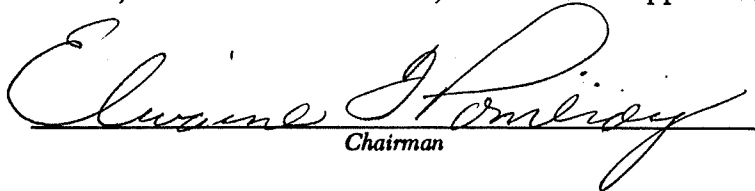


Held in Room 123 S, at the Statehouse at 2:45 ~~a.m.~~/p. m., on February 19, 1979.

All members were present except: Senators Steineger, Allegrucci, Berman, Mulich and Parrish

The next meeting of the Committee will be held at 10:00 a. m./~~p.m.~~ on February 20, 1979

~~These minutes of the meeting held on xxxxxxxxxxxxxxxxxxxxxxxx 19xxx were considered, corrected and approved~~


Chairman

The conferees appearing before the Committee were:

Staff present:

- Art Griggs - Revisor of Statutes
- Jerry Stephens - Legislative Research Department
- Wayne Morris - Legislative Research Department

Senate Bill No. 76 - Enacting a tort claims act applicable to the state and local units of government. Mr. Griggs reviewed the draft of a proposed substitute for Senate Bill 76, going through the draft section by section. Committee discussion followed. Discussion was had concerning the introduction of the substitute bill and asking to have it referred back to the committee for further work; Senator Gaar indicated that he would discuss the matter with the secretary of the senate to see if special arrangements could be made for the printing of a proposed substitute bill so that interested persons would have the opportunity to review the document for further consideration by the committee.

Senator Gaar discussed the difficulties that had been experienced in the law dealing with bonding and using the driver's license as a bond; following committee discussion, Senator Gaar moved that a bill dealing with the subject be introduced and referred back; Senator Hein seconded the motion, and the motion carried.

The meeting adjourned.

These minutes were read and approved by the committee on 4-25-79.

MEMORANDUM

February 19, 1979

TO: Senate Committee on Judiciary
FROM: Kansas Legislative Research Department
RE: Tort Claims Acts -- Exceptions to Immunity

The Following states have established immunity as the general rule under the enacted tort claims acts. However, a number of exceptions to liability are set out.

California

1. Liability for injury proximately caused by failure of public entity to discharge a mandatory duty imposed by statute that is designed to protect against that particular risk, unless the public entity establishes that it exercised reasonable diligence to discharge the duty.
2. Actual damage to property or for substantial interference with the possession or use of property where damage results from authorized precondemnation surveys, examinations, etc.

Colorado

1. Motor vehicle operations.
2. Hospitals.
3. Jails.
4. Dangerous conditions of public buildings, facilities, or streets and highways.
5. Utility operations.

Maine

1. Ownership, maintenance or use of motor vehicles, special mobile equipment, trailers, aircraft, watercraft, snowmobiles, and other machinery or equipment.
2. Construction, operation, or maintenance of public buildings.
3. Discharge of pollutants, contaminants or irritants into or upon the land, water, or atmosphere.
4. Construction or repair of sidewalks, highways, bridges, runways, etc., and including street signs, lights, guardrails, etc.

Michigan

1. Proprietary functions defined as any activity conducted primarily for the purpose of producing a pecuniary profit, excluding any activity normally supported by fees or taxes.
2. Highway defects.
3. Dangerous or defective conditions of public buildings if the governmental agency had actual or constructive knowledge of the condition.

New Jersey

1. Public property in a dangerous condition, if a negligent or wrongful act or omission of a public employee acting within the scope of employment created the dangerous condition and the public entity had actual or constructive knowledge of the dangerous condition.
2. Medical malpractice once a public employee decides to prescribe a course of treatment for mental illness or drug dependence or administers a course of treatment.

New Mexico

1. Aircraft.
2. Motor Vehicles.
3. Public Buildings.
4. Parks.
5. Machinery and equipment.

New Mexico (continued)

6. Airports.
7. Utility operations, except for failure to provide services.
8. Medical and health facilities.
9. Highways and streets.
10. False arrest.
11. Intentional torts of employees.

Tennessee

1. Motor vehicles.
2. Unsafe streets and highways.
3. Dangerous public structures.
4. "Negligent act or omission of employees," but with exceptions to such liability for:
 - a. discretionary functions;
 - b. false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, invasion of right of privacy, or civil rights;
 - c. issuance, denial, suspension or revocation of failure to issue, deny, suspend or revoke a license;
 - d. failure to make an inspection or making a negligent inspection;
 - e. judicial or administrative proceedings;
 - f. misrepresentation by an employee;
 - g. riots, mob violence and civil disturbances; or
 - h. assessment, levy or collection of taxes.

Texas

1. Negligent operation of motor vehicles and equipment.
2. Use of tangible property under circumstances where such governmental unit, if a private person, would be liable.

Utah

1. Contractual obligations.
2. Negligent operation of motor vehicles.
3. Defective, unsafe, or dangerous conditions of highways, bridges or other structures.
4. Dangerous or defective public building, structure, or other public improvement.
5. "Negligent acts or omission of employees," with exceptions to liability:
 - a. Tennessee exceptions, plus;
 - b. national guard activities;
 - c. incarceration of any person in prison, jail, or ther place of lawful confinement;
 - d. natural conditions on public lands.