

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

3 2018 SECOND SPECIAL SESSION
4 STATE OF UTAH

5 **Chief Sponsor: Jani Iwamoto**

6 House Sponsor: V. Lowry Snow

7 Cosponsor:

8 Howard A. Stephenson

10 **LONG TITLE**

11 **General Description:**

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

14 **Highlighted Provisions:**

15 This bill:

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

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides a special effective date.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **63G-7-605**, as last amended by Laws of Utah 2018, Chapter 419

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

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

28 **63G-7-605. Adjustments to limitation of judgment amounts.**

29 (1) As used in this section:

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

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

35 (c) "Applicable index" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91 ~~[(b) The legislative fiscal analyst shall]~~ (d) round up to the nearest \$100 the individual
92 limit, aggregate limit, and property damage limit [~~adjusted~~] calculated under [~~Subsection~~
93 ~~(2)(a):]~~ Subsections (2)(a), (b), and (c); and

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

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

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

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

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

109 Section 2. **Effective date.**

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

113 the date of veto override.