the division of game and fish may have the force and effect of law up to seven days before publishing and filing under subdivision 2 if the commissioner of natural resources determines that an emergency exists and for a rule that affects more than three counties publishes the rule once in a legal newspaper in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties publishes the rule once in a legal newspaper in each of the affected counties. A rule of the division of game and fish that is published under this paragraph is not effective until seven days after the rule is published in the legal newspapers as provided in this paragraph or the rule is published and filed under subdivision 2, whichever is earlier.

Subd. 2. Notice. The notice must be published in the State Register and filed with the secretary of state and the legislative commission to review administrative rules. The notice must contain a citation to the statutory authority for the exempt rule and either: (1) a copy of the rule; or (2) a description of the nature and effect of the rule and an announcement that a free copy of the rule is available from the agency on request.

Subd. 3. Alternative compliance. Notwithstanding subdivisions 1 and 2, a rule subject to this section has the force and effect of law if it has satisfied the requirements of section 14.38, subdivision 7.

Subd. 4. Nonapplication. Except as provided in subdivision 1, paragraph (b), this section does not apply to section 14.02, subdivision 4, clauses (a) to (h).

History: 1989 c 155 s 1

PUBLIC RETIREMENT COMMISSION

3.85 LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT.

Subdivision 1. Creation. The legislative commission on pensions and retirement is created to study and investigate public retirement systems.

Subd. 2. Powers. 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) studying retirement benefit plans applicable to nonfederal government employees in Minnesota, including federal plans available to the employees;

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

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

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

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

(f) creating and maintaining a library for reference concerning pension and retirement matters, including information about laws and systems in other states; and

(g) studying, analyzing, and preparing reports in regard to subjects certified to the commission for study.

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

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 the times and places it may designate. It shall select a chair, a vice-chair, and other officers from its membership as it deems necessary.

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

Subd. 6. Assistance of other agencies. The commission may request information from any state officer or agency or public pension fund or plan as defined in section 356.61, including a volunteer firefighters' relief association to which sections 69.771 to 69.776 apply, to assist it to carry out the terms of this section. The officer, agency, or public pension fund or plan shall 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. Reimbursement for expenses incurred shall be made under the rules governing state employees.

Subd. 9. Expenses and reports. Expenses of the commission shall be approved by the chair or another member as the rules of the commission provide. The expenses shall then be paid like other state expenses. 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. Standards for pension valuations and cost estimates. The commission

shall adopt standards prescribing specific detailed methods to calculate, evaluate, and display 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 be updated annually.

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

(b) The contract for actuarial valuation and analysis shall include the following retirement plans:

- (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;
- (12) the Legislator's Retirement Plan, Minnesota State Retirement System; and
- (13) the Elective State Officers Retirement Plan, Minnesota State Retirement System.

(c) Every year the contract shall specify completion of standard actuarial valuations for the fiscal year with contents as described in section 356.215, subdivisions 4 to 4k, and cash flow forecasts through the amortization target date.

For every plan year the contract shall specify preparation of an exhibit on the experience of the fund for inclusion in the annual actuarial valuation and completion of a periodic experience study as provided for in the standards adopted by the commission. 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. It 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, within two months of the completion of the periodic experience studies, prepare a report to the legislature on the appropriateness of the valuation assumptions required for evaluation in the periodic experience study.

(e) The commission shall assess each retirement plan specified in paragraph (b), other than clauses (12) and (13), for the cost of its actuarial valuations and experience studies. The assessment shall be that part of the amount of contract compensation for the actuarial consulting firm retained by the commission for those functions that bears the same relationship that the total active, deferred, inactive, and benefit recipient membership of the retirement plan bears to the total active, deferred, inactive, and benefit recipient membership of all retirement plans specified in paragraph (b). The assessment shall be made upon the completion of the actuarial valuations and the experience studies. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan. Receipts from assessments shall be deposited in the state treasury and credited to the general fund.

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; 1987 c 259 s 1; 1987 c 404 s 62; 1988 c 469 art 1 s 1

LEGISLATIVE COMMISSION ON EMPLOYEE RELATIONS

3.855 LEGISLATIVE COMMISSION ON EMPLOYEE RELATIONS.

Subdivision 1. Establishment. The legislative commission on employee relations is created. The commission consists of six members of the senate and six members of the house of representatives. The senate members shall be 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 be 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. If the membership of the house is evenly divided, the house members shall be selected under the rules of the house. A member of the commission may resign by providing notice to the chair. Upon 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 under house rules.

The commission shall elect officers for terms of two years. The 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 under the state public employment labor relations act. During 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 an agreement or award, the commission shall specify in writing to the parties those portions with which it disagrees and its reasons. If the commission approves an agreement or award, it shall submit the matter to the legislature to be accepted or rejected under section 179A.22, subdivision 4. Failure of the commission to disapprove an agreement or award within 30 days of its receipt constitutes approval. Approval or disapproval by the commission is not binding on the 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. The commission shall also:

(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 under 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 in positions identified as being managerial under 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 under section 43A.18, subdivision 5, covering agency head positions listed in section 15A.081;

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

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

(f) adopt rules consistent with this section relating to the scheduling and conduct of commission business and other organizational and procedural matters; and

(g) perform other related functions 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; 1988 c 469 art 1 s 1

3.86 [Repealed; 1983 c 301 s 235]

3.861 TAX STUDY COMMISSION.

Subdivision 1. **Creation.** A legislative tax study commission is created.

Subd. 2. **Duties.** The commission shall:

(1) examine the burden of income maintenance and social services on the property tax levies of the counties, and of each county individually, and determine the impact of total or increased state funding of income maintenance and social services on those levies;

(2) examine and recommend to the legislature alternative methods of income adjusted property tax relief for homeowners and renters;

(3) examine and recommend to the legislature alternative property tax classification systems that reduce the number of property classifications, and determine the effects of the consolidation by type and use of property;

(4) examine the tax structures and revenue needs and revenue resources of state and local governments;

(5) study and make recommendations about long-range tax policy;

(6) analyze proposed tax legislation, with particular reference to revenue and distribution impact, local government financing, and adherence to sound tax policies, and report its findings to the legislature;

(7) examine the property tax burdens on agricultural, commercial, industrial, and employment property by county, and by type, use, and market value; and

(8) file a report at least biennially with the legislature.

Subd. 3. **Membership.** The commission consists of seven members of the senate, including the chair of the committee on taxes and tax laws, to be appointed by the subcommittee on committees of the committee on rules and administration, and seven members of the house of representatives, including the chair of the committee on taxes, to be appointed by the speaker.

Appointees are members of the commission only while they are members of the bodies from which they were appointed. The first members serve for a term expiring on January 15 of the next biennial session of the legislature and until their successors are appointed. Later members must be appointed at the start of each biennial session of the legislature for a two-year term beginning on January 16 of that year. Vacancies must be filled in the same manner as the original appointment.

Subd. 4. **Meetings; officers.** The commission shall hold meetings at the times and places it designates. The commission's first chair shall be the chair of the house tax committee. Every two years, the chair of the house tax committee and the chair of the senate committee on taxes and tax laws shall alternate the office of commission chair. The commission shall select a vice-chair and other officers from its membership.

Subd. 5. **Staff; office; equipment.** (a) In performing its duties, the commission must utilize existing legislative staff.

(b) The commission may purchase equipment and supplies and enter into contracts for services, equipment, and supplies necessary to discharge its duties.

Subd. 6. **Assistance of other agencies.** (a) The commission may request information from any state officer or agency to assist in carrying out this section. The officer or agency shall promptly provide the data to the extent permitted by law.

(b) The commissioner of revenue shall prepare, maintain, and make available to the commission data that compares (1) household incomes with rents and property tax burdens; and (2) household incomes with home market values and property tax burdens. The data must be furnished and made available in the form and manner that the commission determines will facilitate its use to discharge the duty imposed in subdivision 2, clause (2). The data must not disclose the name, address, social security number, or any other item of information that the commissioner believes may identify an individual. The commissioner must furnish to the commission and maintain for it the most complete and current data available.

Subd. 7. **Expenses and reimbursement of members and staff.** The members of the commission may receive per diem when attending meetings and other commission business. Members and legislative employees must be reimbursed for expenses actually and necessarily incurred in the performance of their duties under the rules governing legislators and legislative employees.

Subd. 8. **Commission expenses and reports.** Expenses of the commission must be approved by the chair or other member as the rules of the commission provide. The expenses must then be paid like other state expenses. A general summary or statement of expenses incurred by the commission and paid must be made to the legislature by November 15 of each even-numbered year.

Subd. 9. **Appropriation.** \$300,000 is appropriated for the biennium ending June 30, 1989, from the general fund to the tax study commission.

History: 1987 c 268 art 7 s 1; 1988 c 469 art 1 s 1

LEGISLATIVE COMMISSION ON PUBLIC EDUCATION

3.865 LEGISLATIVE COMMISSION ON PUBLIC EDUCATION.

Subdivision 1. **Establishment.** A legislative commission on public education is established to 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 consists of 12 members. Six members from the senate, including members of the minority caucus, shall be appointed by the subcommittee on committees of the committee on rules and administration. Six members from the house of representatives, including members of the minority caucus, 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 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 a senate member when the chair is a house member.

Subd. 4. **Governor's representative.** The governor shall appoint a person to be 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 shall 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 expenses actually incurred in the performance of their duties. Expenses of the commission shall be approved by the chair and paid like other state expenses.

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; 1988 c 469 art 1 s 1

3.866 SCHOOL DISTRICT REVENUE STUDY.

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

- (1) alternative means of funding school district retirement costs;
- (2) the financial constraints and costs faced by districts with highly educated and experienced staff, the adequacy of the current training and experience revenue in recognizing these constraints and costs, and the impact of the training and experience revenue 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 sparsity revenue 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 them 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 the 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 compensatory education revenue in the 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 formula allowance and general education 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; 1988 c 469 art 1 s 1; 1988 c 486 s 1*

- 3.87** [Repealed, 1974 c 470 s 43]
3.875 [Repealed, 1Sp1985 c 13 s 66 subd 8]
3.88 [Repealed, 1974 c 470 s 43]

3.881 DEFINITIONS.

Subdivision 1. Generally. For purposes of Laws 1989, First Special Session, chapter 1, article 1, the following terms have the meanings given them.

Subd. 2. Political subdivisions. "Political subdivisions" are counties, cities, towns, school districts, and other local government jurisdictions to which the state provides state aids or on which the state imposes state mandates.

Subd. 3. State aids. "State aids" are programs by which state government provides financial assistance to political subdivisions to assist them in delivering public services, to finance public facilities, or to reduce property taxes. These programs include both state funding provided in connection with state mandates and other state financial assistance programs that do not involve state mandates.

Subd. 4. State mandates. "State mandates" are those programs and procedures required by state law or rule to be financed, delivered, or performed by political subdivisions. State mandates include federal programs to the extent the state elects to impose them as mandates on political subdivisions but does not include federal mandates for which there is no substantial state discretion.

Subd. 5. Nonprogram mandates. "Nonprogram mandates" are those state mandates which apply equally to private entities and political subdivisions or which relate to the basic organization and institutional operation of political subdivisions. Nonprogram mandates include, but are not limited to, requirements relating to:

- (1) the provision of constitutionally prescribed rights and privileges;
- (2) the implementation of generally applicable health and safety standards, provided that nonprogram mandates do not include requirements relating to recycling, wastewater treatment, and hazardous and solid waste disposal;
- (3) the provision of services by licensed or credentialed persons or institutions;
- (4) the holding of elections for offices other than national and state offices;
- (5) the holding of public meetings and the giving of notices to the public in connection with those meetings;
- (6) the collection of taxes and other revenues;
- (7) the preparation of financial audits and other reports required by the state;
- (8) the collection, creation, reception, maintenance, or dissemination of public data;
- (9) collective bargaining, binding arbitration with public employees, pay equity, comparable worth, and other provisions affecting terms and conditions of public employment;
- (10) competitive bidding and other provisions relating to the execution of public contracts;
- (11) the protection of the public from illegal or unethical actions by local public officials; and
- (12) the enforcement and administration of discretionary local ordinances and rules.

Subd. 6. Program mandates. "Program mandates" are those state mandates other than nonprogram mandates.

Subd. 7. State programs. "State programs" are programs operated by state agencies or authorities that are not state mandates or state aids.

History: *1Sp1989 c 1 art 1 s 2*

3.882 POLICIES FOR REVIEWING THE FUNDING OF STATE AIDS AND MANDATES.

Subdivision 1. **General principles.** The following general principles shall guide state-local finance reform in Minnesota.

- (a) State resources should finance all or most of the cost of program mandates.
- (b) Political subdivision resources should finance all or most of the cost of nonprogram mandates and those local programs that are not state mandates.
- (c) A combination of state and political subdivision resources should finance certain programs that, because of their purpose, extent, or cost, are shared responsibilities of the state and the political subdivisions.
- (d) In order to accommodate wealth disparities among Minnesota's political subdivisions and income disparities among individuals, the state should assist political subdivisions in providing a basic level of local services at levels of local taxation that are not excessive.

Subd. 2. **Policy for funding program mandates.** Preference for higher proportions of state funding should be given to those program mandates having the most specific and extensive requirements, that permit the least amount of discretion by local public officials, and that relate primarily to services to individuals rather than services to real property. Preference for lesser proportions of state funding shall be given to those program mandates which tend not to meet the preceding criteria and for which program effectiveness, fairness, and cost-efficiency will likely be greater with financial participation by political subdivisions.

History: *1Sp1989 c 1 art 1 s 3*

LEGISLATIVE COMMISSION ON PLANNING AND FISCAL POLICY**3.885 LEGISLATIVE COMMISSION ON PLANNING AND FISCAL POLICY.**

Subdivision 1. **Membership.** The legislative commission on planning and fiscal policy consists of 18 members of the senate and the house of representatives appointed by the legislative coordinating commission. Vacancies on the commission are filled in the same manner as original appointments. The commission shall elect a chair and a vice-chair from among its members. The chair alternates between a member of the senate and a member of the house in January of each odd-numbered year.

Subd. 1a. **Task force.** For the purpose of implementing the review of state aids and state mandates required under subdivision 6, paragraph (d), the commission must designate a joint legislative task force to advise and make recommendations to the commission regarding the review of state aid programs.

Subd. 2. **Compensation.** Members of the commission are compensated as provided by section 3.101.

Subd. 3. **Staff.** (a) The commission may:

- (1) employ and fix the salaries of professional, technical, clerical, and other staff of the commission;
- (2) employ and discharge staff solely on the basis of their fitness to perform their duties and without regard to political affiliation;
- (3) buy necessary furniture, equipment, and supplies;
- (4) enter into contracts for necessary services, equipment, office, and supplies;
- (5) provide its staff with computer capability necessary to carry out assigned duties. The computer should be capable of receiving data and transmitting data to computers maintained by the executive and judicial departments of state government that are used for budgetary and revenue purposes; and
- (6) use other legislative staff.

(b) The commission may hire an executive director and delegate any of its authority under paragraph (a) to that person. The executive director shall be appointed by the

chair and vice-chair to a four-year term, shall serve in the unclassified service, and is subject to removal by a majority vote of the members of either the senate or the house of representatives.

(c) The legislative coordinating commission shall provide office space and administrative support to the committee. The state planning agency shall report to the committee, and the committee may make recommendations to the state planning agency.

Subd. 4. Agencies to cooperate. All departments, agencies, and education institutions of the executive and judicial branches must comply with a request of the commission for information, data, estimates, and statistics on the funding revenue operations, and other affairs of the department, agency, or education institution. The commissioner of finance and the commissioner of revenue shall provide the commission with full and free access to information, data, estimates, and statistics in the possession of the finance and revenue departments on the state budget, revenue, expenditures, and tax expenditures.

Subd. 5. Duties. (a) The commission shall:

(1) provide the legislature with research and analysis of current and projected state revenue, state expenditures, and state tax expenditures;

(2) provide the legislature with a report analyzing the governor's proposed levels of revenue and expenditures for biennial budgets submitted under section 16A.11 as well as other supplemental budget submittals to the legislature by the governor;

(3) provide an analysis of the impact of the governor's proposed revenue and expenditure plans for the next biennium;

(4) conduct research on matters of economic and fiscal policy and report to the legislature on the result of the research;

(5) provide economic reports and studies on the state of the state's economy, including trends and forecasts for consideration by the legislature;

(6) conduct budget and tax studies and provide general fiscal and budgetary information;

(7) review and make recommendations on the operation of state programs in order to appraise the implementation of state laws regarding the expenditure of funds and to recommend means of improving their efficiency;

(8) recommend to the legislature changes in the mix of revenue sources for programs, in the percentage of state expenditures devoted to major programs, and in the role of the legislature in overseeing state government expenditures and revenue projections;

(9) make a continuing study and investigation of the building needs of the government of the state of Minnesota, including, but not limited to the following: the current and future requirements of new buildings, the maintenance of existing buildings, rehabilitating and remodeling of old buildings, the planning for administrative offices, and the exploring of methods of financing building and related costs; and

(10) conduct a continuing study of state-local finance, analyzing and making recommendations to the legislature on issues including levels of state support for political subdivisions, basic levels of local need, balances of local revenues and options, relationship of local taxes to individuals' ability to pay, and financial reporting by political subdivisions. In conducting this study, the commission shall consult with the governor, the staff of executive branch agencies, and the governor's advisory commission on state-local relations.

(b) In performing its duties under paragraph (a), the commission shall consider, among other things:

(1) the relative dependence on state tax revenues, federal funds, and user fees to support state-funded programs, and whether the existing mix of revenue sources is appropriate, given the purposes of the programs;

(2) the relative percentages of state expenditures that are devoted to major programs such as education, assistance to local government, aid to individuals, state agencies and institutions, and debt service; and

(3) the role of the legislature in overseeing state government expenditures, including legislative appropriation of money from the general fund, legislative appropriation of money from funds other than the general fund, state agency receipt of money into revolving and other dedicated funds and expenditure of money from these funds, and state agency expenditure of federal funds.

(c) The commission's recommendations must consider the long-term needs of the state. The recommendations must not duplicate work done by standing committees of the senate and house of representatives.

The commission shall report to the legislature on its activities and recommendations by January 15 of each odd-numbered year.

The commission shall provide the public with printed and electronic copies of reports and information for the legislature. Copies must be provided at the actual cost of furnishing each copy.

Subd. 6. Mandate, state aid, and state program reviews. (a) The commission shall, after consultation with the governor and with the chairs of the standing committees of the legislature, select mandates and state programs for review. When selecting mandates, state aids, or state programs to be reviewed, the commission shall give priority to those that involve state payments to local units of government.

(b) The governor is responsible for the performance of the reviews. Staff from affected agencies, staff from the department of finance and the state planning agency, and legislative staff shall participate in the reviews.

(c) At the direction of the commission, reviews of state programs shall include:

(1) a precise and complete description of the program;

(2) the need the program is intended to address;

(3) the recommended goals and measurable objectives of the program to meet those needs;

(4) program outcomes and measures which identify:

(i) results in meeting stated needs, goals, and objectives;

(ii) administrative efficiency, which, when appropriate, shall include number of program staff and clients served, timeliness in processing clients and rates and administrative cost as a percent of total program expenditures;

(iii) unanticipated program outcomes;

(iv) program expenditures compared with program appropriations;

(v) historical cost trends and projected program growth, including reasons for fiscal and program growth, for all levels of government involved in the program;

(vi) if rules or guidelines or instructions have been promulgated for a program, a review of their efficacy in helping to meet program goals and objectives and in administering the program in a cost-effective way; and

(vii) quality control monitoring and sanctions including a review of the level of training, experience, skill, and standards of staff;

(5) recommended changes in the program that would lead to its policy objectives being achieved more efficiently or effectively, or at lower cost; and

(6) additional issues requested by the commission.

(d) The following state aids and associated state mandates shall be reviewed:

(1) local aids and credits including local government aid, homestead and agricultural credit aid, disparity reduction aid, taconite homestead credit and aids, tax increment financing, and fiscal disparities;

(2) human services aids including community health services aids, correctional program aids, and social service program and administrative aids;

(3) elementary and secondary education aids including school district general fund aids and levies, school district capital expenditure fund aids and levies, school district debt service fund aids and levies, and school district community service fund aids and levies; and

(4) general government aids including natural resource aids, environmental protection aids, transportation aids, economic development aids, and general infrastructure aids.

(e) At the direction of the commission, the reviews of state aids and state mandates involving state financing of local government activities listed in paragraph (d) shall include:

(1) the employment status, wages, and benefits of persons employed in administering the programs;

(2) the desirable applicability of state procedural laws and rules;

(3) methods for increasing political subdivision options in providing their share, if any, of program costs;

(4) desirable redistributions of funding responsibilities for the program and the time period during which any recommended funding distribution should occur;

(5) opportunities for reducing program mandates and giving political subdivisions more flexibility in meeting program needs;

(6) comparability of treatment of similar units of government;

(7) the effect of the state aid or mandate on the distribution of tax burdens among individuals, based upon ability to pay;

(8) coordination of the payment or allocation formula with other state aid programs;

(9) incentives that have been created for local spending decisions, and whether the incentives should be changed;

(10) ways in which political subdivisions have changed their revenue-raising behavior since receiving these grants; and

(11) consideration of the program's consistency with the policies set forth in section 3.882.

(f) Each review shall also include an assessment of the accountability of all government agencies that participate in administration of the program.

(g) Each review that is intended to be considered in the development of the governor's budget recommendations for the following year shall be completed and submitted to the commission no later than November 15.

Subd. 7. Funds for state aid restructuring. If, upon completion of a review of a state aid or state mandate under subdivision 6, the governor determines that the program should be abolished or changed in a manner that would increase, decrease, or redirect the aid that is paid under the program, the governor may recommend that change to the commission. If the commission agrees with that recommendation, the governor shall include the change in the next budget presented to the legislature under section 16A.11. If the agreed upon recommendation is to abolish the state aid program or to reduce the amount that would otherwise be recommended for expenditure for the program, the budget must designate the amount that would have been recommended for expenditure, and reserve that amount in a state aid account. The governor may make specific recommendations for expenditure from the account only for other state aid programs or general property tax relief. If the recommendation by the governor and the commission on a state aid program is to increase the amount to be expended, that amount must be financed within the budget submitted to the legislature in accordance with section 16A.11.

Subd. 8. Political subdivision reporting. No later than November 15, 1991, the commission shall make recommendations to appropriate standing committees of the legislature on any changes in uniform accounting and financial reporting methods necessary to assure public and legislative oversight of expenditures by cities, counties, towns, and special service districts. The recommendations shall consider opportunities for on-line access by appropriate state officers to political subdivision accounts. In preparing these recommendations, the commission shall consult with the state auditor, the legislative auditor, and the commissioners of finance and revenue.

Subd. 9. Local government rule appeals. Any local government may appeal to the commission to review any existing or proposed rule as defined in section 14.02, subdivision 4, on the grounds that the rule imposes a fiscal or administrative burden on local governments which is unnecessary in order for the local governments to accomplish the statewide policy goals and requirements of the statute authorizing the rule. As used in this subdivision, a "local government" is a county, home rule charter or statutory city, or town. The commission may hold a public hearing on a local government's appeal of a rule and may, on the basis of testimony received at the public hearing, suspend any rule by affirmative vote of at least half of its members. The procedures provided in sections 3.842, subdivision 4, 3.844, and 3.845, shall apply to suspension of rules under this subdivision.

History: 1987 c 404 s 63; 1988 c 469 art 1 s 1; 1988 c 686 art 1 s 32; 1989 c 155 s 6; 1Sp1989 c 1 art 1 s 4-9; 1990 c 604 art 10 s 1,2

NOTE: Subdivision 9, as added by Laws 1990, chapter 604, article 10, section 2, is repealed effective July 1, 1992, by Laws 1990, chapter 604, article 10, section 32. See Laws 1990, chapter 604, article 10, section 33.

LEGISLATIVE WATER COMMISSION

3.887 LEGISLATIVE WATER COMMISSION.

Subdivision 1. Establishment. A legislative water commission is established.

Subd. 2. Membership. (a) The legislative water commission shall consist of ten members appointed as follows:

(1) five members of the senate with minority representation proportionate to minority membership in the senate to be appointed by the subcommittee on committees and to serve until their successors are appointed; and

(2) five members of the house of representatives with minority representation proportionate to minority membership in the house to be appointed by the speaker of the house and to serve until their successors are appointed.

(b) Vacancies shall be filled in the same manner as the original positions.

(c) Vacancies occurring on the commission do not affect the authority of the remaining members of the legislative water commission to carry out the function of the commission.

Subd. 3. Subcommittees. Two subcommittees shall be established in the legislative water commission, one on groundwater and one on surface water.

Subd. 4. Staff. The legislative water commission may appoint and fix the compensation of additional legal and other personnel and consultants necessary to enable the commission to carry out its function, or to contract for services to supply necessary data subject to the approval of the legislative coordinating commission under section 3.305. State employees subject to civil service laws and regulations who may be assigned to the commission shall retain civil service status without interruption or loss of status or privilege.

Subd. 5. Powers and duties. (a) The legislative water commission shall review water policy reports and recommendations of the environmental quality board, the biennial report of the board of water and soil resources, and other water-related reports as may be required by law or the legislature.

(b) The commission may conduct public hearings and otherwise secure data and comments.

(c) The commission shall make recommendations as it deems proper to assist the legislature in formulating legislation.

(d) Data or information compiled by the legislative water commission or its subcommittees shall be made available to the legislative commission on Minnesota resources and standing and interim committees of the legislature on request of the chair of the respective commission or committee.

Subd. 6. Study. The legislative water commission shall study the recommenda-

tions of the environmental quality board for the management and protection of water resources in the state, and shall report its findings to the legislative commission on Minnesota resources and the legislature by November 15, 1991, on the state's water management needs for the year 2000.

Subd. 7. Effects of sustainable agriculture. The legislative water commission shall study the implementation and effects of sustainable agriculture in the state including current and potential practices and their effect on water and groundwater.

Subd. 8. Repealer. This section is repealed effective June 30, 1995.

History: 1989 c 326 art 2 s 1; 1989 c 335 art 1 s 269

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 of the senate and house of representatives is continued during the intervals between sessions of the legislature to make studies and investigations within its general jurisdiction, 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 by resolution or law.

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

Subd. 3. A standing committee of the senate that requires money to defray expenses of its operations during the interim shall prepare and submit a budget to the senate committee on rules and administration for its approval. The money must not be spent by the standing committee without prior approval of the senate committee on rules and administration. A standing committee of the house of representatives that requires money to defray expenses of its operations during the interim shall prepare and submit a budget to the rules and legislative administration committee of the house of representatives for its approval. The money must not be spent by the standing committee without prior approval of the rules and legislative administration committee of the house of representatives.

Subd. 4. The expenses of a committee shall be paid upon the certification to the commissioner of finance of their amount. Payment of the expenses is directed from any direct appropriation for them to the legislature or either branch of it.

History: 1963 c 887 s 1; 1973 c 492 s 14; 1973 c 720 s 69; 1988 c 469 art 1 s 1

INDIAN AFFAIRS COUNCIL

3.922 INDIAN AFFAIRS COUNCIL.

Subdivision 1. Creation, membership. The state Indian affairs council is created 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 trade and economic development,
 the commissioner of corrections,
 the commissioner of the Minnesota housing finance agency,
 the commissioner of iron range resources and rehabilitation,
 the commissioner of health,

each of whom may designate a staff member to serve instead, and

three members of the house of representatives appointed by the speaker, and three members of the senate appointed by its subcommittee on committees.

Voting members of the council are the 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 under subdivision 2.

The chairs of the Indian committees, trusts, or councils may designate in writing a member who has been elected at large to an office in the committee, trust, or council, to serve instead. Members appointed to represent the house of representatives, the senate or tribal governments shall no longer serve on the council when they are no longer members of the bodies which they represent and 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 vote.

Subd. 2. Additional members. Two members of the council shall be elected at large by Indian residents of Minnesota who are legal members and eligible voters of a federally recognized tribe in accordance with the criteria of the tribe and are not members of any federally recognized tribe with a reservation in Minnesota. The election shall be in a manner prescribed by the secretary of state. The manner of election, certification, and contest shall, as far as reasonably possible, be consistent with procedures employed in general elections in the state to ensure a fair election and ready access to the election process by eligible voters. The voting procedure shall include voting by absentee ballot. A person is 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 election shall be certified and regulated by the secretary of state. Elections shall be held by April 14, 1981, and by every fourth April 14 thereafter. The term of office for at-large members is four years commencing on the April 20 following the election and ending at 12:01 a.m., April 20 four years later.

Subd. 3. Compensation; expenses; expiration. Compensation of nonlegislator members is 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 then be paid in the same manner as other state expenses. The executive secretary shall inform the commissioner of finance in writing of the names of the persons authorized to approve expenses. The council expires on June 30, 1993.

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 is a quorum.

Subd. 5. Officers; personnel; authority. The council shall annually elect a chair and other officers as it may deem necessary. The chair may appoint subcommittees necessary to fulfill the duties of the council. It shall also employ and prescribe the duties of employees and agents as it deems necessary. The compensation of the executive director of the board is as provided by section 43A.18. All employees are in the unclassified service. The chair is an ex officio member of the state board of human rights. Appropriations and other funds of the council are subject to chapter 16B. The council may 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. It shall also maintain personnel and office space in St. Paul.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) review data provided by the commissioner of human services under section 257.072, subdivision 5, and present recommendations on the out-of-home placement of Indian children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter.

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 have access to records as necessary to obtain needed information. The council also shall have the right to call upon various state departments for technical advice and service as needed to fulfill its purposes.

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 reside in urban areas of the state. The council shall be appointed by the board and 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 city. The terms, compensation, and removal of members are as provided in section 15.059. The council expires on June 30, 1993.

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 before 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; 1987 c 186 s 15; 1987 c 312 art 1 s 26 subd 2; 1987 c 375 s 1; 1988 c 469 art 1 s 1; 1988 c 629 s 1,2; 1988 c 689 art 2 s 1

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."

3.9221 INDIAN TRIBES; COMPACTS TO BE NEGOTIATED.

Subdivision 1. Definition. For purposes of this section, "act" means the Indian gaming regulatory act, Public Law Number 100-497, and future amendments to it.

Subd. 2. Negotiations authorized. The governor or the governor's designated representatives shall, pursuant to section 11 of the act, negotiate in good faith a tribal-state compact regulating the conduct of class III gambling, as defined in section 4 of the act, on Indian lands of a tribe requesting negotiations. The agreement may include any provision authorized under section 11(d)(3)(C) of the act. The attorney general is the legal counsel for the governor or the governor's representatives in regard to negotiating a compact under this section.

Subd. 3. Time limits. (a) In the case of negotiations undertaken pursuant to a request for negotiations received before April 20, 1989, the authority granted under subdivision 2 to negotiate with an Indian tribe expires 180 days after April 20, 1989.

(b) In the case of negotiations undertaken pursuant to a request for negotiations received after April 20, 1989, the authority granted under subdivision 2 to negotiate with an Indian tribe expires 180 days after receipt of the request by the governor.

Subd. 4. Terms of compact; rights of parties. A compact agreed to on behalf of the state under this section must contain:

(1) a provision recognizing the right of each party to the agreement, including the legislature by joint resolution, to request that the agreement be renegotiated or replaced by a new compact, and providing the terms under which either party, including the legislature, can request a renegotiation or the negotiation of a new compact; and

(2) a provision that in the event of a request for a renegotiation or a new compact the existing compact will remain in effect until renegotiated or replaced.

History: 1989 c 44 s 1

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 consists 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 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:

- (1) economic security of homemakers and women in the labor force,
- (2) opportunities for education and vocational training,
- (3) employment opportunities,
- (4) the contributions of women to the economy,
- (5) women's access to benefits and services provided to citizens of this state, and
- (6) laws and business practices constituting barriers to the full participation by women in the economy.

The commission shall study also 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 by December 15 of each even-numbered year and supplement its findings and recommendations by December 15 of each odd-numbered year. The report shall recommend legislation and administrative action 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 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 money to the commission by way of gift, grant, or loan, to assist the commission to carry out its powers and duties, the commission may accept the offer by majority vote. Upon acceptance, the chair shall receive the money subject to the terms of the offer, but no money shall be accepted or received as a loan nor indebtedness 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; 1988 c 469 art 1 s 1

3.9223 COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE.

Subdivision 1. **Membership.** A state council on affairs of Spanish-speaking people is created 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, removal of members and filling of vacancies are as provided in section 15.0575. Compensation of members is as provided in section 15.059, subdivision 3. The council shall annually elect from its membership a chair and other officers it deems necessary. The council expires on June 30, 1993.

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 ensure Spanish-speaking people access to benefits and services provided to people in this state;

(c) recommend to the governor and the legislature legislation 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 to secure 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 authorized by other statute, rule, or order;

(i) review data provided by the commissioner of human services under section 257.072, subdivision 5, and present recommendations on the out-of-home placement of children of Hispanic people. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter; and

(j) publicize the accomplishments of Spanish-speaking people and their contributions to this state.

Subd. 4. **Review and recommendation authority.** All applications for the receipt of federal money and proposed rules of a 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 before submission to a federal agency or initial publication in the State Register.

Subd. 5. **Powers.** The council may 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 is experienced in administrative activities and familiar with the problems and needs of Spanish-speaking people. The council may delegate to the executive director powers and duties under this section which do not require council approval. The executive director and council staff 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 necessary to carry out its duties. The commissioner of administration shall provide the council with necessary administrative 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. 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 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; 1988 c 469 art 1 s 1; 1988 c 629 s 3; 1988 c 686 art 1 s 33; 1988 c 689 art 2 s 2

3.9225 COUNCIL ON BLACK MINNESOTANS.

Subdivision 1. Creation. A state council on Black Minnesotans is created 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 include at least three males and at least three females. Membership terms, compensation, removal of members, and filling of vacancies for nonlegislative members are as provided in section 15.059. 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. The council expires on June 30, 1993.

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 ensure that Black people have access to benefits and services provided to people in this state;

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

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

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

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

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

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

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

(j) review data provided by the commissioner of human services under section 257.072, subdivision 5, and present recommendations on the out-of-home placement of Black children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter; and

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

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 before submission to a federal agency.

Subd. 5. Powers. The council may contract in its own name, but no money shall be accepted or received as a loan nor indebtedness 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 is experienced in administrative activities and familiar with the problems and needs of Black people. The council may delegate to the executive director powers and duties under subdivisions 1 to 7 which 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 its duties. Staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative 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. 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 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; 1988 c 469 art 1 s 1; 1988 c 629 s 4; 1988 c 686 art 1 s 34; 1988 c 689 art 2 s 3

3.9226 COUNCIL ON ASIAN-PACIFIC MINNESOTANS.

Subdivision 1. Creation. The state council on Asian-Pacific Minnesotans consists of 15 members. Eleven members are appointed by the governor and must be broadly representative of the Asian-Pacific community of the state. Terms, compensation, removal, and filling of vacancies for appointed members are as provided in section 15.059. 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. The council expires on June 30, 1993.

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 that Asian-Pacific people have 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 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 to secure 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;

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

(14) review data provided by the commissioner of human services under section 257.072, subdivision 5, and present recommendations on the out-of-home placement of Asian-Pacific children. Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter.

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 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.

Subd. 6. State agency assistance. At its request, state agencies shall supply the council with advisory staff services on matters relating to its jurisdiction. 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. [Repealed, 1987 c 404 s 191]

History: 1Sp1985 c 13 s 68; 1986 c 444; 1988 c 469 art 1 s 1; 1988 c 629 s 5; 1988 c 686 art 1 s 35; 1988 c 689 art 2 s 4; 1989 c 343 s 1

LEGISLATIVE COMMISSION ON CHILD PROTECTION

3.9227 LEGISLATIVE COMMISSION ON CHILD PROTECTION.

Subdivision 1. **Creation.** A legislative commission on child protection is created consisting of ten members. Five members of the house of representatives, including members of the minority caucus, shall be appointed by the speaker and five members of the senate, including members of the minority caucus, shall be appointed by the subcommittee on committees. Members serve until expiration of their legislative terms and vacancies must be filled in the same manner as the original positions.

Subd. 2. **Powers and duties.** The commission shall study matters relating to child protection and coordinate and oversee activities of the standing committees dealing with these issues. The commission's agenda shall include:

(1) analyzing and making recommendations regarding federal, state, and county funding and responsibility for the child protection system;

(2) developing ways to maximize the use of federal funding sources to enhance state child protection efforts; and

(3) encouraging and facilitating the funding of child protection services with an emphasis on prevention and treatment.

Subd. 3. **Report.** The commission shall report its findings and recommendations to the governor and the legislature by December 15 of each even-numbered year, beginning in 1992.

Subd. 4. **Administration.** The commission shall utilize existing legislative staff in carrying out its duties.

History: 1990 c 542 s 1

- 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 an 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 through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means.

History: 1961 c 572 s 1; 1988 c 469 art 1 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; 1988 c 469 art 1 s 1

3.95 SPECIAL SESSION IN EVENT OF ATTACK.

In the event of an attack, if the legislature is not in session, the governor shall convene a special session as soon as practicable, but within 30 days after the inception of the attack. If the governor fails to issue the call, the legislature, on the first Tuesday after the first Monday more than 30 days after 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; 1988 c 469 art 1 s 1

3.96 QUORUM AND VOTE REQUIREMENTS.

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

History: 1961 c 572 s 4; 1988 c 469 art 1 s 1

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. The legislative audit commission is created. The commission consists of:

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

- (3) the chair of the senate committee on governmental operations or a designee who is a member of the committee;
- (4) the chair of the senate committee on finance or a designee who is a member of the committee;
- (5) three members of the senate appointed by the senate minority leader;
- (6) the speaker of the house and the chair of the house committee on rules or their designees;
- (7) the chair of the house committee on taxes or a designee who is a member of the committee;
- (8) the chair of the house committee on governmental operations or a designee who is a member of the committee;
- (9) the chair of the house appropriations committee or a designee who is a member of the committee; and
- (10) 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 a manner that will preserve the representation established by this subdivision.

The commission shall elect its chair and other officers as it may determine necessary. It shall meet at the call of the chair or the executive secretary. The members shall serve without compensation but be reimbursed for their reasonable expenses as members of the legislature. The commission may exercise the powers prescribed by section 3.153.

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

Subd. 4. The legislative auditor is the executive secretary of the commission. The legislative auditor shall be appointed by the commission for a six-year term and serve in the unclassified service. 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 by the legislative auditor. The deputy auditors and the confidential secretaries serve in the unclassified civil service, but all other employees of the legislative auditor are in the classified civil service.

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

Subd. 7. In addition to the legislative auditing duties concerning state financial matters, the legislative auditor shall also exercise and perform duties prescribed by rule of the legislature or either body of it or by the commission. The legislative auditor shall review department policies and evaluate projects or programs requested by the com-

mission. Any standing legislative committee having legislative jurisdiction may request the commission to review projects or programs.

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

Subd. 9. The legislative auditor is subject to the government data practices act, chapter 13. If data provided by the legislative auditor to the commission is disseminated by the commission or its members or agents in violation of section 13.05, subdivision 4, the commission is subject to liability under section 13.08, subdivisions 1 and 3.

Subd. 10. Members of the commission have access to data that is collected or used by the legislative auditor and classified as not public or as private or confidential only as authorized by resolution of the commission. The commission shall 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 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 the data supplied by the individual were needed for an audit and the individual would not have provided the data to the legislative auditor without an assurance that the individual's identity would remain private, or the legislative auditor reasonably believes that the subject would not have provided the data. 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; 1988 c 469 art 1 s 1; 1989 c 351 s 1

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 the University of Minnesota, all state departments, boards, commissions, and other state agencies at least once a year, if money and personnel permit, and oftener if deemed necessary or as directed by the legislature or the legislative audit commission. Audits may include detailed checking of every transaction or test checking as the legislative auditor deems best. The books of the state treasurer and commissioner of finance may be examined monthly. 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; 1988 c 469 art 1 s 1; 1988 c 703 art 1 s 7

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 under 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 state department and agency, association or society and, so far as practicable,

- (1) inspect;
- (2) thoroughly examine its books and accounts, verifying the funds, securities, and other assets;
- (3) check the items of receipts and disbursements with its voucher records;
- (4) ascertain the character of the official bonds for its officers and the financial ability of the bonding institution;
- (5) inspect its sources of revenue and the use and disposition of state appropriations and property;
- (6) investigate the methods of purchase and sale and the character of contracts on public account;
- (7) ascertain proper custody and depository for its funds and securities;
- (8) verify the inventory of public property and other assets held in trust; and
- (9) 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, 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; 1988 c 469 art 1 s 1

3.973 STATE TREASURER; AUDIT.

At least once each year, and at other times that the legislative auditor deems 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 the examinations and the legislative auditor's doings in the premises.

The legislative auditor shall witness and attest the transfer of books, accounts, vouchers, and funds from the outgoing treasurer to a successor in office, and verify the official record of all redeemed bonds, certificates of indebtedness, and interest coupons issued by the state. From time to time, the legislative auditor shall cause to be destroyed all obligations which have been redeemed for at least one year. A notation shall be made

by the treasurer in the treasurer's records of all obligations destroyed and the legislative auditor shall certify to its correctness. A copy of each 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; 1988 c 469 art 1 s 1

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.

Each audit report shall set forth:

- (1) whether all funds have been expended for the purposes authorized in their appropriation;
- (2) whether all receipts have been accounted for and paid into the state treasury as required by law;
- (3) all illegal and unbusinesslike practices, if any;
- (4) an assessment of the financial control practices used in the agency, a measurement of performance, and recommendations for improved effectiveness; and
- (5) 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; 1988 c 469 art 1 s 1

3.9741 COST OF EXAMINATION, BILLING, PAYMENT.

Upon the audit of the financial accounts and affairs of a commission under 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; 1988 c 469 art 1 s 1

3.975 DUTIES WHEN VIOLATIONS ARE DISCOVERED.

If a legislative auditor's examination discloses malfeasance, misfeasance, or nonfeasance in office on the part of an officer or employee, a copy of the report shall be signed and verified, and it shall be the duty of the legislative auditor to file the report with the legislative audit commission and the attorney general. It shall be the duty of the attorney general to institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, as appropriate to secure to the state the recovery of funds or other assets misappropriated. The attorney general shall cause 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; 1988 c 469 art 1 s 1

3.976 MS 1978 [Renumbered 6.74]

3.977 MS 1978 [Renumbered 6.75]

3.978 LEGISLATIVE AUDITOR; SUBPOENA POWERS; PENALTIES.

In all matters relating to official duties, the legislative auditor has the powers possessed by courts of law to issue and have subpoenas served. All public officials and their deputies and employees, and all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds shall at all times afford reasonable facilities for examinations by the legislative auditor, make returns and

reports required by the legislative auditor, attend and answer under oath the legislative auditor's lawful inquiries, produce and exhibit all books, accounts, documents, and property that the legislative auditor may desire to inspect, and in all things aid the legislative auditor in the performance of duties. 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; 1988 c 469 art 1 s 1

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 any long-range implication. 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 appropriations committee of the house of representatives, the chair of the finance committee 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; 1988 c 469 art 1 s 1

3.981 [Repealed, 1Sp1989 c 1 art 1 s 13]

3.982 FISCAL NOTES FOR STATE-MANDATED ACTIONS.

When a bill is introduced and referred to a standing committee, the commissioner of finance shall determine whether the bill proposes a new or expanded mandate on a political subdivision. If the commissioner determines that a new or expanded mandate is proposed, the commissioner shall direct the appropriate department or agency of state government to prepare a fiscal note identifying the projected fiscal impact of the bill on state government and on the affected political subdivisions. The commissioner of finance shall be responsible for coordinating the fiscal note process, for assuring the accuracy and completeness of the note, and for ensuring that fiscal notes are prepared, delivered, and updated as provided in this section. The fiscal note shall categorize mandates as program or nonprogram mandates and shall include estimates of the levy impacts of the mandates. To the extent that the bill would impose new fiscal obligations on political subdivisions, the note shall indicate the efforts made to reduce those obligations, including consultations made with representatives of the political subdivisions. Chairs of legislative committees receiving bills on rereferrals from other legislative committees may request that fiscal notes be amended to reflect amendments made to the bills by prior committee action. Preparation of the fiscal notes required in this section shall be consistent with section 3.98. The commissioner of finance shall periodically report to and consult with the legislative commission on planning and fiscal policy on the issuance of the notes.

History: 1Sp1985 c 10 s 35; 1986 c 444; 1988 c 469 art 1 s 1; 1Sp1989 c 1 art 1 s 10; 1990 c 604 art 10 s 3

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3.983 [Repealed, 1Sp1989 c 1 art 1 s 13]