

**CALCULATING NEW DAMAGES LIMITS FOR PERSONAL
INJURY CASES**

2018 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Jani Iwamoto

House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill modifies a provision relating to limits on damages arising from claims against governmental entities.

Highlighted Provisions:

This bill:

► modifies a formula that the legislative fiscal analyst uses to calculate new damages limits on certain claims against governmental entities.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63G-7-605, as last amended by Laws of Utah 2018, Chapter 419

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63G-7-605** is amended to read:

63G-7-605. Adjustments to limitation of judgment amounts.

(1) As used in this section:



28 (a) "Adjusted consumer price factor" means what the consumer price index~~[, as~~
29 ~~provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code,]~~ would be without the medical
30 care component and the medical services component.

31 (b) "Aggregate limit" means the limit on the aggregate amount of personal injury
32 damages claims from a single occurrence, as provided in Subsection [63G-7-604\(1\)\(d\)](#).

33 (c) "Applicable index" means:

34 (i) the consumer price index, for a calculation of the percentage change in the
35 consumer price index;

36 (ii) the adjusted consumer price factor, for a calculation of the percentage change in the
37 adjusted consumer price factor;

38 (iii) the medical care component, for a calculation of the percentage change in the
39 medical care component; or

40 (iv) the medical services component, for a calculation of the percentage change in the
41 medical services component.

42 (d) "Base applicable index" means an applicable index for the year that is three years
43 before the year in which the legislative fiscal analyst calculates new limits under this section.

44 (e) "Consumer price index" means the annual index reported by the United States
45 Bureau of Labor Statistics for consumer prices for all urban consumers, not seasonally
46 adjusted.

47 ~~[(e)]~~ (f) "Individual limit" means the limit on the amount of a judgment for damages
48 for personal injury, as provided in Subsection [63G-7-604\(1\)\(a\)](#).

49 ~~[(f)]~~ (g) "Latest aggregate limit" means the aggregate limit, as last adjusted by the risk
50 manager under this section.

51 ~~[(g)]~~ (h) "Latest individual limit" means the individual limit, as last adjusted by the risk
52 manager under this section.

53 ~~[(h)]~~ (i) "Latest property damage limit" means the property damage limit, as last
54 adjusted by the risk manager under this section.

55 ~~[(i)]~~ (j) "Medical care component" means the medical care sub-index of the consumer
56 price index~~[, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code].~~

57 ~~[(j)]~~ (k) "Medical services component" means the medical care services sub-index of
58 the consumer price index~~[, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code].~~

59 (1) "Percentage change" means the amount of change between the base applicable index
 60 and the applicable index for the year before the year in which the legislative fiscal analyst
 61 calculates new limits under this section, expressed as a percentage of the base applicable index.

62 ~~[(i)]~~ (m) "Property damage limit" means the limit on the amount of a judgment for
 63 property damage, as provided in Subsection [63G-7-604\(1\)\(c\)](#).

64 ~~(n)~~ "Risk manager" means the state risk manager appointed under Section [63A-4-101](#).

65 ~~(2) [(a)]~~ Each even-numbered year, the legislative fiscal analyst shall, subject to
 66 Subsection (3):

67 ~~[(i) adjust the]~~ (a) calculate a new individual limit by ~~[an amount equal to the sum of]~~
 68 adding to the latest individual limit the sum of:

69 ~~[(A)]~~ (i) 66.5% of the latest individual limit, multiplied by the percentage change in the
 70 adjusted consumer price factor;

71 ~~[(B)]~~ (ii) 16.75% of the latest individual limit, multiplied by the percentage change in
 72 the medical care component; and

73 ~~[(C)]~~ (iii) 16.75% of the latest individual limit, multiplied by the percentage change in
 74 the medical services component;

75 ~~[(ii) adjust the]~~ (b) calculate a new aggregate limit by ~~[an amount equal to the sum of]~~
 76 adding to the latest aggregate limit the sum of:

77 ~~[(A)]~~ (i) 66.5% of the latest aggregate limit, multiplied by the percentage change in the
 78 adjusted consumer price factor;

79 ~~[(B)]~~ (ii) 16.75% of the latest aggregate limit, multiplied by the percentage change in
 80 the medical care component; and

81 ~~[(C)]~~ (iii) 16.75% of the latest aggregate limit, multiplied by the percentage change in
 82 the medical services component;

83 ~~[(iii) adjust the]~~ (c) calculate a new property damage limit ~~[as a percentage equal to]~~
 84 by adding to the latest property damage limit the amount of the latest property damage limit
 85 multiplied by the percentage [increase or decrease] change in the consumer price index [as
 86 provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code; and];

87 ~~[(iv) no later than May 1, communicate the adjusted limits under Subsections (2)(a)(i),~~
 88 ~~(ii), and (iii) to the risk manager.]~~

89 ~~[(b) The legislative fiscal analyst shall]~~ (d) round up to the nearest \$100 the individual

90 limit, aggregate limit, and property damage limit [~~adjusted~~] calculated under [~~Subsection~~
91 ~~(2)(a);~~] Subsections (2)(a), (b), and (c); and

92 (e) no later than May 1, communicate the newly calculated limits under Subsections
93 (2)(a), (b), and (c) to the risk manager.

94 (3) The [~~legislative fiscal analyst may not adjust an~~] newly calculated individual limit
95 [~~or~~], aggregate limit, or property damage limit under Subsection (2) [~~if the adjustment results in~~
96 ~~a decrease in~~] may not be less than the amount of the limit before the new calculation under
97 Subsection (2).

98 (4) (a) Each even-numbered year, the risk manager shall make rules, to become
99 effective no later than July 1 of that year, that establish a new individual limit, aggregate limit,
100 and property damage limit, as [~~adjusted~~] calculated under Subsection (2).

101 (b) [~~An adjustment to the~~] A newly calculated individual limit, aggregate limit, or
102 property damage limit under this section has prospective effect only from the date the rules
103 establishing the new limit take effect.

104 (c) An individual limit, aggregate limit, or property damage limit, as [~~adjusted~~] newly
105 calculated under this section, applies only to a claim for injury or loss that occurs after the
106 effective date of the rules that establish the [~~adjusted~~] newly calculated limit.

107 **Section 2. Effective date.**

108 If approved by two-thirds of all the members elected to each house, this bill takes effect
109 upon approval by the governor, or the day following the constitutional time limit of Utah
110 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
111 the date of veto override.