

# HOUSE RESEARCH

## Bill Summary

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### Overview

Article 1 creates a structure to provide compensation to survivors of catastrophes. Article 2 appropriates money to provide payments to survivors of the I-35W bridge collapse.

### Article 1

#### Catastrophe Survivor Compensation

This article creates a structure to provide compensation to survivors of catastrophes. This structure would apply whenever the legislature enacts a law appropriating money for catastrophe survivors. Under this structure, a special master would notify each survivor of the amount the survivor compensation fund proposes to pay to the survivor. The survivor could accept this offer (and waive the right to sue public entities) or reject the offer (and retain the right to sue).

#### Section

- 1 Purpose.** States that the purpose of this chapter is to create a structure to provide compensation to survivors of catastrophes, and that the chapter applies when the legislature enacts a law appropriating money for purposes of this chapter.
- 2 Definitions.** Defines terms used in this article. Among these definitions, “Loss” that

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would be eligible for compensation means both economic loss (including loss of earnings and medical expenses) and noneconomic loss (including physical and emotional pain, physical impairment, and loss of enjoyment of life). “Loss” does not include punitive damages, and does not include fees and costs, including attorney and accounting fees, incurred for purposes of making a claim.

### 3 **Compensation.**

**Subd. 1. Administration; special master.** Provides that when the legislature appropriates money for survivor compensation, the executive council must appoint a special master to administer the fund. Authorizes the special master to perform administrative acts, including adoption of rules that would be exempt from the rulemaking provisions of the Administrative Procedure Act. Provides that the special master and employees and contractors acting under direction of the special master are immune from liability for acts or omissions within the scope of duties. Requires the special master to report administrative expenses to the attorney general and to chairs of legislative finance committees. Provides that special master expenses (other than payments made to survivors) may not exceed one percent of a legislative appropriation for a specific catastrophe.

**Subd. 2. Filing of claims.** Authorizes a survivor (defined as a natural person or the personal representative of a natural person) to file a claim for loss from a catastrophe. Authorizes the special master to require a survivor to provide information necessary to determine the amount of loss.

**Subd. 3. Determination of compensation.** Requires the special master, within 120 days of filing of a claim, to determine loss suffered by a survivor filing the claim. Specifies that the special master must not consider negligence or any other theory of liability. Authorizes the special master to propose to compensate a survivor in an amount up to the loss suffered. Authorizes the special master to pro rate payments or take other steps necessary to ensure that available funds can be divided equitably among survivors. Provides that a determination of the special master is final and is not subject to judicial review.

**Subd. 4. Payments.** Provides that within 20 days of making a determination under the preceding subdivision, the special master must notify the survivor of the amount the fund proposes to pay. If a survivor decides to accept compensation from the fund, the survivor must do so within 30 days of receiving this notice. This decision is irrevocable. A survivor who accepts compensation from the fund must agree to release the state and its political subdivisions for liability and cooperate with the state and its political subdivisions in pursuing claims against other parties. A survivor must also agree to indemnify the state and its political subdivisions from claims of contribution or indemnity made by others against the state if the claims relate to the survivor’s claim from the catastrophe.

**Subd. 5. Payments from other sources.** In determining loss suffered by a survivor, the special master must offset payments made or to be made from other sources, as defined in Minnesota Statutes, section 548.36, subdivision 1 (the law

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specifying offsets in civil cases for payments provided by collateral sources). Provides that other sources may not eliminate or reduce their payments to a survivor as a result of payments made from the fund or as a result of a survivor waiving a right to pursue legal action against the state or a political subdivision. Provides that no person or entity, having paid a survivor, has any right of recovery, through subrogation or otherwise, against the fund or compensation paid by the fund. Specifies that the obligation of any person or entity other than the fund to make payments to a survivor is primary as compared to any payment made by the fund, and lists certain persons and entities covered by this provision. Provides that following an award to a victim, any entity claiming a subrogation interest against the award has 60 days to notify the state of its intent to assert its interest, during which time the award remains in possession of the state. States that failure to provide notice results in a waiver of the subrogation claim.

**Subd. 6. State right of subrogation.** Provides that the state is subrogated to all potential claims against third-party tortfeasors of any survivor receiving compensation from the fund, up to the amount paid to the survivor from the fund. Provides that the state is entitled to be reimbursed regardless of whether the survivor is fully compensated.

**Subd. 7. Indemnification and contribution.** Provides that the state is entitled to recover from any third party, including a state contractor, for payments made from the fund, to the extent the third party caused the catastrophe.

**Subd. 8. Attorney fee limit.** Provides that an attorney representing a survivor with respect to a claim filed with the special master must not charge the survivor a fee.

- 4 **Data practices.** Provides that the name of a person filing a claim for compensation, the amount paid, and a release of liability under this chapter is public data. Other data on individuals who file claims under this chapter is confidential data.
- 5 **Effect on state tort liability.** Provides an offer to make a payment or a payment made under this chapter is not an admission of liability, and is not admissible in an administrative or judicial action. Requires the special master to determine a survivor's loss and make payments without reference to state tort liability limits in Minnesota Statutes, section 3.736.
- 6 **Fund.** Creates the catastrophe survivor compensation fund in the state treasury. The fund consists of money appropriated by law, and gift and other revenue deposited in the fund. Authorizes the special master to solicit and receive gifts. Appropriates money in the fund to the special master for purposes of this chapter.
- 7 **Data practices.** Inserts language in the data practices act referencing treatment of catastrophe survivor data.
- 8 **Effective date.** This article is effective the day following final enactment.

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**Article 2**

**I-35W Bridge Collapse Survivor Compensation**

Appropriates \$39.32 million from the general fund for deposit in the catastrophe survivor compensation fund. Specifies procedures for making payments to survivors of the I-35W bridge collapse. Makes an additional appropriation of \$680,000 for a grant to Waite House.

- 1 Purpose.** Makes a legislative declaration that collapse of the I-35W bridge constitutes a catastrophe under the new catastrophe survivor law and that the state should provide compensation to survivors.
- 2 Procedures.** Requires the executive council to appoint a special master within 30 days of the effective date of this law. Provides that for purposes of this article, a “survivor” is a person who was on the I-35W bridge when it collapsed, or who is the personal representative of a person who was on the bridge. Requires claims to be filed by September 1, 2009 . Provides the emergency relief payments received by a survivor must be offset from the amount the survivor otherwise would receive from the fund.
- 3 Appropriations.**
  - Subd. 1. Compensation to survivors.** Appropriates \$39.32 million from the general fund for deposit in the catastrophe survivor compensation fund to provide compensation to survivors of the I-35W bridge collapse. Provides that no more than one percent of this amount may be spent for a purpose other than making payments to survivors. Requires reports from the special master.
  - Subd. 2. Grant.** Appropriates \$680,000 from the general fund for a grant to Waite House in Minneapolis to provide services to youth and family of youth who were on a school bus on the bridge when it collapsed.
- 4 Payments prohibited.** After the effective date of this article, forbids the commissioner of administration from accepting new applications for emergency relief payments to I-35W survivors. Allows prior applications to be processed.
- 5 Effective date.** This article is effective the day following final enactment.