

# MINNESOTA STATUTES

## 1989 SUPPLEMENT

### CHAPTER 3

### LEGISLATURE

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#### 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:** 1989 c 68 s 1

#### 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.

*[For text of subd 3, see M.S.1988]*

**History:** 1989 c 139 s 1,2

### 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.

*[For text of subds 2 to 6, see M.S.1988]*

**History:** 1989 c 335 art 3 s 1

**NOTE:** Subdivision 1, as amended by Laws 1989, chapter 335, article 3, section 1, is effective January 1, 1992, in all judicial districts except the eighth, except that it is effective to make affected district administration staff, other than

district administration staff in the second and fourth judicial districts, state employees on July 1, 1990, and law clerks state employees October 1, 1990. See Laws 1989, chapter 335, article 3, section 58, subdivision 1.

### 3.736 TORT CLAIMS.

*[For text of subds 1 and 2, see M.S.1988]*

**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 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;

(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.

*[For text of subds 4 to 11, see M.S.1988]*

**History:** 1989 c 331 s 1

### 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

### 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 Minnesota future resources commission 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 recommendations of the environmental quality board for the management and protection of water resources in the state, and shall report its findings to the Minnesota future resources commission 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

### 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

### 3.9226 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.

*[For text of subds 2 to 7, see M.S.1988]*

**History:** 1989 c 343 s 1

### **3.97 AUDIT POLICY; CREATION OF COMMISSION; TRANSFER OF FUNCTIONS OF PUBLIC EXAMINER; ACCESS TO DATA.**

*[For text of subds 1 to 10, see M.S.1988]*

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:** 1989 c 351 s 1

### **3.983 EXCEPTIONS TO FISCAL NOTES.**

*[For text of subds 1 and 2, see M.S.1988]*

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

- (1) accommodates a specific local request;
- (2) results in no new local government duties;
- (3) leads to revenue losses from exemptions to taxes other than sales, use, or property taxes;
- (4) provides only clarifying or conforming, nonsubstantive changes on local government;
- (5) imposes additional net local costs which are minor (less than \$200 for any single local government if the mandate does not apply statewide or less than 0.00242 percent times the entire market value of taxable property in the state if the mandate is statewide) and do not cause a financial burden on local government;
- (6) is a legislative mandate or executive order enacted before July 1, 1985, or a rule initially implementing legislation enacted before July 1, 1985;
- (7) implements something other than a state statute or executive order, such as a federal, court, or voter-approved mandate;
- (8) appears in rules that are permissive or discretionary in nature;
- (9) defines a new crime or redefines an existing crime or infraction;
- (10) provides, or falls within the purview of existing, revenue sources or other financing mechanisms; or
- (11) results in savings that equal or exceed costs.

**History:** 1989 c 277 art 4 s 1