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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3328**

03/17/2016 Authored by Quam, Lesch, Youakim and Ward
The bill was read for the first time and referred to the Committee on Ways and Means
04/20/2016 Adoption of Report: Placed on the General Register as Amended
Read Second Time
05/09/2016 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act
1.2 relating to claims against the state; providing for payment of awards under
1.3 the Imprisonment and Exoneration Remedies Act; providing for payment of
1.4 injury and medical claims against the Department of Corrections; appropriating
1.5 money; providing for claims for loss, damage, or destruction of property of
1.6 patients or inmates of a state institution; establishing a claim limit of \$7,000
1.7 for settlement by the commissioners of human services, veterans affairs, or
1.8 corrections for property claims made by patients or inmates and medical claims
1.9 made by conditionally released offenders; increasing claims filing fee; amending
1.10 Minnesota Statutes 2014, sections 3.736, subdivision 3; 3.739, subdivision 2;
1.11 3.749; proposing coding for new law in Minnesota Statutes, chapter 3.

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

1.13 **ARTICLE 1**

1.14 **IMPRISONMENT AND EXONERATION REMEDIES ACT**

1.15 Section 1. **EXONERATION AWARDS.**

1.16 The amounts in this section are appropriated in fiscal year 2017 from the general
1.17 fund to the commissioner of management and budget for full payment of final awards
1.18 of damages against the state under the Imprisonment and Exoneration Remedies Act,
1.19 Minnesota Statutes, sections 611.362 to 611.368. This appropriation is available until
1.20 June 30, 2017, for payment to:

1.21 (1) Michael Ray Hansen in compliance with Supreme Court order (A15-0382) filed
1.22 February 12, 2016, \$916,828.76;

1.23 (2) Koua Fong Lee in compliance with Supreme Court order (A15-0111) filed
1.24 October 30, 2015, \$395,148.13; and

1.25 (3) Roger Lee Olsen in compliance with Supreme Court order (A15-1178) filed
1.26 March 7, 2016, \$475,000.

2.1 **ARTICLE 2**2.2 **INJURY AND MEDICAL CLAIMS**2.3 Section 1. **DEPARTMENT OF CORRECTIONS.**

2.4 The amounts in this section are appropriated from the general fund to the
2.5 commissioner of corrections in fiscal year 2017 for full and final payment under Minnesota
2.6 Statutes, sections 3.738 and 3.739, of claims against the state for losses suffered while
2.7 incarcerated in a state correctional facility or for injuries suffered by and medical services
2.8 provided to persons injured while performing community service or sentence-to-service
2.9 work for correctional purposes or while incarcerated in a state correctional facility. This
2.10 appropriation is available until June 30, 2017:

2.11 (1) for sentence-to-service and community work service claims under \$500 and
2.12 other claims already paid by the department, \$608.79;

2.13 (2) for payment to Laron Brown for permanent injuries to his left middle finger
2.14 sustained while performing assigned duties at Minnesota Correctional Facility - Faribault,
2.15 \$2,250;

2.16 (3) for payment to medical providers for treatment of Aleksander Cedarblade for
2.17 injuries sustained while performing sentence-to-service work in Isanti County, \$2,398.28;

2.18 (4) for payment to medical providers for treatment of Nathan Eckstein for injuries
2.19 sustained while performing sentence-to-service work in Brown County, \$1,083.58; and

2.20 (5) for payment to Michael Merrill for permanent injuries to his neck sustained while
2.21 performing assigned duties at Minnesota Correctional Facility - Stillwater, \$4,800.

2.22 **ARTICLE 3**2.23 **CLAIMS PROCEDURES AND LIMITS**

2.24 Section 1. Minnesota Statutes 2014, section 3.736, subdivision 3, is amended to read:

2.25 Subd. 3. **Exclusions.** Without intent to preclude the courts from finding additional
2.26 cases where the state and its employees should not, in equity and good conscience, pay
2.27 compensation for personal injuries or property losses, the legislature declares that the state
2.28 and its employees are not liable for the following losses:

2.29 (a) a loss caused by an act or omission of a state employee exercising due care in the
2.30 execution of a valid or invalid statute or rule;

2.31 (b) a loss caused by the performance or failure to perform a discretionary duty,
2.32 whether or not the discretion is abused;

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

3.1 (d) a loss caused by snow or ice conditions on a highway or public sidewalk that
3.2 does not abut a publicly owned building or a publicly owned parking lot, except when the
3.3 condition is affirmatively caused by the negligent acts of a state employee;

3.4 (e) a loss caused by wild animals in their natural state, except as provided in section
3.5 3.7371;

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

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

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

3.15 (i) a loss incurred by a user arising from the construction, operation, or maintenance
3.16 of the outdoor recreation system, as defined in section 86A.04, or for a loss arising from the
3.17 construction, operation, maintenance, or administration of grants-in-aid trails as defined in
3.18 section 85.018, or for a loss arising from the construction, operation, or maintenance of a
3.19 water access site created by the Iron Range Resources and Rehabilitation Board, except
3.20 that the state is liable for conduct that would entitle a trespasser to damages against a
3.21 private person. For the purposes of this clause, a water access site, as defined in section
3.22 86A.04 or created by the Iron Range Resources and Rehabilitation Board, that provides
3.23 access to an idled, water filled mine pit, also includes the entire water filled area of the pit
3.24 and, further, includes losses caused by the caving or slumping of the mine pit walls;

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

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

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

3.33 (m) loss, damage, or destruction of property of a patient or inmate of a state
3.34 institution except as provided under section 3.7381;

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

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

4.4 (p) a loss incurred by a visitor to the Minnesota Zoological Garden, except that the
4.5 state is liable for conduct that would entitle a trespasser to damages against a private person;

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

4.9 (r) a loss incurred by a user of property owned, leased, or otherwise controlled by
4.10 the Minnesota National Guard or the Department of Military Affairs, except that the state
4.11 is liable for conduct that would entitle a trespasser to damages against a private person.

4.12 The state will not pay punitive damages.

4.13 **EFFECTIVE DATE.** This section is effective July 1, 2016.

4.14 Sec. 2. **[3.7381] LOSS, DAMAGE, OR DESTRUCTION OF PROPERTY; STATE**
4.15 **INSTITUTIONS; CORRECTIONAL FACILITIES.**

4.16 (a) The commissioners of human services, veterans affairs, or corrections, as
4.17 appropriate, shall determine, adjust, and settle, at any time, claims and demands of \$7,000
4.18 or less arising from negligent loss, damage, or destruction of property of a patient of a state
4.19 institution under the control of the commissioner of human services or the commissioner
4.20 of veterans affairs or an inmate of a state correctional facility.

4.21 (b) A claim of more than \$7,000, or a claim that was not paid by the appropriate
4.22 department may be presented to, heard, and determined by the appropriate committees
4.23 of the senate and the house of representatives and, if approved, shall be paid pursuant
4.24 to legislative claims procedure.

4.25 (c) The procedure established by this section is exclusive of all other legal, equitable,
4.26 and statutory remedies.

4.27 **EFFECTIVE DATE.** This section is effective July 1, 2016.

4.28 Sec. 3. Minnesota Statutes 2014, section 3.739, subdivision 2, is amended to read:

4.29 Subd. 2. **Evaluation and payment of claims.** Claims of ~~\$500~~ \$7,000 or less subject
4.30 to this section shall be investigated by the state or local agency responsible for supervising
4.31 the work to determine if the claim is valid and if the loss is covered by the claimant's
4.32 insurance. The investigating agency shall submit all appropriate claims to the Department
4.33 of Corrections. Subject to the limitations contained in subdivision 2a, the department shall

5.1 pay the portion of an approved claim that is not covered by the claimant's insurance.
5.2 This payment shall be made within a reasonable time. On or before the first day of each
5.3 legislative session, the department shall submit to the appropriate committees of the senate
5.4 and the house of representatives a list of the claims paid by it during the preceding calendar
5.5 year and shall be reimbursed by legislative appropriation for the claims paid. For the
5.6 purposes of this paragraph, in the case of a juvenile claimant the term "claimant's insurance"
5.7 includes the insurance of the juvenile's parents if the juvenile is covered by the insurance.

5.8 A claim in excess of ~~\$500~~ \$7,000, and a claim that was not paid by the department
5.9 may be presented to, heard, and determined by the appropriate committees of the senate
5.10 and the house of representatives and, if approved, shall be paid pursuant to legislative
5.11 claims procedure.

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

5.14 **EFFECTIVE DATE.** This section is effective July 1, 2016.

5.15 Sec. 4. Minnesota Statutes 2014, section 3.749, is amended to read:

5.16 **3.749 LEGISLATIVE CLAIMS; FILING FEE.**

5.17 A person filing a claim with the joint senate-house of representatives Subcommittee
5.18 on Claims must pay a filing fee of ~~\$5~~ \$8. The money must be deposited by the clerk of
5.19 the subcommittee in the state treasury and credited to the general fund. A claimant who
5.20 is successful in obtaining an award from the subcommittee shall be reimbursed for the
5.21 fee paid.

5.22 **EFFECTIVE DATE.** This section is effective July 1, 2016.

APPENDIX
Article locations in H3328-2

ARTICLE 1	IMPRISONMENT AND EXONERATION REMEDIES ACT	Page.Ln 1.13
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