

A bill for an act

relating to claims against the state; changing and updating certain provisions;
amending Minnesota Statutes 2010, sections 3.736, subdivision 3; 3.738; 3.739,
subdivision 2; 3.749.

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

Section 1. Minnesota Statutes 2010, section 3.736, subdivision 3, is amended to read:

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 involving or arising out of the use or operation of a recreational motor vehicle, as defined in section 84.90, subdivision 1, within the right-of-way of a trunk highway, as defined in section 160.02, except that the state is liable for conduct that would entitle a trespasser to damages against a private person;

(i) a loss incurred by a user arising from the construction, operation, or maintenance 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;

(j) 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;

(k) 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;

(l) 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;

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

~~(n)~~ a loss for which recovery is prohibited by section 169A.48, subdivision 2;

~~(o)~~ (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;

~~(p)~~ (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;

~~(q)~~ (p) a loss arising out of a person's use of a logging road on public land that is maintained exclusively to provide access to timber on that land by harvesters of the timber, and is not signed or otherwise held out to the public as a public highway; and

(~~+~~) (q) a loss incurred by a user of property owned, leased, or otherwise controlled by the Minnesota National Guard or the Department of Military Affairs, 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.

Sec. 2. Minnesota Statutes 2010, section 3.738, is amended to read:

3.738 INJURY OR DEATH OF PATIENT OR INMATE; LOSS, DAMAGE, OR DESTRUCTION OF PROPERTY.

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 the commissioner of veterans affairs or an inmate of a state correctional facility while performing assigned duties and claims and demands arising from loss, damage, or destruction of property of a patient or inmate of a state institution shall be presented to, heard, and determined by the legislature.

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

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

Sec. 3. Minnesota Statutes 2010, section 3.739, subdivision 2, is amended to read:

Subd. 2. **Evaluation and payment of claims.** Claims of ~~\$500~~ \$1,000 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. Subject to the limitations contained in subdivision 2a, the department shall pay the portion of an approved claim that is not covered by the claimant's insurance. This payment shall be made 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.

4.1 A claim in excess of ~~\$500~~ \$1,000, and a claim that was not paid by the department
4.2 may be presented to, heard, and determined by the appropriate committees of the senate
4.3 and the house of representatives and, if approved, shall be paid pursuant to legislative
4.4 claims procedure.

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

4.8 Sec. 4. Minnesota Statutes 2010, section 3.749, is amended to read:

4.9 **3.749 LEGISLATIVE CLAIMS; FILING FEE.**

4.10 A person filing a claim with the joint senate-house of representatives Subcommittee
4.11 on Claims must pay a filing fee of ~~\$5~~ \$10. The money must be deposited by the clerk of
4.12 the subcommittee in the state treasury and credited to the general fund. A claimant who
4.13 is successful in obtaining an award from the subcommittee shall be reimbursed for the
4.14 fee paid.

4.15 Sec. 5. **EFFECTIVE DATE.**

4.16 Sections 1 to 4 are effective July 1, 2011.