

FILED MAY 5 1977

SENATE FILE 383

By COMMITTEE ON STATE GOVERNMENT
Approved 5/4 (p. 1435)

Passed Senate, Date 5-6-77 (p. 1381) Passed House, Date 5-18-77 (p. 2390)

Vote: Ayes 39 Nays 0 Vote: Ayes 89 Nays 2

Approved 6/30/77

*Proposed Senate amended by House
5-18-77 (p. 1756)
48-0*

A BILL FOR

1 An Act relating to indemnification and defense of employees
2 of the state in cases arising under federal or state
3 constitutions, statutes or regulation and making the
4 Act retroactive.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S.F. 383

SENATE FILE 383

H-4164

1 Amend Senate File 383, as passed by the
2 Senate, as follows:

3 1. Page 1, by striking everything after the
4 enacting clause and inserting in lieu thereof the
5 following:

6 "Section 1. Chapter twenty-five A. (25A), Code
7 1977, is amended by adding the following new section:

8 NEW SECTION. EMPLOYEES DEFENDED AND INDEMNIFIED.
9 The state shall defend and, except in cases of mal-
10 feasance in office or willful and wanton conduct,
11 shall indemnify and hold harmless any employee of the
12 state against any claim as defined in section twenty-
13 five A point two (25A.2), subsection five (5), para-
14 graph b, of the Code, including claims arising under
15 the Constitution, statutes, or rules of the United
16 States or of any state.

17 Sec. 2. Sections twenty-five A point twenty-one
18 (25A.21) and twenty-five A point twenty-two (25A.22),
19 Code 1977, are repealed.

20 Sec. 3. The provisions of section one (1) of
21 this Act are retroactive to July 1, 1975."

H-4164 FILED *Adopted on* BY JESSE of Polk
MAY 13, 1977 *amended by*
4-215 5/18 (2390)

1 Section 1. Section twenty-five A point two (25A.2), sub-
2 section five (5), Code 1977, is amended to read as follows:

3 5. "Claim" means and includes:

4 a. Any claim against the state of Iowa for money only,
5 on account of damage to or loss of property or on account
6 of personal injury or death, caused by the negligent or
7 wrongful act or omission of any employee of the state while
8 acting within the scope of ~~his~~ office or employment, under
9 circumstances where the state, if a private person, would
10 be liable to the claimant for such damage, loss, injury, or
11 death.

12 b. Any claim against an employee of the state for money
13 only, on account of damage to or loss of property or on account
14 of personal injury or death, caused by the negligent or
15 wrongful act or omission, ~~except an act~~ in cases of mal-
16 feasance in office or willful and unauthorized injury to
17 persons or property, or willful and wanton conduct, of any
18 employee of the state while acting within the scope of ~~his~~
19 office or employment.

20 c. Any claim as defined in paragraph b of this subsec-
21 tion arising under the constitution, statutes or rules of
22 the United States or any state.

23 Sec. 2. Section twenty-five A point twenty-one (25A.21),
24 Code 1977, is amended to read as follows:

25 25A.21 OFFICERS AND EMPLOYEES DEFENDED AND INDEMNIFIED.

26 The state shall defend ~~any-employee-of-the-state,-whether~~
27 ~~elected-or-appointed~~ and, ~~except-in-cases-of-malfeasance-in~~
28 ~~office,-willful-and-unauthorized-injury-to-persons-or-property,~~
29 ~~or-willful-and-wanton-conduct,~~ shall ~~save-harmless-and~~
30 indemnify ~~such-employees~~ and hold harmless any employee of
31 the state against any ~~text~~ claim, or demand,-whether-groundless
32 ~~or-otherwise,-arising-out-of-an-alleged-act-or-emission-occur-~~
33 ~~ring-within-the-scope-of-their-employment-or-duties~~ as defined
34 in subsection five (5) of section twenty-five A point two
35 (25A.2) of the Code.

SENATE FILE 383

H-4215

1 Amend amendment H-4164 to Senate File 383,
2 as passed by the Senate, as follows:
3 1. Page 1, by striking lines 17 through 19
4 and inserting in lieu thereof the following:
5 "Sec. 2. Section twenty-five A point twenty-
6 one (25A.21), Code 1977, is repealed."

H-4215 FILED *Adopted 5/18* BY JESSE of Polk
MAY 17, 1977 (*p. 2370*)

House Amendment to Senate File 383

S-3690

1 Amend Senate File 383, as passed by the Senate, as
2 follows:
3 1. Page 1, by striking everything after the
4 enacting clause and inserting in lieu thereof the
5 following:
6 "Section 1. Chapter twenty-five A (25A), Code
7 1977, is amended by adding the following new section:
8 NEW SECTION. EMPLOYEES DEFENDED AND INDEMNIFIED.
9 The state shall defend and, except in cases of mal-
10 feasance in office or willful and wanton conduct,
11 shall indemnify and hold harmless any employee of the
12 state against any claim as defined in section twenty-
13 five A point two (25A.2), subsection five (5),
14 paragraph b, of the Code, including claims arising under
15 the Constitution, statutes, or rules of the United
16 States or of any state.
17 Sec. 2. Section twenty-five A point twenty-one
18 (25A.21), Code 1977, is repealed.
19 Sec. 3. The provisions of section one (1) of this
20 Act are retroactive to July 1, 1975."

S-3690 FILED
MAY 19, 1977
SENATE CONCURRED

RECEIVED FROM THE HOUSE
Senate concurred 5/19 (p. 1736)

AN ACT

RELATING TO INDEMNIFICATION AND DEFENSE OF EMPLOYEES OF THE STATE IN CASES ARISING UNDER FEDERAL OR STATE CONSTITUTIONS, STATUTES OR REGULATION AND MAKING THE ACT RETROACTIVE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter twenty-five A (25A), Code 1977, is amended by adding the following new section:

NEW SECTION. EMPLOYEES DEFENDED AND INDEMNIFIED. The state shall defend and, except in cases of malfeasance in office or willful and wanton conduct, shall indemnify and hold harmless any employee of the state against any claim as defined in section twenty-five A point two (25A.2), subsection five (5), paragraph b, of the Code, including claims arising under the Constitution, statutes, or rules of the United States or of any state.

Sec. 2. Section twenty-five A point twenty-one (25A.21), Code 1977, is repealed.

Sec. 3. The provisions of section one (1) of this Act are retroactive to July 1, 1975.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 383, Sixty-seventh General Assembly.

Approved June 30, 1977

ROBERT D. RAY
Governor

STEVEN C. CROSS
Secretary of the Senate