1	RECREATIONAL LAND USE IMMUNITY
2	1999 GENERAL SESSION
3	STATE OF UTAH
4	Sponsor: DeMar Bud Bowman
5	AN ACT RELATING TO CITIES AND TOWNS; LIMITING THE LIABILITY OF A
6	MUNICIPALITY UNDER CERTAIN CIRCUMSTANCES; AND MAKING CONFORMING
7	CHANGES TO IMMUNITY PROVISIONS.
8	This act affects sections of Utah Code Annotated 1953 as follows:
9	AMENDS:
10	63-30-8, as last amended by Chapter 76, Laws of Utah 1991
11	63-30-9, as last amended by Chapter 76, Laws of Utah 1991
12	ENACTS:
13	10-1-401 , Utah Code Annotated 1953
14	10-1-402 , Utah Code Annotated 1953
15	10-1-403 , Utah Code Annotated 1953
16	10-1-404 , Utah Code Annotated 1953
17	Be it enacted by the Legislature of the state of Utah:
18	Section 1. Section 10-1-401 is enacted to read:
19	Part 4. Limitation on Municipal Liability
20	<u>10-1-401.</u> Definitions.
21	As used in this part:
22	(1) "Person" includes an individual, regardless of age, maturity, ability, capability, or
23	experience, and a corporation, partnership, limited liability company, or any other form of business
24	enterprise.
25	(2) "Undeveloped" means:
26	(a) substantially unchanged from its natural condition; or
27	(b) developed but not suitable for the sport or recreational activity without further

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28	development, improvement, or alteration of condition.
29	(3) (a) "Without charge" means that a person is not required to pay any sum of money to
30	use the land owned by the municipality for the sport or recreational activity.
31	(b) The determination under Subsection (3)(a) shall be made without regard to any taxes
32	or fees a person pays to the municipality for a reason other than the use of the land for the sport
33	or recreational activity.
34	Section 2. Section 10-1-402 is enacted to read:
35	10-1-402. Limitation on liability.
36	(1) A municipality that allows a person to develop, improve, or alter the condition of
37	undeveloped land owned by the municipality so that it may be used by the public without charge
38	for a sport or recreational activity may not be held liable for any personal injury or property
39	damage resulting from the use of the land for the sport or recreational activity.
40	(2) A municipality does not lose the protection against liability provided by Subsection (1)
41	<u>by:</u>
12	(a) issuing a building permit for an improvement on the land; or
13	(b) approving an improvement on the land as complying with applicable building code
14	requirements.
45	Section 3. Section 10-1-403 is enacted to read:
1 6	10-1-403. No affect on person's obligation to use due care.
47	Nothing in this part may be construed to relieve a person using the recreational facilities
1 8	from an obligation that the person would have in the absence of this part to exercise due care in
19	the use of the recreational facilities or from the legal consequences of a failure to use due care.
50	Section 4. Section 10-1-404 is enacted to read:
51	10-1-404. No affect on obligation of person or firm that improves land.
52	Nothing in this part may be construed to relieve the person that develops, improves, or
53	alters the condition of land owned by a municipality from an obligation that the person would have
54	in the absence of this part to exercise due care in developing, improving, or altering the condition
55	of the land.
56	Section 5. Section 63-30-8 is amended to read:
57	63-30-8. Waiver of immunity for injury caused by defective, unsafe, or dangerous
58	condition of highways, bridges, or other structures.

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Unless the injury arises out of one or more of the exceptions to waiver set forth in Section
10-1-402 or 63-30-10, immunity from suit of all governmental entities is waived for any injury
caused by a defective, unsafe, or dangerous condition of any highway, road, street, alley,
crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them.

Section 6. Section **63-30-9** is amended to read:

63-30-9. Waiver of immunity for injury from dangerous or defective public building, structure, or other public improvement -- Exception.

Unless the injury arises out of one or more of the exceptions to waiver set forth in Section 10-1-402 or 63-30-10, immunity from suit of all governmental entities is waived for any injury caused from a dangerous or defective condition of any public building, structure, dam, reservoir, or other public improvement.

Legislative Review Note as of 1-21-99 10:15 AM

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A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel