



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;

57 (d) emergency evacuations; or

58 (e) intervening during dam emergencies; or

59 (19) the exercise or performance or the failure to exercise or perform any function pursuant  
60 to Title 73, Chapter 5a, Dam Safety, or Title 73, Chapter 10, Board of Water Resources - Division  
61 of Water Resources, which immunity is in addition to all other immunities granted by law.

62 Section 2. Section **63-30-12** is amended to read:

63 **63-30-12. Claim against state or its employee -- Time for filing notice.**

64 A claim against the state, or against its employee for an act or omission occurring during  
65 the performance of the employee's duties, within the scope of employment, or under color of  
66 authority, is barred unless notice of claim is filed with the attorney general within [~~one-year~~] two  
67 years after the claim arises, or before the expiration of any extension of time granted under Section  
68 63-30-11, regardless of whether or not the function giving rise to the claim is characterized as  
69 governmental.

70 Section 3. Section **63-30-34** 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  
80 the injury is characterized as governmental.

81 (c) Except as provided in Subsection (2), if a judgment for property damage against a  
82 governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds  
83 \$100,000 in any one occurrence, the court shall reduce the judgment to that amount, regardless of  
84 whether or not the function giving rise to the damage is characterized as governmental.

85 (2) The damage limits established in this section do not apply to:

86 (a) damages awarded as compensation when a governmental entity has taken or damaged  
87 private property for public use without just compensation[-]; or

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

89 Section 4. **Effective date.**

This act takes effect on July 1, 2001.

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**Legislative Review Note**  
**as of 12-9-99 1:17 PM**

This legislation raises the following constitutional or statutory concerns: The Utah Supreme Court in *Condemarin v. University Hospital* (1989) held the cap in the Governmental Immunity Act unconstitutional. At that time the cap was at \$100,000 for the entire claim. This bill raises that cap significantly and also limits the cap to noneconomic damages. With these changes the statute may withstand a constitutional attack.

**Office of Legislative Research and General Counsel**