

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

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In re Government Shutdown Litigation,

Case Type: Civil  
Chief Judge Kathleen Gearin  
Court File No. 62-CV-11-5203

In Re Temporary Funding of Core  
Functions of the Executive Branch  
of the State of Minnesota

**ORDER REGARDING  
MINNESOTA ZOOLOGICAL  
GARDEN**

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This matter came before the undersigned, on July 1, 2011, pursuant to a petition filed by the Minnesota Zoological Garden (“Zoo”) in the special master proceedings for the above entitled case.

Michael Hatch, Esquire, appeared on behalf of the Zoo.

Alan Gilbert, Solicitor General, appeared on behalf of the Attorney General.

No one appeared on behalf of the Minnesota Commissioner of the Office of Management and Budget..

David Lillehaug, Esquire, appeared on behalf of Governor Mark Dayton.

Based upon the files, pleadings, and proceedings herein, the Court makes the following Order:

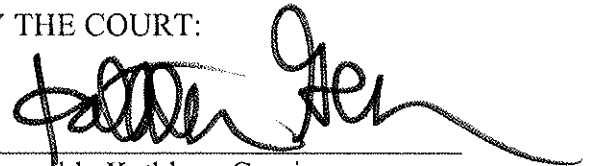
1. The special revenue fund established by Minn. Stat. 85A.04 Subd.1. consisting of parking and admission receipts to the Minnesota Zoological Garden is a standing appropriation that does not require specific biennial legislative action.

2. The special revenue account consisting of zoo concessions, memberships in and donations to the Minnesota Zoological Garden is a standing appropriation that does not require specific biennial legislative action.
3. Since the court finds that funds in the two accounts referred to above have been lawfully appropriated, the Commissioner is authorized to make payments from these funds even though they will be used to support non-core functions at the zoo.

DATED:

7-2-11  
4PM

BY THE COURT:



Honorable Kathleen Gearin  
Chief Judge, Second Judicial District

### Memorandum

This case is distinguished from the race track ones because the court was unable to find any bills from the 87th legislative session dealing with appropriations to the zoo. The court looked at the laws from the 86<sup>th</sup> session to see if there were any appropriations made to the zoo. The only one it could find was a special one. The statutes regarding zoo special revenue account funds do not appear to the court to require a decision by the legislature before they can be appropriated. In light of this weekend's financial importance to the plaintiff, the court is issuing this order despite the lack of input from the Commissioner. If he or any other interested party requests reconsideration based on a bill that the court was unable to find or other good cause, that motion will be granted. It was brought to the court's attention at the hearing that approximately 29 per cent of zoo funding has come from the state in the past. No one presented anything to explain how that money is appropriated. My order is meant to be strictly limited to the special revenue



funds in the two subdivisions referred to above. The shutdown has resulted in the Judicial branch being forced to make emergency interpretations of numerous funding provisions. Experienced legislative committees and executive branch budget and management employees have spent years crafting these provisions. They are the branches best suited by experience and competency to make these decisions.

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