

SB0129S02 compared with SB0129

~~text~~ shows text that was in SB0129 but was deleted in SB0129S02.

text shows text that was not in SB0129 but was inserted into SB0129S02.

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Senator Kirk A. Cullimore proposes the following substitute bill:

JUDICIARY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the judiciary.

Highlighted Provisions:

This bill:

- ▶ provides a repeal date for Title 78A, Chapter 10, Judicial Selection Act;
- ~~→~~ → ~~modifies the geographical divisions of the district and juvenile courts;~~
- ~~→~~ → ~~clarifies the effect of modifying the geographical divisions of the district and juvenile courts;~~
- ~~→~~ → ~~modifies the number of judges for the district and juvenile courts in each geographical division;~~
- ‡ ▶ defines terms related to judicial nominating commissions;
- ▶ addresses the selection, appointment, and confirmation of judges to the appellate,

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district, and juvenile courts of this state;

- ▶ addresses partisan political consideration in regard to the selection, appointment, and confirmation of judges;
- ▶ clarifies the transition process in regard to the creation of new judicial nominating commissions;
- ▶ allows the State Criminal and Juvenile Justice Commission to make rules for judicial nominating commissions;
- ▶ clarifies the process and timeline for the selection, appointment, and confirmation of judges to the appellate, district, and juvenile courts of this state;
- ▶ addresses the procedures, meetings, and certification process for judicial nominating commissions;
- ▶ addresses the process for the appointment of a judge by the governor;
- ▶ amends provisions regarding the Senate confirmation process;
- ▶ creates the Appellate Court Nominating Commission;
- ▶ provides the purpose and membership of the Appellate Court Nominating Commission;
- ▶ addresses the appointment, vacancy, or removal of commissioners on the Appellate Court Nominating Commission;
- ▶ addresses procedures and expenses for the Appellate Court Nominating Commission;
- ▶ creates a district and juvenile court nominating commission for each geographical division of the district and juvenile courts;
- ▶ provides the purpose and membership of a district and juvenile court nominating commission;
- ▶ addresses the appointment, vacancy, or removal of commissioners on a district and juvenile court nominating commission;
- ▶ addresses procedures and expenses for a district and juvenile court nominating commission; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

~~{ None }~~ This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

- ~~{ 20A-12-201, as last amended by Laws of Utah 2022, Chapter 202~~
- ~~30-3-38, as last amended by Laws of Utah 2022, Chapter 335~~
- ~~31A-5-414, as enacted by Laws of Utah 1985, Chapter 242~~
- ~~31A-5-415, as last amended by Laws of Utah 2000, Chapter 300~~
- ~~31A-16-111, as last amended by Laws of Utah 2000, Chapter 114~~
- ‡ 53B-1-501, as enacted by Laws of Utah 2020, Chapter 365 and last amended by
Coordination Clause, Laws of Utah 2020, Chapter 365
- ~~{ 57-11-15, as last amended by Laws of Utah 1987, Chapter 161~~
- ~~59-1-602, as last amended by Laws of Utah 2008, Chapter 382~~
- ~~59-1-707, as renumbered and amended by Laws of Utah 1987, Chapter 3~~
- ‡ 63I-2-278, as last amended by Laws of Utah 2022, Chapter 470
- 67-1-1.5, as last amended by Laws of Utah 2021, Chapter 394
- 67-1-2, as last amended by Laws of Utah 2020, Chapters 352, 373 and last amended by
Coordination Clause, Laws of Utah 2020, Chapters 352, 365 and 373
- ~~{ 78A-1-103, as last amended by Laws of Utah 2022, Chapter 271~~
- ~~78A-1-104, as last amended by Laws of Utah 2022, Chapter 271~~
- ~~78A-2-802, as last amended by Laws of Utah 2022, Chapter 334~~
- ‡ 78A-10-102, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-10-104, as last amended by Laws of Utah 2010, Chapter 134 and last amended by
Coordination Clause, Laws of Utah 2010, Chapter 134

ENACTS:

- 78A-10a-101, Utah Code Annotated 1953
- 78A-10a-102, Utah Code Annotated 1953
- 78A-10a-103, Utah Code Annotated 1953
- 78A-10a-201, Utah Code Annotated 1953
- 78A-10a-202, Utah Code Annotated 1953
- 78A-10a-203, Utah Code Annotated 1953

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78A-10a-204, Utah Code Annotated 1953

78A-10a-301, Utah Code Annotated 1953

78A-10a-302, Utah Code Annotated 1953

78A-10a-303, Utah Code Annotated 1953

78A-10a-304, Utah Code Annotated 1953

78A-10a-305, Utah Code Annotated 1953

78A-10a-401, Utah Code Annotated 1953

78A-10a-402, Utah Code Annotated 1953

78A-10a-403, Utah Code Annotated 1953

78A-10a-404, Utah Code Annotated 1953

78A-10a-405, Utah Code Annotated 1953

~~{REPEALS AND REENACTS:~~

~~———— 78A-1-102, as renumbered and amended by Laws of Utah 2008, Chapter 3~~

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

Section 1. Section ~~{20A-12-2}~~53B-1-501 is amended to read:

~~{ ——— 20A-12-201. Judicial appointees -- Retention elections:~~

~~———— (1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.~~

~~———— (b) After the first retention election:~~

~~———— (i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and~~

~~———— (ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.~~

~~———— (2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:~~

~~———— (i) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and~~

~~———— (ii) pay a filing fee of \$50.~~

~~———— (b) (i) Each justice court judge who wishes to retain office shall, in the year the justice~~

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court judge is subject to a retention election:

~~—— (A) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and~~

~~—— (B) pay a filing fee of \$25 for each judicial office.~~

~~—— (ii) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election.~~

~~—— (iii) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.~~

~~—— (3) (a) The lieutenant governor shall, no later than August 31 of each regular general election year:~~

~~—— (i) transmit a certified list containing the names of the justices of the Supreme Court and judges of the Court of Appeals declaring their candidacy to the county clerk of each county; and~~

~~—— (ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.~~

~~—— (b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.~~

~~—— (4) (a) At the general election, the ballots shall contain:~~

~~—— (i) at the beginning of the judicial retention section of the ballot, the following statement:~~

~~—— "Visit judges.utah.gov to learn about the Judicial Performance Evaluation Commission's recommendations for each judge"; and~~

~~—— (ii) as to each justice or judge of any court to be voted on in the county, the following question:~~

~~—— "Shall _____ (name of justice or judge) be retained in the office of _____? (name of office, such as "Justice of the Supreme Court of Utah", "Judge of the Court of Appeals of Utah", "Judge of the District Court of the Third Judicial District", "Judge of the Juvenile Court of the [Fourth Juvenile Court] First~~

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~~Judicial District"; "Justice Court Judge of (name of county) County or (name of municipality)"~~

~~—— Yes ()~~

~~—— No ()."~~

~~—— (b) If a justice court exists by means of an interlocal agreement under Section 78A-7-102, the ballot question for the judge shall include the name of that court.~~

~~—— (5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.~~

~~—— (b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.~~

~~—— (6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.~~

~~—— (7) (a) If a justice court judge is standing for retention for one or more judicial offices in a county in which the judge is a county justice court judge or a municipal justice court judge in a town or municipality of the fourth or fifth class, as described in Section 10-2-301, or any combination thereof, the election officer shall place the judge's name on the county ballot only once for all judicial offices for which the judge seeks to be retained.~~

~~—— (b) If a justice court judge is standing for retention for one or more judicial offices in a municipality of the first, second, or third class, as described in Section 10-2-301, the election officer shall place the judge's name only on the municipal ballot for the voters of the municipality that the judge serves.~~

~~—— Section 2. Section ~~30-3-38~~ is amended to read:~~

~~—— **30-3-38. Expedited Parent-time Enforcement Program.**~~

~~—— (1) There is established an Expedited Parent-time Enforcement Program in the [third judicial district] First Judicial District to be administered by the Administrative Office of the Courts.~~

~~—— (2) As used in this section:~~

~~—— (a) "Mediator" means a person who:~~

~~—— (i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and~~

~~—— (ii) agrees to follow billing guidelines established by the Administrative Office of the~~

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~~Courts and this section:~~

~~—— (b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:~~

- ~~—— (i) counseling;~~
- ~~—— (ii) supervised parent-time;~~
- ~~—— (iii) neutral drop-off and pick-up;~~
- ~~—— (iv) educational classes; and~~
- ~~—— (v) other related activities.~~

~~—— (3) (a) If a parent files a motion in the third district court alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent residing outside of the state is not unavailable. The director of the program for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.~~

~~—— (b) Upon receipt of a case, the mediator shall:~~

- ~~—— (i) meet with the parents to address parent-time issues within 15 days of the motion being filed;~~
- ~~—— (ii) assess the situation;~~
- ~~—— (iii) facilitate an agreement on parent-time between the parents; and~~
- ~~—— (iv) determine whether a referral to a service provider under Subsection (3)(c) is warranted.~~

~~—— (c) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Health and Human Services for services to facilitate parent-time if:~~

- ~~—— (i) the services may be of significant benefit to the parents; or~~
- ~~—— (ii) (A) a mediated agreement between the parents is unlikely; and~~
- ~~—— (B) the services may facilitate an agreement.~~

~~—— (d) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the program for referral to the judge or court commissioner to whom the case was assigned under Subsection (3)(a) if:~~

- ~~—— (i) a written agreement between the parents is reached; or~~

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- ~~—— (ii) the parents are unable to reach an agreement through mediation and:~~
- ~~—— (A) the parents have received services to facilitate parent-time;~~
- ~~—— (B) both parents object to receiving services to facilitate parent-time; or~~
- ~~—— (C) the parents are unlikely to benefit from receiving services to facilitate parent-time.~~
- ~~—— (c) Upon receiving a case from the administrator of the program, a judge or court commissioner may:~~
 - ~~—— (i) review the agreement of the parents and, if acceptable, sign it as an order;~~
 - ~~—— (ii) order the parents to receive services to facilitate parent-time;~~
 - ~~—— (iii) proceed with the case; or~~
 - ~~—— (iv) take other appropriate action.~~
- ~~—— (4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:~~
 - ~~—— (i) the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and~~
 - ~~—— (ii) the Division of Child and Family Services within the Department of Health and Human Services in the manner required by Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports.~~
- ~~—— (b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:~~
 - ~~—— (i) the allegation has been resolved; or~~
 - ~~—— (ii) a court orders otherwise.~~
- ~~—— (c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.~~
- ~~—— (5) (a) The Department of Health and Human Services may contract with one or more entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:~~
 - ~~—— (i) services to facilitate parent-time;~~
 - ~~—— (ii) case management services; and~~

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~~—— (iii) administrative services.~~

~~—— (b) An entity who contracts with the Department of Health and Human Services under Subsection (5)(a) shall:~~

~~—— (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and~~

~~—— (ii) agree to follow billing guidelines established by the Department of Health and Human Services and this section.~~

~~—— (6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:~~

~~—— (i) reduced to a sum certain;~~

~~—— (ii) divided equally between the parents; and~~

~~—— (iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.~~

~~—— (b) A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:~~

~~—— (i) failed to participate in good faith in mediation or services to facilitate parent-time;~~

~~or~~

~~—— (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.~~

~~—— (c) (i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.~~

~~—— (ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.~~

~~—— (7) (a) The Judicial Council may make rules to implement and administer the provisions of this program related to mediation.~~

~~—— (b) The Department of Health and Human Services may make rules to implement and administer the provisions of this program related to services to facilitate parent-time.~~

~~—— (8) (a) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.~~

~~—— (b) The Department of Health and Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.~~

~~—— (c) The Administrative Office of the Courts and the Department of Human Services~~

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~~may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections (7)(a) and (b):~~

~~—— (9) The Department of Health and Human Services shall, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal funds as available:~~

~~—— Section 3. Section **31A-5-414** is amended to read:~~

~~—— **31A-5-414. Transactions in which directors and others are interested.**~~

~~—— (1) Any material transaction between an insurance corporation and one or more of its directors or officers, or between an insurance corporation and any other person in which one or more of its directors or officers or any person controlling the corporation has a material interest, is voidable by the corporation unless all the following exist:~~

~~—— (a) At the time the transaction is entered into it is fair to the interests of the corporation.~~

~~—— (b) The transaction has, with full knowledge of its terms and of the interests involved, been approved in advance by the board or by the shareholders.~~

~~—— (c) The transaction has been reported to the commissioner immediately after approval by the board or the shareholders.~~

~~—— (2) A director, whose interest or status makes the transaction subject to this section, may be counted in determining a quorum for a board meeting approving a transaction under Subsection (1)(b), but may not vote. Approval requires the affirmative vote of a majority of those present:~~

~~—— (3) The commissioner may by rule exempt certain types of transactions from the reporting requirement of Subsection (1)(c). The commissioner has standing to bring an action on behalf of an insurer to have a contract in violation of Subsection (1) declared void. Such an action shall be brought in [the Third Judicial District Court for Salt Lake County] a district court in Salt Lake County.~~

~~—— Section 4. Section **31A-5-415** is amended to read:~~

~~—— **31A-5-415. Officers', directors', and employees' liability and indemnification.**~~

~~—— (1) Section 16-10a-841 applies to the liabilities of directors of a stock corporation. Subsection 16-6a-825(3) applies to loans to trustees and officers of a mutual. A director who votes for or assents to a violation of Subsection 16-6a-825(3) or Section 16-10a-842 is jointly and severally liable to the corporation for any loss on the distribution.~~

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~~—— (2) Title 16, Chapter 10a, Part 9, Indemnification, applies to stock and mutual corporations, but no indemnification may be paid until 30 or more days after sending a notice to the commissioner of the full details of the proposed indemnification. The commissioner may bring an action in [Third Judicial District Court for Salt Lake County] a district court in Salt Lake County to have such indemnification enjoined. The court may enjoin the indemnification to the extent it would render the insurer in a hazardous condition, or exacerbate an existing financially hazardous condition.~~

~~—— Section 5. Section 31A-16-111 is amended to read:~~

~~—— **31A-16-111. Required sale of improperly acquired stock -- Penalties.**~~

~~—— (1) If the commissioner finds that the acquiring person has not substantially complied with the requirements of this chapter in acquiring control of a domestic insurer, the commissioner may require the acquiring person to sell the acquiring person's stock of the domestic insurer in the manner specified in Subsection (2):~~

~~—— (2) (a) The commissioner shall effect the sale required by Subsection (1) in the manner which, under the particular circumstances, appears most likely to result in the payment of the full market value for the stock by persons who have the collective competence, experience, financial resources, and integrity to obtain approval under Subsection 31A-16-103(8).~~

~~—— (b) Sales made under this section are subject to approval by [the Third Judicial District Court for Salt Lake County] a district court in Salt Lake County, which court has the authority to effect the terms of the sale.~~

~~—— (3) The proceeds from sales made under this section shall be distributed first to the person required by this section to sell the stock, but only up to the amount originally paid by the person for the securities. Additional sale proceeds shall be paid to the General Fund.~~

~~—— (4) The person required to sell and persons related to or affiliated with the seller may not purchase the stock at the sale conducted under this section.~~

~~—— (5) (a) A director or officer of an insurance holding company system violates this chapter if the director or officer knowingly:~~

~~—— (i) participates in or assents to a transaction or investment that:~~

~~—— (A) has not been properly reported or submitted pursuant to:~~

~~—— (I) Subsections 31A-16-105(1) and (2); or~~

~~—— (II) Subsection 31A-16-106(1)(b); or~~

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- ~~—— (B) otherwise violates this chapter; or~~
- ~~—— (ii) permits any of the officers or agents of the insurer to engage in a transaction or investment described in Subsection (5)(a)(i).~~
- ~~—— (b) A director or officer in violation of Subsection (5)(a) shall pay, in the director's or officer's individual capacity, a civil penalty of not more than \$20,000 per violation:~~
 - ~~—— (i) upon a finding by the commissioner of a violation; and~~
 - ~~—— (ii) after notice and hearing before the commissioner.~~
- ~~—— (c) In determining the amount of the civil penalty under Subsection (5)(b), the commissioner shall take into account:~~
 - ~~—— (i) the appropriateness of the penalty with respect to the gravity of the violation;~~
 - ~~—— (ii) the history of previous violations; and~~
 - ~~—— (iii) any other matters that justice requires.~~
- ~~—— (6) (a) When it appears to the commissioner that any insurer or any director, officer, employee, or agent of the insurer, has committed a willful violation of this chapter, the commissioner may cause criminal proceedings to be instituted:~~
 - ~~—— (i) (A) in the district court for the county in this state in which the principal office of the insurer is located; or~~
 - ~~—— (B) if the insurer has no principal office in this state, in [the Third District Court for Salt Lake County] a district court in Salt Lake County; and~~
 - ~~—— (ii) against the insurer or the responsible director, officer, employee, or agent of the insurer:~~
 - ~~—— (b) (i) An insurer that willfully violates this chapter may be fined not more than \$20,000.~~
 - ~~—— (ii) Any individual who willfully violates this chapter is guilty of a third degree felony; and upon conviction may be:~~
 - ~~—— (A) fined in that person's individual capacity not more than \$5,000;~~
 - ~~—— (B) imprisoned; or~~
 - ~~—— (C) both fined and imprisoned.~~
- ~~—— (7) This section does not limit the other sanctions applicable to violations of this title under Section 31A-2-308.~~
- ~~—— Section 6. Section **53B-1-501** is amended to read:~~

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‡ 53B-1-501. Establishment of initial board membership.

(1) (a) The governor shall appoint, with the advice and consent of the Senate, individuals to the board, to ensure that beginning July 1, 2020, the board consists of 18 members, including:

(i) at least six individuals who were members of the State Board of Regents on May 12, 2020;

(ii) at least six individuals who were members of the Utah System of Technical Colleges Board of Trustees on May 12, 2020; and

(iii) two student members appointed to the board in accordance with Section 53B-1-404.

(b) Before making an appointment described in Subsection (1)(a), the governor shall consult:

(i) for an appointment described in Subsection (1)(a)(i), with State Board of Regents leadership; and

(ii) for an appointment described in Subsection (1)(a)(ii), with Utah System of Technical Colleges Board of Trustees leadership.

(2) (a) Except for an appointment described in Subsection (1)(a)(iii), the governor shall appoint an individual to a two-year, four-year, or six-year term to ensure that one-third of the members complete the members' terms on June 30 of each even number year.

(b) The governor may appoint an individual described in Subsection (1)(a) to a second term without the individual being considered by the nominating committee described in Section 53B-1-406 if, at the time of the individual's initial appointment to the board, the individual:

(i) is serving the individual's first full term on the State Board of Regents or the Utah System of Technical Colleges Board of Trustees; or

(ii) is not a member of the State Board of Regents or the Utah System of Technical Colleges Board of Trustees.

(c) An appointment described in Subsection (2)(b) is for a six-year term.

(3) Following the appointments described in this section, a vacancy on the board shall be filled in accordance with Section 53B-1-404.

(4) Notwithstanding Section 67-1-2, for an appointment described in this section:

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(a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection [67-1-2(1)] 67-1-2(2); and

(b) the Senate is not required to hold a confirmation hearing.

Section ~~{7}2~~. Section ~~{57-11-15}~~631-2-278 is amended to read:

~~{~~ ~~57-11-15. Judicial review.~~

~~—— (1) Any person aggrieved by any order of the division may obtain judicial review.~~

~~—— (2) (a) Venue for judicial review of informal adjudicative proceedings is in the district court where the aggrieved person maintains [his] the person's principal place of business, if situated within this state, or otherwise in the [Third] First Judicial District.~~

~~—— (b) Judicial review of informal adjudicative proceedings shall be conducted by the court without a jury.~~

~~—— Section 8. Section 59-1-602 is amended to read:~~

~~—— 59-1-602. Right to appeal -- Venue -- County as party in interest.~~

~~—— (1) (a) Any aggrieved party appearing before the commission or county whose tax revenues are affected by the decision may at that party's option petition for judicial review in the district court pursuant to this section, or in the Supreme Court or the Court of Appeals pursuant to Section 59-1-610.~~

~~—— (b) Judicial review of formal or informal adjudicative proceedings in the district is in the district court located in the county of residence or principal place of business of the affected taxpayer or, in the case of a taxpayer whose taxes are assessed on a statewide basis, to [the Third Judicial District Court in and for Salt Lake County] a district court in Salt Lake County.~~

~~—— (c) Notwithstanding Section 63G-4-402, a petition for review made to the district court under this section shall conform to the Utah Rules of Appellate Procedure.~~

~~—— (2) A county whose tax revenues are affected by the decision being reviewed shall be allowed to be a party in interest in the proceeding before the court.~~

~~—— Section 9. Section 59-1-707 is amended to read:~~

~~—— 59-1-707. Writ of mandate requiring taxpayer to file return.~~

~~—— (1) (a) If a taxpayer fails to file any return required pursuant to Title 59, Revenue and Taxation, within 60 days of the time prescribed, the commission may petition for a writ of mandate to compel the taxpayer to file the return. The petition may be filed, in the discretion~~

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~~of the commission, [in the Tax Division of the Third Judicial District or in the district court for] in a district court in the First Judicial District or in the county in which the taxpayer resides or has [his] the taxpayer's principal place of business. In the case of a nonresident taxpayer, the petition shall be filed in [the Third District Court] a district court in the First Judicial District.~~

~~—— (b) The court shall grant a hearing on the petition for a writ of mandate within 20 days after the filing of the petition or as soon thereafter as the court may determine, having regard for the rights of the parties and the necessity of a speedy determination of the petition.~~

~~—— (c) Upon a finding of failure to file a return within 60 days of the time prescribed pursuant to Title 59, Revenue and Taxation, the court shall issue a writ of mandate requiring the taxpayer to file a return. The order of the court shall include an award of attorneys' fees, court costs, witness fees, and all other costs in favor of the prevailing party.~~

~~—— (2) Nothing in this section shall limit the remedies otherwise available to the commission under Title 59, Revenue and Taxation, or other laws of this state.~~

~~—— Section 10. Section ~~63I-2-278~~ is amended to read:~~

‡ **63I-2-278. Repeal dates: Title 78A and Title 78B.**

(1) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.

(2) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.

~~[(2)]~~ (3) Sections 78B-12-301 and 78B-12-302 are repealed on January 1, 2025.

Section ~~{11}~~3. Section **67-1-1.5** is amended to read:

67-1-1.5. Gubernatorial appointment powers.

(1) As used in this section:

(a) "Board member" means each gubernatorial appointee to any state board, committee, commission, council, or authority.

(b) "Executive branch management position" includes department executive directors, division directors, and any other administrative position in state government where the person filling the position:

(i) works full-time performing managerial and administrative functions;

(ii) is appointed by the governor with the advice and consent of the Senate.

(c) (i) "Executive branch policy position" means any person other than a person filling

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an executive branch management position, who is appointed by the governor with the advice and consent of the Senate.

(ii) "Executive branch policy position" includes each member of any state board and commission appointed by the governor with the advice and consent of the Senate.

(2) (a) Whenever a vacancy occurs in any executive branch policy position or in any executive branch management position, the governor shall submit the name of a nominee to the Senate for advice and consent no later than three months after the day on which the vacancy occurs.

(b) If the Senate fails to consent to that person within 90 days after the day on which the governor submits the nominee's name to the Senate for consent:

(i) the nomination is considered rejected; and

(ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a) or submit the name of a different nominee to the Senate for consent no later than 60 days after the date on which the nomination was rejected by the Senate.

(3) Whenever a vacancy occurs in any executive branch management position, the governor may either:

(a) appoint an interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months, pending consent of a person to permanently fill that position by the Senate; or

(b) appoint an interim manager who does not meet the qualifications of the vacant position and submit that person's name to the Senate for consent as interim manager within one month of the appointment.

(4) Except for an interim manager appointed to a position described in Subsection [~~67-1-2(3)(b)(i) through (vii)~~] 67-1-2(2)(a), if the Senate fails to consent to the interim manager appointed under Subsection (3)(b) within 30 days after the day on which the governor submits the nominee's name to the Senate for consent:

(a) the nomination is considered rejected; and

(b) the governor may:

(i) (A) reappoint the interim manager to whom the Senate failed to consent within 30 days; and

(B) resubmit the name of the person described in Subsection (4)(b)(i)(A) to the Senate

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for consent as interim manager; or

(ii) appoint a different interim manager under Subsection (3).

(5) For an interim manager appointed to a position described in Subsection [~~67-1-2(3)(b)(i) through (vii)~~] 67-1-2(2)(a), if the Senate fails to consent to the interim manager appointed under Subsection (3)(b) within 60 days after the day on which the governor submits the nominee's name to the Senate for consent:

(a) the nomination is considered rejected; and

(b) the governor may:

(i) (A) reappoint the interim manager to whom the Senate failed to consent; and

(B) resubmit the name of the person described in Subsection (5)(b)(i)(A) to the Senate for consent as interim manager; or

(ii) appoint a different interim manager under Subsection (3).

(6) If, after an interim manager has served three months, no one has been appointed and received Senate consent to permanently fill the position, the governor shall:

(a) appoint a new interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months; or

(b) submit the name of the first interim manager to the Senate for consent as an interim manager for a three-month term.

(7) If the Senate fails to consent to a nominee whose name is submitted under Subsection (6)(b) within 30 days after the day on which the governor submits the name to the Senate:

(a) the nomination is considered rejected; and

(b) the governor shall:

(i) (A) reappoint the person described in Subsection (6)(b); and

(B) resubmit the name of the person described in Subsection (6)(b) to the Senate for consent as interim manager; or

(ii) appoint a different interim manager in the manner required by Subsection (3).

(8) The governor may not make a temporary appointment to fill a vacant executive branch policy position.

(9) (a) Before appointing any person to serve as a board member, the governor shall ask the person whether the person wishes to receive per diem, expenses, or both for serving as

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a board member.

(b) If the person declines to receive per diem, expenses, or both, the governor shall notify the agency administering the board, commission, committee, council, or authority and direct the agency to implement the board member's request.

(10) A gubernatorial nomination upon which the Senate has not acted to give consent or refuse to give consent is void when a vacancy in the office of governor occurs.

Section ~~{12}~~4. Section **67-1-2** is amended to read:

67-1-2. Senate confirmation of gubernatorial nominees -- Verification of nomination requirements -- Consultation on appointments -- Notification of anticipated vacancies.

~~[(1) Until October 1, 2020, unless waived by a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader, 15 days before any Senate session to confirm any gubernatorial nominee, except a judicial appointment, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel:]~~

~~[(a) a list of each nominee for an office or position made by the governor in accordance with the Utah Constitution and state law; and]~~

~~[(b) any information that may support or provide biographical information about the nominee, including resumes and curriculum vitae.]~~

~~[(2)]~~ (1) (a) Except as provided in Subsection (3), ~~[beginning October 1, 2020,]~~ at least 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial nominee, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel the following information for each nominee:

~~[(a)]~~ (i) the nominee's name and biographical information, including a resume and curriculum vitae with personal contact information, including home address, email address, and telephone number, redacted, except that the governor shall send to the Office of Legislative Research and General Counsel the contact information for the nominee;

~~[(b)]~~ (ii) a detailed list, with citations, of the legal requirements for the appointed position;

~~[(c)]~~ (iii) a detailed list with supporting documents explaining how, and verifying that, the nominee meets each statutory and constitutional requirement for the appointed position;

~~[(d)]~~ (iv) a written certification by the governor that the nominee satisfies all

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requirements for the appointment; and

~~[(e)]~~ (v) public comment information collected in accordance with Section 63G-24-204.

(b) ~~This Subsection (1) does not apply to a judicial appointee.~~

~~[(3)(a) Subsection (2) does not apply to a judicial nominee.]~~

~~[(b) Beginning October 1, 2020, a]~~

(2)(a) A majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection ~~[(2)]~~ (1) for a gubernatorial nominee other than a nominee for the following:

- (i) the executive director of a department;
- (ii) the executive director of the Governor's Office of Economic Opportunity;
- (iii) the executive director of the Labor Commission;
- (iv) a member of the State Tax Commission;
- (v) a member of the State Board of Education;
- (vi) a member of the Utah Board of Higher Education; or
- (vii) an individual:
 - (A) whose appointment requires the advice and consent of the Senate; and
 - (B) whom the governor designates as a member of the governor's cabinet.

~~[(4) Beginning October 1, 2020, the]~~

(b) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsection ~~[(3)(b)(i) through (vii)]~~ (2)(a).

~~[(5) Beginning on October 1, 2020, the]~~

(3) The governor shall:

(a) if the governor is aware of an upcoming vacancy in a position that requires Senate confirmation, provide notice of the upcoming vacancy to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel at least 30 days before the day on which the vacancy occurs; and

(b) establish a process for government entities and other relevant organizations to provide input on gubernatorial appointments.

~~[(6)]~~ (4) When the governor makes a judicial appointment, the governor shall immediately provide to the president of the Senate and the Office of Legislative Research and

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General Counsel:

(a) the name of the judicial appointee; and

(b) the judicial appointee's:

(i) resume;

(ii) complete file of all the application materials the governor received from the

~~[Judicial Nominating Commission]~~ judicial nominating commission; and

(iii) any other related documents, including any letters received by the governor about the appointee, unless the letter specifically directs that ~~[it]~~ the letter may not be shared.

~~[(7)]~~ (5) The governor shall inform the president of the Senate and the Office of Legislative Research and General Counsel of the number of letters withheld pursuant to Subsection ~~[(6)(b)(iii)]~~ (4)(b)(iii).

~~[(8)]~~ (6) (a) Letters of inquiry submitted by any judge at the request of any judicial nominating commission ~~[shall be]~~ are classified as private in accordance with Section 63G-2-302.

(b) All other records received from the governor pursuant to this Subsection ~~[(8)]~~ (6) may be classified as private in accordance with Section 63G-2-302.

~~[(9)]~~ (7) The Senate shall consent or refuse to give ~~[its]~~ the Senate's consent to ~~[the]~~ a nomination or judicial appointment.

~~[(10)]~~ A judicial nominating commission shall, at the time the judicial nominating commission certifies a list of the most qualified judicial applicants to the governor under Section 78A-10-104, submit the same list to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel.]

Section ~~{13. Section 78A-1-102 is repealed and reenacted to read:~~

~~78A-1-102. Trial courts of record -- Geographical divisions.~~

~~(1) Before July 1, 2023, the district and juvenile courts are divided into the following eight geographical divisions:~~

~~(a) First Judicial District, which includes Box Elder County, Cache County, and Rich County;~~

~~(b) Second Judicial District, which includes Weber County, Davis County, and Morgan County;~~

~~(c) Third Judicial District, which includes Salt Lake County, Summit County, and~~

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Tooele County:

~~—— (d) Fourth Judicial District, which includes Utah County, Wasatch County, Juab County, and Millard County;~~

~~—— (e) Fifth Judicial District, which includes Beaver County, Iron County, and Washington County;~~

~~—— (f) Sixth Judicial District, which includes Garfield County, Kane County, Piute County, Sanpete County, Sevier County, and Wayne County;~~

~~—— (g) Seventh Judicial District, which includes Carbon County, Emery County, Grand County, and San Juan County; and~~

~~—— (h) Eighth Judicial District, which includes Daggett County, Duchesne County, and Uintah County;~~

~~—— (2) On and after July 1, 2023, the district and juvenile courts are divided into the following three geographical districts:~~

~~—— (a) First Judicial District, which includes Box Elder County, Cache County, Rich County, Weber County, Davis County, Morgan County, Salt Lake County, Summit County, Tooele County, Utah County, Wasatch County, Juab County, and Millard County;~~

~~—— (b) Second Judicial District, which includes Beaver County, Iron County, Washington County, Garfield County, Kane County, Piute County, Sanpete County, Sevier County, and Wayne County; and~~

~~—— (c) Third Judicial District, which includes Carbon County, Emery County, Grand County, San Juan County, Daggett County, Duchesne County, and Uintah County;~~

~~—— (3) (a) The First Judicial District, the Second Judicial District, the Third Judicial District, and the Fourth Judicial District as they existed on June 30, 2023, are consolidated and known as the First Judicial District on and after July 1, 2023;~~

~~—— (b) The Fifth Judicial District and the Sixth Judicial District as they existed on June 30, 2023, are consolidated and known as the Second Judicial District on and after July 1, 2023;~~

~~—— (c) The Seventh Judicial District and the Eighth Judicial District as they existed on June 30, 2023, are consolidated and known as the Third Judicial District on and after July 1, 2023;~~

~~—— (4) A judge serving in a geographical district described in Subsection (1) on June 30, 2023, is not removed from office due to the changes in geographical divisions under~~

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Subsections (2) and (3) on July 1, 2023:

— Section 14. Section ~~78A-1-103~~ is amended to read:

— ~~78A-1-103. Number of district court judges:~~

— ~~(1) [The] Before July 1, 2023, the number of district court judges [shall be] is:~~

— ~~[(1)] (a) four [district] judges in the First Judicial District;~~

— ~~[(2)] (b) 14 [district] judges in the Second Judicial District;~~

— ~~[(3)] (c) 31 [district] judges in the Third Judicial District;~~

— ~~[(4)] (d) 13 [district] judges in the Fourth Judicial District;~~

— ~~[(5)] (e) seven [district] judges in the Fifth Judicial District;~~

— ~~[(6)] (f) two [district] judges in the Sixth Judicial District;~~

— ~~[(7)] (g) three [district] judges in the Seventh Judicial District; and~~

— ~~[(8)] (h) three [district] judges in the Eighth Judicial District.~~

— ~~(2) On and after July 1, 2023, the number of district court judges is:~~

— ~~(a) 62 judges in the First Judicial District;~~

— ~~(b) nine judges in the Second Judicial District; and~~

— ~~(c) six judges in the Third Judicial District.~~

— Section 15. Section ~~78A-1-104~~ is amended to read:

— ~~78A-1-104. Number of juvenile court judges:~~

— ~~(1) [The] Before July 1, 2023, the number of juvenile court judges [shall be] is:~~

— ~~[(1)] (a) two [juvenile] judges in the First [Juvenile] Judicial District;~~

— ~~[(2)] (b) six [juvenile] judges in the Second [Juvenile] Judicial District;~~

— ~~[(3)] (c) nine [juvenile] judges in the Third [Juvenile] Judicial District;~~

— ~~[(4)] (d) five [juvenile] judges in the Fourth [Juvenile] Judicial District;~~

— ~~[(5)] (e) three [juvenile] judges in the Fifth [Juvenile] Judicial District;~~

— ~~[(6)] (f) two [juvenile] judges in the Sixth [Juvenile] Judicial District;~~

— ~~[(7)] (g) two [juvenile] judges in the Seventh [Juvenile] Judicial District; and~~

— ~~[(8)] (h) two [juvenile] judges in the Eighth [Juvenile] Judicial District.~~

— ~~(2) On and after July 1, 2023, the number of juvenile court judges is:~~

— ~~(a) 22 judges in the First Judicial District;~~

— ~~(b) five judges in the Second Judicial District; and~~

— ~~(c) four judges in the Third Judicial District.~~

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~~Section 16. Section 78A-2-802 is amended to read:~~

~~78A-2-802. Office of Guardian Ad Litem -- Appointment of director -- Duties of director -- Contracts in second, third, and fourth districts.~~

~~(1) There is created the Office of Guardian Ad Litem under the direct supervision of the Guardian Ad Litem Oversight Committee described in Subsection 78A-2-104(13).~~

~~(2) (a) The Guardian Ad Litem Oversight Committee shall appoint one individual to serve full time as the guardian ad litem director for the state.~~

~~(b) The guardian ad litem director shall:~~

~~(i) serve at the pleasure of the Guardian Ad Litem Oversight Committee, in consultation with the state court administrator;~~

~~(ii) be an attorney licensed to practice law in this state and selected on the basis of:~~

~~(A) professional ability;~~

~~(B) experience in abuse, neglect, and dependency proceedings;~~

~~(C) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and~~

~~(D) ability to develop training curricula and reliable methods for data collection and evaluation; and~~

~~(iii) before or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.~~

~~(3) The guardian ad litem director shall:~~

~~(a) establish policy and procedure for the management of a statewide guardian ad litem program;~~

~~(b) manage the guardian ad litem program to assure that a minor receives qualified guardian ad litem services in an abuse, neglect, or dependency proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal law and policy;~~

~~(c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-2-803;~~

~~(d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association~~

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standards;

~~—— (c) develop and update a guardian ad litem manual that includes:~~

~~—— (i) best practices for an attorney guardian ad litem; and~~

~~—— (ii) statutory and case law relating to an attorney guardian ad litem;~~

~~—— (f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;~~

~~—— (g) educate court personnel regarding the role and function of guardians ad litem;~~

~~—— (h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;~~

~~—— (i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (3)(h);~~

~~—— (j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel created in Section 36-33-102 regarding:~~

~~—— (i) the development, policy, and management of the statewide guardian ad litem program;~~

~~—— (ii) the training and evaluation of attorney guardians ad litem and volunteers; and~~

~~—— (iii) the number of minors served by the office;~~

~~—— (k) hire, train, and supervise investigators; and~~

~~—— (l) administer the program of private attorney guardians ad litem established under Section 78A-2-705.~~

~~—— (4) A contract of employment or independent contract described in Subsection (3)(c) shall provide that an attorney guardian ad litem in the [second, third, and fourth judicial districts] First Judicial District devote the attorney guardian's ad litem full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest the attorney guardian ad litem represents within the guardian ad litem program.~~

~~—— Section 17} 5. Section 78A-10-102 is amended to read:~~

78A-10-102. Nomination, appointment, and confirmation of judges -- Judicial nomination commissions.

~~[Judges] Before July 1, 2023, judges for courts of record in Utah [shall be] are nominated, appointed, and confirmed [as provided in] in accordance with this chapter, Section~~

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67-1-2, and Utah Constitution Article VIII, Section 8 [~~and this chapter~~].

Section ~~{18}~~6. Section **78A-10-104** is amended to read:

78A-10-104. Convening of judicial nominating commissions -- Certification to governor of nominees -- Meetings to investigate prospective candidates.

(1) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:

(a) the recruitment period to fill a judicial vacancy begins 235 days before the effective date of a vacancy, unless sufficient notice is not given, in which case the recruitment period shall begin within 10 days of receiving notice;

(b) the recruitment period is a minimum of 30 days but not more than 90 days, unless fewer than nine applications are received, in which case the recruitment period may be extended up to 30 days; and

(c) the chair of the judicial nominating commission having authority over the vacancy shall convene a meeting not more than 10 days after the close of the recruitment period.

(2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.

(3) The nominating commission may:

(a) meet as necessary to perform its function; and

(b) investigate prospective candidates.

(4) Not later than 45 days after convening, the:

(a) appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and

(b) trial court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.

(5) A commission shall, at the time that the commission certifies a list of the most qualified applicants to the governor, submit the same list to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel.

~~{5}~~ (6) The governor shall fill the vacancy within 30 days after receiving the list of nominees.

~~{6}~~ (7) If the governor fails to fill the vacancy within 30 days of receiving the list of nominees from the nominating commission, the chief justice of the Supreme Court shall, within 20 days, appoint a person from the list of nominees certified to the governor.

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~~[(7)]~~ (8) A nominating commission may not nominate a person who has served on a nominating commission within six months of the date that the commission was last convened.

Section ~~{19}~~7. Section 78A-10a-101 is enacted to read:

CHAPTER 10a. JUDICIAL SELECTION

Part 1. General Provisions

78A-10a-101. Definitions.

As used in this part:

(1) "Commission" means a judicial nominating commission created under Section 78A-10a-302 or 78A-10a-402.

(2) "Commissioner" means an individual appointed by the governor to serve on a judicial nominating commission created under Section 78A-10a-302 or 78A-10a-402.

Section ~~{20}~~8. Section 78A-10a-102 is enacted to read:

78A-10a-102. Nomination, appointment, and confirmation of judges.

(1) On and after July 1, 2023, judges for courts of record in this state are nominated, appointed, and confirmed in accordance with this chapter, Section 67-1-2, and Utah Constitution, Article VIII, Section 8.

(2) A commission, the governor, the chief justice of the Supreme Court, and the Senate shall nominate and select judges based solely upon consideration of fitness for office without regard to any partisan political consideration.

Section ~~{21}~~9. Section 78A-10a-103 is enacted to read:

78A-10a-103. Judicial nominating commissions -- Transition clause.

(1) Except as provided in Subsection (2), an individual appointed by the governor to serve on a judicial nominating commission before July 1, 2023, is removed from the judicial nominating commission on June 30, 2023.

(2) On or after May 3, 2023, but before July 1, 2023, the governor may appoint a commissioner to serve on a commission in accordance with this chapter.

(3) A commissioner appointed by the governor under Subsection (2) may not begin the commissioner's term of service until July 1, 2023.

(4) Nothing in this chapter prevents the governor from appointing an individual removed from a judicial nominating commission under Subsection (1) to serve as a commissioner under this chapter on or after July 1, 2023, if the individual's appointment meets

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the requirements of this chapter.

Section ~~{22}~~10. Section 78A-10a-201 is enacted to read:

Part 2. Judicial Selection Process

78A-10a-201. State Commission on Criminal and Juvenile Justice -- Duties --

Rulemaking.

The State Commission on Criminal and Juvenile Justice shall:

(1) enact rules establishing procedures for the meetings of a commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(2) ensure that the rules described in Subsection (1):

(a) comply with the requirements of this chapter;

(b) include standards that:

(i) maintain the confidentiality of applications for a judicial vacancy and related documents;

(ii) address destroying the records of the names of applicants, applications, and related documents upon the completion of the judicial nomination process; and

(iii) govern a commissioner's disqualification and inability to serve;

(c) allow for public comment concerning the judicial nomination process, qualifications for judicial office, and individual applicants;

(d) include evaluation criteria for the selection of judicial nominees; and

(e) address procedures for:

(i) taking summary minutes at a commission meeting;

(ii) simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel as described in Subsection 78A-10a-203(5); and

(iii) requiring the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.

Section ~~{23}~~11. Section 78A-10a-202 is enacted to read:

78A-10a-202. Time periods -- Recruitment period for judicial vacancy --

Convening a judicial nominating commission.

(1) (a) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:

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(i) except as provided in Subsection (1)(a)(ii), the recruitment period to fill a judicial vacancy begins 235 days before the effective date of the judicial vacancy;

(ii) if sufficient notice of a judicial vacancy is not given to the governor, the recruitment period to fill a judicial vacancy begins within 10 days after the day on which the governor receives notice;

(iii) except as provided in Subsection (1)(b), the recruitment period is a minimum of at least 30 days but no more than 90 days; and

(iv) the chair of the commission having authority over the vacancy shall convene a meeting not more than 10 days after the close of the recruitment period.

(b) If fewer than nine applications are received for a judicial vacancy, the governor may extend the recruitment period described in Subsection (1)(~~b~~a)(iii) up to 30 days.

(2) If there is a hiring freeze implemented in accordance with Section 78A-2-113, the time periods described in Subsection (1) shall begin to run on the day that the hiring freeze ends.

Section ~~{24}~~12. Section 78A-10a-203 is enacted to read:

78A-10a-203. Procedures for judicial nomination commission -- Meetings --

Certification -- Governor appointment.

(1) (a) A commission may:

(i) meet as necessary to perform the commission's function; and

(ii) investigate the applicants of a judicial vacancy, including seeking input from members and employees of the judiciary and the community.

(b) A commission may consult with the Judicial Council regarding the applicants for a judicial vacancy.

(c) A commission is exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(2) In determining which of the applicants are the most qualified, a commission shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies an applicant for the office.

(3) (a) Except as provided under Subsection (3)(b):

(i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per judicial vacancy; and

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(ii) a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per judicial vacancy.

(b) If a commission is considering applicants for more than one judicial vacancy existing at the same time and for the same court, the commission shall include one additional applicant for each additional judicial vacancy in the court in the list of applicants the commission certifies to the governor.

(4) A commission shall certify a list to the governor under Subsection (3) no more than 45 days after convening in accordance with Section 78A-10a-202.

(5) A commission shall, at the time that the commission certifies a list of the most qualified applicants to the governor, submit the same list to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel.

(6) A commission shall ensure that the lists of applicants certified to the governor:

(a) meet the qualifications required by law to fill the office; and

(b) are willing to serve.

(7) In determining which of the applicants are the most qualified, a commission may not decline to certify an applicant's name to the governor because:

(a) the commission declined to submit that applicant's name to the governor to fill a previous judicial vacancy;

(b) a previous commission declined to submit that applicant's name to the governor; or

(c) the commission or a previous commission submitted the applicant's name to the governor and the governor selected another individual to fill the judicial vacancy.

(8) A commission may not certify:

(a) an applicant who is a justice or judge that was not retained by the voters for the office for which the justice or judge was defeated until after the expiration of that justice's or judge's term of office; and

(b) an applicant who has served on a commission within six months after the day on which the commission was last convened.

(9) The governor shall fill a judicial vacancy within 30 days after the day on which the governor received the list of nominees from the commission.

(10) If the governor fails to fill a judicial vacancy within 30 days after the day on which the governor received the list of nominees from the commission, the chief justice of the

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Supreme Court shall, within 20 days, appoint an applicant from the list of nominees certified to the governor by the commission.

Section ~~{25}~~13. Section **78A-10a-204** is enacted to read:

78A-10a-204. Senate confirmation of judicial appointments -- Courts of record.

(1) The Senate shall:

(a) consider and render a decision on each judicial appointment within 60 days after the day of the judicial appointment; and

(b) if necessary, convene the Senate in an extraordinary session to consider the judicial appointment.

(2) If the Senate fails to approve a judicial appointment, the office is considered vacant and a new nominating process begins.

(3) A judicial appointment is effective upon approval of a majority of all members of the Senate.

Section ~~{26}~~14. Section **78A-10a-301** is enacted to read:

Part 3. Appellate Court Nominating Commission

78A-10a-301. Definitions.

As used in this part:

(1) "Commission" means the Appellate Court Nominating Commission created under Section 78A-10a-302.

(2) "Commissioner" means an individual appointed by the governor to serve on the Appellate Court Nominating Commission created under Section 78A-10a-302.

Section ~~{27}~~15. Section **78A-10a-302** is enacted to read:

78A-10a-302. Creation -- Purpose.

(1) There is created the Appellate Court Nominating Commission.

(2) The Appellate Court Nominating Commission shall nominate individuals to fill judicial vacancies on the Supreme Court and the Court of Appeals.

Section ~~{28}~~16. Section **78A-10a-303** is enacted to read:

78A-10a-303. Membership -- Vacancies -- Removal.

(1) The Appellate Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(2) A commissioner shall:

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- (a) be a United States citizen;
- (b) be a resident of Utah; and
- (c) serve until the commissioner's successor is appointed.

(3) The governor shall appoint at least one licensed or retired attorney to serve as a commissioner.

(4) The governor may not appoint:

- (a) a commissioner to serve successive terms; or
- (b) a member of the Legislature to serve as a commissioner.

(5) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission selects applicants without any regard to partisan political consideration.

(~~4~~6) The governor shall appoint the chair of the commission from among the membership of the commission.

(~~5~~7) The governor shall fill any vacancy on the commission caused by the expiration of a commissioner's term.

(~~6~~8) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (~~6~~8)(a) may not be reappointed upon expiration of the term of service.

(~~7~~9) The governor may remove a commissioner from the commission at any time with or without cause.

Section (~~29~~17). Section **78A-10a-304** is enacted to read:

78A-10a-304. Procedure -- Staff.

- (1) Four commissioners are a quorum.
- (2) The governor shall appoint a member of the governor's staff to serve as staff to the commission.
- (3) The governor shall:
 - (a) ensure that the commission follows the rules promulgated by the State Commission on Criminal and Juvenile Justice under Section 78A-10a-201; and
 - (b) resolve any questions regarding the rules described in Subsection (3)(a).

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(4) A commissioner who is a ~~member of the Utah State Bar~~ licensed attorney may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve.

Section ~~30~~18. Section 78A-10a-305 is enacted to read:

78A-10a-305. Expenses -- Per diem and travel.

A commissioner may not receive compensation or benefits for the commissioner's service but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

(2) Section 63A-3-107; and

(3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section ~~31~~19. Section 78A-10a-401 is enacted to read:

Part 4. District and Juvenile Court Nominating Commissions

78A-10a-401. Definitions.

As used in this part:

(1) "Commission" means a district and juvenile court nominating commission created under Section 78A-10a-402.

(2) "Commissioner" means an individual appointed by the governor to serve on a district and juvenile court nominating commission created under Section 78A-10a-402.

Section ~~32~~20. Section 78A-10a-402 is enacted to read:

78A-10a-402. Creation -- Purpose.

~~1~~ (1) There is a district and juvenile court nominating commission created for each geographical division of the district and juvenile courts.

(2) A district and juvenile court nominating commission shall nominate individuals to fill judicial vacancies for the district court and the juvenile court within the commission's geographical division.

Section ~~33~~21. Section 78A-10a-403 is enacted to read:

78A-10a-403. Membership -- Vacancies -- Removal.

(1) A district and juvenile court nominating commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(2) A commissioner shall:

(a) be a United States citizen;

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(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) The governor shall appoint at least one licensed or retired attorney to serve as a commissioner.

(4) The governor may not appoint:

(a) a commissioner to successive terms; and

(b) a member of the Legislature to serve as a commissioner.

(5) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission selects applicants without any regard to partisan political consideration.

(~~4~~6) The governor shall appoint the chair of each commission from among the membership of the commission.

(~~5~~7) The governor shall fill any vacancy on the commission caused by the expiration of a commissioner's term.

(~~6~~8) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (~~6~~8)(a) may not be reappointed upon expiration of the term of service.

(~~7~~9) The governor may remove a commissioner from the commission at any time with or without cause.

Section ~~34~~22. Section **78A-10a-404** is enacted to read:

78A-10a-404. Procedure -- Staff.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff for each commission.

(3) The governor shall:

(a) ensure that each commission follows the rules promulgated by the State Commission on Criminal and Juvenile Justice under Section 78A-10a-201; and

(b) resolve any questions regarding the rules.

(4) A commissioner who is a ~~member of the Utah State Bar~~ licensed attorney may

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recuse oneself if there is a conflict of interest that makes the commissioner unable to serve.

Section ~~{35}~~23. Section 78A-10a-405 is enacted to read:

78A-10a-405. Expenses -- Per diem and travel.

A commissioner may not receive compensation or benefits for the commissioner's service but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 24. Coordinating S.B. 129 with H.B. 216 -- Superseding technical and substantive amendments.

If this S.B. 129 and H.B. 216, Business and Chancery Court Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) not enacting Section 78A-10-101.5 in H.B. 216, Business and Chancery Court Amendments;

(2) amending Section 78A-10a-101 in this S.B. 129 to read:

"As used in this part:

(1) "Commission" means a judicial nominating commission created under Section 78A-10a-302, 78A-10a-402, or 78A-10a-502.

(2) "Commissioner" means an individual appointed by the governor to serve on a judicial nominating commission created under Section 78A-10a-302, 78A-10a-402, or 78A-10a-502.";

(3) amending Subsection 78A-10a-203(3)(a) in this S.B. 129 to read:

"(3) (a) Except as provided under Subsection (3)(b):

(i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per judicial vacancy;

(ii) a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per judicial vacancy; and

(iii) the business and chancery court nominating commission shall certify to the governor a list of the seven most qualified applicants per judicial vacancy.";

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(4) renumbering Section 78A-10-401 in H.B. 216 to Section 78A-10a-501 and amending Subsection 78A-10a-501(1) to read:

""Commission" means the Business and Chancery Court Nominating Commission created in Section 78A-10a-502.";

(5) renumbering Section 78A-10-402 in H.B. 216 to Section 78A-10a-502;

(6) renumbering Section 78A-10-403 in H.B. 216 to Section 78A-10a-503 and amending Section 78A-10a-503 to read:

"(1) The Business and Chancery Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(2) A commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) The governor shall appoint at least one licensed or retired attorney to serve as a commissioner.

(4) The governor may not appoint:

(a) a commissioner to serve successive terms; or

(b) a member of the Legislature to serve as a member of the commission.

(5) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission selects applicants without any regard to partisan political consideration.

(6) The governor shall appoint the chair of the commission from among the membership of the commission.

(7) The governor shall fill any vacancy in the commission caused by the expiration of a commissioner's term.

(8) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (8)(a) may not be reappointed upon expiration of the term of service.

(9) The governor may remove a commissioner from the commission at any time with or without cause.";

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(7) renumbering Section 78A-10-404 in H.B. 216 to Section 78A-10a-504 and amending:

(a) the reference in Section 78A-10a-504 from "Section 78A-10-103" to "Section 78A-10a-201"; and

(b) Subsection 78A-10a-504(4) to read:

"A commissioner who is a licensed attorney may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve."; and

(8) renumbering Section 78A-10-405 in H.B. 216 to Section 78A-10a-505.

Section 25. **Coordinating S.B. 129 with H.B. 251 -- Superseding technical and substantive amendments.**

If this S.B. 129 and H.B. 251, Court Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication, the Office of Legislative Research and General Counsel not implement the coordination clause affecting Sections 31A-5-414, 31A-5-415, and 31A-16-111 in H.B. 251.