

**RESOLUTION APPROVING SETTLEMENT OF
LAWSUIT**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor gives approval to the Utah Department of Transportation to enter into a settlement agreement to install curb ramps to comply with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

Highlighted Provisions:

This resolution:

► approves the Utah Department of Transportation entering into a settlement agreement to install curb ramps to comply with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Utah Department of Transportation (UDOT) was sued by a Mr. Decker who uses a wheelchair and alleged he could not travel along Gentile Street in Layton without curb ramps;

WHEREAS, Mr. Decker claimed that UDOT should have installed Americans with Disabilities Act (ADA) compliant ramps when it resurfaced the street;

WHEREAS, Mr. Decker moved to certify the case as a class action, which the federal



28 district court granted;

29 WHEREAS, Mr. Decker brought his claim under both the ADA and Section 504 of the
30 federal Rehabilitation Act;

31 WHEREAS, the federal district court held that by accepting federal funds, UDOT must
32 comply with the regulations promulgated under Section 504 of the Rehabilitation Act regarding
33 ADA compliant curb ramps;

34 WHEREAS, by entering into a settlement, UDOT can schedule the installation of the
35 curb ramps over the next ten years;

36 WHEREAS, UDOT, under the proposed settlement agreement, is required to commit
37 \$1 million dollars per year for the next ten years, until the curb ramps are completed;

38 WHEREAS, a settlement of more than \$1 million requires the Governor's and the
39 Legislature's approval before a government entity may sign such an agreement;

40 WHEREAS, on January 24, 2005, the Legislative Management Committee met and
41 heard testimony from the executive director of the Utah Department of Transportation, John
42 Njord, and Assistant Attorney General Jerrold Jensen; and

43 WHEREAS, in that meeting, the Legislative Management Committee recommended
44 the settlement of this lawsuit as it had been proposed; and approved the drafting of this
45 concurrent resolution for the Legislature and Governor to affirm their approval of UDOT
46 entering into this settlement agreement:

47 NOW, THEREFORE, BE IT RESOLVED by the Legislature, the Governor concurring
48 therein, that the Utah Department of Transportation be approved to enter into a settlement
49 agreement as outlined and approved by the Legislative Management Committee in the January
50 24, 2005 meeting.

Legislative Review Note
as of 1-26-05 12:06 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SCR005

Resolution Approving Settlement of Lawsuit

31-Jan-05

10:26 AM

State Impact

Provisions of this resolution can be handled within existing budgets. Funds that are used for maintenance and construction of Utah Highways will be used to comply with requirements of the settlement.

Individual and Business Impact

No additional fiscal impact.

Office of the Legislative Fiscal Analyst