

TORT LIABILITY PROBLEMS
OF
STATE AND LOCAL GOVERNMENT SPECIAL STUDY COMMITTEE

Report to the Legislative Council
and the Members of the
Second Session of the Sixty-seventh General Assembly

State of Iowa
1978

FINAL REPORT
TORT LIABILITY PROBLEMS
OF
STATE AND LOCAL GOVERNMENT SPECIAL STUDY COMMITTEE

January, 1978

The Iowa Legislative Council authorized this special Study Committee for the purpose of investigating during the 1977-78 legislative interim the problems encountered by state and local governments in meeting the liabilities imposed upon them by chapters 25A and 613A of the Code respectively. The Committee was given authority to hold four meetings, and the following persons were appointed to the Committee: Senator Alvin V. Miller, Senator C. Joseph Coleman, Senator James M. Redmond, Senator William D. Palmer, Senator Forrest F. Ashcraft, Senator Warren E. Curtis, Representative William B. Griffee, Representative Robert F. Bina, Representative LaVern R. Harvey, Representative Norman G. Jesse, Representative Richard W. Welden, and Representative Robert T. Anderson. Senator Miller and Representative Griffee were elected to serve as permanent Co-chairpersons of the Committee.

The Committee requested and received commentary from several sources about the subject of government tort liability. Those sources suggested that there are several problem areas which necessitate legislative action, including the following:

1. That local governmental units find it very difficult to comply with statutory budget growth limitations when liability insurance premiums are increased in far greater percentages and on short notice.
2. That governmental agencies at all levels are required to provide ever increasing types of services which result in increased exposure to tort claims.
3. That the existing laws fail to give adequate notice of the types of activities for which governmental units will be held liable or will be found to be exempt from liability.
4. That governmental units often are held liable for losses which more properly ought to be borne by other tortfeasors or by the injured persons themselves.

At the request of the Committee, interested persons submitted numerous suggestions for legislation which would reduce or eliminate some of the problems encountered with government tort liability. Those suggestions were reduced to twenty-five bill proposals which were considered by the Committee.

The Committee recommends the following legislation to the General Assembly:

1. Make necessary technical corrections to chapter 25A of the Code.

2. Modify existing recordkeeping and reporting requirements applicable to state tort claims in order that more accurate and current data is available.

3. Modify chapter 25A of the Code to provide that a person who files a state tort claim action in the courts cannot make a greater dollar demand in that action than was made in the claim originally acted upon by the state appeal board.

4. Amend chapter 25A to permit the use of juries in state tort claims actions.

5. Provide that inmates in state penal and correctional facilities shall be covered by workers compensation, and thus shall be precluded from filing tort claims against the state.

6. Amend chapter 613A of the Code to provide that any insurer who writes tort liability insurance for local governments must (1) give ninety days written notice of the intent to cancel or not to renew a policy, and (2) give written notification prior to budget certification date of any premium increase which will be required at policy renewal time.

7. Repeal section 420.45 of the Code relating to the giving of notice of tort claims.

8. Amend chapter 25A of the Code to provide that state tort claim payments shall be charged against the budget of the state agency which is responsible for the loss.

9. Amend chapters 25A and 613A of the Code to provide that the guest statute shall not bar claims by the state or by a municipality against a joint tortfeasor for contribution or indemnity.

The recommendations of the Committee are attached hereto in drafts numbered LSB 3370H through 3375H and LSB 3391H and 3392H.

PREPARED BY THE LEGISLATIVE SERVICE
BUREAU AT THE DIRECTION OF THE
GOVERNMENT TORT LIABILITY STUDY
COMMITTEE FOR CONSIDERATION BY
THE IOWA GENERAL ASSEMBLY

January, 1978

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the maintenance and reporting by the
2 state comptroller of information respecting state tort
3 claims.

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

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

3 NEW SECTION. CLAIMS ABSTRACT MAINTAINED. The state
4 comptroller shall maintain a claims register for claims filed
5 under this chapter. The claims register shall constitute
6 an abstract of all tort claims filed, and shall include the
7 following information for each claim recorded:

8 1. The date of filing.

9 2. The claim number.

10 3. The name of the claimant.

11 4. The amount demanded for personal injury, wrongful death,
12 and property damage, if any.

13 5. The approximate date, by month and year, of the accident
14 or occurrence.

15 6. The agency of state government whose employee allegedly
16 caused the injury or loss.

17 7. A brief description of the nature of the injury or loss
18 and the place where it occurred.

19 8. The amount actually tendered to and accepted by the
20 claimant, if any.

21 9. The amount of expenses incurred by the state, whether
22 or not payment of the claim results, for court costs, reporter
23 fees and costs, witness fees and costs, and mileage and
24 subsistence payments, but not salaries, of state employees.

25 10. The month and year when payment is accepted by the
26 claimant, if any.

27 11. The date of action by the state appeal board on the
28 claim, if any.

29 12. The date the claim is withdrawn by the claimant under
30 section twenty-five A point five (25A.5) of the Code, if
31 applicable.

32 13. Whether the final authority for actual payment was
33 the state appeal board, a settlement negotiated after ap-
34 peal board action or withdrawal, or a judgment of the district
35 court or the court of appeals or the supreme court.

1 14. The number of months and major fractions of months
2 expired from the date of filing to the date of acceptance
3 of payment.

4 Highway tort claims shall be recorded separately from other
5 tort claims against the state. General claims under chapter
6 twenty-five (25) of the Code shall not be included in the
7 tort claims register. The state comptroller may include such
8 other information in the abstract as he or she deems ad-
9 visable. The office of attorney general shall assist the
10 comptroller in collecting and compiling data for entry in
11 the tort claims register.

12 Sec. 2. Section twenty-five A point twelve (25A.12), Code
13 1977, is amended to read as follows:

14 25A.12 REPORT BY COMPTROLLER. The state comptroller shall
15 annually report in January of each year to the general assembly
16 all claims-and-judgments amounts actually paid to claimants
17 under this chapter during the fiscal year ending the preceding
18 June thirtieth. Such report shall include the name of each
19 claimant, a statement of the amount claimed and the amount
20 awarded paid, and a brief description of the claim, and shall
21 state whether payment is based upon state appeal board
22 approval, negotiated settlement, or a judgment of the district
23 court, court of appeals, or supreme court. The report also
24 shall include a statement of the number of claims filed during
25 the reporting period, and the aggregate amounts demanded for
26 personal injury, wrongful death, and property damage in those
27 claims.

28 EXPLANATION

29 This bill modifies the recordkeeping and reporting
30 requirements respecting state tort claims under Chapter 25A
31 of the Code. Existing law and practices do not provide for
32 a central registry of claim information and thus information
33 about state tort claims can be obtained only through time
34 consuming analysis of several different sets of records.
35 This bill would require the state comptroller to maintain

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1 a claims register which would contain an abstract of every
2 tort claim filed.

3 The bill also modifies the annual reporting requirement
4 so that the information submitted to the general assembly
5 by the comptroller will provide a means of identifying the
6 growth trends in state tort claims. The amendment also
7 provides that the reporting period will coincide with the
8 fiscal year.

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LSB 3370H
lb/rh/8A

PREPARED BY THE LEGISLATIVE
SERVICE BUREAU AT THE DIREC-
TION OF THE GOVERNMENT TORT
LIABILITY STUDY COMMITTEE
FOR CONSIDERATION BY THE
IOWA GENERAL ASSEMBLY.
January, 1978

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the applicability of the guest statute to
2 state and municipal claims for contribution and indemnity.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

3 NEW SECTION. CONTRIBUTION AND INDEMNITY. Section three
4 hundred twenty-one point four hundred ninety-four (321.494)
5 of the Code shall not bar any action or claim for contribution
6 or indemnity by the state against the owner or operator of
7 a motor vehicle.

8 Sec. 2. Chapter six hundred thirteen A (613A), Code 1977,
9 is amended by adding the following new section:

10 NEW SECTION. CONTRIBUTION AND INDEMNITY. Section three
11 hundred twenty-one point four hundred ninety-four (321.494)
12 of the Code shall not bar any action or claim for contribution
13 or indemnity by a municipality against the owner or operator
14 of a motor vehicle.

15 EXPLANATION

16 This bill would amend the state and municipal tort claims
17 chapters to provide that the automobile guest statute shall
18 not bar a claim by the state or a municipality for contribution
19 from or indemnity by a third person whose acts or omissions
20 are a proximate cause of losses for which a tort claim is
21 filed against the state or the municipality. Present judicial
22 interpretation of the guest statute prevents the state or
23 a municipality from seeking contribution or indemnity from
24 a driver when the negligence of a state employee and that
25 driver combine to cause injury to a passenger in the driver's
26 vehicle. This bill would permit contributions or indemnity,
27 but otherwise would not affect the guest statute.

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LSB 3371H
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PREPARED BY THE LEGISLATIVE
SERVICE BUREAU AT THE DIRECTION
OF THE GOVERNMENT TORT LIABILITY
STUDY COMMITTEE FOR CONSIDERA-
TION BY THE IOWA GENERAL ASSEMBLY
January, 1978

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act making technical corrections to chapter twenty-five A
2 (25A) of the Code.

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

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1 Section 1. Section twenty-five A point fourteen (25A.14),
2 subsection four (4), Code 1977, is amended to read as follows:

3 4. Any claim arising out of assault, battery, false
4 imprisonment, false arrest, malicious prosecution, abuse ~~or~~
5 of process, libel, slander, misrepresentation, deceit, or
6 interference with contract rights.

7 EXPLANATION

8 This bill corrects a spelling error contained in section
9 25A.14, subsection 4, of the Code. The existence of the error
10 has been recognized and corrected through interpretation by
11 the Iowa supreme court.

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LSB 3372H
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PREPARED BY THE LEGISLATIVE
SERVICE BUREAU AT THE DIREC-
TION OF THE GOVERNMENT TORT
LIABILITY STUDY COMMITTEE
FOR CONSIDERATION BY THE
IOWA GENERAL ASSEMBLY
January, 1978

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to court procedures applicable to state
2 tort claims.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section twenty-five A point four (25A.4), un-
2 numbered paragraph one (1), Code 1977, is amended to read
3 as follows:

4 The district court of the state of Iowa for the district
5 in which the plaintiff is resident or in which the act or
6 omission complained of occurred, or where the act or ommis-
7 sion occurred outside of Iowa and the plaintiff is a non-
8 resident, the Polk county district court, ~~sitting-without~~
9 ~~a-jury~~, shall have exclusive jurisdiction to hear, determine,
10 and render judgment on any suit or claim as defined in this
11 chapter. However, the laws and rules of civil procedure of
12 this state on change of place of trial shall apply to such
13 suits. An action against the state under this chapter shall
14 be tried to the court without a jury, except that upon the
15 request of either party the action shall be tried to the court
16 with a jury.

17 Sec. 2. Section twenty-five A point four (25A.4), unnumbered
18 paragraph two (2), Code 1977, is amended to read as follows:

19 The state shall be liable in respect to such claims to the
20 same claimants, in the same manner, and to the same extent
21 as a private individual under like circumstances, except that
22 the state shall not be liable for interest prior to judg-
23 ment or for punitive damages. An action under this chapter
24 shall not be instituted for any sum in excess of the amount
25 of the claim presented to and acted upon by the state appeal
26 board, except where the increased amount is based upon newly
27 discovered evidence not reasonably discoverable at the time
28 of presenting the claim to the state appeal board, or except
29 upon allegation and proof of intervening facts relating to
30 the amount of the claim. Costs shall be allowed in all courts
31 to the successful claimant to the same extent as if the state
32 were a private litigant.

33 Sec. 3. Section twenty-five A point seven (25A.7), Code
34 1977, is amended to read as follows:

35 25A.7 APPEAL. Judgments in the district courts under this

1 chapter shall be subject to appeal ~~to the supreme court of~~
2 ~~the state~~ in the same manner and to the same extent as other
3 judgments of the district courts.

4 EXPLANATION

5 This bill modifies court procedures or rules applicable
6 to state tort claims as follows:

7 Section 1 would permit a jury trial when requested by the
8 plaintiff or the state.

9 Section 2 would provide that a person who files a demand
10 with the state appeal board cannot increase the amount demanded
11 in a subsequent lawsuit except when, e.g., events occurring
12 subsequent to the original filing change the nature or extent
13 of the legal harm.

14 Section 3 makes a technical correction to reflect the exis-
15 tence of the Iowa court of appeals.

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LSB 3373H
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PREPARED BY THE LEGISLATIVE SERVICE
BUREAU AT THE DIRECTION OF THE GOVERN-
MENT TORT LIABILITY STUDY COMMITTEE
FOR CONSIDERATION BY THE IOWA GENERAL
ASSEMBLY.
January, 1978

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to terms of contracts insuring against the
2 liability of a municipality under chapter six hundred
3 thirteen A (613A) of the Code.

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

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1 Section 1. Section six hundred thirteen A point seven
2 (613A.7), Code 1977, is amended by adding the following new
3 unnumbered paragraphs:

4 NEW UNNUMBERED PARAGRAPH. Any person issuing a policy of
5 insurance to a municipality insuring against all or any part
6 of the liability referred to in this section shall be deemed
7 as a condition of exercising the privilege of transacting
8 that business in this state to have agreed that the policy
9 shall not be cancelled, and that the issuer shall not refuse
10 to renew the policy on any grounds other than nonpayment of
11 premium, unless the issuer gives written notice of the intended
12 cancellation or nonrenewal not less than ninety days prior
13 to the date upon which the policy is to be cancelled or the
14 date upon which the policy shall expire, notwithstanding any
15 provision in the policy to the contrary.

16 NEW UNNUMBERED PARAGRAPH. Any person issuing a policy of
17 insurance to a municipality insuring against all or any part
18 of the liability referred to in this section shall be deemed
19 as a condition of exercising the privilege of transacting
20 that business in this state to have agreed that the policy
21 shall be renewable at the same or less cost to the municipality
22 unless the issuer gives written notice to the municipality
23 not less than thirty days prior to the annual budget
24 certification date of the municipality as provided by law,
25 of the increases in premium which will become effective upon
26 a renewal of the policy, notwithstanding any provision of
27 the policy to the contrary.

28 Sec. 2. The provisions of this Act shall apply only to
29 those policies of insurance which are issued or renewed after
30 the effective date of this Act.

31 EXPLANATION

32 This bill amends Chapter 613A of the Code relating to tort
33 claims against local governmental units to provide that any
34 insurer who issues a policy to a municipality insuring it
35 against tort claims must:

1 1. Give written notice of any intention to cancel or not
2 renew not less than ninety days prior to the cancellation
3 or expiration dates and

4 2. Give written notice not less than thirty days prior
5 to the municipality's budget certification date of any increase
6 in premium which will be required to renew the policy.

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LSB 3374H
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PREPARED BY THE LEGISLATIVE
SERVICE BUREAU AT THE DIRECTION
OF THE GOVERNMENT TORT LIABILITY
STUDY COMMITTEE FOR CONSIDERA-
TION BY THE IOWA GENERAL ASSEMBLY
January, 1978

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to workers compensation for inmates of state
2 penal and correctional facilities.

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

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1 Section 1. Section twenty-five A point fourteen (25A.14),
2 Code 1977, is amended by adding the following new subsection:

3 NEW SUBSECTION. Any claim by an inmate as defined in section
4 five (5) of this Act.

5 Sec. 2. Section eighty-five point thirty-six (85.36),
6 subsection ten (10), Code 1977, is amended by adding the
7 following new lettered paragraph:

8 NEW LETTERED PARAGRAPH. If the employee was an inmate as
9 defined in section five (5) of this Act, the inmate's actual
10 earnings shall be disregarded, and the weekly gross earnings
11 shall be as set forth in section five (5) of this Act.

12 Sec. 3. Section eighty-five point forty-five (85.45), Code
13 1977, is amended by adding the following new unnumbered para-
14 graph:

15 NEW UNNUMBERED PARAGRAPH. Future payments of compensa-
16 tion shall not be commuted to a present worth lump sum payment
17 when the employee is an inmate as set forth in section five
18 (5) of this Act.

19 Sec. 4. Section eighty-five point sixty-one (85.61),
20 subsection two (2), Code 1977, is amended by adding the follow-
21 ing new paragraph:

22 NEW PARAGRAPH. "Workman" or "employee" shall include an
23 inmate as defined in section five (5) of this Act.

24 Sec. 5. Chapter eighty-five (85), Code 1977, is amended
25 by adding the following new section:

26 NEW SECTION. For the purposes of this section, the term
27 "inmate" includes a person confined against his or her will
28 in a reformatory, state penitentiary, release center, or other
29 state penal or correctional institution while that person
30 works in connection with the maintenance of the institution
31 or in an industry maintained therein or while on detail to
32 perform services on a public works project.

33 If an inmate, in the performance of his or her work in
34 connection with the maintenance of the institution or in an
35 industry maintained therein or while on detail to perform

1 services on a public works project, is injured so as to
2 incapacitate him or her permanently, that inmate may, upon
3 being released from the institution either upon parole or
4 upon final discharge, be awarded only such benefits as are
5 provided in section eighty-five point twenty-seven (85.27)
6 and section eighty-five point thirty-four (85.34), subsections
7 two (2) and three (3) of the Code. If death results from
8 the injury, death benefits shall be awarded and paid to the
9 dependents of the inmates as in other workers' compensation
10 cases. For purposes of this section the inmate shall be
11 deemed to have a weekly wage equal to sixty-six and two-thirds
12 percent of the state average weekly wage paid employees as
13 determined by the Iowa department of job service under the
14 provisions of section ninety-six point three (96.3) of the
15 Code and in effect at the time of the injury. If a person
16 who is entitled to benefits by virtue of having been an inmate
17 at the time of the injury under this section is receiving
18 benefits under the provisions of this section and is
19 recommitted to an institution covered by this section, the
20 benefits shall immediately cease. However, the benefits shall
21 resume upon subsequent release from the institution. Payment
22 under this section shall be made promptly out of appropria-
23 tions which have been made for that purpose, if any. An
24 amount or part thereof which cannot be paid promptly from
25 the appropriation shall be paid promptly out of money in the
26 state treasury not otherwise appropriated.

27 The time limit for commencing an original proceeding to
28 determine entitlement to benefits under this section shall
29 be the same as set forth in section eighty-five point twenty-
30 six (85.26) of the Code. If an injury occurs to an inmate
31 so as to qualify the inmate for benefits under this section,
32 notwithstanding the fact that payments of weekly benefits
33 are not commenced, a memorandum of agreement shall be filed
34 with the industrial commissioner within thirty days of the
35 time the responsible authority receives notice or knowledge

1 of the injury as required by section eighty-five point twenty-
2 three (85.23) of the Code.

3 The extent of permanent disability to which an inmate is
4 entitled under this section shall be determined and weekly
5 compensation benefits commenced as of the time of the inmate's
6 release from the institution. If a dispute arises as to the
7 extent of disability when a memorandum of agreement is on
8 file or when an award determining liability has been made,
9 an action to determine the extent of disability must be com-
10 menced within one year of the time of the release of the
11 inmate from the institution. This shall not bar the right
12 to reopen the claim as provided by section eighty-six point
13 thirty-four (86.34) of the Code.

14 Responsibility for the filings required by chapter eighty-
15 six (86) of the Code for injuries resulting in permanent
16 disability or death and as modified by this section shall
17 be made in the same manner as for other employees of the
18 institution.

19 Sec. 6. This Act is effective January 1, 1979.

20 EXPLANATION

21 This bill would provide workers compensation for inmates
22 of state penal and correctional institutions who are injured
23 while on the job. Benefits would be paid only in the event
24 of death, or permanent partial or permanent total disability,
25 and would be computed on a salary established by statute which
26 is equal to two-thirds of the state average weekly wage as
27 determined by the department of job service. Benefits would
28 not be payable during periods of incarceration. An inmate
29 would be precluded from filing under the state tort claims
30 act for job related injuries.

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LSB 3375H
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PREPARED BY THE LEGISLATIVE SERVICE
BUREAU AT THE DIRECTION OF THE
GOVERNMENT TORT LIABILITY STUDY
COMMITTEE FOR CONSIDERATION BY THE
IOWA GENERAL ASSEMBLY

January, 1978

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the notice required to maintain tort claims
2 against charter cities.

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

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1 Section 1. Section four hundred twenty point forty-five
2 (420.45), Code 1977, is repealed.

3 EXPLANATION

4 The Code section being repealed is a statute of limitations
5 for municipal tort claims which applies only to cities under
6 special charter. Chapter 613A, relating to municipal tort
7 claims, does not exempt those cities or otherwise treat them
8 separately, and the notice requirements under chapter 613A
9 are different from those in section 420.45. The purpose of
10 the limitation is the same, and the time limits involved are
11 not significantly different. This bill would make chapter
12 613A applicable to all cities, thereby eliminating a potential
13 trap for the unwary.

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PREPARED BY THE LEGISLATIVE SERVICE
BUREAU AT THE DIRECTION OF THE
GOVERNMENT TORT LIABILITY STUDY
COMMITTEE FOR CONSIDERATION BY THE
IOWA GENERAL ASSEMBLY

January, 1978

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the assessment of paid state tort
2 claims against the budgets of state agencies whose acts
3 or omissions give rise to those tort claims.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section twenty-five A point eleven (25A.11),
2 Code 1977, is amended by striking the section and inserting
3 in lieu thereof the following:

4 25A.11 PAYMENT OF AWARD. Any award, settlement, or
5 judgment to a claimant under this chapter shall be paid out
6 of appropriations which have been made for such purpose.
7 Any such amount or part thereof which cannot be paid from
8 such appropriation shall be paid out of the funds of the state
9 agency, if any, which employed or used the services of the
10 employee whose act or omission gave rise to the claim. Any
11 such amount or part thereof which, in the opinion of the state
12 comptroller, cannot or should not be paid from the state
13 agency, shall be paid out of any money in the state trea-
14 sury not otherwise appropriated. Payment shall be made only
15 upon receipt of a written release by the claimant in a form
16 approved by the attorney general.

17 EXPLANATION

18 Under existing law, all state tort claims are paid out
19 of specific appropriations or out of unencumbered moneys in
20 the general fund.

21 This bill would require that a state agency whose acts
22 or omissions give rise to claim payments shall have those
23 amounts charged against its budget, unless the comptroller
24 determines that the agency budget cannot incur part or all
25 of the claims. The government tort liability interim study
26 committee recommended that this proposal be adopted to pro-
27 vide incentive for state agencies to eliminate conditions
28 which lead to tort claims.

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