

REDISTRICTING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Carol Spackman Moss

LONG TITLE

General Description:

This bill addresses provisions relating to the Utah Independent Redistricting Commission and redistricting.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies redistricting requirements and related provisions;
- ▶ modifies the Utah Independent Redistricting Commission;
- ▶ establishes the commission's membership and term;
- ▶ addresses commission function, action, meetings, and staffing;
- ▶ provides for acquisition and use of materials, software, and services, including legal services, by the commission;
- ▶ describes the duties of the commission;
- ▶ provides for presentation of commission maps to the Legislature's redistricting committee;
- ▶ requires the Government Operations Interim Committee to conduct a review of the commission; and
- ▶ repeals existing independent redistricting commission provisions.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Administrative Services – Finance - Mandated – Redistricting Commission, as a one-time appropriation:

30 • from Legislature – Office of Legislative Research and General Counsel,
31 One-time, \$1,000,000.

32 **Other Special Clauses:**

33 This bill provides a special effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **63G-7-201**, as last amended by Laws of Utah 2019, Chapters 229 and 248

37 **63G-7-301**, as last amended by Laws of Utah 2019, Chapters 229 and 248

38 ENACTS:

39 **20A-20-101**, Utah Code Annotated 1953

40 **20A-20-102**, Utah Code Annotated 1953

41 **20A-20-103**, Utah Code Annotated 1953

42 **20A-20-201**, Utah Code Annotated 1953

43 **20A-20-202**, Utah Code Annotated 1953

44 **20A-20-203**, Utah Code Annotated 1953

45 **20A-20-301**, Utah Code Annotated 1953

46 **20A-20-302**, Utah Code Annotated 1953

47 **20A-20-303**, Utah Code Annotated 1953

48 REPEALS:

49 **20A-19-101**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

50 **20A-19-102**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

51 **20A-19-103**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

52 **20A-19-104**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

53 **20A-19-201**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

54 **20A-19-202**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

55 **20A-19-203**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

56 **20A-19-204**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

57 **20A-19-301**, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

58

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

60 Section 1. Section 20A-20-101 is enacted to read:

61 **CHAPTER 20. UTAH INDEPENDENT REDISTRICTING COMMISSION**

62 **Part 1. General Provisions**

63 **20A-20-101. Title.**

64 This chapter is known as the "Utah Independent Redistricting Commission."

65 Section 2. Section 20A-20-102 is enacted to read:

66 **20A-20-102. Definitions.**

67 As used in this chapter:

68 (1) "Commission" means the Utah Independent Redistricting Commission created in
69 Section 20A-20-201.

70 (2) "Committee" means the Legislature's redistricting committee.

71 (3) "Decennial year" means a year during which the United States Bureau of Census
72 conducts a national decennial census.

73 (4) "Regular decennial redistricting" means redistricting required due to a national
74 decennial census.

75 (5) "Special redistricting" means redistricting that is not a regular decennial
76 redistricting.

77 Section 3. Section 20A-20-103 is enacted to read:

78 **20A-20-103. Review by interim committee.**

79 During the 2022 Legislative interim, the Government Operations Interim Committee
80 shall conduct a review of the commission and the commission's role in relation to the
81 redistricting process.

82 Section 4. Section 20A-20-201 is enacted to read:

83 **Part 2. Commission**

84 **20A-20-201. Utah Independent Redistricting Commission -- Creation --**
85 **Membership -- Term -- Quorum -- Action -- Meetings -- Staffing -- Website.**

86 (1) (a) There is created the Utah Independent Redistricting Commission.

87 (b) The commission is housed in the Department of Administrative Services for
88 budgetary purposes only.

89 (c) The commission is not under the direction or control of the Department of
90 Administrative Services or any executive director, director, or other employee of the
91 Department of Administrative Services or any other government entity.

92 (2) Except as provided in Subsection (4), the commission comprises seven members
93 appointed as follows:

94 (a) one member appointed by the governor, which member shall serve as chair of the
95 commission;

96 (b) one member appointed by the president of the Senate;

97 (c) one member appointed by the speaker of the House of Representatives;

98 (d) one member appointed by the legislative leader of the largest minority political
99 party in the Senate;

100 (e) one member appointed by the legislative leader of the largest minority political
101 party in the House of Representatives;

102 (f) one member appointed jointly by the president of the Senate and the speaker of the
103 House of Representatives; and

104 (g) one member appointed jointly by the legislative leader of the largest minority
105 political party in the Senate and the legislative leader of the largest minority political party in
106 the House of Representatives.

107 (3) An appointing authority described in Subsection (2):

108 (a) shall make the appointments no later than:

109 (i) February 1 of the year immediately following a decennial year; or

110 (ii) if there is a change in the number of congressional, legislative, or other districts
111 resulting from an event other than a national decennial enumeration made by the authority of
112 the United States, the day on which the Legislature appoints a committee to draw maps in
113 relation to the change;

114 (b) may remove a commission member appointed by the appointing authority, for
115 cause; and

116 (c) shall, if a vacancy occurs in the position appointed by the appointing authority
117 under Subsection (2), appoint another individual to fill the vacancy within 10 days after the day
118 on which the vacancy occurs.

119 (4) (a) If the appointing authority described in Subsection (2)(a) fails to timely make
120 the appointment, the legislative leader of the largest political party in the House of
121 Representatives and the Senate, of which the governor is not a member, shall jointly make the
122 appointment.

123 (b) If the appointing authority described in Subsection (2)(b) fails to timely make the
124 appointment, the appointing authority described in Subsection (2)(d) shall make the
125 appointment.

126 (c) If the appointing authority described in Subsection (2)(c) fails to timely make the
127 appointment, the appointing authority described in Subsection (2)(e) shall make the
128 appointment.

129 (d) If the appointing authority described in Subsection (2)(d) fails to timely make the
130 appointment, the appointing authority described in Subsection (2)(b) shall make the
131 appointment.

132 (e) If the appointing authority described in Subsection (2)(e) fails to timely make the
133 appointment, the appointing authority described in Subsection (2)(c) shall make the
134 appointment.

135 (f) If the appointing authority described in Subsection (2)(f) fails to timely make the
136 appointment, the appointing authority described in Subsection (2)(g) shall make the
137 appointment.

138 (g) If the appointing authority described in Subsection (2)(g) fails to timely make the
139 appointment, the appointing authority described in Subsection (2)(f) shall make the
140 appointment.

141 (5) A member of the commission may not, during the member's service on the

142 commission:

143 (a) be a lobbyist or principal, as those terms are defined in Section 36-11-102;

144 (b) be a candidate for or holder of any elective office, including federal elective office,
145 state elective office, or local government elective office;

146 (c) be a candidate for or holder of any office of a political party, except for delegates to
147 a political party's convention;

148 (d) be an employee of, or a paid consultant for, a political party, political party
149 committee, personal campaign committee, or any political action committee affiliated with a
150 political party or controlled by an elected official or candidate for elective office, including any
151 local government office;

152 (e) serve in public office if the member is appointed to public office by the governor or
153 the Legislature;

154 (f) be employed by the United States Congress or the Legislature; or

155 (g) hold any position that reports directly to an elected official, including a local
156 elected official, or to any person appointed by the governor or Legislature to any other public
157 office.

158 (6) In addition to the qualifications described in Subsection (5), a member of the
159 commission described in Subsection (2)(f) or (g):

160 (a) may not have, during the two-year period immediately preceding the member's
161 appointment to the commission:

162 (i) been affiliated with a political party under Section 20A-2-107;

163 (ii) voted in the regular primary election or municipal primary election of a political
164 party; or

165 (iii) been a delegate to a political party convention; and

166 (b) may not, in the sole determination of the appointing authority, be an individual who
167 is affiliated with a partisan organization or cause.

168 (7) Each commission member shall, upon appointment to the commission, sign and file
169 a statement with the governor certifying that the commission member:

- 170 (a) meets the qualifications for appointment to the commission;
171 (b) will, during the member's service on the commission, comply with the requirements
172 described in Subsection (5);
173 (c) will comply with the standards, procedures, and requirements described in this
174 chapter that are applicable to a commission member; and
175 (d) will faithfully discharge the duties of a commission member in an independent,
176 impartial, honest, and transparent manner.
177 (8) For a regular decennial redistricting, the commission is:
178 (a) formed and may begin conducting business on February 1 of the year immediately
179 following a decennial year; and
180 (b) dissolved upon approval of the Legislature's redistricting maps by the governor, or
181 the day following the constitutional time limit of Utah Constitution, Article VII, Section 8,
182 without the governor's signature, or in the case of a veto, the date of veto override.
183 (9) (a) A member of the commission may not receive compensation or benefits for the
184 member's service, but may receive per diem and travel expenses in accordance with:
185 (i) Section [63A-3-106](#);
186 (ii) Section [63A-3-107](#); and
187 (iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
188 [63A-3-107](#).
189 (b) A member of the commission may decline to receive per diem or travel expenses.
190 (10) The commission shall meet upon the request of a majority of the commission
191 members or when the chair calls a meeting.
192 (11) (a) A majority of the members of the commission constitutes a quorum.
193 (b) The commission takes official action by a majority vote of a quorum present at a
194 meeting of the commission.
195 (12) Within appropriations from the Legislature, the commission may, to fulfill the
196 duties of the commission:
197 (a) contract with or employ an attorney licensed in Utah, an executive director, and

198 other staff; and

199 (b) purchase equipment and other resources, in accordance with Title 63G, Chapter 6a,
200 Utah Procurement Code, to fulfill the duties of the commission.

201 (13) The commission shall maintain a website where the public may:

202 (a) access announcements and records of commission meetings and hearings;

203 (b) access maps presented to, or under consideration by, the commission;

204 (c) access evaluations described in Subsection [20A-20-302\(8\)](#);

205 (d) submit a map to the commission; and

206 (e) submit comments on a map presented to, or under consideration by, the
207 commission.

208 Section 5. Section **20A-20-202** is enacted to read:

209 **20A-20-202. Software and software services.**

210 The Office of Legislative Research and General Counsel shall, when procuring
211 software, licenses for using the software, and software support services for redistricting by the
212 Legislature, include in the requests for proposals and the resulting contracts that the
213 commission may purchase the same software, licenses for using the software, and software
214 support services, under the contracts at the same cost and under the same terms provided to the
215 Legislature.

216 Section 6. Section **20A-20-203** is enacted to read:

217 **20A-20-203. Exemptions from and applicability of certain legal requirements --**
218 **Risk management -- Code of ethics.**

219 (1) The commission is exempt from:

220 (a) except as provided in Subsection (3), Title 63A, Utah Administrative Services
221 Code;

222 (b) Title 63G, Chapter 4, Administrative Procedures Act; and

223 (c) Title 67, Chapter 19, Utah State Personnel Management Act.

224 (2) (a) The commission shall adopt budgetary procedures, accounting, and personnel
225 and human resource policies substantially similar to those from which the commission is

226 exempt under Subsection (1).

227 (b) The commission is subject to:

228 (i) Title 52, Chapter 4, Open and Public Meetings Act;

229 (ii) Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

230 (iii) Title 63G, Chapter 2, Government Records Access and Management Act;

231 (iv) Title 63G, Chapter 6a, Utah Procurement Code; and

232 (v) Title 63J, Chapter 1, Budgetary Procedures Act.

233 (3) Subject to the requirements of Subsection 63E-1-304(2), the commission may
234 participate in coverage under the Risk Management Fund created by Section 63A-4-201.

235 (4) (a) The commission may, by majority vote, adopt a code of ethics.

236 (b) The commission, and the commission's members and employees, shall comply with
237 a code of ethics adopted under Subsection (4)(a).

238 (c) The executive director of the commission shall report a commission member's
239 violation of a code of ethics adopted under Subsection (4)(a) to the appointing authority of the
240 commission member.

241 (d) (i) A violation of a code of ethics adopted under Subsection (4)(a) constitutes cause
242 to remove a member from the commission under Subsection 20A-20-201(3)(b).

243 (ii) An act or omission by a member of the commission need not constitute a violation
244 of a code of ethics adopted under Subsection (4)(a) to be grounds to remove a member of the
245 commission for cause.

246 Section 7. Section 20A-20-301 is enacted to read:

247 **Part 3. Proceedings**

248 **20A-20-301. Public hearings -- Private conversations.**

249 (1) (a) The commission shall, by majority vote, determine the number, locations, and
250 dates of public hearings to be held by the commission, but shall hold no fewer than seven
251 public hearings throughout the state to discuss maps, as follows:

252 (i) one in the Bear River region, which includes Box Elder, Cache, and Rich counties;

253 (ii) one in the Southwest region, which includes Beaver, Garfield, Iron, Kane, and

254 Washington counties;

255 (iii) one in the Mountain region, which includes Summit, Utah, and Wasatch counties;

256 (iv) one in the Central region, which includes Juab, Millard, Piute, Sanpete, Sevier, and

257 Wayne counties;

258 (v) one in the Southeast region, which includes Carbon, Emery, Grand, and San Juan

259 counties;

260 (vi) one in the Uintah Basin region, which includes Daggett, Duchesne, and Uintah

261 counties; and

262 (vii) one in the Wasatch Front region, which includes Davis, Morgan, Salt Lake,

263 Tooele, and Weber counties.

264 (b) The commission shall hold at least two public hearings in a first or second class
265 county but not in the same county.

266 (c) The committee and the commission may coordinate hearing times and locations to:

267 (i) avoid holding hearings at, or close to, the same time in the same area of the state;

268 and

269 (ii) to the extent practical, hold hearings in different cities within the state.

270 (2) Each public hearing must provide those in attendance a reasonable opportunity to
271 submit written and oral comments to the commission and to propose redistricting maps for the
272 commission's consideration.

273 (3) The commission shall hold the public hearings described in Subsection (1) no later
274 than August 1 of the year following a decennial year.

275 (4) (a) A member of the commission may not engage in any private communication
276 with any individual other than other members of the commission or commission staff,
277 including consultants retained by the commission, that is material to any redistricting map or
278 element of a map pending before the commission or intended to be proposed for commission
279 consideration, without making the communication, or a detailed and accurate description of the
280 communication including the names of all parties to the communication and the map or
281 element of the map, available to the commission and to the public.

282 (b) A member of the commission shall make the disclosure required by Subsection
283 (4)(a) before the redistricting map or element of a map is considered by the commission.

284 (5) The committee chairs and the chair of the commission shall, no later than two
285 business days after the day on which the Legislature appoints a committee, under Subsection
286 20A-20-201(3)(a)(ii), for a special redistricting, jointly agree on a schedule for the commission
287 that:

288 (a) reasonably ensures that the commission may complete the commission's duties in a
289 timely manner, consistent with the time frame applicable to the committee and the Legislature;

290 (b) establishes deadlines for the following:

291 (i) holding the public hearings described in Subsection (1);

292 (ii) preparing and recommending maps under Subsection 20A-20-302(2);

293 (iii) submitting the maps and written report described in Subsection 20A-20-303(1);

294 and

295 (iv) holding the public meeting described in Subsection 20A-20-303(2); and

296 (c) provides that the commission dissolves upon approval of the Legislature's
297 redistricting maps by the governor, or the day following the constitutional time limit of Utah
298 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
299 the date of veto override.

300 Section 8. Section **20A-20-302** is enacted to read:

301 **20A-20-302. Selection of recommended maps -- Map requirements and standards.**

302 (1) As used in this section:

303 (a) "Map type" means one of four map types, as follows:

304 (i) a map of all Utah congressional districts;

305 (ii) a map of all state Senate districts;

306 (iii) a map of all state House of Representatives districts; and

307 (iv) a map of all State School Board districts.

308 (b) "Total population deviation" means a percentage determined as follows:

309 (i) calculating the ideal district population by dividing the total population by the

310 number of districts;

311 (ii) calculating the percentage difference between the population of the district with the
312 greatest population and the ideal district population;

313 (iii) calculating the percentage difference between the population of the district with
314 the lowest population and the ideal district population; and

315 (iv) combining the percentage differences described in Subsections (1)(b)(ii) and (iii).

316 (2) The commission shall, no later than 20 days after the day of the final public hearing
317 described in Subsection 20A-20-301(1), prepare and recommend three different maps for each
318 map type, as follows:

319 (a) three different maps for congressional districts, with the number of congressional
320 districts apportioned to Utah;

321 (b) three different maps for state Senate districts, with 29 Senate districts;

322 (c) three different maps for state House of Representatives districts, with 75 House of
323 Representative districts; and

324 (d) three different maps for State School Board districts, with 15 State School Board
325 districts.

326 (3) (a) To the extent possible, each map recommended by the commission shall be
327 approved by at least five members of the commission.

328 (b) If the commission is unable to obtain the approval of at least five members for all
329 maps required under Subsection (2) for a particular map type, the commission shall, for that
330 map type:

331 (i) if possible, recommend one map that is approved by at least five members of the
332 commission; and

333 (ii) recommend two additional maps that are approved by a majority of commission
334 members, as follows:

335 (A) one of the maps shall be approved by a majority that includes the commission
336 member described in Subsection 20A-20-201(2)(f); and

337 (B) one of the maps shall be approved by a majority that includes the commission

338 member described in Subsection [20A-20-201\(2\)\(g\)](#).

339 (4) The commission shall ensure that:

340 (a) each map recommended by the commission:

341 (i) is drawn using the official population enumeration of the most recent decennial
342 census;

343 (ii) for congressional districts, has a total population deviation that does not exceed
344 1%;

345 (iii) for Senate, House of Representatives, and State School Board districts, has a total
346 population deviation of less than 10%;

347 (iv) does not use race as a predominant factor in drawing district lines; and

348 (v) complies with the United States Constitution and all applicable federal laws,
349 including Section 2 of the Voting Rights Act; and

350 (b) each district in each map is:

351 (i) drawn based on total population;

352 (ii) a single member district; and

353 (iii) contiguous and reasonably compact.

354 (5) The commission shall define and adopt redistricting standards for use by the
355 commission that require that maps adopted by the commission, to the extent practicable,
356 comply with the following, as defined by the commission:

357 (a) preserving communities of interest;

358 (b) following natural, geographic, or man-made features, boundaries, or barriers;

359 (c) preserving cores of prior districts;

360 (d) minimizing the division of municipalities and counties across multiple districts;

361 (e) achieving boundary agreement among different types of districts; and

362 (f) prohibiting the purposeful or undue favoring or disfavoring of:

363 (i) an incumbent elected official;

364 (ii) a candidate or prospective candidate for elected office; or

365 (iii) a political party.

366 (6) The commission may adopt a standard that prohibits the commission from using
367 any of the following, except for the purpose of conducting an assessment described in
368 Subsection (8):

369 (a) partisan political data;

370 (b) political party affiliation information;

371 (c) voting records;

372 (d) partisan election results; or

373 (e) residential addresses of incumbents, candidates, or prospective candidates.

374 (7) The commission may adopt redistricting standards for use by the commission that
375 require a smaller total population deviation than the total population deviation described in
376 Subsection (4)(a)(iii) if the committee or the Legislature adopts a smaller total population
377 deviation than 10% for Senate, House of Representatives, or State School Board districts.

378 (8) (a) Three members of the commission may, by affirmative vote, require that
379 commission staff evaluate any map drawn by, or presented to, the commission as a possible
380 map for recommendation by the commission to determine whether the map complies with the
381 redistricting standards adopted by the commission.

382 (b) In conducting an evaluation described in Subsection (8)(a), commission staff shall
383 use judicial standards and, as determined by the commission, the best available data and
384 scientific methods.

385 Section 9. Section **20A-20-303** is enacted to read:

386 **20A-20-303. Submission of maps to Legislature -- Consideration by Legislature.**

387 (1) The commission shall, within 10 days after the day on which the commission
388 complies with Subsection [20A-20-302](#)(2), submit to the director of the Office of Legislative
389 Research and General Counsel, for distribution to the committee, and make available to the
390 public, the redistricting maps recommended under Section [20A-20-302](#) and a detailed written
391 report describing each map's adherence to the commission's redistricting standards and
392 requirements.

393 (2) The commission shall submit the maps recommended under Section [20A-20-302](#) to

394 the committee in a public meeting of the committee as described in this section.

395 (3) The committee shall:

396 (a) hold the public meeting described in Subsection (2):

397 (i) for the sole purpose of considering each map recommended under Section

398 20A-20-302; and

399 (ii) for a year immediately following a decennial year, on or before September 15; and

400 (b) at the public meeting described in Subsection (2), provide reasonable time for:

401 (i) the commission to present and explain the maps described in Subsection (1);

402 (ii) the public to comment on the maps; and

403 (iii) the committee to discuss the maps.

404 (4) The Legislature may not enact a redistricting plan before complying with

405 Subsections (2) and (3).

406 (5) The committee or the Legislature may, but is not required to, vote on or adopt a

407 map submitted to the committee or the Legislature by the commission.

408 Section 10. Section **63G-7-201** is amended to read:

409 **63G-7-201. Immunity of governmental entities and employees from suit.**

410 (1) Except as otherwise provided in this chapter, each governmental entity and each
 411 employee of a governmental entity are immune from suit for any injury that results from the
 412 exercise of a governmental function.

413 (2) Notwithstanding the waiver of immunity provisions of Section **63G-7-301**, a
 414 governmental entity, its officers, and its employees are immune from suit for any injury or
 415 damage resulting from the implementation of or the failure to implement measures to:

416 (a) control the causes of epidemic and communicable diseases and other conditions
 417 significantly affecting the public health or necessary to protect the public health as set out in
 418 Title 26A, Chapter 1, Local Health Departments;

419 (b) investigate and control suspected bioterrorism and disease as set out in Title 26,
 420 Chapter 23b, Detection of Public Health Emergencies Act;

421 (c) respond to a national, state, or local emergency, a public health emergency as

422 defined in Section 26-23b-102, or a declaration by the President of the United States or other
423 federal official requesting public health related activities, including the use, provision,
424 operation, and management of:

425 (i) an emergency shelter;

426 (ii) housing;

427 (iii) a staging place; or

428 (iv) a medical facility; and

429 (d) adopt methods or measures, in accordance with Section 26-1-30, for health care
430 providers, public health entities, and health care insurers to coordinate among themselves to
431 verify the identity of the individuals they serve.

432 (3) A governmental entity, its officers, and its employees are immune from suit, and
433 immunity is not waived, for any injury if the injury arises out of or in connection with, or
434 results from:

435 (a) a latent dangerous or latent defective condition of:

436 (i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or
437 viaduct; or

438 (ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

439 (b) a latent dangerous or latent defective condition of any public building, structure,
440 dam, reservoir, or other public improvement.

441 (4) A governmental entity, its officers, and its employees are immune from suit, and
442 immunity is not waived, for any injury proximately caused by a negligent act or omission of an
443 employee committed within the scope of employment, if the injury arises out of or in
444 connection with, or results from:

445 (a) the exercise or performance, or the failure to exercise or perform, a discretionary
446 function, whether or not the discretion is abused;

447 (b) except as provided in Subsections 63G-7-301(2)(~~k~~)(j), (3), and (4), assault,
448 battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of
449 process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or

450 violation of civil rights;

451 (c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue,
452 deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar
453 authorization;

454 (d) a failure to make an inspection or making an inadequate or negligent inspection;

455 (e) the institution or prosecution of any judicial or administrative proceeding, even if
456 malicious or without probable cause;

457 (f) a misrepresentation by an employee whether or not the misrepresentation is
458 negligent or intentional;

459 (g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

460 (h) the collection or assessment of taxes;

461 (i) an activity of the Utah National Guard;

462 (j) the incarceration of a person in a state prison, county or city jail, or other place of
463 legal confinement;

464 (k) a natural condition on publicly owned or controlled land;

465 (l) a condition existing in connection with an abandoned mine or mining operation;

466 (m) an activity authorized by the School and Institutional Trust Lands Administration
467 or the Division of Forestry, Fire, and State Lands;

468 (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch,
469 canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river,
470 if:

471 (i) the trail is designated under a general plan adopted by a municipality under Section
472 10-9a-401 or by a county under Section 17-27a-401;

473 (ii) the trail right-of-way or the right-of-way where the trail is located is open to public
474 use as evidenced by a written agreement between:

475 (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail
476 is located; and

477 (B) the municipality or county where the trail is located; and

- 478 (iii) the written agreement:
- 479 (A) contains a plan for operation and maintenance of the trail; and
- 480 (B) provides that an owner or operator of the trail right-of-way or of the right-of-way
- 481 where the trail is located has, at a minimum, the same level of immunity from suit as the
- 482 governmental entity in connection with or resulting from the use of the trail;
- 483 (o) research or implementation of cloud management or seeding for the clearing of fog;
- 484 (p) the management of flood waters, earthquakes, or natural disasters;
- 485 (q) the construction, repair, or operation of flood or storm systems;
- 486 (r) the operation of an emergency vehicle, while being driven in accordance with the
- 487 requirements of Section [41-6a-212](#);
- 488 (s) the activity of:
- 489 (i) providing emergency medical assistance;
- 490 (ii) fighting fire;
- 491 (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
- 492 (iv) an emergency evacuation;
- 493 (v) transporting or removing an injured person to a place where emergency medical
- 494 assistance can be rendered or where the person can be transported by a licensed ambulance
- 495 service; or
- 496 (vi) intervening during a dam emergency;
- 497 (t) the exercise or performance, or the failure to exercise or perform, any function
- 498 pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;
- 499 (u) an unauthorized access to government records, data, or electronic information
- 500 systems by any person or entity; or
- 501 (v) an activity of wildlife, as defined in Section [23-13-2](#), that arises during the use of a
- 502 public or private road.

503 Section 11. Section **63G-7-301** is amended to read:

504 **63G-7-301. Waivers of immunity.**

- 505 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual

506 obligation.

507 (b) Actions arising out of contractual rights or obligations are not subject to the
508 requirements of [Sections] Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

509 (c) The Division of Water Resources is not liable for failure to deliver water from a
510 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development
511 Act, if the failure to deliver the contractual amount of water is due to drought, other natural
512 condition, or safety condition that causes a deficiency in the amount of available water.

513 (2) Immunity from suit of each governmental entity is waived:

514 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
515 personal property;

516 (b) as to any action brought to foreclose mortgages or other liens on real or personal
517 property, to determine any adverse claim on real or personal property, or to obtain an
518 adjudication about any mortgage or other lien that the governmental entity may have or claim
519 on real or personal property;

520 (c) as to any action based on the negligent destruction, damage, or loss of goods,
521 merchandise, or other property while it is in the possession of any governmental entity or
522 employee, if the property was seized for the purpose of forfeiture under any provision of state
523 law;

524 (d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of
525 Utah Constitution, Article I, Section 22, for the recovery of compensation from the
526 governmental entity when the governmental entity has taken or damaged private property for
527 public uses without just compensation;

528 (e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney
529 fees under Sections 63G-2-405 and 63G-2-802;

530 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
531 Act;

532 (g) as to any action brought to obtain relief from a land use regulation that imposes a
533 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious

534 Land Use Act;

535 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

536 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
537 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

538 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,
539 or other public improvement;

540 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury
541 proximately caused by a negligent act or omission of an employee committed within the scope
542 of employment; and

543 ~~[(j) as to any action or suit brought under Section 20A-19-301 and as to any
544 compensation or expenses awarded under Section 20A-19-301(5); and]~~

545 ~~[(k)]~~ (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting
546 from a sexual battery, as provided in Section 76-9-702.1, committed:

547 (i) against a student of a public elementary or secondary school, including a charter
548 school; and

549 (ii) by an employee of a public elementary or secondary school or charter school who:

550 (A) at the time of the sexual battery, held a position of special trust, as defined in
551 Section 76-5-404.1, with respect to the student;

552 (B) is criminally charged in connection with the sexual battery; and

553 (C) the public elementary or secondary school or charter school knew or in the exercise
554 of reasonable care should have known, at the time of the employee's hiring, to be a sex
555 offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex
556 and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a
557 background check under Section 53G-11-402.

558 (3) (a) As used in this Subsection (3):

559 (i) "Appropriate behavior policy" means a policy that:

560 (A) is not less stringent than a model policy, created by the State Board of Education,
561 establishing a professional standard of care for preventing the conduct described in Subsection

562 (3)(a)(i)(D);
563 (B) is adopted by the applicable local education governing body;
564 (C) regulates behavior of a school employee toward a student; and
565 (D) includes a prohibition against any sexual conduct between an employee and a
566 student and against the employee and student sharing any sexually explicit or lewd
567 communication, image, or photograph.

568 (ii) "Local education agency" means:
569 (A) a school district;
570 (B) a charter school; or
571 (C) the Utah Schools for the Deaf and the Blind.

572 (iii) "Local education governing board" means:
573 (A) for a school district, the local school board;
574 (B) for a charter school, the charter school governing board; or
575 (C) for the Utah Schools for the Deaf and the Blind, the state board.

576 (iv) "Public school" means a public elementary or secondary school.
577 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
578 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
579 the term "child" in that section to include an individual under age 18.

580 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
581 claim against a local education agency for an injury resulting from a sexual battery or sexual
582 abuse committed against a student of a public school by a paid employee of the public school
583 who is criminally charged in connection with the sexual battery or sexual abuse, unless:
584 (i) at the time of the sexual battery or sexual abuse, the public school was subject to an
585 appropriate behavior policy; and
586 (ii) before the sexual battery or sexual abuse occurred, the public school had:
587 (A) provided training on the policy to the employee; and
588 (B) required the employee to sign a statement acknowledging that the employee has
589 read and understands the policy.

590 (4) (a) As used in this Subsection (4):

591 (i) "Higher education institution" means an institution included within the state system
592 of higher education under Section 53B-1-102.

593 (ii) "Policy governing behavior" means a policy adopted by a higher education
594 institution or the State Board of Regents that:

595 (A) establishes a professional standard of care for preventing the conduct described in
596 Subsections (4)(a)(ii)(C) and (D);

597 (B) regulates behavior of a special trust employee toward a subordinate student;

598 (C) includes a prohibition against any sexual conduct between a special trust employee
599 and a subordinate student; and

600 (D) includes a prohibition against a special trust employee and subordinate student
601 sharing any sexually explicit or lewd communication, image, or photograph.

602 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.

603 (iv) "Special trust employee" means an employee of a higher education institution who
604 is in a position of special trust, as defined in Section 76-5-404.1, with a higher education
605 student.

606 (v) "Subordinate student" means a student:

607 (A) of a higher education institution; and

608 (B) whose educational opportunities could be adversely impacted by a special trust
609 employee.

610 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
611 claim for an injury resulting from a sexual battery committed against a subordinate student by a
612 special trust employee, unless:

613 (i) the institution proves that the special trust employee's behavior that otherwise would
614 constitute a sexual battery was:

615 (A) with a subordinate student who was at least 18 years old at the time of the
616 behavior; and

617 (B) with the student's consent; or

618 (ii) (A) at the time of the sexual battery, the higher education institution was subject to
619 a policy governing behavior; and

620 (B) before the sexual battery occurred, the higher education institution had taken steps
621 to implement and enforce the policy governing behavior.

622 Section 12. **Repealer.**

623 This bill repeals:

624 Section **20A-19-101, Title.**

625 Section **20A-19-102, Permitted Times and Circumstances for Redistricting.**

626 Section **20A-19-103, Redistricting Standards and Requirements.**

627 Section **20A-19-104, Severability.**

628 Section **20A-19-201, Utah Independent Redistricting Commission -- Selection of**
629 **Commissioners -- Qualifications -- Term -- Vacancy -- Compensation -- Commission**
630 **Resources.**

631 Section **20A-19-202, Commission Code of Conduct -- Quorum -- Action by the**
632 **Commission -- Assessment of Proposed Redistricting Plans -- Open and Public Meetings**
633 **-- Public Hearings -- Ex Parte Communications.**

634 Section **20A-19-203, Selection of Recommended Redistricting Plan.**

635 Section **20A-19-204, Submission of Commission's Recommended Redistricting**
636 **Plans to the Legislature -- Consideration of Redistricting Plans by the Legislature --**
637 **Report Required if Legislature Enacts Other Plan.**

638 Section **20A-19-301, Right of Action and Injunctive Relief.**

639 Section 13. **Appropriation.**

640 The following sums of money are appropriated for the fiscal year beginning July 1,
641 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for
642 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
643 Act, the Legislature appropriates the following sums of money from the funds or accounts
644 indicated for the use and support of the government of the state of Utah.

645 ITEM 1

646 To Department of Administrative Services -- Finance-Mandated
 647 From Legislature -- Office of Legislative Research and
 648 General Counsel, One-time \$1,000,000
 649 Schedule of Programs:
 650 Redistricting Commission \$1,000,000

651 The Legislature intends that:

652 (1) appropriations provided under this section be used for the Utah Independent
 653 Redistricting Commission, for the purposes of, and in accordance with, Title 20A, Chapter 20,
 654 Utah Independent Redistricting Commission; and

655 (2) under Section 63J-1-603, appropriations provided under this item not lapse at the
 656 close of fiscal year 2021 and the use of any nonlapsing funds is limited to the purposes
 657 described in Subsection (1) of this provision of legislative intent.

658 Section 14. **Effective date.**

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