



Legislative Coordinating Commission

Memorandum

Date: December 2, 2022
To: Members of the Legislative Audit Commission
From: Michelle Weber, Executive Director, Legislative Coordinating Commission
Subject: Legislative Auditor Annual Performance Evaluation

The annual performance evaluation for Judy Randall, Legislative Auditor, was completed in accordance with the workplan and timeline approved by the Legislative Audit Commission (LAC), Executive Subcommittee, on October 4.

The evaluation included the following:

1. staff interviews and a stakeholder interview conducted by Senator Rest and Representative Quam;
2. an individual self-assessment report submitted to Senator Koran, LAC Chair, and Representative Hansen, LAC Vice Chair;
3. an in-person evaluation meeting with Senator Koran, Representative Hansen, and Ms. Randall on November 3, 2022; and
4. a completed evaluation form signed by the chair, vice-chair, and Ms. Randall.

A copy of the completed performance evaluation has been filed with and will be maintained by the Legislative Coordinating Commission.

Please feel free to contact me at michelle.weber@lcc.mn.gov or (651) 296-2963 with any questions.

1 LEGISLATIVE AUDIT COMMISSION (LAC)

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3 Legislative Auditor Performance Evaluation Policy

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5 **Annual Evaluation.**

6 The chair and vice-chair of the LAC, acting jointly, must conduct an annual
7 performance assessment of the legislative auditor. The assessment must cover a period
8 of one year commencing with the date of the auditor's appointment. Additional
9 performance assessments must cover each year following the anniversary date of the
10 appointment. If the vice-chair is a member of same political party as the chair, the
11 LAC must designate an alternative member of the LAC, who is a member of a
12 different political party than the chair, to work with the chair in conducting the
13 assessment.

14 The purpose of the assessment is to review the work of the auditor, and to review
15 the organization and function of the auditor's office generally. The assessment must
16 result in a report that may be used by the LAC in guiding the work of the office. In the
17 year before the auditor's term expires, the assessment may be used for making
18 decisions about the appointment of the auditor.

19 **Assessment Components.**

20 The assessment must be guided by the following principles and procedures:

- 21 • No later than 30 days before initiating the performance assessment, the
22 executive subcommittee must adopt a timetable and work plan to guide the
23 assessment process.
- 24 • The assessment must include a comprehensive analysis of the auditor's work
25 that includes, at a minimum, a written self-reflection prepared by the auditor
26 and must include observations and feedback provided by the auditor's staff,
27 legislators, and other interested stakeholders.

- 1 • At the discretion of the executive subcommittee, the assessment may include
2 other procedures for conducting a performance assessment of senior legislative
3 staff, as recommended by the National Conference of State Legislatures.
- 4 • The assessment must include an in-person meeting that includes the chair,
5 vice-chair (or the designees of the LAC), to discuss the work of the auditor
6 and the auditor’s office, and the results of the comprehensive analysis.
- 7 • The assessment is complete after the chair and vice-chair deliver a report of the
8 assessment to each member of the LAC. In the year preceding the expiration
9 of the auditor’s term, the report may include a recommendation regarding the
10 reappointment of the auditor, and may also recommend areas of the auditor’s
11 performance for follow-up or monitoring. The report must not disclose
12 information that is protected by law.
- 13 • After the third year of the auditor’s term, the executive committee shall approve
14 a work plan and schedule for an independent, comprehensive analysis of the
15 auditor’s performance to be conducted by an independent entity that is not
16 part of the legislative, judicial, or executive branch. The independent entity must
17 provide a report to each member of the LAC.

18 **Review of Deputy Auditors.**

19 The auditor, in consultation with the chair and the vice-chair, must conduct an annual
20 comprehensive performance assessment of each deputy auditor that covers one year of
21 work. The auditor must provide a report regarding these assessments, including any
22 recommendations, to the chair and vice-chair of the LAC. Each deputy auditor may
23 separately make the deputy auditor’s performance assessment available to the public.

Legislative Auditor Annual Performance Evaluation Workplan

Draft for Executive Subcommittee Consideration

Scope

The Legislative Audit Commission (LAC) has adopted a Legislative Auditor Performance Evaluation Policy. The Legislative Coordinating Commission (LCC) is available to assist with the logistical aspects of the annual performance evaluation for Judy Randall, Legislature Auditor. The performance period covered by the evaluation is November 9, 2021, through November 8, 2022. This reflects the first year of the six-year appointment term.

Evaluation Process and Components

1. **Self-assessment:** To be completed independently by Judy Randall.
2. **Staff, stakeholder, and member input:** To be conducted via interview by designated LAC members.
3. **Final evaluation:** To occur at an in-person meeting with Judy Randall and the chair and vice-chair of the LAC.

Timeline

Task	Responsible	Timeline
1. Draft workplan developed	Michelle Weber	September 23
2. Executive subcommittee meeting to approve workplan and timeline	Subcommittee members	October 4
3. Canvass LAC members to conduct staff, stakeholder, and member interviews	Senator Koran Representative Hansen	By October 12
4. Conduct staff, stakeholder, and member interviews	Designated LAC members	October 17-27
5. Provide summary of staff, stakeholder, and member interviews to chair/vice-chair	Designated LAC Members	October 28
6. Self-assessment provided to chair and vice-chair	Judy Randall	October 28
7. Performance review of deputy auditor(s)	Judy Randall	October 31
8. Complete final review and discuss with Judy Randall	Senator Koran Representative Hansen	November 3
9. Develop summary materials and report for distribution to LAC members	Michelle Weber, in consultation with chair and vice-chair	By November 9
10. If requested, present public information to full LAC	Senator Koran Representative Hansen	TBD, if applicable

Templates

1. **Self-assessment:** This will be developed by Judy Randall using an example of the self-assessment templates for other joint office director evaluations.
2. **Staff, stakeholder, and member input:** Sample interview questions will be developed by Michelle Weber with input from Tom Bottern and Patrick McCormack for use by the designated LAC members.
3. **Final review form:** A template will be developed by Michelle Weber with input from Tom Bottern and Patrick McCormack for use by the chair and vice-chair. This will serve as the official performance evaluation document.
4. **Guidelines for confidentiality and records retention:** A statement will be included on all the templates used during the evaluation process to protect the privacy of information collected.

Role of the LCC

1. Provide overall coordination and logistical support by:
 - a. Developing templates
 - b. Designing questions or the format for staff, stakeholder, and member input
2. Assist in developing materials for the chair and vice-chair to report to the members of the LAC.
3. Assist in the development of information to be included at a public LAC meeting, if a meeting is scheduled.
4. Maintain documentation from the evaluation process.
5. The LCC director will not be involved in the review of the self-assessment, participate in interviews, or participate in the meeting with Judy Randall and the chair and vice-chair where performance is discussed.

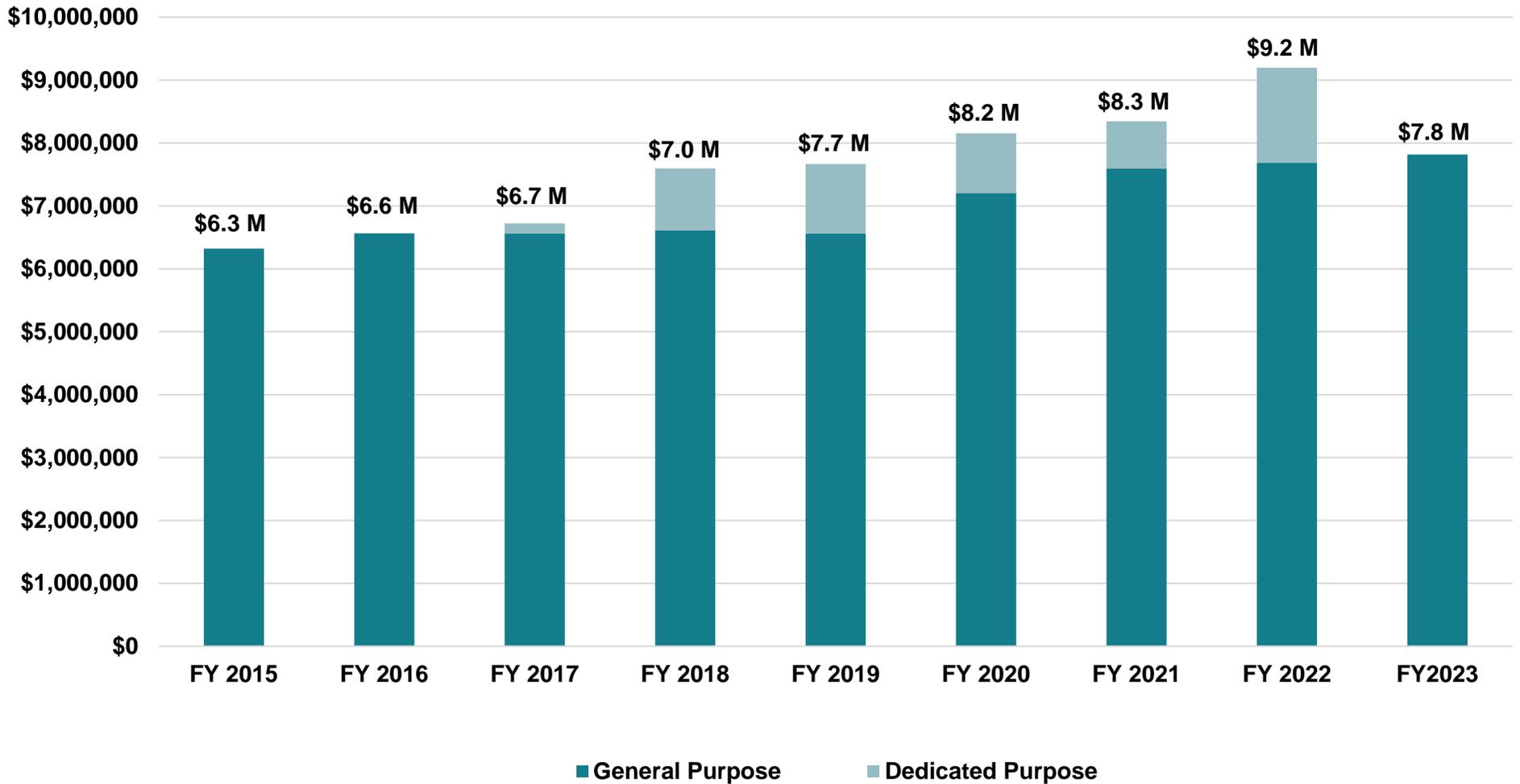
Performance Concerns

Members gathering information during the interview process and conducting the performance appraisal are advised to consult with Tom Bottern, Director, Senate Counsel, Research, and Fiscal Analysis (SCRFA); Patrick McCormack, Director, House Research, or Michelle Weber, Executive Director, LCC, in the event information is made available that is sensitive in nature or could require additional action.

Mid-Appointment Evaluation

The executive subcommittee shall approve a workplan and independent evaluation of the legislative auditor for the performance evaluation scheduled to occur at the end of the third year of the appointment. This evaluation must be conducted by an entity that is not part of the legislative, judicial, or executive branch. A copy of the evaluation will be provided to each member of the LAC. The evaluation is confidential and may not be released to the public.

OLA Appropriations



OLA Budget Scenarios

OLA was asked to prepare budget options for the Legislative Audit Commission to discuss. The table below reflects possible budget options for FY 2024 – 2025.

	Explanation	Annual Appropriation		Comments
		FY 2024	FY 2025	
Option 1	General Purpose Funding Only	\$7,817,000	\$7,817,000	Would result in 9-10 positions eliminated
Option 2	Maintain Current Level of Funding (General and Dedicated Purposes)	\$8,472,000	\$8,472,000	Would result in 2-3 positions eliminated
Option 3	Funding to Support Full Staff Complement	\$8,724,000	\$8,825,000	Full staff complement (66)
Option 4	Add 2 Special Review Staff	\$8,920,000	\$9,025,000	Would create a team of 4 staff to handle special reviews

NOTE: Figures assume current salary levels.



Date: December 2, 2022
To: Members, Legislative Audit Commission
From: Judy Randall, Legislative Auditor 
Subject: Proposed Amendments to OLA Statutes

In this memorandum, we present several areas where we believe OLA statutes could be clarified. We believe that these changes are largely noncontroversial and present them for your consideration to be included in a housekeeping bill.

Chair and Vice-Chair of the Legislative Audit Commission

Proposed changes: Revise *Minnesota Statutes* 3.97, subd. 2, to have the Senate Majority Leader—rather than the Senate Rules Committee’s Subcommittee on Committees—appoint the three Commission members from the majority party in the Senate. Also revise this subdivision to establish in law that the chair and vice-chair of the Legislative Audit Commission are from different political parties.

Rationale: The first proposed change would allow Commission members from the majority party in the Senate to be appointed in a manner that is parallel to how members from the minority party in the Senate are appointed.

The second proposed change would reinforce the bipartisan nature of the Commission by codifying the Commission’s longstanding practice of having the chair and vice-chair be from different political parties.

Review of Other Agencies’ Audit Contracts

Proposed change: Revise *Minnesota Statutes* 3.972, subd. 3, to require only that other agencies provide OLA a copy of any final audit reports for which the agency has contracted. Remove the requirement that OLA review and comment on proposed contracts between other agencies and public accountants.

Rationale: Having OLA receive and review agencies’ final audit reports is an important oversight mechanism, and we believe that part of this law should be retained. However, OLA can provide only limited value in reviewing proposed contracts between an agency and a public accountant. We do not believe this is the best use of OLA’s limited resources.

Access to Agencies' Data Systems

Proposed change: Revise *Minnesota Statutes* 3.978, subd. 2, to clarify that auditees must provide OLA independent and direct access to auditees' data systems.

Rationale: While OLA currently has authority to examine auditees' data systems, we have had some resistance from agencies when we request direct access to their systems. Having independent and direct access to these systems is necessary to ensure OLA's unfiltered access to all data, which is a fundamental tenet of an independent audit.

Clarify Data Classification

Proposed changes: Revise *Minnesota Statutes* 3.979, subd. 3, to clarify how OLA handles data classification issues related to not-public information, and to allow OLA to share not-public information for audit and law enforcement purposes.

Rationale: This subdivision of law uses data classification terms inconsistently. In some places, the law refers generically to "not public" data. In other places, the law uses terms specific to certain not-public data for individuals ("confidential"), but not the comparable terms for not-public data for entities ("protected nonpublic"). The changes would also clarify the classification applicable to data held by OLA, including data related to allegations received by OLA; data obtained from nongovernment entities in certain audit situations; and data related to the identity of individuals or entities who provide information with assurances of privacy.

Other proposed changes to this section of law would allow OLA to continue to protect not-public information (such as allegations from a whistleblower), even if OLA does not conduct a related audit or special review. Proposed changes would also expand the circumstances in which OLA could share not-public information with law enforcement agencies.

MINNESOTA STATUTES 2022

LEGISLATIVE AUDITS

3.97 LEGISLATIVE AUDIT COMMISSION.

Subdivision 1. Policy.

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

Subd. 2. Membership; terms; meetings; compensation; powers.

The Legislative Audit Commission consists of:

- (1) three members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate;
- (2) three members of the senate appointed by the senate minority leader;
- (3) three members of the house of representatives appointed by the speaker of the house; and
- (4) three members of the house of representatives appointed by the house of representatives minority leader.

Members shall serve until replaced, or until they are not members of the legislative body from which they were appointed. Appointing authorities shall fill vacancies on the commission within 30 days of a vacancy being created.

The commission shall meet in January of each odd-numbered year to elect its chair and vice-chair. They shall serve until successors are elected. The chair and vice-chair shall alternate biennially between the senate and the house of representatives. The commission shall meet at the call of the chair. 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.

[Repealed, [2006 c 262 s 2](#)]

Subd. 3a. Evaluation topics.

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

Subd. 3b. Review of financial management and internal controls.

The commission shall review legislative auditor reports and make recommendations, as the commission determines necessary, for improvements in the state's system of internal controls and financial management.

Subd. 4.

[Renumbered [3.971, subdivision 1](#)]

Subd. 5.

[Renumbered [3.971, subd 2](#)]

Subd. 6.

[Renumbered [3.971, subd 3a](#)]

Subd. 7.

[Renumbered [3.971, subd 4](#)]

Subd. 8.

[Renumbered [3.971, subd 5](#)]

Subd. 9.

[Renumbered [3.979, subdivision 1](#)]

Subd. 10.

[Renumbered [3.979, subd 2](#)]

Subd. 11.

[Renumbered [3.979, subd 3](#)]

Subd. 11a.

[Renumbered [3.979, subd 4](#)]

Subd. 12.

[Renumbered subd 3a]

History:

[1973 c 492 s 12](#); [1973 c 720 s 76](#) subd 2; [1975 c 204 s 90](#); [1980 c 484 s 1-3](#); [1981 c 311 s 39](#); [1982 c 545 s 24](#); [1983 c 317 s 1](#); [1985 c 248 s 70](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1989 c 351 s 1](#); [1991 c 345 art 1 s 38](#); [1993 c 4 s 5](#); [1994 c 632 art 3 s 15](#); [1997 c 184 s 1](#); [1999 c 99 s 1,23](#); [1Sp2001 c 10 art 2 s 10](#); [2006 c 262 s 1](#); [2007 c 13 art 1 s 1](#); [2009 c 101 art 2 s 3](#); [1Sp2019 c 10 art 2 s 3](#)

3.971 LEGISLATIVE AUDITOR.**Subdivision 1. Appointment and term.**

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

Subd. 2. Staff; compensation.

(a) The legislative auditor shall establish a Financial Audits Division and a Program Evaluation Division to fulfill the duties prescribed in this section.

(b) Each division may 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 an administrative support specialist to serve at pleasure. The salaries and benefits of the legislative auditor, deputy auditors, and administrative support specialists shall be determined by the compensation plan approved by the Legislative Coordinating Commission. The deputy

auditors may perform and exercise the powers, duties and responsibilities imposed by law on the legislative auditor when authorized by the legislative auditor.

(c) The legislative auditor, deputy auditors, and administrative support specialists shall serve in the unclassified civil service, but all other employees of the legislative auditor shall serve in the classified civil service. Compensation for employees of the legislative auditor in the classified service shall be governed by a plan prepared by the legislative auditor and approved by the Legislative Coordinating Commission and the legislature under section [3.855, subdivision 3](#).

(d) While in office, a person appointed deputy for the Financial Audit Division must hold an active license as a certified public accountant.

(e) Notwithstanding section [43A.32, subdivisions 2](#) and 3, or any other law to the contrary, an employee of the legislative auditor is prohibited from being a candidate for a partisan elected public office.

Subd. 3.

[Repealed, [1998 c 366 s 90](#)]

Subd. 3a. Transfer of powers, duties, and responsibilities.

All the powers, duties, and responsibilities of the Department of Public Examiner relating to the state of Minnesota, its departments and agencies as described in Minnesota Statutes 1971, section [215.03](#), and any other law concerning powers, duties, and responsibilities of the public examiner not otherwise dealt with by [Laws 1973, chapter 492](#), are transferred to the legislative auditor. Nothing in this subdivision shall supersede the powers conferred upon the commissioner of management and budget under section [16A.055](#).

Subd. 4. Prescribed duties.

In addition to the legislative auditing duties concerning state financial matters, the legislative auditor shall also exercise and perform duties prescribed by rule of the legislature or either body of it or by the commission.

Subd. 5. Testimonial powers.

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

Subd. 6. Financial audits.

The legislative auditor shall audit the financial statements of the state of Minnesota required by section [16A.50](#) and, as resources permit, Minnesota State Colleges and Universities, the University of Minnesota, state agencies, departments, boards, commissions, offices, courts, and other organizations subject to audit by the legislative auditor, including, but not limited to, the State Agricultural Society, Agricultural Utilization Research Institute, Enterprise Minnesota, Inc., Minnesota Historical Society, ClearWay Minnesota, Minnesota Sports Facilities Authority, Metropolitan Council, Metropolitan Airports Commission, and Metropolitan Mosquito Control District. Financial audits must be conducted according to generally accepted government auditing standards. The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds and other public resources are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance.

Subd. 6a. Data security audits.

The legislative auditor shall audit, as resources permit, information and data systems supported with public funds and operated by an organization listed in subdivision 6. The audits shall include an assessment of controls designed to protect government data, particularly government data classified as not

public by chapter 13, from unauthorized access and use. The audits shall also include an assessment of organizations' compliance with other applicable legal requirements related to the operation of information and data systems and proper classification and protection of the data contained in the systems.

Subd. 7. Program evaluations.

The legislative auditor shall conduct program evaluations to determine the degree to which the activities and programs entered into or funded by the state are accomplishing their goals and objectives, including a critical analysis of goals and objectives, measurement of program results and effectiveness, alternative means of achieving the same results, and efficiency in the allocation of resources. The legislative auditor shall recommend ways to improve the effectiveness of the programs, reduce the cost of providing state services, and eliminate services of one agency that overlap with or duplicate the services performed by another agency. At the direction of the commission the legislative auditor may conduct program evaluations of any state department, board, commission, or agency and any metropolitan agency, board, or commission created under chapter 473; or any program or activity established or funded, in whole or in part, by the state. After an evaluation report has been released, the legislative auditor may periodically conduct a follow-up review to assess what changes have occurred.

Subd. 8.

[Repealed, [1Sp2003 c 1 art 2 s 136](#)]

Subd. 8a. Special reviews.

The legislative auditor may conduct a special review to: (1) fulfill a legal requirement; (2) investigate allegations that an individual or organization subject to audit by the legislative auditor may not have complied with legal requirements related to the use of public money, other public resources, or government data classified as not public; (3) respond to a legislative request for a review of an organization or program subject to audit by the legislative auditor; or (4) investigate allegations that an individual may not have complied with section [43A.38](#) or [43A.39](#).

Subd. 9. Obligation to notify the legislative auditor.

The chief executive, financial, or information officers of an organization subject to audit under this section must promptly notify the legislative auditor when the officer obtains information indicating that public money or other public resources may have been used for an unlawful purpose, or when the officer obtains information indicating that government data classified by chapter 13 as not public may have been accessed by or provided to a person without lawful authorization. As necessary, the legislative auditor shall coordinate an investigation of the allegation with appropriate law enforcement officials.

History:

[\(53-13, 3286-9, 3286-16\)](#) [1925 c 426 art 3 s 10](#); [1939 c 431 art 4 s 2,9](#); [1949 c 33 s 1](#); [1973 c 492 s 12,27](#); [1973 c 720 s 76 subd 2](#); [1975 c 204 s 90,91](#); [1980 c 484 s 1-3](#); [1981 c 311 s 39](#); [1982 c 545 s 24](#); [1983 c 317 s 1](#); [1984 c 638 s 1](#); [1985 c 248 s 70](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1988 c 703 art 1 s 7](#); [1989 c 351 s 1](#); [1991 c 345 art 1 s 38,39](#); [1993 c 4 s 5](#); [1993 c 192 s 35](#); [1994 c 632 art 3 s 15,16](#); [1997 c 184 s 1,2](#); [1998 c 325 s 1](#); [1999 c 99 s 2,23](#); [1Sp2003 c 1 art 2 s 2](#); [2008 c 194 s 2](#); [2008 c 290 s 2](#); [2009 c 101 art 2 s 4,109](#); [2012 c 299 art 1 s 2](#); [2013 c 142 art 3 s 5-7](#); [1Sp2017 c 4 art 2 s 4,5](#); [1Sp2019 c 10 art 2 s 4](#); [2021 c 31 art 1 s 3,4](#)

3.972 AUDITS OF AGENCIES.

Subdivision 1. Public accountant.

For the purposes of this section, "public accountant" means a certified public accountant or certified public accounting firm licensed in accordance with chapter 326A.

Subd. 2. Audits of state and semistate agencies.

The legislative auditor shall, as resources permit, audit the financial activities of: (1) all departments, agencies, offices, and other organizations in the state executive branch; (2) courts, offices, and other organizations in the state judicial branch; and (3) public boards, associations, societies, and other public organizations created by state law or supported, wholly or in part, by state funds. The legislative auditor shall 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 public funds and other public resources.

Subd. 2a. Audits of Department of Human Services.

To ensure effective legislative oversight and accountability, the legislative auditor shall give high priority to auditing the programs, services, and benefits administered by the Department of Human Services. As resources permit, the legislative auditor shall track and assess expenditures throughout the human service delivery system, from the department to the point of service delivery, and determine whether human services programs, services, and benefits are being provided cost-effectively and only to eligible individuals and organizations in compliance with applicable legal requirements.

Subd. 2b. Audits of managed care organizations.

(a) The legislative auditor shall audit each managed care organization that contracts with the commissioner of human services to provide health care services under sections [256B.69](#), [256B.692](#), and [256L.12](#). The legislative auditor shall design the audits to determine if a managed care organization used the public money in compliance with federal and state laws, rules, and in accordance with provisions in the managed care organization's contract with the commissioner of human services. The legislative auditor shall determine the schedule and scope of the audit work and may contract with vendors to assist with the audits. The managed care organization must cooperate with the legislative auditor and must provide the legislative auditor with all data, documents, and other information, regardless of classification, that the legislative auditor requests to conduct an audit. The legislative auditor shall periodically report audit results and recommendations to the Legislative Audit Commission and the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

(b) For purposes of this subdivision, a "managed care organization" means a demonstration provider as defined under section [256B.69, subdivision 2](#).

Subd. 2c.

[Repealed, [2021 c 31 art 1 s 27](#)]

Subd. 2d.

[Repealed, [2021 c 31 art 1 s 27](#)]

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.

Subd. 4.

MS 2018 [Repealed, [1Sp2019 c 3 art 3 s 140](#)]

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](#); [1992 c 542 s 4](#); [2001 c 109 art 2 s 1](#); [2010 c 191 s 1](#); [1Sp2017 c 4 art 2 s 6](#); [1Sp2017 c 6 art 4 s 1,2](#); [1Sp2019 c 3 art 3 s 1,2](#); [2021 c 31 art 1 s 5,6](#)

3.973 [Repealed, [1999 c 99 s 24](#)]

3.9735 MS 2018 [Repealed, [1Sp2019 c 10 art 2 s 27](#)]

3.974 DISTRIBUTION OF WRITTEN REPORT.

For each audit, evaluation, or other review completed, the legislative auditor shall provide a written report to the organization or individual audited, evaluated, or reviewed; the Legislative Reference Library; and the Legislative Audit Commission.

History:

(3286-10) [1939 c 431 art 4 s 3](#); [1973 c 492 s 29](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1999 c 99 s 3](#)

3.9741 COST OF CERTAIN AUDITS.**Subdivision 1. Metropolitan Commission.**

Upon the audit of the financial accounts and affairs of a commission under section [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.

Subd. 2. Postsecondary Education Board.

The legislative auditor may enter into an interagency agreement with the Board of Trustees of the Minnesota State Colleges and Universities to conduct financial audits, in addition to audits conducted under section [3.972, subdivision 2](#). All payments received for audits requested by the board shall be deposited in the special revenue fund and appropriated to the legislative auditor to pay audit expenses.

Subd. 3. Legacy funds.

The outdoor heritage fund, the clean water fund, the parks and trails fund, and the arts and cultural heritage fund must each reimburse the general fund, in the manner prescribed in section [16A.127](#), for costs incurred by the legislative auditor in examining financial activities relating to each fund.

Subd. 4. Minnesota Sports Facilities Authority.

Upon the audit of the financial accounts and affairs of the Minnesota Sports Facilities Authority, the authority 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 authority either monthly or at the completion of the audit. All collections received for the audits must be deposited in the general fund.

Subd. 5. State data security; account, appropriation.

(a) The data security account is created in the special revenue fund.

(b) Subject to available funds appropriated under paragraph (a), the legislative auditor shall:

(1) review and audit the audit reports of subscribers and requesters submitted under section [168.327, subdivision 6](#), including producing findings and opinions;

- (2) in collaboration with the commissioner and affected subscribers and requesters, recommend corrective action plans to remediate any deficiencies identified under clause (1); and
- (3) review and audit driver records subscription services and bulk data practices of the Department of Public Safety, including identifying any deficiencies and making recommendations to the commissioner.
- (c) The legislative auditor shall submit any reports, findings, and recommendations under this subdivision to the legislative commission on data practices.

History:

[1984 c 638 s 2](#); [1988 c 469 art 1 s 1](#); [1993 c 13 art 2 s 2](#); [1Sp1993 c 2 art 3 s 1](#); [1995 c 212 art 4 s 1](#); [1995 c 254 art 1 s 37](#); [2010 c 361 art 3 s 1](#); [1Sp2010 c 1 art 14 s 1](#); [2012 c 299 art 1 s 3](#); [2014 c 293 s 1](#)

3.975 DUTIES CONCERNING MISUSE OF PUBLIC MONEY OR OTHER RESOURCES.

If a legislative auditor's examination discloses that a state official or employee has used money for a purpose other than the purpose for which the money was appropriated or discloses any other misuse of public money or other public resources, the legislative auditor shall file a report with the Legislative Audit Commission, the attorney general, and the appropriate county attorney. The attorney general shall seek recovery of money and other resources as the evidence may warrant. The county attorney shall cause criminal proceedings to be instituted as the evidence may warrant.

History:

[\(3286-11\) 1939 c 431 art 4 s 4](#); [1973 c 492 s 30](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1999 c 99 s 4](#); [2009 c 101 art 2 s 5](#)

3.976 MS 1978 [Renumbered [6.74](#)]

3.977 [Renumbered [6.75](#)]

3.978 AUXILIARY POWERS.

Subdivision 1. Subpoena power.

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

Subd. 2. Inquiry and inspection power; duty to aid legislative auditor.

All public officials and their deputies and employees, and all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds shall at all times afford reasonable facilities for examinations by the legislative auditor, make returns and reports required by the legislative auditor, attend and answer under oath the legislative auditor's lawful inquiries, produce and exhibit all books, accounts, documents, data of any classification, and property that the legislative auditor requests to inspect, and in all things cooperate with the legislative auditor.

Subd. 3. Penalties.

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

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

History:

[1974 c 118 s 1](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [2005 c 163 s 1](#); [2021 c 31 art 1 s 7](#)

3.979 DATA CLASSIFICATION AND DISCLOSURE.

Subdivision 1. Data practices.

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

Subd. 2. Access to data by commission members.

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

Subd. 3. Audit data.

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

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

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

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

Subd. 4. Review of data; data protection.

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

Subd. 5.

[Repealed, [2006 c 262 s 2](#)]

History:

[1973 c 492 s 12](#); [1973 c 720 s 76](#) subd 2; [1975 c 204 s 90](#); [1980 c 484 s 1-3](#); [1981 c 311 s 39](#); [1982 c 545 s 24](#); [1983 c 317 s 1](#); [1985 c 248 s 70](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1989 c 351 s 1](#); [1991 c 345 art 1 s 38](#); [1993 c 4 s 5](#); [1994 c 632 art 3 s 15](#); [1997 c 184 s 1](#); [1999 c 99 s 23](#); [1Sp2001 c 10 art 2 s 11](#); [2021 c 31 art 1 s 8](#)