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Passed on File.

**Senate File 180**  
By ZASTROW, O'MALLEY, DAILEY,  
McCARVILLE, VEST.

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

## A BILL FOR

An Act to create and establish a State Tort Claims Act ;  
defining terms, and conferring upon each state agency  
in behalf of the state the power to consider, ascertain,  
adjust, determine and settle claims against the state ;  
providing for the maximum amount of the claim ;  
permitting the state to be sued ; conferring exclusive  
jurisdiction in the district court to hear, determine,  
and render judgment ; and generally providing for the  
practice and procedure to establish liability of the  
state.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 Section 1. This act may be cited as the "State Tort  
2 Claims Act".

1 Sec. 2. As used in this act, the term:

2 "State Agency" includes the executive departments  
3 and independent establishments of the State of Iowa, and  
4 corporations whose primary functions is to act as, and while  
5 acting as, instrumentalities or agencies of the State of  
6 Iowa, whether or not authorized to sue and be sued in their  
7 own names ; Provided, that this shall not be construed to  
8 include any contractor with the State of Iowa.

9 "Employee of the State of Iowa" includes officers or

10 employees of any state agency, and persons acting on behalf  
11 of state agency in an official capacity, temporarily or  
12 permanently in the service of the State of Iowa, whether  
13 with or without compensation.

14 “Acting within the scope of his office or  
15 employment”, means in the employment and acting in his  
16 line of duty.

1 Sec. 3. Subject to the limitations of this act,  
2 authority is hereby conferred upon the head of each  
3 State agency, or his designee for the purpose, acting  
4 on behalf of the State of Iowa, to consider, ascertain,  
5 adjust, determine, and settle any claim against the  
6 State of Iowa for money only, accruing on and after  
7 January 1, 1952, on account of damage to or loss of  
8 property or on account of personal injury or death,  
9 where the total amount of the claim does not exceed one  
10 thousand dollars, caused by the negligent or wrongful  
11 act or omission of any employee of the State of Iowa  
12 while acting within the scope of his office or employment,  
13 under circumstances where the State of Iowa, if a private  
14 person, would be liable to the claimant for such damage,  
15 loss, injury, or death, in accordance with the law of  
16 the place where the act or omission occurred.

17 Subject to the provisions of sections five (5),  
18 six (6), seven (7) and eight (8) of this act, any such  
19 award or determination shall be final and conclusive on

20 all officers of the State of Iowa, except when procured  
21 by means of fraud, notwithstanding any other provisions  
22 of law to the contrary.

23 Any award made to any claimant pursuant to this  
24 section, and any award, compromise, or settlement of any  
25 claim cognizable under this act made by the attorney  
26 general pursuant to section eight (8) of this act, shall  
27 be paid by the head of the State of Iowa agency concerned  
28 out of appropriations that may be made therefore, which  
29 appropriations are hereby authorized.

30 The acceptance by the claimant of any such award,  
31 compromise, or settlement shall be final and conclusive  
32 on the claimant, and shall constitute a complete release  
33 by the claimant of any claim against the State of Iowa and  
34 against the employee of the State of Iowa whose act or  
35 omission gave rise to the claim, by reason of the same  
36 subject matter.

1 Sec. 4. The head of each State of Iowa agency shall  
2 annually make a report to the general assembly of the  
3 State of Iowa of all claims paid by such State of Iowa  
4 agency under this part. Such report shall include the  
5 name of each claimant, a statement of the amount claimed  
6 and the amount awarded, and a brief description of the  
7 claim.

1 Sec. 5. Subject to the provisions of this act, the  
2 State of Iowa district court for the district wherein the

3 plaintiff is resident or wherein the act or omission  
4 complained of occurred, sitting with a jury, unless the  
5 same shall have been waived by the plaintiff, shall have  
6 exclusive jurisdiction to hear, determine and render judgment  
7 on any claim against the State of Iowa, for money only,  
8 accruing on and after January 1, 1952, on account of  
9 damage to or loss of property or on account of personal  
10 injury or death caused by the negligent or wrongful  
11 act or omission of any employee of the State of Iowa  
12 while acting within the scope of his office or employment,  
13 under circumstances where the State of Iowa, if a  
14 private person, would be liable to the claimant for such  
15 damage, loss, injury or death in accordance with the  
16 law of the place where the act or omission occurred.  
17 Subject to the provisions of this act, the State of  
18 Iowa shall be liable in respect of such claims to the  
19 same claimants, in the same manner, and to the same  
20 extent as a private individual under like circumstances,  
21 except that the State of Iowa shall not be liable for  
22 interest prior to judgment, or for punitive damages.  
23 Costs shall be allowed in all courts to the successful  
24 claimant to the same extent as if the State of Iowa  
25 were a private litigant.

26 The judgment in such an action shall constitute  
27 a complete bar to any action by the claimant, by reason  
28 of the same subject matter, against the employee of the

29 State of Iowa whose act or omission gave rise to the  
30 claim. No suit shall be instituted pursuant to this  
31 section upon a claim presented to any State of Iowa  
32 agency pursuant to section three (3) of this act unless  
33 such State of Iowa agency has made final disposition  
34 of the claim; provided, that the claimant may, upon  
35 fifteen (15) days' notice given in writing, withdraw  
36 the claim from consideration of the State of Iowa  
37 agency and commence suit thereon pursuant to this  
38 section; provided further, that as to any claim so  
39 disposed of or so withdrawn, no suit shall be instituted  
40 pursuant to this section for any sum in excess of the  
41 amount of the claim presented to the State of Iowa  
42 agency, except where the increased amount of the claim  
43 is shown to be based upon newly discovered evidence not  
44 reasonably discoverable at the time of presentation  
45 of the claim to the State of Iowa agency or upon evidence  
46 of intervening facts, relating to the amount of the claim.  
47 Disposition of any claim made pursuant to section three (3)  
48 of this act shall not be competent evidence of liability  
49 or amount of damages in proceedings on such claim pursuant  
50 to this section.

1 Sec. 6. In actions under section five (5) of this  
2 act, the forms of process, writs, pleadings and motions,  
3 and the practice and procedure, shall be in accordance  
4 with the rules promulgated and adopted by the Supreme

5 Court of the State of Iowa; and the same provisions for  
6 counterclaim and setoffs; for interest upon judgments,  
7 and for payment of judgments, shall be applicable as in  
8 cases brought in the district courts of the State of Iowa.

1 Sec. 7. Final judgments in the district courts in  
2 cases under section five (5) of this act shall be subject  
3 to review by appeal to the supreme court of the State of  
4 Iowa in the same manner and to the same extent as other  
5 judgments of the district courts and shall be tried  
6 de novo.

1 Sec. 8. With a view to doing substantial justice, the  
2 attorney general is authorized to arbitrate, compromise,  
3 or settle any claim cognizable under section five (5) of  
4 this act, after the institution of any suit thereon, with  
5 the approval of the court in which suit is pending.

1 Sec. 9. Every claim against the State of Iowa  
2 cognizable under this act shall be forever barred, unless  
3 within one year after such claim accrued or within one  
4 year after the date of enactment of this act, whichever  
5 is later, it is presented in writing to the State of Iowa  
6 agency out of whose activities it arises, if such claim  
7 is for a sum not exceeding one thousand dollars; or unless  
8 within one year after such claim accrued or within one  
9 year after the date of enactment of this act, whichever  
10 is later, an action is begun pursuant to section five (5)  
11 of this act. In the event that a claim for a sum not

12 exceeding one thousand dollars is presented to a State of  
13 Iowa agency as aforesaid, the time to institute a suit  
14 pursuant to section five (5) of this act shall  
15 be extended for a period of six (6) months from  
16 the date of mailing of notice to the claimant by such  
17 State of Iowa agency as to the final disposition of the  
18 claim or from the date of withdrawal of the claim  
19 from such State of Iowa agency pursuant to section five  
20 (5) of this act, if it would otherwise expire before the  
21 end of such period.

1 Sec. 10. The provisions of this act shall not apply  
2 to:

3 Any claim based upon an act or omission of an  
4 employee of the State of Iowa, exercising due care,  
5 in the execution of a statute or regulation, whether or  
6 not such statute or regulation be valid, or based upon  
7 the exercise or performance or the failure to exercise  
8 or perform a discretionary function or duty on the part  
9 of a State of Iowa agency or an employee of the State  
10 of Iowa agency, whether or not the discretion involved  
11 be abused. Any claim arising in respect to the  
12 assessment or collection of any tax or customs duty, or  
13 the detention of any goods or merchandise by any law-  
14 enforcement officer.

15 Any claim for damages caused by the imposition or  
16 establishment of a quarantine by the State of Iowa whether

17 such quarantine relates to persons or property.

18 Any claim arising from injury to vessels, or to the  
19 cargo, crew, or passengers of vessels while on any state  
20 waters.

21 Any claim arising out of assault, battery, false  
22 imprisonment, false arrest, malicious prosecution, abuse  
23 of process, libel, slander, misrepresentation, deceit, or  
24 interference with the contract rights.

25 Any claim arising in any other state or territory.

1 Sec. 11. The court rendering a judgment for the  
2 plaintiff pursuant to section five (5) of this act, or  
3 the head of the State of Iowa agency or his designee  
4 making an award pursuant to section three (3) of this  
5 act, or the attorney general making a disposition  
6 pursuant to section eight (8) of this act, as the case  
7 may be, may, as a part of the judgment, award, or settlement,  
8 determine and allow reasonable attorney's fees, which,  
9 if the recovery is five hundred dollars or more, shall  
10 not exceed ten (10) per centum of the amount recovered  
11 under section three (3), or twenty (20), per centum of the  
12 amount recovered under section five (5) of this act, to  
13 be paid out of but not in addition to the amount of  
14 judgment, award, or settlement recovered, to the  
15 attorneys representing the claimant. Any attorney who  
16 charges, demands, receives, or collects for services  
17 rendered in connection with such claim any amount in

18 excess of that allowed under this section, if recovery  
19 be had, shall be guilty of a misdemeanor, and shall,  
20 upon conviction thereof, be subject to a fine of not more  
21 than two thousand dollars or imprisonment for not more  
22 than one year, or both.

1     Sec. 12. From and after the date of enactment of  
2 this act, the authority of any State of Iowa agency to  
3 sue or be sued in its own name shall not be construed to  
4 authorize suits against such State of Iowa agency on  
5 claims which are cognizable under section five (5) of  
6 this act, and the remedies provided by this act in  
7 such cases shall be exclusive.

1     Sec. 13. Nothing contained herein shall be deemed  
2 to repeal any provision of law authorizing any State of  
3 agency to consider, ascertain, adjust, settle, determine  
4 or pay any claim on account of damage to or loss of prop-  
5 erty or on account of personal injury or death, in cases  
6 in which such damage, loss, injury, or death was not caused  
7 by any negligent or wrongful act or omission of an employee  
8 of the State of Iowa while acting within the scope of his  
9 office or employment, or any other claim not cognizable  
10 under section three (3) of this act.