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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 994

02/11/2021 Authored by Hansen, R., The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act
1.2 relating to legislative audits; modifying various provisions governing Office of
1.3 the Legislative Auditor activities; amending Minnesota Statutes 2020, sections
1.4 3.971, subdivision 2, by adding a subdivision; 3.972, subdivisions 2, 2a; 3.978,
1.5 subdivision 2; 3.979, subdivision 3; repealing Minnesota Statutes 2020, sections
1.6 3.972, subdivisions 2c, 2d; 3.9741, subdivision 5; 299D.03, subdivision 2a.

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

1.8 Section 1. Minnesota Statutes 2020, section 3.971, subdivision 2, is amended to read:

1.9 Subd. 2. Staff; compensation. (a) The legislative auditor shall establish a Financial
1.10 Audits Division and a Program Evaluation Division to fulfill the duties prescribed in this
1.11 section.

1.12 (b) Each division may be supervised by a deputy auditor, appointed by the legislative
1.13 auditor, with the approval of the commission, for a term coterminous with the legislative
1.14 auditor's term. The deputy auditors may be removed before the expiration of their terms
1.15 only for cause. The legislative auditor and deputy auditors may each appoint a ~~confidential~~
1.16 ~~secretary~~ an administrative support specialist to serve at pleasure. The salaries and benefits
1.17 of the legislative auditor, deputy auditors, and ~~confidential secretaries~~ administrative support
1.18 specialists shall be determined by the compensation plan approved by the Legislative
1.19 Coordinating Commission. The deputy auditors may perform and exercise the powers,
1.20 duties and responsibilities imposed by law on the legislative auditor when authorized by
1.21 the legislative auditor.

1.22 (c) ~~The legislative auditor must appoint a fiscal oversight officer with duties that include~~
1.23 ~~performing the review under section 3.972, subdivision 4.~~

2.1 ~~(d)~~ (c) The legislative auditor, deputy auditors, and the confidential secretaries
 2.2 administrative support specialists shall serve in the unclassified civil service, but the fiscal
 2.3 oversight officer and all other employees of the legislative auditor are shall serve in the
 2.4 classified civil service. Compensation for employees of the legislative auditor in the classified
 2.5 service shall be governed by a plan prepared by the legislative auditor and approved by the
 2.6 Legislative Coordinating Commission and the legislature under section 3.855, subdivision
 2.7 3.

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

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

2.13 Sec. 2. Minnesota Statutes 2020, section 3.971, is amended by adding a subdivision to
 2.14 read:

2.15 Subd. 8a. **Special reviews.** The legislative auditor may conduct a special review to: (1)
 2.16 fulfill a legal requirement; (2) investigate allegations that an individual or organization
 2.17 subject to audit by the legislative auditor may not have complied with legal requirements
 2.18 related to the use of public money, other public resources, or government data classified as
 2.19 not public; (3) respond to a legislative request for a review of an organization or program
 2.20 subject to audit by the legislative auditor; or (4) investigate allegations that an individual
 2.21 may not have complied with Minnesota Statutes, section 43A.38 or 43A.39.

2.22 Sec. 3. Minnesota Statutes 2020, section 3.972, subdivision 2, is amended to read:

2.23 Subd. 2. **Audits of state and semistate agencies.** The legislative auditor shall ~~make a~~
 2.24 ~~constant~~, as resources permit, audit ~~of all the~~ financial affairs activities of (1) all departments
 2.25 ~~and, agencies of, offices, and other organizations in the state, executive branch; (2) courts,~~
 2.26 offices, and other organizations in the state judicial branch; and of the financial records and
 2.27 ~~transactions of (3) public boards, associations, and societies, and other public organizations~~
 2.28 created by state law or supported, wholly or in part, by state funds. Once in each year, if
 2.29 ~~funds and personnel permit, without previous notice, The legislative auditor shall visit each~~
 2.30 ~~state department and agency, association or society and, so far as practicable,~~

2.31 (1) inspect;

- 3.1 ~~(2) thoroughly examine its books and accounts, verifying the funds, securities, and other~~
 3.2 ~~assets;~~
- 3.3 ~~(3) check the items of receipts and disbursements with its voucher records;~~
- 3.4 ~~(4) ascertain the character of the official bonds for its officers and the financial ability~~
 3.5 ~~of the bonding institution;~~
- 3.6 ~~(5) inspect its sources of revenue and the use and disposition of state appropriations and~~
 3.7 ~~property;~~
- 3.8 ~~(6) investigate the methods of purchase and sale and the character of contracts on public~~
 3.9 ~~account;~~
- 3.10 ~~(7) ascertain proper custody and depository for its funds and securities;~~
- 3.11 ~~(8) verify the inventory of public property and other assets held in trust; and~~
- 3.12 (9) ascertain that all financial transactions and operations involving the public funds and
 3.13 property of the state comply with the spirit and purpose of the law, are sound by modern
 3.14 standards of financial management, and are for the best protection of ~~the public interest~~
 3.15 funds and other public resources.

3.16 Sec. 4. Minnesota Statutes 2020, section 3.972, subdivision 2a, is amended to read:

3.17 Subd. 2a. **Audits of Department of Human Services.** ~~(a)~~ To ensure continuous effective
 3.18 legislative oversight and accountability, the legislative auditor shall give high priority to
 3.19 auditing the programs, services, and benefits administered by the Department of Human
 3.20 Services. The audits shall determine whether As resources permit, the legislative auditor
 3.21 shall track and assess expenditures throughout the human service delivery system, from the
 3.22 department offered to the point of service delivery, and determine whether human services
 3.23 programs and provided, services, and benefits are being provided cost-effectively and only
 3.24 to eligible persons individuals and organizations, and complied in compliance with applicable
 3.25 legal requirements.

3.26 ~~(b) The legislative auditor shall, based on an assessment of risk and using professional~~
 3.27 ~~standards to provide a statistically significant sample, no less than three times each year,~~
 3.28 ~~test a representative sample of persons enrolled in a medical assistance program or~~
 3.29 ~~MinnesotaCare to determine whether they are eligible to receive benefits under those~~
 3.30 ~~programs. The legislative auditor shall report the results to the commissioner of human~~
 3.31 ~~services and recommend corrective actions. The commissioner shall provide a response to~~
 3.32 ~~the legislative auditor within 20 business days, including corrective actions to be taken to~~

4.1 ~~address any problems identified by the legislative auditor and anticipated completion dates.~~
 4.2 ~~The legislative auditor shall monitor the commissioner's implementation of corrective actions~~
 4.3 ~~and periodically report the results to the Legislative Audit Commission and the chairs and~~
 4.4 ~~ranking minority members of the legislative committees with jurisdiction over health and~~
 4.5 ~~human services policy and finance. The legislative auditor's reports to the commission and~~
 4.6 ~~the chairs and ranking minority members must include recommendations for any legislative~~
 4.7 ~~actions needed to ensure that medical assistance and MinnesotaCare benefits are provided~~
 4.8 ~~only to eligible persons.~~

4.9 Sec. 5. Minnesota Statutes 2020, section 3.978, subdivision 2, is amended to read:

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

4.18 Sec. 6. Minnesota Statutes 2020, section 3.979, subdivision 3, is amended to read:

4.19 Subd. 3. **Audit data.** (a) "Audit" as used in this subdivision means a financial audit,
 4.20 ~~review,~~ program evaluation, ~~best practices~~ special review, or investigation. Data relating to
 4.21 an audit are not public or with respect to data on individuals are confidential until the final
 4.22 report of the audit has been released by the legislative auditor or the audit is no longer being
 4.23 actively pursued. Upon release of a final audit report by the legislative auditor, data relating
 4.24 to an audit are public except data otherwise classified as not public.

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

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

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

5.3 Sec. 7. **REPEALER.**

5.4 Minnesota Statutes 2020, sections 3.972, subdivisions 2c and 2d; 3.9741, subdivision
5.5 5; and 299D.03, subdivision 2a, are repealed.

3.972 AUDITS OF AGENCIES.

Subd. 2c. **Audits of the Department of Transportation.** The legislative auditor must audit, as resources permit, the programs and services administered by the Department of Transportation.

Subd. 2d. **Audits of the Department of Public Safety.** The legislative auditor must audit, as resources permit, the programs and services administered by the Department of Public Safety.

3.9741 COST OF CERTAIN AUDITS.

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.

299D.03 STATE PATROL.

Subd. 2a. **Salary and benefits survey.** (a) By January 1 of 2021, 2023, 2027, and 2031, the legislative auditor must conduct a compensation and benefit survey of law enforcement officers in every police department:

(1) in a city with a population in excess of 25,000, located in a metropolitan county, as defined in section 473.121, subdivision 4, that is represented by a union certified by the Bureau of Mediation Services; or

(2) in a city of the first class.

The State Patrol must also be included in the survey.

(b) The legislative auditor must base the survey on compensation and benefits for the past completed calendar year. The survey must be based on full-time equivalent employees. The legislative auditor must calculate compensation using base salary, overtime wages, and premium pay. Premium pay is payment that is received by a majority of employees and includes but is not limited to education pay and longevity pay. The legislative auditor must not include any payments made to officers or troopers for work performed for an entity other than the agency that employs the officer or trooper, regardless of who makes the payment. The legislative auditor must also include in the survey all benefits, including insurance, retirement, and pension benefits. The legislative auditor must include contributions from both the employee and employer when determining benefits.

(c) The legislative auditor must compile the survey results into a report. The report must show each department separately. For each department, the survey must include:

(1) an explanation of the salary structure, and include minimum and maximum salaries for each range or step; and

(2) an explanation of benefits offered, including the options that are offered and the employee and employer contribution for each option.

Wherever possible, the report must be designed so that the data for each department is in the same table or grid format to facilitate easy comparison.

(d) By January 15 of 2021, 2023, 2027, and 2031, the legislative auditor must transmit the survey report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over the State Patrol budget.

(e) It is the legislature's intent to use the information in this study to compare salaries between the identified police departments and the State Patrol and to make appropriate increases to patrol trooper salaries. For purposes of this paragraph, "patrol troopers" has the meaning given in subdivision 2, paragraph (a).