## Senator Howard A. Stephenson proposes to substitute the following bill:

1	GOVE	RNMENTAL IMMUNITY AM	IENDMENTS	
2		1999 GENERAL SESSION		
3		STATE OF UTAH		
4		Sponsor: Howard A. Stephens	on	
5	Lyle W. Hillyard	Howard C. Nielson	Terry R. Spencer	
6	John L. Valentine	Robert M. Muhlestein		
7	AN ACT RELATING TO STATE AFFAIRS IN GENERAL; ELIMINATING CERTAIN			
8	EXCEPTIONS TO THE GOVERNMENT'S WAIVERS OF IMMUNITY; CHANGING THE			
9	TIME PERIOD FOR FILING CLAIMS; MODIFYING THE DAMAGE CAPS; AND MAKING			
10	TECHNICAL CORRECTIONS.			
11	This act affects sections of Utah Code Annotated 1953 as follows:			
12	AMENDS:			
13	63-30-10, as last amended by Chapters 159 and 264, Laws of Utah 1996			
14	<b>63-30-12</b> , as last an	mended by Chapter 164, Laws of Utah	1998	
15	<b>63-30-34</b> , as last an	mended by Chapter 76, Laws of Utah 19	991	
16	Be it enacted by the Legislature of the state of Utah:			
17	Section 1. Section <b>63-30-10</b> is amended to read:			
18	63-30-10. Waive	r of immunity for injury caused by no	egligent act or omission of	
19	employee Exceptions.			
20	Immunity from suit	of all governmental entities is waived for	or injury proximately caused	
21	by a negligent or intentional wrongful act or omission of an employee committed within the scop			
22	of employment [except if] unless the [injury] claim arises out of, in connection with, or results			
23	from:			
24	(1) the exercise or	performance or the failure to exercise of	or perform a discretionary	
25	function, whether or not th	e discretion is abused;		

26	(2) assault, battery, false imprisonment, false arrest, malicious prosecution, intentional		
27	trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of		
28	mental anguish, or violation of civil rights;		
29	(3) the issuance, denial, suspension, or revocation of or by the failure or refusal to issue,		
30	deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization;		
31	(4) a failure to make an inspection or by making an inadequate or negligent inspection;		
32	(5) the institution or prosecution of any judicial or administrative proceeding, even if		
33	malicious or without probable cause;		
34	(6) a misrepresentation by an employee whether or not it is negligent or intentional;		
35	(7) riots, unlawful assemblies, public demonstrations, mob violence, and civil disturbances;		
36	(8) the collection of and assessment of taxes;		
37	(9) the activities of the Utah National Guard;		
38	(10) the incarceration of any person in any state prison, county or city jail, or other place		
39	of legal confinement;		
40	(11) any natural condition on publicly owned or controlled lands, any condition existing		
41	in connection with an abandoned mine or mining operation, or any activity authorized by the		
42	School and Institutional Trust Lands Administration or the Division of Forestry, Fire and State		
43	Lands;		
44	(12) research or implementation of cloud management or seeding for the clearing of fog;		
45	(13) the management of flood waters, earthquakes, or natural disasters;		
46	(14) the construction, repair, or operation of flood or storm systems;		
47	(15) the operation of an emergency vehicle, while being driven in accordance with the		
48	requirements of Section 41-6-14;		
49	(16) a latent dangerous or latent defective condition of any highway, road, street, alley,		
50	crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them;		
51	(17) a latent dangerous or latent defective condition of any public building, structure, dam,		
52	reservoir, or other public improvement;		
53	(18) the activities of:		
54	(a) providing emergency medical assistance;		
55	(b) fighting fire;		
56	(c) regulating, mitigating, or handling hazardous materials or hazardous wastes;		

(d) emergency evacuations; or

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58	(e) intervening during dam emergencies; or		
59	(19) the exercise or performance or the failure to exercise or perform any function pursuant		
50	to Title 73, Chapter 5a, Dam Safety, or Title 73, Chapter 10, Board of Water Resources - Division		
51	of Water Resources, which immunity is in addition to all other immunities granted by law.		
52	Section 2. Section <b>63-30-12</b> is amended to read:		
53	63-30-12. Claim against state or its employee Time for filing notice.		
54	A claim against the state, or against its employee for an act or omission occurring during		
55	the performance of the employee's duties, within the scope of employment, or under color of		
56	authority, is barred unless notice of claim is filed with the attorney general within [one year] two		
57	years after the claim arises, or before the expiration of any extension of time granted under Section		
58	63-30-11, regardless of whether or not the function giving rise to the claim is characterized as		
59	governmental.		
70	Section 3. Section <b>63-30-34</b> is amended to read:		
71	63-30-34. Limitation of judgments against governmental entity or employee		
72	Insurance coverage exception.		
73	(1) (a) [Except as provided in Subsection (2), if] If a judgment for general noneconomic		
74	damages for personal injury against a governmental entity, or an employee whom a governmental		
75	entity has a duty to indemnify, exceeds \$250,000 for one person in any one occurrence, or		
76	\$500,000 for two or more persons in any one occurrence, the court shall reduce the judgment for		
77	general noneconomic damages to that amount.		
78	(b) A court may not award judgment of more than \$250,000 in general noneconomic		
79	damages for injury or death to one person regardless of whether or not the function giving rise to		
30	the injury is characterized as governmental.		
31	(c) Except as provided in Subsection (2), if a judgment for property damage against a		
32	governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds		
33	\$100,000 in any one occurrence, the court shall reduce the judgment to that amount, regardless of		
34	whether or not the function giving rise to the damage is characterized as governmental.		
35	(2) The damage limits established in this section do not apply to:		
36	(a) damages awarded as compensation when a governmental entity has taken or damaged		
37	private property for public use without just compensation[-]; or		

(b) awards for economic losses in personal injury or wrongful death cases.