

Representative Brady Brammer proposes the following substitute bill:

BUSINESS AND CHANCERY COURT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses the establishment of the Business and Chancery Court.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes the Business and Chancery Court;
- ▶ addresses the postjudgment interest rate for judgments of the Business and Chancery Court;
- ▶ addresses retention elections for judges of the Business and Chancery Court;
- ▶ addresses salaries for judges of the Business and Chancery Court;
- ▶ provides that the Business and Chancery Court is not geographically divided into districts;
- ▶ provides the number of judges of the Business and Chancery Court;
- ▶ amends the membership of the Judicial Council to include a member from the Business and Chancery Court;
- ▶ amends provisions regarding the administration of the courts to address the creation of the Business and Chancery Court;
- ▶ addresses a judicial hiring freeze for judges of the Business and Chancery Court;



- 26 ▶ provides that the Business and Chancery Court is a trial court with statewide
- 27 jurisdiction;
- 28 ▶ addresses the organization and status of the Business and Chancery Court;
- 29 ▶ addresses the jurisdiction of the Business and Chancery Court;
- 30 ▶ provides that the Business and Chancery Court is the trier of fact and law in an
- 31 action before the Business and Chancery Court;
- 32 ▶ addresses a demand for a jury trial in the Business and Chancery Court;
- 33 ▶ addresses the administration of the Business and Chancery Court, including:
- 34 • the terms for judges of the Business and Chancery Court;
- 35 • the presiding judge and associate presiding judge of the Business and Chancery
- 36 Court; and
- 37 • staff and management of the Business and Chancery Court;
- 38 ▶ addresses the location and facilities of the Business and Chancery Court;
- 39 ▶ enacts a civil fee for the Business and Chancery Court;
- 40 ▶ addresses decisions and rulings by the Business and Chancery Court;
- 41 ▶ addresses the selection process for judges of the Business and Chancery Court,
- 42 including the creation of the Business and Chancery Court Nominating
- 43 Commission;
- 44 ▶ amends provisions regarding the Judicial Conduct Commission; and
- 45 ▶ makes technical and conforming changes.

46 **Money Appropriated in this Bill:**

47 None

48 **Other Special Clauses:**

49 This bill provides a special effective date.

50 This bill provides revisor instructions.

51 **Utah Code Sections Affected:**

52 AMENDS:

53 **15-1-4**, as last amended by Laws of Utah 2018, Chapter 30

54 **20A-12-201**, as last amended by Laws of Utah 2022, Chapter 202

55 **63A-5b-303**, as last amended by Laws of Utah 2022, Chapters 169, 421

56 **67-8-2**, as last amended by Laws of Utah 2022, Chapter 276

- 57 [77-38-502](#), as enacted by Laws of Utah 2020, Chapter 112
- 58 [78A-1-101](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 59 [78A-1-102](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 60 [78A-2-103](#), as last amended by Laws of Utah 2018, Chapter 25
- 61 [78A-2-104](#), as last amended by Laws of Utah 2021, Chapter 262
- 62 [78A-2-107](#), as last amended by Laws of Utah 2018, Chapters 25, 200
- 63 [78A-2-108](#), as last amended by Laws of Utah 2018, Chapter 25
- 64 [78A-2-110](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 65 [78A-2-113](#), as enacted by Laws of Utah 2010, Chapter 175
- 66 [78A-2-202](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 67 [78A-2-204](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 68 [78A-2-208](#), as last amended by Laws of Utah 2016, Chapter 126
- 69 [78A-2-211](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 70 [78A-2-213](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 71 [78A-2-802](#), as last amended by Laws of Utah 2022, Chapter 334
- 72 [78A-5-107](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 73 [78A-10-103](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 7
- 74 [78A-10-104](#), as last amended by Laws of Utah 2010, Chapter 134 and last amended by
- 75 Coordination Clause, Laws of Utah 2010, Chapter 134
- 76 [78A-10-301](#), as enacted by Laws of Utah 2008, Chapter 3
- 77 [78A-10-302](#), as last amended by Laws of Utah 2010, Chapter 134
- 78 [78A-10-303](#), as last amended by Laws of Utah 2010, Chapter 134
- 79 [78A-10-304](#), as enacted by Laws of Utah 2008, Chapter 3
- 80 [78A-10-305](#), as repealed and reenacted by Laws of Utah 2010, Chapter 286
- 81 [78A-11-102](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 82 [78A-11-103](#), as last amended by Laws of Utah 2020, Chapters 352, 373
- 83 [78A-11-106](#), as last amended by Laws of Utah 2018, Chapter 25
- 84 ENACTS:
- 85 [78A-1-103.5](#), Utah Code Annotated 1953
- 86 [78A-2-301.1](#), Utah Code Annotated 1953
- 87 [78A-5a-101](#), Utah Code Annotated 1953

- 88 [78A-5a-102](#), Utah Code Annotated 1953
- 89 [78A-5a-103](#), Utah Code Annotated 1953
- 90 [78A-5a-104](#), Utah Code Annotated 1953
- 91 [78A-5a-105](#), Utah Code Annotated 1953
- 92 [78A-5a-201](#), Utah Code Annotated 1953
- 93 [78A-5a-202](#), Utah Code Annotated 1953
- 94 [78A-5a-203](#), Utah Code Annotated 1953
- 95 [78A-5a-204](#), Utah Code Annotated 1953
- 96 [78A-5a-205](#), Utah Code Annotated 1953
- 97 [78A-5a-301](#), Utah Code Annotated 1953
- 98 [78A-5a-302](#), Utah Code Annotated 1953
- 99 [78A-10-101.5](#), Utah Code Annotated 1953
- 100 [78A-10-401](#), Utah Code Annotated 1953
- 101 [78A-10-402](#), Utah Code Annotated 1953
- 102 [78A-10-403](#), Utah Code Annotated 1953
- 103 [78A-10-404](#), Utah Code Annotated 1953
- 104 [78A-10-405](#), Utah Code Annotated 1953

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

107 Section 1. Section **15-1-4** is amended to read:

108 **15-1-4. Interest on judgments.**

109 (1) As used in this section, "federal postjudgment interest rate" means the interest rate
110 established for the federal court system under 28 U.S.C. Sec. 1961, as amended.

111 (2) (a) Except as provided in Subsection (2)(b), a judgment rendered on a lawful
112 contract shall conform to the contract and shall bear the interest agreed upon by the parties,
113 which shall be specified in the judgment.

114 (b) A judgment rendered on a deferred deposit loan subject to Title 7, Chapter 23,
115 Check Cashing and Deferred Deposit Lending Registration Act, shall bear interest at the rate
116 imposed under Subsection (3)(a) on an amount not exceeding the sum of:

117 (i) the total of the principal balance of the deferred deposit loan;

118 (ii) interest at the rate imposed by the deferred deposit loan agreement for a period not

119 exceeding 10 weeks as provided in Subsection 7-23-401(4);

120 (iii) costs;

121 (iv) attorney fees; and

122 (v) other amounts allowed by law and ordered by the court.

123 (3) (a) Except as otherwise provided by law, or as governed by Subsection (4), all other
124 final civil and criminal judgments of the district court [~~and~~], the justice court, and the Business
125 and Chancery Court shall bear interest at the federal postjudgment interest rate as of January 1
126 of each year, plus 2%.

127 (b) The postjudgment interest rate in effect at the time of the judgment shall remain the
128 interest rate for the duration of the judgment.

129 (c) The interest on criminal judgments shall be calculated on the total amount of the
130 judgment.

131 (d) Interest paid on state revenue shall be deposited in accordance with Section
132 63A-3-505.

133 (e) Interest paid on revenue to a county or municipality shall be paid to the general
134 fund of the county or municipality.

135 (4) A judgment under \$10,000 in an action regarding the purchase of goods and
136 services shall bear interest from the date on which the district court [~~or~~], the justice court, or
137 the Business and Chancery Court enters the judgment at 10% plus the federal postjudgment
138 interest rate in effect on January 1 of the year in which the judgment is entered.

139 Section 2. Section 20A-12-201 is amended to read:

140 **20A-12-201. Judicial appointees -- Retention elections.**

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

143 (b) After the first retention election:

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

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

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

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

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

154 (b) (i) Each justice court judge who wishes to retain office shall, in the year the justice
155 court judge is subject to a retention election:

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

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

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

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

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

167 (i) transmit a certified list containing the names of the justices of the Supreme Court
168 [~~and~~], judges of the Court of Appeals, and judges of the Business and Chancery Court
169 declaring their candidacy to the county clerk of each county; and

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

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

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

176 (i) at the beginning of the judicial retention section of the ballot, the following
177 statement:

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

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

181 question:

182 "Shall _____ (name of justice or judge) be retained in the
 183 office of _____? (name of office, such as "Justice of the Supreme
 184 Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the Business and Chancery
 185 Court of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the
 186 Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county)
 187 County or (name of municipality)")

188 Yes ()

189 No ()."

190 (b) If a justice court exists by means of an interlocal agreement under Section
 191 [78A-7-102](#), the ballot question for the judge shall include the name of that court.

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

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

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

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

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

208 Section 3. Section **63A-5b-303** is amended to read:

209 **63A-5b-303. Duties and authority of division.**

210 (1) (a) The division shall:

211 (i) subject to Subsection (1)(b), supervise and control the allocation of space, in

212 accordance with legislative directive through annual appropriations acts, other legislation, or
213 statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except
214 as provided in Subsection (3) or as otherwise provided by statute;

215 (ii) assure the efficient use of all building space under the division's supervision and
216 control;

217 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by
218 the state or an agency, as authorized by the Legislature through an appropriation act, other
219 legislation, or statute, subject to Subsection (1)(c);

220 (iv) except as otherwise provided by statute, hold title to all real property, buildings,
221 fixtures, and appurtenances owned by the state or an agency;

222 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing
223 title to or an interest in property belonging to the state or to the state's departments, except
224 institutions of higher education and the trust lands administration;

225 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and

226 (B) include in a market analysis a comparison of the division's rates and fees with the
227 rates and fees of other public or private sector providers of comparable services, if rates and
228 fees for comparable services are reasonably available;

229 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and
230 Efficiency, including responsibilities:

231 (A) to implement the state building energy efficiency program under Section
232 [63A-5b-1002](#); and

233 (B) related to the approval of loans from the State Facility Energy Efficiency Fund
234 under Section [63A-5b-1003](#);

235 (viii) convey, lease, or dispose of the real property, water rights, or water shares
236 associated with the Utah State Developmental Center if directed to do so by the Utah State
237 Developmental Center board, as provided in Subsection [62A-5-206.6\(2\)](#); and

238 (ix) take all other action that the division is required to do under this chapter or other
239 applicable statute.

240 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall
241 conduct one or more studies to determine the actual needs of each agency.

242 (c) The division may, without legislative approval, acquire title to real property for use

243 by the state or an agency if the acquisition cost does not exceed \$500,000.

244 (2) The division may:

245 (a) sue and be sued;

246 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or
247 otherwise, and hold real or personal property necessary for the discharge of the division's
248 duties; and

249 (c) take all other action necessary for carrying out the purposes of this chapter.

250 (3) (a) The division may not supervise or control the allocation of space for an entity in
251 the public education system.

252 (b) The supervision and control of the legislative area is reserved to the Legislature.

253 (c) The supervision and control of capitol hill facilities and capitol hill grounds is
254 reserved to the State Capitol Preservation Board.

255 (d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of
256 space for an institution of higher education is reserved to the Utah Board of Higher Education.

257 (ii) The Utah Board of Higher Education shall consult and cooperate with the division
258 in the establishment and enforcement of standards for the supervision and control of the
259 allocation of space for an institution of higher education.

260 (e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of
261 space for the courts of record listed in Subsection [78A-1-101\(1\)](#) is reserved to the
262 Administrative Office of the Courts [~~referred to in Subsection [78A-2-108\(3\)](#)~~] described in
263 Section [78A-2-108](#).

264 (ii) The Administrative Office of the Courts shall consult and cooperate with the
265 division in the establishment and enforcement of standards for the supervision and control of
266 the allocation of space for the courts of record listed in Subsection [78A-1-101\(1\)](#).

267 (4) Before the division charges a rate, fee, or other amount for a service provided by
268 the division's internal service fund to an executive branch agency, or to a service subscriber
269 other than an executive branch agency, the division shall:

270 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee
271 created in Section [63A-1-114](#); and

272 (b) obtain the approval of the Legislature as required by Section [63J-1-410](#) or
273 [63J-1-504](#).

274 Section 4. Section 67-8-2 is amended to read:

275 **67-8-2. Salaries of judges established annually in appropriations act -- Bases of**
276 **salaries -- Additional compensation.**

277 (1) The salaries of judges of courts of record, as described in Section 78A-1-101, shall
278 be set annually by the Legislature in an appropriations act.

279 (2) Judicial salaries shall be based on the following percentages of the salary of a
280 district court judge:

- 281 (a) juvenile court judges: 100%;
- 282 (b) Business and Chancery Court judges: 100%;
- 283 [~~(b)~~] (c) Court of Appeals judges: 105%; and
- 284 [~~(c)~~] (d) justices of the Supreme Court: 110%.

285 (3) (a) A salary described in Subsection (2) does not include additional compensation
286 provided for a presiding judge or associate presiding judge under:

- 287 (i) Section 78A-3-101;
- 288 (ii) Section 78A-4-102;
- 289 (iii) Section 78A-5-106;
- 290 (iv) Section 78A-5a-202; or
- 291 [~~(iv)~~] (v) Section 78A-6-203.

292 (b) Compensation described in Subsection (3)(a) does not constitute a salary for
293 purposes of Utah Constitution, Article VIII, Section 14.

294 Section 5. Section 77-38-502 is amended to read:

295 **77-38-502. Definitions.**

296 As used in this part:

297 (1) "Certifying entity" means any of the following:

- 298 (a) a law enforcement agency, as defined in Section 77-7a-103;
- 299 (b) a prosecutor, as defined in Section 77-22-4.5;
- 300 (c) a court~~[, as defined]~~ described in Section 78A-1-101;

301 (d) any other authority that has responsibility for the detection, investigation, or
302 prosecution of a qualifying crime or criminal activity; and

303 (e) an agency that has criminal detection or investigative jurisdiction in the agency's
304 respective areas of expertise, including:

305 (i) the Division of Child and Family Services; and

306 (ii) the Labor Commission.

307 (2) "Certifying official" means:

308 (a) the head of the certifying entity;

309 (b) a person in a supervisory role who has been specifically designated by the head of
310 the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency;

311 (c) a judge; or

312 (d) any other certifying official defined under 8 C.F.R. Sec. 214.14.

313 (3) "Commission" means the State Commission on Criminal and Juvenile Justice
314 created in Section [63M-7-201](#).

315 (4) (a) "Qualifying criminal activity" means the same as that term is defined in 8 C.F.R.
316 Sec. 214.14.

317 (b) "Qualifying criminal activity" includes criminal offenses for which the nature and
318 elements of the offenses are substantially similar to the criminal activity described in
319 Subsection (4)(a), and the attempt, conspiracy, or solicitation to commit any of those offenses.

320 Section 6. Section **78A-1-101** is amended to read:

321 **78A-1-101. Courts of this state -- Courts of record.**

322 (1) The following are the courts [~~of justice~~] of this state:

323 (a) the Supreme Court;

324 (b) the Court of Appeals;

325 (c) the Business and Chancery Court;

326 [~~(d)~~] (d) the district courts;

327 [~~(e)~~] (e) the juvenile courts; and

328 [~~(f)~~] (f) the justice courts.

329 (2) All courts are courts of record, except the justice courts, which are courts not of
330 record.

331 Section 7. Section **78A-1-102** is amended to read:

332 **78A-1-102. Trial courts of record -- Divisions.**

333 (1) The district and juvenile courts [~~shall be~~] are divided into eight geographical
334 divisions:

335 [~~(+)~~] (a) First Judicial District [=], which includes Box Elder, Cache, and Rich

336 Counties;

337 [(2)] (b) Second Judicial District [=], which includes Weber, Davis, and Morgan

338 Counties;

339 [(3)] (c) Third Judicial District [=], which includes Salt Lake, Summit, and Tooele

340 Counties;

341 [(4)] (d) Fourth Judicial District [=], which includes Utah, Wasatch, Juab, and Millard

342 Counties;

343 [(5)] (e) Fifth Judicial District [=], which includes Beaver, Iron, and Washington

344 Counties;

345 [(6)] (f) Sixth Judicial District [=], which includes Garfield, Kane, Piute, Sanpete,

346 Sevier, and Wayne Counties;

347 [(7)] (g) Seventh Judicial District [=], which includes Carbon, Emery, Grand, and San

348 Juan Counties; and

349 [(8)] (h) Eighth Judicial District [=], which includes Daggett, Duchesne, and Uintah

350 Counties.

351 (2) The Business and Chancery Court is not divided into geographical divisions.

352 Section 8. Section **78A-1-103.5** is enacted to read:

353 **78A-1-103.5. Number of Business and Chancery Court judges.**

354 The Business and Chancery Court shall consist of one judge.

355 Section 9. Section **78A-2-103** is amended to read:

356 **78A-2-103. Definitions.**

357 As used in this chapter:

358 (1) "Conference" means the annual statewide judicial conference established by

359 Section 78A-2-111.

360 (2) "Council" means the Judicial Council [~~established by Article VIII, Sec. 12, Utah~~
361 ~~Constitution~~].

362 (3) "Courts" mean all courts of this state, including all courts of record and not of
363 record.

364 (4) "Judicial Council" means the Judicial Council established by Utah Constitution,
365 Article VIII, Section 12.

366 Section 10. Section **78A-2-104** is amended to read:

367 **78A-2-104. Judicial Council -- Creation -- Members -- Terms and election --**
 368 **Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.**

369 (1) The Judicial Council~~[, established by Article VIII, Section 12, Utah Constitution,~~
 370 ~~shall be]~~ is composed of:

- 371 (a) the chief justice of the Supreme Court;
 372 (b) one member elected by the justices of the Supreme Court;
 373 (c) one member elected by the judges of the Court of Appeals;
 374 (d) one member elected by the judges of the Business and Chancery Court;
 375 ~~[(d)]~~ (e) six members elected by the judges of the district courts;
 376 ~~[(e)]~~ (f) three members elected by the judges of the juvenile courts;
 377 ~~[(f)]~~ (g) three members elected by the justice court judges; and
 378 ~~[(g)]~~ (h) a member or ex officio member of the Board of Commissioners of the Utah
 379 State Bar who is an active member of the Utah State Bar in good standing at the time of
 380 election by the Board of Commissioners.

381 (2) The Judicial Council shall have a seal.

382 (3) (a) The chief justice of the Supreme Court shall act as presiding officer of the
 383 ~~[council]~~ Judicial Council and chief administrative officer for the courts.

384 (b) The chief justice shall vote only in the case of a tie.

385 ~~[(b)]~~ (4) (a) All members of the ~~[council]~~ Judicial Council shall serve for three-year
 386 terms.

387 ~~[(i)]~~ (b) If a ~~[council]~~ Judicial Council member should die, resign, retire, or otherwise
 388 fail to complete a term of office, the appropriate constituent group shall elect a member to
 389 complete the term of office.

390 ~~[(i)]~~ (c) In courts having more than one member, the members shall be elected to
 391 staggered terms.

392 ~~[(iii)]~~

393 (d) The ~~[person]~~ individual elected by the Board of Commissioners under Subsection
 394 (1)(h) may complete a three-year term of office on the Judicial Council even though the
 395 ~~[person]~~ individual ceases to be a member or ex officio member of the Board of
 396 Commissioners.

397 (e) The ~~[person]~~ individual elected by the Board of Commissioners under Subsection

398 (1)(h) shall be an active member of the Utah State Bar in good standing for the entire term of
399 the Judicial Council.

400 ~~[(e)]~~ (f) Elections ~~[shall be]~~ are held under rules made by the Judicial Council.

401 ~~[(4)]~~ (5) (a) The ~~[council]~~ Judicial Council is responsible for the development of
402 uniform administrative policy for the courts throughout the state.

403 (b) The presiding officer of the Judicial Council is responsible for the implementation
404 of the policies developed by the ~~[council]~~ Judicial Council and for the general management of
405 the courts, with the aid of the state court administrator.

406 (c) The ~~[council]~~ Judicial Council has authority and responsibility to:

407 ~~[(a)]~~ (i) establish and assure compliance with policies for the operation of the courts,
408 including uniform rules and forms; and

409 ~~[(b)]~~ (ii) publish and submit to the governor, the chief justice of the Supreme Court,
410 and the Legislature an annual report of the operations of the courts, which shall include
411 financial and statistical data and may include suggestions and recommendations for legislation.

412 ~~[(5)]~~ (6) The ~~[council]~~ Judicial Council shall establish standards for the operation of
413 the courts of the state, including ~~[-but not limited to,]~~ facilities, court security, support services,
414 and staff levels for judicial and support personnel.

415 ~~[(6)]~~ (7) The ~~[council]~~ Judicial Council shall by rule:

416 (a) establish the time and manner for destroying court records, including computer
417 records ~~[-and shall];~~ and

418 (b) establish retention periods for ~~[these]~~ court records.

419 ~~[(7)]~~ (8) (a) Consistent with the requirements of judicial office and security policies,
420 the ~~[council]~~ Judicial Council shall establish procedures to govern the assignment of state
421 vehicles to public officers of the judicial branch.

422 (b) The vehicles shall be marked in a manner consistent with Section [41-1a-407](#) and
423 may be assigned for unlimited use, within the state only.

424 ~~[(8)]~~ (9) (a) The ~~[council]~~ Judicial Council shall:

425 (i) advise judicial officers and employees concerning ethical issues; and ~~[shall]~~

426 (ii) establish procedures for issuing informal and formal advisory opinions on ~~[these]~~
427 ethical issues.

428 (b) Compliance with an informal opinion is evidence of good faith compliance with the

429 Code of Judicial Conduct.

430 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial
431 Conduct.

432 ~~[(9)]~~ (10) (a) The ~~[council]~~ Judicial Council shall establish written procedures
433 authorizing the presiding officer of the ~~[council]~~ Judicial Council to appoint judges of courts of
434 record by special or general assignment to serve temporarily in another level of court in a
435 specific court or generally within that level.

436 (b) The appointment ~~[shall be for a specific period and shall be]~~ under Subsection
437 (10)(a) shall be:

438 (i) for a specific period of time; and

439 (ii) reported to the [council] Judicial Council.

440 ~~[(b)]~~ (c) ~~[These procedures shall be developed]~~ The Judicial Council shall develop the
441 procedures described in this Subsection (10)(a) in accordance with Subsection ~~[78A-2-107(10)]~~
442 78A-2-107(2) regarding the temporary appointment of judges.

443 ~~[(10)]~~ (11) (a) The Judicial Council may by rule designate municipalities in addition to
444 those designated by statute as a location of a trial court of record.

445 (b) There shall be at least one court clerk's office open during regular court hours in
446 each county.

447 (c) Any trial court of record may hold court in any municipality designated as a
448 location of a court of record.

449 ~~[(11)]~~ (12) The Judicial Council shall by rule determine whether the administration of a
450 court ~~[shall be]~~ is the obligation of the Administrative Office of the Courts or whether the
451 Administrative Office of the Courts should contract with local government for court support
452 services.

453 ~~[(12)]~~ (13) The Judicial Council may by rule direct that a district court location be
454 administered from another court location within the county.

455 ~~[(13)]~~ (14) (a) The Judicial Council shall:

456 (i) establish the Office of Guardian Ad Litem~~;~~ in accordance with Title 78A, Chapter
457 2, Part 8, Guardian Ad Litem; and

458 (ii) establish and supervise a Guardian Ad Litem Oversight Committee.

459 (b) The Guardian Ad Litem Oversight Committee described in Subsection ~~[(13)(a)(ii)]~~

460 (14)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection
461 ~~[(13)(a)(i)]~~ (14)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and
462 federal law, regulation, policy, and court rules.

463 ~~[(14)]~~ (15) The Judicial Council shall establish and maintain, in cooperation with the
464 Office of Recovery Services within the Department of Health and Human Services, the part of
465 the state case registry that contains records of each support order established or modified in the
466 state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42
467 U.S.C. Sec. 654a.

468 Section 11. Section **78A-2-107** is amended to read:

469 **78A-2-107. Court administrator -- Powers, duties, and responsibilities.**

470 Under the general supervision of the presiding officer of the Judicial Council, and
471 within the policies established by the ~~[council;]~~ the Judicial Council:

472 (1) the state court administrator shall:

473 ~~[(1)]~~ (a) organize and administer all of the nonjudicial activities of the courts;

474 ~~[(2)]~~ (b) assign, supervise, and direct the work of the nonjudicial officers of the courts;

475 ~~[(3)]~~ (c) implement the standards, policies, and rules established by the ~~[council]~~

476 Judicial Council;

477 ~~[(4)]~~ (d) formulate and administer a system of personnel administration, including
478 in-service training programs;

479 ~~[(5)]~~ (e) prepare and administer the state judicial budget, fiscal, accounting, and
480 procurement activities for the operation of the courts of record~~[-and];~~

481 (f) assist ~~[justices']~~ justice courts in ~~[their]~~ budgetary, fiscal, and accounting
482 procedures;

483 ~~[(6)]~~ (g) conduct studies of the business of the courts, including the preparation of
484 recommendations and reports relating to ~~[them]~~ the studies;

485 ~~[(7)]~~ (h) develop uniform procedures for the management of court business, including
486 the management of court calendars;

487 ~~[(8)]~~ (i) maintain liaison with the governmental and other public and private groups
488 having an interest in the administration of the courts;

489 ~~[(9)]~~ (j) establish uniform policy concerning vacations and sick leave for judges and
490 nonjudicial officers of the courts;

491 ~~[(10)] (k)~~ establish uniform hours for court sessions throughout the state ~~[and may,~~
 492 ~~with the consent of the presiding officer of the Judicial Council, call and appoint justices or~~
 493 ~~judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile~~
 494 ~~court judges and set reasonable compensation for their services];~~

495 ~~[(11)] (l)~~ when necessary for administrative reasons, change the county for trial of any
 496 case if no party to the litigation files timely objections to this change;

497 ~~[(12)] (m)~~ ~~[(a)] (i)~~ organize and administer a program of continuing education for
 498 judges and support staff, including training for justice court judges; and

499 ~~[(b)] (ii)~~ ensure that any training or continuing education described in Subsection
 500 ~~[(12)(a)] (1)(m)(i)~~ complies with Title 63G, Chapter 22, State Training and Certification
 501 Requirements;

502 ~~[(13)] (n)~~ provide for an annual meeting for each level of the courts of record~~;~~ and the
 503 annual judicial conference; and

504 ~~[(14)] (o)~~ perform other duties as assigned by the presiding officer of the ~~[council:]~~
 505 Judicial Council; and

506 (2) with the consent of the presiding officer of the Judicial Council, the state court
 507 administrator may:

508 (a) call and appoint a justice or judge of a court of record to serve temporarily as a
 509 judge of the Court of Appeals, the Business and Chancery Court, a district court, or a juvenile
 510 court; and

511 (b) set reasonable compensation for the service of a justice or judge under Subsection
 512 (2)(a).

513 Section 12. Section **78A-2-108** is amended to read:

514 **78A-2-108. Assistants for state court administrator -- Appointment of trial court**
 515 **executives.**

516 (1) The state court administrator, with the approval of the presiding officer of the
 517 ~~[council]~~ Judicial Council, is responsible for the establishment of positions and salaries of
 518 assistants as necessary to enable the state court administrator to perform the powers and duties
 519 vested in the state court administrator by this chapter, including the positions of appellate court
 520 administrator, business and chancery court administrator, district court administrator, juvenile
 521 court administrator, and ~~[justices']~~ justice court administrator~~;~~ ~~whose appointments shall be~~

522 made by the state court administrator].

523 (2) The state court administrator shall appoint an appellate court administrator, a
 524 business and chancery court administrator, a district court administrator, a juvenile court
 525 administrator, and a justice court administrator with the concurrence of the respective boards as
 526 established by the ~~[council]~~ Judicial Council.

527 ~~[(2)]~~ (3) (a) The district court administrator, with the concurrence of the presiding
 528 judge of a district or the district court judge in single judge districts, may appoint a trial court
 529 executive in each district ~~[a trial court executive]~~.

530 (b) The trial court executive may appoint, subject to budget limitations, necessary
 531 support personnel including clerks, research clerks, secretaries, and other persons required to
 532 carry out the work of the court.

533 (c) The trial court executive shall supervise the work of all nonjudicial court staff and
 534 serve as administrative officer of the district.

535 ~~[(3)]~~ (4) Administrators and assistants appointed under this section ~~[shall be]~~ are
 536 known collectively as the Administrative Office of the Courts.

537 Section 13. Section **78A-2-110** is amended to read:

538 **78A-2-110. Databases for judicial boards.**

539 (1) As used in this section, "judicial board" means any judicial branch board,
 540 commission, council, committee, working group, task force, study group, advisory group, or
 541 other body with a defined limited membership that is created to operate for more than six
 542 months by:

543 (a) the constitution~~[-by]~~;

544 (b) statute~~[-by]~~;

545 (c) judicial order~~[-by]~~;

546 (d) any justice or judge~~[-by]~~;

547 (e) the Judicial Council~~[-or by]~~;

548 (f) the state court administrator, a district court administrator, trial court executive, or a
 549 business and chancery court administrator; or ~~[by]~~

550 (g) any clerk or administrator in the judicial branch of state government.

551 (2) The Judicial Council shall designate ~~[a person from its staff]~~ an individual from the
 552 Judicial Council's staff to maintain a computerized ~~[data base]~~ database containing information

553 about all judicial boards.

554 (3) The ~~[person]~~ individual designated to maintain the ~~[data base]~~ database shall:

555 ~~(a)~~ (a) ensure that the ~~[data base]~~ database contains:

556 ~~(a)~~ (i) the name of the judicial board;

557 ~~(b)~~ (ii) the statutory or constitutional authority for the creation of the judicial board;

558 ~~(c)~~ (iii) the court or other judicial entity under whose jurisdiction the judicial board

559 operates or with which the judicial board is affiliated, if any;

560 ~~(d)~~ (iv) the name, address, gender, telephone number, and county of each ~~[person]~~

561 individual currently serving on the judicial board, along with a notation of all vacant or unfilled

562 positions;

563 ~~(e)~~ (v) the title of the position held by the ~~[person]~~ individual who appointed each

564 member of the judicial board;

565 ~~(f)~~ (vi) the length of the term to which each member of the judicial board was

566 appointed and the month and year that each judicial board member's term expires;

567 ~~(g)~~ (vii) the organization, interest group, profession, local government entity, or

568 geographic area that the member of the judicial board represents, if any;

569 ~~(h)~~ (viii) whether or not the judicial board allocates state or federal funds and the

570 amount of those funds allocated during the last fiscal year;

571 ~~(i)~~ (ix) whether the judicial board is a policy board or an advisory board;

572 ~~(j)~~ (x) whether or not the judicial board has or exercises rulemaking authority; and

573 ~~(k)~~ (xi) any compensation and expense reimbursement that members of the executive

574 board are authorized to receive[-];

575 ~~[(4) The person designated to maintain the data base shall:]~~

576 ~~(a)~~ (b) make the information contained in the ~~[data base]~~ database available to the

577 public upon request; ~~[and]~~

578 ~~(b)~~ (c) cooperate with other entities of state government to publish the data or useful

579 summaries of the data[-];

580 ~~(5)~~

581 ~~(a)~~ (d) ~~[The person designated to maintain the data bases shall]~~ prepare, publish, and

582 distribute an annual report by April 1 of each year that includes, as of March 1 of that year:

583 (i) the total number of judicial boards;

584 (ii) the name of each of those judicial boards and the court, council, administrator,
585 executive, or clerk under whose jurisdiction the executive board operates or with which the
586 judicial board is affiliated, if any;

587 (iii) for each court, council, administrator, executive, or clerk, the total number of
588 judicial boards under the jurisdiction of or affiliated with that court, council, administrator,
589 executive, or clerk;

590 (iv) the total number of members for each of those judicial boards;

591 (v) whether each board is a policymaking board or an advisory board and the total
592 number of policy boards and the total number of advisory boards; and

593 (vi) the compensation, if any, paid to the members of each of those judicial boards[?];
594 and

595 [~~(b)~~] (e) [~~The person designated to maintain the data bases shall~~] distribute copies of
596 the report described in Subsection (3)(d) to:

597 (i) the chief justice of the Utah Supreme Court;

598 (ii) the state court administrator;

599 (iii) the governor;

600 (iv) the president of the Utah Senate;

601 (v) the speaker of the Utah House;

602 (vi) the Office of Legislative Research and General Counsel; and

603 (vii) any other persons who request a copy of the annual report.

604 Section 14. Section **78A-2-113** is amended to read:

605 **78A-2-113. Judicial hiring freeze authorized.**

606 (1) As used in this section, "General Fund budget deficit" means a situation where
607 General Fund appropriations made by the Legislature for a fiscal year exceed the estimated
608 revenues adopted by the Executive Appropriations Committee of the Legislature for the
609 General Fund in that fiscal year.

610 (2) During a General Fund budget deficit, the governor, president of the Senate,
611 speaker of the House, and chief justice of the Supreme Court, may, by unanimous vote,
612 implement a judicial hiring freeze for judicial vacancies for:

613 (a) a juvenile court district with three or more juvenile court judges;

614 (b) a district court district with three or more district court judges;

615 (c) all Business and Chancery Court judges;

616 [~~(c)~~] (d) all appellate court judges; or

617 [~~(d)~~] (e) any combination of Subsections (2)(a) through [~~(c)~~] (d).

618 (3) In implementing a judicial hiring freeze, the governor, president of the Senate,

619 speaker of the House, and chief justice of the Supreme Court shall:

620 (a) establish the length of that hiring freeze; and

621 (b) ensure that the hiring freeze lasts at least 90 days, but not longer than the last day of
622 the annual general session of the Legislature.

623 Section 15. Section **78A-2-202** is amended to read:

624 **78A-2-202. Authority of court.**

625 (1) [~~All courts of justice have~~] A court of this state has the authority necessary to
626 exercise [~~their~~] the court's jurisdiction.

627 (2) If a procedure for an action is not established, a process may be adopted that
628 conforms with the apparent intent of the statute or rule of procedure.

629 Section 16. Section **78A-2-204** is amended to read:

630 **78A-2-204. Judicial Council to approve court seals.**

631 The Judicial Council shall approve a seal for all courts of [~~justice~~] this state.

632 Section 17. Section **78A-2-208** is amended to read:

633 **78A-2-208. Sittings of courts -- To be public -- Notice to public of recording --**
634 **Right to exclude in certain cases.**

635 (1) The sittings of every court [~~of justice~~] of this state are public, except as provided in
636 Subsections (3) and (4).

637 (2) The Judicial Council shall require that notice be given to the public that the
638 proceedings are being recorded when an electronic or digital recording system is being used
639 during court proceedings.

640 (3) The court may, in [~~its~~] the court's discretion, during the examination of a witness
641 exclude any and all other witnesses in the proceedings.

642 (4) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault
643 with intent to commit rape, the court may, in [~~its~~] the court's discretion, exclude all persons
644 who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the
645 court.

646 Section 18. Section **78A-2-211** is amended to read:

647 **78A-2-211. Court days.**

648 [~~Courts of justice~~] All courts of this state are open and judicial business may be
649 transacted on any day, except as provided in Section [78A-2-212](#).

650 Section 19. Section **78A-2-213** is amended to read:

651 **78A-2-213. Proceedings unaffected by vacancy in office of judge.**

652 No proceeding in any court of [~~justice~~] this state is affected by a vacancy in the office of
653 all or any of the judges[;] or by the failure of a term of a judge.

654 Section 20. Section **78A-2-301.1** is enacted to read:

655 **78A-2-301.1. Civil fee for Business and Chancery Court.**

656 (1) A party shall pay a fee of \$500 at the time that the party files:

657 (a) a civil complaint or petition in the Business a Chancery Court; or

658 (b) a motion to transfer an action from the district court to the Business and Chancery
659 Court.

660 (2) The fee described in Subsection (1) is in addition to any filing fee that a party must
661 pay under Section [78A-2-301](#).

662 (3) All fees collected under this section are paid to the General Fund.

663 Section 21. Section **78A-2-802** is amended to read:

664 **78A-2-802. Office of Guardian Ad Litem -- Appointment of director -- Duties of**
665 **director -- Contracts in second, third, and fourth districts.**

666 (1) There is created the Office of Guardian Ad Litem under the direct supervision of
667 the Guardian Ad Litem Oversight Committee described in Subsection [~~78A-2-104(13)~~]
668 [78A-2-104\(14\)](#).

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

671 (b) The guardian ad litem director shall:

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

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

675 (A) professional ability;

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

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

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

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

683 (3) The guardian ad litem director shall:

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

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

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

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

696 (e) develop and update a guardian ad litem manual that includes:

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

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

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

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

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

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

707 (j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee

708 and the Child Welfare Legislative Oversight Panel created in Section 36-33-102 regarding:

709 (i) the development, policy, and management of the statewide guardian ad litem

710 program;

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

712 (iii) the number of minors served by the office;

713 (k) hire, train, and supervise investigators; and

714 (l) administer the program of private attorney guardians ad litem established under

715 Section 78A-2-705.

716 (4) A contract of employment or independent contract described in Subsection (3)(c)

717 shall provide that an attorney guardian ad litem in the second, third, and fourth judicial districts

718 devote the attorney guardian's ad litem full time and attention to the role of attorney guardian

719 ad litem, having no clients other than the minors whose interest the attorney guardian ad litem

720 represents within the guardian ad litem program.

721 Section 22. Section 78A-5-107 is amended to read:

722 **78A-5-107. Court commissioners -- Qualifications -- Appointment -- Functions**

723 **governed by rule.**

724 (1) (a) Court commissioners are quasi-judicial officers of courts of record and have
725 limited judicial authority as provided by this section and rules of the Judicial Council.

726 (b) Court commissioners serve full-time and are subject to the restrictions of Section
727 78A-2-221, which prohibits the practice of law.

728 (2) (a) The Judicial Council shall appoint court commissioners with the concurrence of
729 a majority of the judges of trial courts in the district the court commissioner primarily serves.

730 (b) The Judicial Council may assign court commissioners appointed under this section
731 to serve in one or more judicial districts.

732 (3) A person appointed as a court commissioner shall have the following
733 qualifications:

734 (a) be 25 years [~~of age~~] old or older;

735 (b) be a citizen of the United States;

736 (c) be a resident of this state while serving as court commissioner;

737 (d) be admitted to the practice of law in this state; and

738 (e) possess ability and experience in the areas of law in which the commissioner will

739 be serving.

740 (4) A court commissioner shall take and subscribe to the oath of office as required by
741 Article IV, Sec. 10, Utah Constitution, prior to assuming the duties of the office.

742 (5) Court commissioners shall:

743 (a) comply with applicable constitutional and statutory provisions, court rules and
744 procedures, and rules of the Judicial Council;

745 (b) comply with the Code of Judicial Conduct to the same extent as full-time judges;
746 and

747 (c) successfully complete orientation and education programs as required by the
748 Judicial Council.

749 (6) The presiding judge of the district the commissioner primarily serves:

750 (a) shall develop a performance plan for the court commissioner and annually conduct
751 an evaluation of the commissioner's performance, and shall provide the plan and evaluations to
752 the Judicial Council upon request; and

753 (b) is responsible for the day-to-day supervision of the court commissioner.

754 (7) The Judicial Council shall:

755 (a) establish by rule procedures for the investigation and review of complaints and the
756 discipline and removal of court commissioners; and

757 (b) evaluate court commissioners under the requirements of Subsection [~~78A-2-104(5)~~]
758 [78A-2-104\(6\)](#).

759 (8) The Judicial Council shall make uniform statewide rules defining the duties and
760 authority of court commissioners for each level of court they serve. The rules shall not exceed
761 constitutional limitations upon the delegation of judicial authority. The rules shall at a
762 minimum establish:

763 (a) types of cases and matters commissioners may hear;

764 (b) types of orders commissioners may recommend;

765 (c) types of relief commissioners may recommend; and

766 (d) procedure for timely judicial review of recommendations and orders made by court
767 commissioners.

768 Section 23. Section **78A-5a-101** is enacted to read:

769 **CHAPTER 5a. BUSINESS AND CHANCERY COURT**

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Part 1. General Provisions

78A-5a-101. Definitions.

- (1) "Action" means a lawsuit or case commenced in a court.
- (2) (a) "Asset" means property of all kinds, real or personal and tangible or intangible.

 - (b) "Asset" includes:

 - (i) cash, except for any reasonable compensation or salary for services rendered;
 - (ii) stock or other investments;
 - (iii) goodwill;
 - (iv) an ownership interest;
 - (v) a license;
 - (vi) a cause of action; and
 - (vii) any similar property.
- (3) "Beneficial shareholder" means the same as that term is defined in Section [16-10a-1301](#).
- (4) "Blockchain" means a cryptographically secured, chronological, and decentralized consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other interaction.
- (5) "Blockchain technology" means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.
- (6) "Board" means the board of directors or trustees of a corporation.
- (7) "Business" means any enterprise carried on for the purpose of gain or economic profit.
- (8) (a) "Business organization" means an organization in any form that is primarily engaged in business.

 - (b) "Business organization" includes:

 - (i) an association;
 - (ii) a corporation;
 - (iii) a joint stock company;
 - (iv) a joint venture;
 - (v) a limited liability company;
 - (vi) a mutual fund trust;

- 801 (vii) a partnership; or
802 (viii) any other similar form of an organization described in Subsections (8)(b)(i)
803 through (vii).
- 804 (c) "Business organization" does not include a governmental entity as defined in
805 Section [63G-7-102](#).
- 806 (9) "Claim" means a written demand or assertion in an action.
- 807 (10) "Consumer contract" means a contract entered into by a consumer for the purchase
808 of goods or services for personal, family, or household purposes.
- 809 (11) "Court" means the Business and Chancery Court established in Section
810 [78A-5a-102](#).
- 811 (12) "Decentralized autonomous organization" means an organization that is created by
812 a smart contract deployed on a permissionless blockchain that implements specific
813 decision-making or governance rules enabling individuals to coordinate themselves in a
814 decentralized fashion.
- 815 (13) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 816 (14) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 817 (15) "Health care" means the same as that term is defined in Section [78B-3-403](#).
- 818 (16) "Health care provider" means the same as that term is defined in Section
819 [78B-3-403](#).
- 820 (17) "Monetary damages" does not include:
- 821 (a) punitive or exemplary damages;
822 (b) prejudgment or postjudgment interest; or
823 (c) attorney fees or costs.
- 824 (18) "Officer" means an individual designated by a board, or other governing body of a
825 business organization, to act on behalf of the business organization.
- 826 (19) "Owner" means a person who, directly or indirectly, owns or controls an
827 ownership interest in a business organization regardless of whether the person owns or controls
828 the ownership interest through another person, a power of attorney, or another business
829 organization.
- 830 (20) "Ownership interest" means an interest owned in a business organization,
831 including any shares, membership interest, partnership interest, or governance or transferable

832 interest.

833 (21) "Permissionless blockchain" means a public distributed ledger that allows an
834 individual to transact and produce blocks in accordance with the blockchain protocol, whereby
835 the validity of the block is not determined by the identity of the producer.

836 (22) "Personal injury" means a physical or mental injury, including wrongful death.

837 (23) "Professional" means an individual whose profession requires a license,
838 registration, or certification on the basis of experience, education, testing, or training.

839 (24) "Security" means the same as that term is defined in Section [61-1-13](#).

840 (25) "Shareholder" means the record shareholder or the beneficial shareholder.

841 (26) "Smart contract" means code deployed on a permissionless blockchain that
842 consists of a set of predefined instructions executed in a distributed manner by the nodes of an
843 underlying blockchain network that produces a change on the blockchain network.

844 (27) "Record shareholder" means the same as that term is defined in Section
845 [16-10a-1301](#).

846 (28) "Trustee" means a person that holds or administers an ownership interest on
847 behalf of a third party.

848 Section 24. Section **78A-5a-102** is enacted to read:

849 **78A-5a-102. Establishment of the Business and Chancery Court -- Organization**
850 **and status.**

851 (1) There is established the Business and Chancery Court for the state.

852 (2) The Business and Chancery Court is a court of record.

853 (3) The Business and Chancery Court is a trial court with limited and statewide
854 jurisdiction over actions and claims as described in Section [78A-5a-103](#).

855 (4) The Business and Chancery Court is of equal status with the district and juvenile
856 courts of the state.

857 (5) The Business and Chancery Court is established as a forum for the resolution of all
858 matters properly brought before the Business and Chancery Court and consistent with
859 applicable constitutional and statutory requirements of due process.

860 (6) The Business and Chancery Court shall have a seal.

861 (7) The judges and clerks of the Business and Chancery Court have the power to
862 administer oaths and affirmations.

863 Section 25. Section **78A-5a-103** is enacted to read:

864 **78A-5a-103. Concurrent jurisdiction of the Business and Chancery Court --**

865 **Exceptions.**

866 (1) The Business and Chancery Court has jurisdiction, concurrent with the district
867 court, over an action:

868 (a) seeking monetary damages of at least \$300,000 or seeking solely equitable relief;

869 and

870 (b) (i) with a claim arising from:

871 (A) a breach of a contract;

872 (B) a breach of a fiduciary duty;

873 (C) a dispute over the internal affairs or governance of a business organization;

874 (D) the sale, merger, or dissolution of a business organization;

875 (E) the sale of substantially all of the assets of a business organization;

876 (F) the receivership or liquidation of a business organization;

877 (G) a dispute over liability or indemnity between or among owners of the same
878 business organization;

879 (H) a dispute over liability or indemnity of an officer or owner of a business
880 organization;

881 (I) a tortious or unlawful act committed against a business organization, including an
882 act of unfair competition, tortious interference, or misrepresentation or fraud;

883 (J) a dispute between a business organization and an insurer regarding a commercial
884 insurance policy;

885 (K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

886 (L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade
887 Secrets Act;

888 (M) the misappropriation of intellectual property;

889 (N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or
890 confidentiality agreement, regardless of whether the agreement is oral or written;

891 (O) a relationship between a franchisor and a franchisee;

892 (P) the purchase or sale of a security or an allegation of security fraud;

893 (Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous

894 organization;
895 (R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or
896 (S) a contract with a forum selection clause for a chancery, business, or commercial
897 court of this state or any other state;
898 (ii) with a malpractice claim concerning services that a professional provided to a
899 business organization; or
900 (iii) that is a shareholder derivative action.
901 (2) The Business and Chancery Court may exercise supplemental jurisdiction over all
902 claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1),
903 except that the Business and Chancery Court may not exercise jurisdiction over:
904 (a) any claim arising from:
905 (i) a consumer contract;
906 (ii) a personal injury, including any personal injury relating to or arising out of health
907 care rendered or which should have been rendered by the health care provider;
908 (iii) a wrongful termination of employment or a prohibited or discriminatory
909 employment practice;
910 (iv) a violation of Title 13, Chapter 7, Civil Rights;
911 (v) Title 30, Husband and Wife;
912 (vi) Title 63G, Chapter 4, Administrative Procedures Act;
913 (vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;
914 (viii) Title 78B, Chapter 6, Part 5, Eminent Domain;
915 (ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer;
916 (x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
917 (xi) Title 78B, Chapter 12, Utah Child Support Act;
918 (xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement
919 Act;
920 (xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;
921 (xiv) Title 78B, Chapter 15, Uniform Parentage Act;
922 (xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or
923 (xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and
924 Visitation Act; or

925 (b) any criminal matter, unless the criminal matter is an act or omission of contempt
 926 that occurs in an action before the Business and Chancery Court.

927 Section 26. Section **78A-5a-104** is enacted to read:

928 **78A-5a-104. Trier of fact and law -- Demand for jury trial.**

929 (1) The Business and Chancery Court is the trier of fact and law in an action before the
 930 Business and Chancery Court.

931 (2) The Business and Chancery Court shall transfer an action to the district court if a
 932 party to the action demands a trial by jury in accordance with the Utah Rules of Civil
 933 Procedure.

934 Section 27. Section **78A-5a-105** is enacted to read:

935 **78A-5a-105. Venue for the Business and Chancery Court.**

936 (1) Title 78B, Chapter 3a, Venue for Civil Actions, does not apply to an action brought
 937 in the Business and Chancery Court.

938 (2) Any requirement in the Utah Code to file or bring an action in a specific district or
 939 county does not apply to an action brought in the Business and Chancery Court.

940 Section 28. Section **78A-5a-201** is enacted to read:

941 **Part 2. Administration**

942 **78A-5a-201. Judges of the Business and Chancery Court -- Terms.**

943 (1) A judge of the Business and Chancery Court is appointed to initially serve until the
 944 first general election held more than three years after the day on which the appointment is
 945 effective.

946 (2) After the initial term described in Subsection (1), the term of office of a judge of
 947 the Business and Chancery Court is six years and commences on the first Monday in January
 948 following the date of election.

949 (3) A judge of the Business and Chancery Court whose term expires may serve, upon
 950 request of the Judicial Council, until a successor is appointed and qualified.

951 Section 29. Section **78A-5a-202** is enacted to read:

952 **78A-5a-202. Presiding judge - Associate presiding judge -- Compensation --**
 953 **Powers -- Duties.**

954 (1) (a) The judges of the Business and Chancery Court shall elect a presiding judge
 955 from among the members of the court by majority vote of all judges.

956 (b) The presiding judge shall receive \$2,000 per annum as additional compensation for
957 the period served as presiding judge.

958 (2) The presiding judge has the following authority and responsibilities, consistent with
959 the policies of the Judicial Council:

960 (a) implementing policies of the Judicial Council; and

961 (b) exercising powers and performing administrative duties as authorized by the
962 Judicial Council.

963 (3) (a) If the Business and Chancery Court has more than two judges, the judges of the
964 Business and Chancery Court may elect an associate presiding judge from among the members
965 of the court by majority vote of all judges.

966 (b) The associate presiding judge shall receive \$1,000 per annum as additional
967 compensation for the period served as associate presiding judge.

968 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall
969 assume the responsibilities of the presiding judge.

970 (b) The associate presiding judge shall perform other duties assigned by the presiding
971 judge.

972 Section 30. Section **78A-5a-203** is enacted to read:

973 **78A-5a-203. Administrative system -- Case management -- Clerk of the court --**
974 **Employees.**

975 (1) (a) There is established the State Business and Chancery Court Administrative
976 System.

977 (b) The Judicial Council shall administer the operation of the State Business and
978 Chancery Court Administrative System.

979 (2) The Business and Chancery Court shall develop a case management system that:

980 (a) ensures judicial accountability for the just and timely disposition of cases; and

981 (b) provides each judge of the Business and Chancery Court a full judicial workload
982 that accommodates differences in the subject matter or complexity of cases assigned to
983 different judges of the Business and Chancery Court.

984 (3) The clerk of the Business and Chancery Court shall:

985 (a) take charge of and safely keep the court seal;

986 (b) take charge of and safely keep or dispose of all books, papers, and records filed or

987 deposited with the clerk and all other records required by law or the rules of the Judicial
988 Council;

989 (c) issue all notices, processes, and summonses as authorized by law;

990 (d) keep a record of all proceedings, actions, orders, judgments, and decrees of the
991 court;

992 (e) supervise the deputy clerks as required to perform the duties of the clerk's office;
993 and

994 (f) perform other duties as required by the presiding judge, the business and chancery
995 court administrator, applicable law, and the rules of the Judicial Council.

996 (4) All employees, except judges of the Business and Chancery Court, are selected,
997 promoted, and discharged through the state courts personnel system for the Business and
998 Chancery Court under the direction and rules of the Judicial Council.

999 Section 31. Section **78A-5a-204** is enacted to read:

1000 **78A-5a-204. Location of the Business and Chancery Court -- Court facilities --**
1001 **Costs.**

1002 (1) The Business and Chancery Court is located in Salt Lake City.

1003 (2) The Business and Chancery Court may perform any of the Business and Chancery
1004 Court's functions in any location within the state.

1005 (3) The Judicial Council shall provide, from appropriations made by the Legislature,
1006 court space suitable for the conduct of court business for the Business and Chancery Court.

1007 (4) The Judicial Council may, in order to carry out the Judicial Council's obligation to
1008 provide facilities for the Business and Chancery Court, lease space to be used by the Business
1009 and Chancery Court.

1010 (5) A lease or reimbursement for the Business and Chancery Court must comply with
1011 the standards of the Division of Facilities Construction and Management that are applicable to
1012 state agencies.

1013 (6) The cost of salaries, travel, and training required for the discharge of the duties of
1014 judges, secretaries of judges or court executives, court executives, and court reporters for the
1015 Business and Chancery Court are paid from appropriations made by the Legislature.

1016 Section 32. Section **78A-5a-205** is enacted to read:

1017 **78A-5a-205. Court sessions.**

1018 The Business and Chancery Court shall hold court at least once in each quarter of the
1019 year.

1020 Section 33. Section **78A-5a-301** is enacted to read:

1021 **Part 3. Business and Chancery Court Proceedings**

1022 **78A-5a-301. Publication of decisions and orders.**

1023 The Business and Chancery Court shall:

1024 (1) publish all final decisions and orders issued by the Business and Chancery Court;

1025 and

1026 (2) make all final decisions and orders public on the Utah Courts' website.

1027 Section 34. Section **78A-5a-302** is enacted to read:

1028 **78A-5a-302. Tentative ruling before oral argument.**

1029 The Business and Chancery Court shall provide the parties with a proposed ruling on
1030 each motion within 48 hours before the day on which oral argument is held on the motion.

1031 Section 35. Section **78A-10-101.5** is enacted to read:

1032 **78A-10-101.5. Definitions.**

1033 As used in this part:

1034 (1) "Commissioner" means a member appointed to a judicial nominating commission.

1035 (2) "Judicial nominating commission" means a commission created under Section

1036 [78A-10-201](#), [78A-10-301](#), or [78A-10-402](#).

1037 Section 36. Section **78A-10-103** is amended to read:

1038 **78A-10-103. Procedures governing meetings of judicial nominating commissions.**

1039 (1) The Commission on Criminal and Juvenile Justice shall:

1040 (a) in consultation with the Judicial Council, enact rules establishing procedures

1041 governing the meetings of [~~the judicial nominating commissions~~] a judicial nominating

1042 commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1043 and

1044 (b) ensure that those procedures include:

1045 (i) a minimum recruitment period of at least 30 days but not more than 90 days, unless

1046 fewer than nine applications are received for a judicial vacancy, in which case the recruitment

1047 period may be extended up to 30 days;

1048 (ii) standards for maintaining the confidentiality of the applications and related

1049 documents;

1050 (iii) standards governing the release of applicant names before nomination;

1051 (iv) standards for destroying the records of the names of applicants, applications, and

1052 related documents upon completion of the nominating process;

1053 (v) an opportunity for public comment concerning the nominating process,

1054 qualifications for judicial office, and individual applicants;

1055 (vi) evaluation criteria for the selection of judicial nominees;

1056 (vii) procedures for taking summary minutes at [~~nominating commission meetings~~] a

1057 judicial nominating commission meeting;

1058 (viii) procedures for simultaneously forwarding the names of nominees to the

1059 governor, the president of the Senate, and the Office of Legislative Research and General

1060 Counsel;

1061 (ix) standards governing a nominating commissioner's disqualification and inability to

1062 serve; and

1063 (x) procedures that require the Administrative Office of the Courts to immediately

1064 inform the governor when a judge is removed, resigns, or retires.

1065 (2) In determining which of the applicants are the most qualified, [~~the nominating~~

1066 ~~commissions~~] a judicial nominating commission shall determine by a majority vote of the

1067 commissioners present which of the applicants best possess the ability, temperament, training,

1068 and experience that qualifies them for the office.

1069 (3) (a) Except as provided under Subsection (3)(b):

1070 (i) the appellate court nominating commission shall certify to the governor a list of the

1071 seven most qualified applicants per vacancy;

1072 (ii) the business and chancery court nominating commission shall certify to the

1073 governor a list of the seven most qualified applicants per vacancy; and

1074 [~~(ii)~~] (iii) [trial court nominating commissions] a district and juvenile court nominating

1075 commission shall certify to the governor a list of the five most qualified applicants per vacancy.

1076 (b) If a judicial nominating commission is considering applicants for more than one

1077 judicial vacancy existing at the same time and for the same court, the judicial nominating

1078 commission shall include one additional applicant for each additional vacancy in the court in

1079 the list of applicants the judicial nominating commission certifies to the governor.

1080 (4) [~~Nominating commissions~~] A judicial nominating commission shall ensure that the
1081 list of applicants submitted to the governor:

- 1082 (a) meet the qualifications required by law to fill the office; and
- 1083 (b) are willing to serve.

1084 (5) In determining which of the applicants are the most qualified, [~~nominating~~
1085 ~~commissions~~] a judicial nominating commission may not decline to submit a candidate's name
1086 to the governor merely because:

- 1087 (a) the judicial nominating commission had declined to submit that candidate's name to
1088 the governor to fill a previous vacancy;
- 1089 (b) a previous judicial nominating commission had declined to submit that candidate's
1090 name to the governor; or
- 1091 (c) that a judicial nominating commission or a previous judicial nominating
1092 commission had submitted the applicant's name to the governor and the governor selected
1093 someone else to fill the vacancy.

1094 (6) A judicial nominating commission may not nominate a justice or judge who was
1095 not retained by the voters for the office for which the justice or judge was defeated until after
1096 the expiration of that term of office.

1097 (7) [~~Judicial nominating commissions are~~] A judicial nominating commission is
1098 exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.
1099 Section 37. Section **78A-10-104** is amended to read:

1100 **78A-10-104. Convening of judicial nominating commissions -- Certification to**
1101 **governor of nominees -- Meetings to investigate prospective candidates.**

1102 (1) Unless a hiring freeze is implemented in accordance with Section **78A-2-113**, the
1103 governor shall ensure that:

- 1104 (a) the recruitment period to fill a judicial vacancy begins 235 days before the effective
1105 date of a vacancy, unless sufficient notice is not given, in which case the recruitment period
1106 shall begin within 10 days of receiving notice;
- 1107 (b) the recruitment period is a minimum of 30 days but not more than 90 days, unless
1108 fewer than nine applications are received, in which case the recruitment period may be
1109 extended up to 30 days; and
- 1110 (c) the chair of the judicial nominating commission having authority over the vacancy

1111 shall convene a meeting not more than 10 days after the close of the recruitment period.

1112 (2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.

1113 (3) The judicial nominating commission may:

1114 (a) meet as necessary to perform [~~its~~] the judicial nominating commission's function;

1115 and

1116 (b) investigate prospective candidates.

1117 (4) Not later than 45 days after convening[~~, the~~]:

1118 (a) the appellate court nominating commission shall certify to the governor a list of the

1119 seven most qualified applicants per vacancy;

1120 (b) the business and chancery court nominating commission shall certify to the

1121 governor a list of the seven most qualified applicants per vacancy; and

1122 [~~(b)~~] (c) [~~trial court~~] a district and juvenile court nominating commission shall certify

1123 to the governor a list of the five most qualified applicants per vacancy.

1124 (5) The governor shall fill the vacancy within 30 days after receiving the list of

1125 nominees.

1126 (6) If the governor fails to fill the vacancy within 30 days of receiving the list of

1127 nominees from the judicial nominating commission, the chief justice of the Supreme Court

1128 shall, within 20 days, appoint [~~a person~~] an individual from the list of nominees certified to the

1129 governor.

1130 (7) A judicial nominating commission may not nominate [~~a person~~] an individual who

1131 has served on a judicial nominating commission within six months of the date that the

1132 commission was last convened.

1133 Section 38. Section **78A-10-301** is amended to read:

1134 **Part 3. District and Juvenile Court Nominating Commissions**

1135 **78A-10-301. Definitions -- Creation.**

1136 (1) As used in this part:

1137 (a) "Commission" means a district and juvenile court nominating commission created

1138 in Subsection (2).

1139 (b) "Commissioner" means a member of a district and juvenile court nominating

1140 commission created in Subsection (2).

1141 (2) There is created a [~~Trial Court Nominating Commission~~] district and juvenile court

1142 nominating commission for each geographical division of the [~~trial courts of record~~] district
1143 and juvenile courts under Section 78A-1-102.

1144 [~~(2)~~] (3) [~~The Trial Court Nominating Commission~~] A commission shall nominate
1145 judges of the district court and the juvenile court within [~~its~~] the commission's geographical
1146 division.

1147 Section 39. Section **78A-10-302** is amended to read:

1148 **78A-10-302. Membership.**

1149 (1) [~~The Trial Court Nominating Commission~~] A district and juvenile court nominating
1150 commission shall consist of seven commissioners, each appointed by the governor to serve a
1151 single four-year term.

1152 (2) Each commissioner shall:

1153 (a) be a United States citizen;

1154 (b) be a resident of Utah;

1155 (c) be a resident of the geographic division to be served by the commission to which
1156 the commissioner is appointed; and

1157 (d) serve until the commissioner's successor is appointed.

1158 (3) The governor may not appoint:

1159 (a) a commissioner to serve successive terms;

1160 (b) a member of the Legislature to serve as a member of a [~~Trial Court Nominating~~
1161 ~~Commission~~] commission; or

1162 (c) more than four commissioners from the same political party to a [~~Trial Court~~
1163 ~~Nominating Commission~~] commission.

1164 (4) The governor shall appoint two commissioners from a list of nominees provided by
1165 the Utah State Bar.

1166 (5) The Utah State Bar shall submit:

1167 (a) six nominees from Districts 2, 3, and 4; and

1168 (b) four nominees from Districts 1, 5, 6, 7, and 8.

1169 (6) The governor may reject any list and request a new list of nominees.

1170 (7) The governor may not appoint more than four persons who are members of the
1171 Utah State Bar to a [~~Trial Court Nominating Commission~~] commission.

1172 (8) The chief justice of the Supreme Court shall appoint another member of the

1173 Judicial Council to serve as an ex officio, nonvoting member of each [~~Trial Court Nominating~~
1174 ~~Commission~~] commission.

1175 (9) The governor shall appoint the chair of each [~~Trial Court Nominating Commission~~]
1176 commission from among [its] the commission's membership.

1177 Section 40. Section **78A-10-303** is amended to read:

1178 **78A-10-303. Procedure.**

1179 (1) Four commissioners are a quorum.

1180 (2) The governor shall appoint a member of the governor's staff to serve as staff to each
1181 [~~Trial Court Nominating Commission~~] commission.

1182 (3) The governor shall:

1183 (a) ensure that each [~~Trial Court Nominating Commission~~] commission follows the
1184 rules promulgated by the Commission on Criminal and Juvenile Justice; and

1185 (b) resolve any questions regarding those rules.

1186 (4) A [~~member of a Trial Court Nominating Commission~~] commissioner who is also a
1187 member of the Utah State Bar may recuse [~~himself~~] oneself if there is a conflict of interest that
1188 makes the member unable to serve.

1189 Section 41. Section **78A-10-304** is amended to read:

1190 **78A-10-304. Vacancies.**

1191 (1) The governor shall fill any vacancy on [~~the Trial Court Nominating Commission~~] a
1192 commission.

1193 (2) If a commissioner is disqualified or otherwise unable to serve, the governor shall
1194 appoint a new commissioner of the same political party as the unavailable commissioner.

1195 (3) If a vacancy occurs among commission members who are also members of the Utah
1196 State Bar, the governor shall replace that commissioner with [~~a person~~] an individual from a
1197 list of nominees submitted by the Utah State Bar as provided in Section **78A-10-302**.

1198 (4) The governor shall ensure that each [~~person~~] individual who is appointed to fill any
1199 vacancy in the office of commissioner, other than a vacancy caused by expiration of term, is a
1200 member of the same political party as the commissioner whom the [~~person~~] individual
1201 replaced.

1202 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
1203 appointed for the unexpired term of the commissioner being replaced and may not be

1204 reappointed.

1205 Section 42. Section **78A-10-305** is amended to read:

1206 **78A-10-305. Expenses -- Per diem and travel.**

1207 A ~~[member]~~ commissioner may not receive compensation or benefits for the
1208 ~~[member's]~~ commissioner's service[;] but may receive per diem and travel expenses in
1209 accordance with:

1210 (1) Section [63A-3-106](#);

1211 (2) Section [63A-3-107](#); and

1212 (3) rules made by the Division of Finance ~~[pursuant to]~~ in accordance with Sections
1213 [63A-3-106](#) and [63A-3-107](#).

1214 Section 43. Section **78A-10-401** is enacted to read:

1215 **Part 4. Business and Chancery Court Nominating Commission**

1216 **78A-10-401. Definitions.**

1217 As used in this part:

1218 (1) "Commission" means the Business and Chancery Court Nominating Commission
1219 created in Section [78A-10-402](#).

1220 (2) "Commissioner" means an individual appointed by the governor to serve on the
1221 Business and Chancery Court Nominating Commission.

1222 Section 44. Section **78A-10-402** is enacted to read:

1223 **78A-10-402. Creation.**

1224 (1) There is created the Business and Chancery Court Nominating Commission.

1225 (2) The Business and Chancery Court Nominating Commission shall nominate
1226 individuals to fill judicial vacancies on the Business and Chancery Court.

1227 Section 45. Section **78A-10-403** is enacted to read:

1228 **78A-10-403. Membership -- Appointment -- Vacancies -- Removal.**

1229 (1) (a) The Business and Chancery Court Nominating Commission shall consist of
1230 seven commissioners, each appointed by the governor to serve a four-year term.

1231 (b) The commission shall consist of at least two commissioners who are members of
1232 the Utah State Bar.

1233 (2) Each commissioner shall:

1234 (a) be a United States citizen;

- 1235 (b) be a resident of Utah; and
- 1236 (c) serve until the commissioner's successor is appointed.
- 1237 (3) (a) For the appointment of a commissioner who is a member of the Utah State Bar:
- 1238 (i) the Utah State Bar shall submit to the governor a list of six nominees to serve as a
- 1239 commissioner; and
- 1240 (ii) the governor shall appoint a commissioner from the list of nominees provided by
- 1241 the Utah State Bar.
- 1242 (b) The governor may:
- 1243 (i) reject the list submitted by the Utah State Bar under Subsection (3)(a); and
- 1244 (ii) request a new list of nominees from the Utah State Bar.
- 1245 (4) The governor may not appoint:
- 1246 (a) a commissioner to serve successive terms;
- 1247 (b) a member of the Legislature to serve as a member of the commission; or
- 1248 (c) more than four individuals who are from the same political party to the
- 1249 commission.
- 1250 (5) The chief justice of the Supreme Court shall appoint a member of the Judicial
- 1251 Council to serve as an ex officio, nonvoting member of the commission.
- 1252 (6) The governor shall appoint the chair of the commission from among the
- 1253 membership of the commission.
- 1254 (7) (a) The governor shall fill any vacancy in the commission caused by the expiration
- 1255 of a commissioner's term.
- 1256 (b) If there is a vacancy among the commissioners who are members of the Utah State
- 1257 Bar, the governor shall replace that commissioner with an individual from a list of nominees
- 1258 submitted by the Utah State Bar in accordance with Subsection (3).
- 1259 (8) (a) If a commissioner is disqualified or is otherwise unable to serve, the governor
- 1260 shall appoint a replacement commissioner:
- 1261 (i) to fill the vacancy for the unexpired term of the unavailable commissioner; and
- 1262 (ii) who is the same political party as the unavailable commissioner.
- 1263 (b) A replacement commissioner appointed under Subsection (8)(a) may not be
- 1264 reappointed upon the expiration of the term of service.
- 1265 (9) The governor shall ensure that each individual who is appointed to fill any vacancy

1266 on the commission is a member of the same political party as the commissioner whom the
1267 individual replaced.

1268 Section 46. Section **78A-10-404** is enacted to read:

1269 **78A-10-404. Procedure -- Staff -- Rules -- Recusal.**

1270 (1) Four commissioners are a quorum.

1271 (2) The governor shall appoint a member of the governor's staff to serve as staff to the
1272 commission.

1273 (3) The governor shall:

1274 (a) ensure that the commission follows the rules promulgated by the State Commission
1275 on Criminal and Juvenile Justice under Section [78A-10-103](#); and

1276 (b) resolve any questions regarding the rules described in Subsection (3)(a).

1277 (4) A commissioner who is a member of Utah State Bar may recuse oneself if there is a
1278 conflict of interest that makes the commissioner unable to serve.

1279 Section 47. Section **78A-10-405** is enacted to read:

1280 **78A-10-405. Expenses -- Per diem and travel.**

1281 A commissioner may not receive compensation or benefits for the commissioner's
1282 service but may receive per diem and travel expenses in accordance with:

1283 (1) Section [63A-3-106](#);

1284 (2) Section [63A-3-107](#); and

1285 (3) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
1286 [63A-3-107](#).

1287 Section 48. Section **78A-11-102** is amended to read:

1288 **78A-11-102. Definitions.**

1289 As used in this chapter:

1290 (1) "Commission" means the Judicial Conduct Commission established by Utah
1291 Constitution Article VIII, Section 13₂ and this chapter.

1292 (2) (a) "Complaint" includes:

1293 (i) a written complaint against a judge; or

1294 (ii) an allegation based on reliable information received in any form, from any source,
1295 that alleges, or from which a reasonable inference can be drawn that a judge is in violation of
1296 any provision of Utah Constitution Article VIII, Section 13.

1297 (b) "Complaint" does not include an allegation initiated by the commission or its staff.

1298 (3) "Investigation" means an inquiry into an allegation of misconduct, including a
 1299 search for and examination of evidence concerning the allegations, which begins upon the
 1300 receipt of a complaint and is completed when either the complaint is dismissed by a majority
 1301 vote of the commission or when an order is sent to the Supreme Court for its review in
 1302 accordance with Utah Constitution Article VIII, Section 13.

1303 (4) "Judge" includes the chief justice of the Supreme Court, a justice of the Supreme
 1304 Court, ~~[an appellate court judge]~~ a judge of the Court of Appeals, a judge of the Business and
 1305 Chancery Court, a district court judge, an active senior judge, a juvenile court judge, a justice
 1306 court judge, an active senior justice court judge, and a judge pro tempore of any court of this
 1307 state.

1308 Section 49. Section **78A-11-103** is amended to read:

1309 **78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies --**
 1310 **Voting -- Power of chair.**

1311 (1) (a) The membership of the commission consists of the following 11 members:

1312 ~~[(a)]~~ (i) two members of the House of Representatives to be appointed by the speaker
 1313 of the House of Representatives for a four-year term, not more than one of whom may be of the
 1314 same political party as the speaker;

1315 ~~[(b)]~~ (ii) two members of the Senate to be appointed by the president of the Senate for
 1316 a four-year term, not more than one of whom may be of the same political party as the
 1317 president;

1318 ~~[(c)]~~ (iii) two members of, and in good standing with, the Utah State Bar, who shall be
 1319 appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may
 1320 reside in the same judicial district;

1321 ~~[(d)]~~ (iv) three persons not members of the Utah State Bar, who shall be appointed by
 1322 the governor, with the advice and consent of the Senate, in accordance with Title 63G, Chapter
 1323 24, Part 2, Vacancies, for four-year terms, not more than two of whom may be of the same
 1324 political party as the governor; and

1325 ~~[(e)]~~ (v) subject to Subsection (1)(b), two judges to be appointed by a majority of the
 1326 Utah Supreme Court for a four-year term~~[, neither of whom may:]~~.

1327 (b) The two judges appointed under Subsection (1)(a)(v) may not:

- 1328 (i) be a member of the Utah Supreme Court;
- 1329 (ii) serve on the same level of court [~~as the other~~]; and
- 1330 (iii) [~~if trial judges,~~] serve primarily in the same judicial district [~~as the other~~] if the
- 1331 judges are district or juvenile court judges.
- 1332 (2) (a) The terms of the members shall be staggered so that approximately half of the
- 1333 commission expires every two years.
- 1334 (b) Members of the commission may not serve longer than eight years.
- 1335 (3) The commission shall establish guidelines and procedures for the disqualification
- 1336 of any member from consideration of any matter. A judge who is a member of the commission
- 1337 or the Supreme Court may not participate in any proceedings involving the judge's own
- 1338 removal or retirement.
- 1339 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall
- 1340 be appointed by the appointing authority for that position for the unexpired term.
- 1341 (b) If the appointing authority fails to appoint a replacement, the commissioners who
- 1342 have been appointed may act as a commission under all the provisions of this section.
- 1343 (5) Six members of the commission shall constitute a quorum. Any action of a
- 1344 majority of the quorum constitutes the action of the commission.
- 1345 (6) (a) At each commission meeting, the chair and executive director shall schedule all
- 1346 complaints to be heard by the commission and present any information from which a
- 1347 reasonable inference can be drawn that a judge has committed misconduct so that the
- 1348 commission may determine by majority vote of a quorum whether the executive director shall
- 1349 draft a written complaint in accordance with Subsection [78A-11-102\(2\)\(b\)](#).
- 1350 (b) The chair and executive director may not act to dismiss any complaint without a
- 1351 majority vote of a quorum of the commission.
- 1352 (c) A member of the commission described in Subsection [~~(1)(d)~~] (1)(a)(iv) shall
- 1353 comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3,
- 1354 Conflicts of Interest.
- 1355 (7) It is the responsibility of the chair and the executive director to ensure that the
- 1356 commission complies with the procedures of the commission.
- 1357 (8) The chair shall be nonvoting except in the case of a tie vote.
- 1358 (9) The chair shall be allowed the actual expenses of secretarial services, the expenses

1359 of services for either a court reporter or a transcriber of electronic tape recordings, and other
1360 necessary administrative expenses incurred in the performance of the duties of the commission.

1361 (10) Upon a majority vote of the quorum, the commission may:

1362 (a) employ an executive director, legal counsel, investigators, and other staff to assist
1363 the commission; and

1364 (b) incur other reasonable and necessary expenses within the authorized budget of the
1365 commission and consistent with the duties of the commission.

1366 (11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
1367 Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

1368 Section 50. Section **78A-11-106** is amended to read:

1369 **78A-11-106. Criminal investigation of a judge -- Administrative leave.**

1370 (1) (a) (i) If the commission, during the course of its investigation into an allegation of
1371 judicial misconduct, receives information upon which a reasonable person might conclude that
1372 a misdemeanor or felony under state or federal law has been committed by a judge other than
1373 the chief justice of the Supreme Court, the commission shall immediately refer the allegation
1374 and any information relevant to the potential criminal violation to the chief justice of the
1375 Supreme Court.

1376 (ii) (A) Unless the allegation is plainly frivolous, the commission shall also
1377 immediately refer the allegation of criminal misconduct and any information relevant to the
1378 potential criminal violation to the local prosecuting attorney having jurisdiction to investigate
1379 and prosecute the crime.

1380 (B) If the local prosecuting attorney receiving the allegation of criminal misconduct of
1381 a judge practices before that judge on a regular basis, or has a conflict of interest in
1382 investigating the crime, the local prosecuting attorney shall refer the allegation of criminal
1383 misconduct to another local or state prosecutor who would not have the same disability or
1384 conflict.

1385 (C) The commission may concurrently proceed with its investigation of the complaint
1386 without waiting for the resolution of the criminal investigation by the prosecuting attorney.

1387 (b) The chief justice of the Supreme Court may place [~~a justice of the Supreme Court,~~
1388 ~~an appellate court judge, district court judge, active senior judge, juvenile court judge, justice~~
1389 ~~court judge, active senior justice court judge, or judge pro tempore]~~ a judge on administrative

1390 leave with or without pay if the chief justice has a reasonable basis to believe that the alleged
1391 crime occurred, that the [~~justice of the Supreme Court, appellate court judge, district court~~
1392 ~~judge, active senior judge, juvenile court judge, justice court judge, active senior justice court~~
1393 ~~judge, or judge pro tempore~~] judge committed the crime, and that the crime was either a felony
1394 or a misdemeanor which conduct may be prejudicial to the administration of justice or which
1395 brings a judicial office into disrepute.

1396 (2) (a) If the commission, during the course of its investigation into an allegation of
1397 judicial misconduct, receives information upon which a reasonable person might conclude that
1398 a misdemeanor or felony under state or federal law has been committed by the chief justice of
1399 the Supreme Court, the commission shall immediately refer the allegation and any information
1400 relevant to the potential criminal violation to two justices of the Supreme Court and the local
1401 prosecuting attorney in accordance with Subsection (1)(a)(ii).

1402 (b) Two justices of the Supreme Court may place the chief justice of the Supreme
1403 Court on administrative leave with or without pay if the two justices have a reasonable basis to
1404 believe that the alleged crime occurred, that the chief justice committed the crime, and that the
1405 crime was either a felony or a misdemeanor which conduct may be prejudicial to the
1406 administration of justice or which brings a judicial office into disrepute.

1407 (3) (a) If a judge is or has been criminally charged or indicted for a class A
1408 misdemeanor or any felony under state or federal law and if the Supreme Court has not already
1409 acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as
1410 provided in Subsection (1) or (2), shall place the judge on administrative leave with or without
1411 pay pending the outcome of the criminal proceeding.

1412 (b) The state court administrator shall, for the duration of the administrative leave,
1413 withhold all employer and employee contributions required under Sections 49-17-301 and
1414 49-18-301.

1415 (c) If the judge is not convicted of the criminal charge, and if after an investigation and
1416 final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the
1417 Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or
1418 compensation for the period of administrative leave, and all contributions withheld under
1419 Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.

1420 (4) The chief justice of the Supreme Court or two justices of the Supreme Court who

1421 ordered the judge on administrative leave shall order the reinstatement of the judge:

1422 (a) if the prosecutor to whom the allegations are referred by the commission determines
1423 no charge or indictment should be filed; or

1424 (b) after final disposition of the criminal case, if the judge is not convicted of a
1425 criminal charge and if the commission has not ordered the removal of the judge.

1426 Section 51. **Effective date.**

1427 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

1428 (2) The enactment in this bill of Section [78A-5a-103](#) takes effect on October 1, 2024.

1429 Section 52. **Revisor instructions.**

1430 The Legislature intends that the Office of Legislative Research and General Counsel, in
1431 preparing the Utah Code database for publication, not enroll this bill if H.B. 251, Court
1432 Amendments, does not pass.