

**Senator Kirk A. Cullimore** proposes the following substitute bill:

**JUDICIARY AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**

House Sponsor: Karianne Lisonbee

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the judiciary.

**Highlighted Provisions:**

This bill:

- ▶ provides a repeal date for Title 78A, Chapter 10, Judicial Selection Act;
- ▶ defines terms related to judicial nominating commissions;
- ▶ addresses the selection, appointment, and confirmation of judges to the appellate, district, and juvenile courts of this state;
- ▶ addresses partisan political consideration in regard to the selection, appointment, and confirmation of judges;
- ▶ clarifies the transition process in regard to the creation of new judicial nominating commissions;
- ▶ allows the State Criminal and Juvenile Justice Commission to make rules for judicial nominating commissions;
- ▶ clarifies the process and timeline for the selection, appointment, and confirmation of judges to the appellate, district, and juvenile courts of this state;
- ▶ addresses the procedures, meetings, and certification process for judicial nominating commissions;



- 26 ▶ addresses the process for the appointment of a judge by the governor;
- 27 ▶ amends provisions regarding the Senate confirmation process;
- 28 ▶ creates the Appellate Court Nominating Commission;
- 29 ▶ provides the purpose and membership of the Appellate Court Nominating
- 30 Commission;
- 31 ▶ addresses the appointment, vacancy, or removal of commissioners on the Appellate
- 32 Court Nominating Commission;
- 33 ▶ addresses procedures and expenses for the Appellate Court Nominating
- 34 Commission;
- 35 ▶ creates a district and juvenile court nominating commission for each geographical
- 36 division of the district and juvenile courts;
- 37 ▶ provides the purpose and membership of a district and juvenile court nominating
- 38 commission;
- 39 ▶ addresses the appointment, vacancy, or removal of commissioners on a district and
- 40 juvenile court nominating commission;
- 41 ▶ addresses procedures and expenses for a district and juvenile court nominating
- 42 commission; and
- 43 ▶ makes technical and conforming changes.

**44 Money Appropriated in this Bill:**

45 None

**46 Other Special Clauses:**

47 This bill provides coordination clauses.

**48 Utah Code Sections Affected:**

49 AMENDS:

50 **53B-1-501**, as enacted by Laws of Utah 2020, Chapter 365 and last amended by

51 Coordination Clause, Laws of Utah 2020, Chapter 365

52 **63I-2-278**, as last amended by Laws of Utah 2022, Chapter 470

53 **67-1-1.5**, as last amended by Laws of Utah 2021, Chapter 394

54 **67-1-2**, as last amended by Laws of Utah 2020, Chapters 352, 373 and last amended by

55 Coordination Clause, Laws of Utah 2020, Chapters 352, 365 and 373

56 **78A-10-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3

57            **78A-10-104**, as last amended by Laws of Utah 2010, Chapter 134 and last amended by  
58 Coordination Clause, Laws of Utah 2010, Chapter 134

59 ENACTS:

- 60            **78A-10a-101**, Utah Code Annotated 1953
- 61            **78A-10a-102**, Utah Code Annotated 1953
- 62            **78A-10a-103**, Utah Code Annotated 1953
- 63            **78A-10a-201**, Utah Code Annotated 1953
- 64            **78A-10a-202**, Utah Code Annotated 1953
- 65            **78A-10a-203**, Utah Code Annotated 1953
- 66            **78A-10a-204**, Utah Code Annotated 1953
- 67            **78A-10a-301**, Utah Code Annotated 1953
- 68            **78A-10a-302**, Utah Code Annotated 1953
- 69            **78A-10a-303**, Utah Code Annotated 1953
- 70            **78A-10a-304**, Utah Code Annotated 1953
- 71            **78A-10a-305**, Utah Code Annotated 1953
- 72            **78A-10a-401**, Utah Code Annotated 1953
- 73            **78A-10a-402**, Utah Code Annotated 1953
- 74            **78A-10a-403**, Utah Code Annotated 1953
- 75            **78A-10a-404**, Utah Code Annotated 1953
- 76            **78A-10a-405**, Utah Code Annotated 1953

77 **Utah Code Sections Affected by Coordination Clause:**

- 78            **78A-10-101.5**, Utah Code Annotated 1953
- 79            **78A-10-401**, Utah Code Annotated 1953
- 80            **78A-10-402**, Utah Code Annotated 1953
- 81            **78A-10-403**, Utah Code Annotated 1953
- 82            **78A-10-404**, Utah Code Annotated 1953
- 83            **78A-10-405**, Utah Code Annotated 1953
- 84            **78A-10a-101**, Utah Code Annotated 1953
- 85            **78A-10a-203**, Utah Code Annotated 1953
- 86            **78A-10a-501**, Utah Code Annotated 1953
- 87            **78A-10a-503**, Utah Code Annotated 1953

88 78A-10a-504, Utah Code Annotated 1953

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

91 Section 1. Section **53B-1-501** is amended to read:

92 **53B-1-501. Establishment of initial board membership.**

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

96 (i) at least six individuals who were members of the State Board of Regents on May  
97 12, 2020;

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

100 (iii) two student members appointed to the board in accordance with Section  
101 [53B-1-404](#).

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

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

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

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

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

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

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

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

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

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

123 (a) a majority of the president of the Senate, the Senate majority leader, and the Senate  
124 minority leader may waive the 30-day requirement described in Subsection [~~67-1-2(1)~~]  
125 [67-1-2\(2\)](#); and

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

127 Section 2. Section **63I-2-278** is amended to read:

128 **63I-2-278. Repeal dates: Title 78A and Title 78B.**

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

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

133 [~~2~~] (3) Sections [78B-12-301](#) and [78B-12-302](#) are repealed on January 1, 2025.

134 Section 3. Section **67-1-1.5** is amended to read:

135 **67-1-1.5. Gubernatorial appointment powers.**

136 (1) As used in this section:

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

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

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

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

144 (c) (i) "Executive branch policy position" means any person other than a person filling  
145 an executive branch management position, who is appointed by the governor with the advice  
146 and consent of the Senate.

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

149 (2) (a) Whenever a vacancy occurs in any executive branch policy position or in any

150 executive branch management position, the governor shall submit the name of a nominee to the  
151 Senate for advice and consent no later than three months after the day on which the vacancy  
152 occurs.

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

155 (i) the nomination is considered rejected; and

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

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

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

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

167 (4) Except for an interim manager appointed to a position described in Subsection  
168 [~~67-1-2(3)(b)(i) through (vii)~~] 67-1-2(2)(a), if the Senate fails to consent to the interim manager  
169 appointed under Subsection (3)(b) within 30 days after the day on which the governor submits  
170 the nominee's name to the Senate for consent:

171 (a) the nomination is considered rejected; and

172 (b) the governor may:

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

175 (B) resubmit the name of the person described in Subsection (4)(b)(i)(A) to the Senate  
176 for consent as interim manager; or

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

178 (5) For an interim manager appointed to a position described in Subsection  
179 [~~67-1-2(3)(b)(i) through (vii)~~] 67-1-2(2)(a), if the Senate fails to consent to the interim manager  
180 appointed under Subsection (3)(b) within 60 days after the day on which the governor submits

181 the nominee's name to the Senate for consent:

182 (a) the nomination is considered rejected; and

183 (b) the governor may:

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

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

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

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

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

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

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

197 (a) the nomination is considered rejected; and

198 (b) the governor shall:

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

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

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

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

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

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

211 (10) A gubernatorial nomination upon which the Senate has not acted to give consent

212 or refuse to give consent is void when a vacancy in the office of governor occurs.

213 Section 4. Section **67-1-2** is amended to read:

214 **67-1-2. Senate confirmation of gubernatorial nominees -- Verification of**  
215 **nomination requirements -- Consultation on appointments -- Notification of anticipated**  
216 **vacancies.**

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

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

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

225 [~~(2)~~] (1) (a) Except as provided in Subsection (3), [~~beginning October 1, 2020,~~] at least  
226 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial  
227 nominee, the governor shall send to each member of the Senate and to the Office of Legislative  
228 Research and General Counsel the following information for each nominee:

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

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

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

237 [~~(d)~~] (iv) a written certification by the governor that the nominee satisfies all  
238 requirements for the appointment; and

239 [~~(e)~~] (v) public comment information collected in accordance with Section

240 [63G-24-204](#).

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

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



243 ~~[(b) Beginning October 1, 2020, a]~~  
244 (2) (a) A majority of the president of the Senate, the Senate majority leader, and the  
245 Senate minority leader may waive the 30-day requirement described in Subsection ~~[(2)]~~ (1) for  
246 a gubernatorial nominee other than a nominee for the following:

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

256 ~~[(4) Beginning October 1, 2020, the]~~  
257 (b) The Senate shall hold a confirmation hearing for a nominee for an individual  
258 described in Subsection ~~[(3)(b)(i) through (vii)]~~ (2)(a).

259 ~~[(5) Beginning on October 1, 2020, the]~~  
260 (3) The governor shall:

- 261 (a) if the governor is aware of an upcoming vacancy in a position that requires Senate  
262 confirmation, provide notice of the upcoming vacancy to the president of the Senate, the Senate  
263 minority leader, and the Office of Legislative Research and General Counsel at least 30 days  
264 before the day on which the vacancy occurs; and
- 265 (b) establish a process for government entities and other relevant organizations to  
266 provide input on gubernatorial appointments.

267 ~~[(6)]~~ (4) When the governor makes a judicial appointment, the governor shall  
268 immediately provide to the president of the Senate and the Office of Legislative Research and  
269 General Counsel:

- 270 (a) the name of the judicial appointee; and
- 271 (b) the judicial appointee's:
  - 272 (i) resume;
  - 273 (ii) complete file of all the application materials the governor received from the

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

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

277 [~~(7)~~] (5) The governor shall inform the president of the Senate and the Office of  
278 Legislative Research and General Counsel of the number of letters withheld pursuant to  
279 Subsection [~~(6)(b)(iii)~~] (4)(b)(iii).

280 [~~(8)~~] (6) (a) Letters of inquiry submitted by any judge at the request of any judicial  
281 nominating commission [~~shall be~~] are classified as private in accordance with Section  
282 [63G-2-302](#).

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

285 [~~(9)~~] (7) The Senate shall consent or refuse to give [~~its~~] the Senate's consent to [~~the~~] a  
286 nomination or judicial appointment.

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

291 Section 5. Section **78A-10-102** is amended to read:

292 **78A-10-102. Nomination, appointment, and confirmation of judges -- Judicial**  
293 **nomination commissions.**

294 [~~Judges~~] Before July 1, 2023, judges for courts of record in Utah [~~shall be~~] are  
295 nominated, appointed, and confirmed [~~as provided in~~] in accordance with this chapter, Section  
296 [67-1-2](#), and Utah Constitution Article VIII, Section 8[~~, and this chapter~~].

297 Section 6. Section **78A-10-104** is amended to read:

298 **78A-10-104. Convening of judicial nominating commissions -- Certification to**  
299 **governor of nominees -- Meetings to investigate prospective candidates.**

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

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

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

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

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

311 (3) The nominating commission may:

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

313 (b) investigate prospective candidates.

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

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

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

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

322 [~~5~~] (6) The governor shall fill the vacancy within 30 days after receiving the list of  
323 nominees.

324 [~~6~~] (7) If the governor fails to fill the vacancy within 30 days of receiving the list of  
325 nominees from the nominating commission, the chief justice of the Supreme Court shall,  
326 within 20 days, appoint a person from the list of nominees certified to the governor.

327 [~~7~~] (8) A nominating commission may not nominate a person who has served on a  
328 nominating commission within six months of the date that the commission was last convened.

329 Section 7. Section **78A-10a-101** is enacted to read:

330 **CHAPTER 10a. JUDICIAL SELECTION**

331 **Part 1. General Provisions**

332 **78A-10a-101. Definitions.**

333 As used in this part:

334 (1) "Commission" means a judicial nominating commission created under Section  
335 78A-10a-302 or 78A-10a-402.

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

338 Section 8. Section **78A-10a-102** is enacted to read:

339 **78A-10a-102. Nomination, appointment, and confirmation of judges.**

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

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

346 Section 9. Section **78A-10a-103** is enacted to read:

347 **78A-10a-103. Judicial nominating commissions -- Transition clause.**

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

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

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

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

359 Section 10. Section **78A-10a-201** is enacted to read:

360 **Part 2. Judicial Selection Process**

361 **78A-10a-201. State Commission on Criminal and Juvenile Justice -- Duties --**  
362 **Rulemaking.**

363 The State Commission on Criminal and Juvenile Justice shall:

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

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

- 367 (a) comply with the requirements of this chapter;  
368 (b) include standards that:  
369 (i) maintain the confidentiality of applications for a judicial vacancy and related  
370 documents;  
371 (ii) address destroying the records of the names of applicants, applications, and related  
372 documents upon the completion of the judicial nomination process; and  
373 (iii) govern a commissioner's disqualification and inability to serve;  
374 (c) allow for public comment concerning the judicial nomination process,  
375 qualifications for judicial office, and individual applicants;  
376 (d) include evaluation criteria for the selection of judicial nominees; and  
377 (e) address procedures for:  
378 (i) taking summary minutes at a commission meeting;  
379 (ii) simultaneously forwarding the names of nominees to the governor, the president of  
380 the Senate, and the Office of Legislative Research and General Counsel as described in  
381 Subsection [78A-10a-203\(5\)](#); and  
382 (iii) requiring the Administrative Office of the Courts to immediately inform the  
383 governor when a judge is removed, resigns, or retires.  
384 Section 11. Section **78A-10a-202** is enacted to read:  
385 **78A-10a-202. Time periods -- Recruitment period for judicial vacancy --**  
386 **Convening a judicial nominating commission.**  
387 (1) (a) Unless a hiring freeze is implemented in accordance with Section [78A-2-113](#),  
388 the governor shall ensure that:  
389 (i) except as provided in Subsection (1)(a)(ii), the recruitment period to fill a judicial  
390 vacancy begins 235 days before the effective date of the judicial vacancy;  
391 (ii) if sufficient notice of a judicial vacancy is not given to the governor, the  
392 recruitment period to fill a judicial vacancy begins within 10 days after the day on which the  
393 governor receives notice;  
394 (iii) except as provided in Subsection (1)(b), the recruitment period is a minimum of at  
395 least 30 days but no more than 90 days; and  
396 (iv) the chair of the commission having authority over the vacancy convenes a meeting  
397 not more than 10 days after the close of the recruitment period.

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

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

403 Section 12. Section **78A-10a-203** is enacted to read:

404 **78A-10a-203. Procedures for judicial nomination commission -- Meetings --**  
405 **Certification -- Governor appointment.**

406 (1) (a) A commission may:

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

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

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

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

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

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

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

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

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

426 (4) A commission shall certify a list to the governor under Subsection (3) no more than  
427 45 days after convening in accordance with Section [78A-10a-202](#).

428 (5) A commission shall, at the time that the commission certifies a list of the most

429 qualified applicants to the governor, submit the same list to the president of the Senate, the  
430 Senate minority leader, and the Office of Legislative Research and General Counsel.

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

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

433 (b) are willing to serve.

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

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

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

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

441 (8) A commission may not certify:

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

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

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

449 (10) If the governor fails to fill a judicial vacancy within 30 days after the day on which  
450 the governor received the list of nominees from the commission, the chief justice of the  
451 Supreme Court shall, within 20 days, appoint an applicant from the list of nominees certified to  
452 the governor by the commission.

453 Section 13. Section **78A-10a-204** is enacted to read:

454 **78A-10a-204. Senate confirmation of judicial appointments -- Courts of record.**

455 (1) The Senate shall:

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

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

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

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

464 Section 14. Section **78A-10a-301** is enacted to read:

465 **Part 3. Appellate Court Nominating Commission**

466 **78A-10a-301. Definitions.**

467 As used in this part:

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

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

472 Section 15. Section **78A-10a-302** is enacted to read:

473 **78A-10a-302. Creation -- Purpose.**

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

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

477 Section 16. Section **78A-10a-303** is enacted to read:

478 **78A-10a-303. Membership -- Vacancies -- Removal.**

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

481 (2) A commissioner shall:

482 (a) be a United States citizen;

483 (b) be a resident of Utah; and

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

485 (3) The governor may not appoint:

486 (a) a commissioner to serve successive terms; or

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

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



491 (5) The governor shall appoint the chair of the commission from among the  
492 membership of the commission.

493 (6) The governor shall fill any vacancy on the commission caused by the expiration of  
494 a commissioner's term.

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

497 (b) A replacement commissioner appointed under Subsection (7)(a) may not be  
498 reappointed upon expiration of the term of service.

499 (8) The governor may remove a commissioner from the commission at any time with  
500 or without cause.

501 Section 17. Section **78A-10a-304** is enacted to read:

502 **78A-10a-304. Procedure -- Staff.**

503 (1) Four commissioners are a quorum.

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

506 (3) The governor shall:

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

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

510 (4) A commissioner who is a licensed attorney may recuse oneself if there is a conflict  
511 of interest that makes the commissioner unable to serve.

512 Section 18. Section **78A-10a-305** is enacted to read:

513 **78A-10a-305. Expenses -- Per diem and travel.**

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

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

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

518 (3) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and  
519 [63A-3-107](#).

520 Section 19. Section **78A-10a-401** is enacted to read:

521 **Part 4. District and Juvenile Court Nominating Commissions**

522 78A-10a-401. Definitions.

523 As used in this part:

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

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

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

529 78A-10a-402. Creation -- Purpose.

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

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

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

536 78A-10a-403. Membership -- Vacancies -- Removal.

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

539 (2) A commissioner shall:

540 (a) be a United States citizen;

541 (b) be a resident of Utah; and

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

543 (3) The governor may not appoint:

544 (a) a commissioner to successive terms; and

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

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

549 (5) The governor shall appoint the chair of each commission from among the  
550 membership of the commission.

551 (6) The governor shall fill any vacancy on the commission caused by the expiration of  
552 a commissioner's term.

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

555 (b) A replacement commissioner appointed under Subsection (7)(a) may not be  
556 reappointed upon expiration of the term of service.

557 (8) The governor may remove a commissioner from the commission at any time with  
558 or without cause.

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

560 **78A-10a-404. Procedure -- Staff.**

561 (1) Four commissioners are a quorum.

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

564 (3) The governor shall:

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

567 (b) resolve any questions regarding the rules.

568 (4) A commissioner who is a licensed attorney may recuse oneself if there is a conflict  
569 of interest that makes the commissioner unable to serve.

570 Section 23. Section **78A-10a-405** is enacted to read:

571 **78A-10a-405. Expenses -- Per diem and travel.**

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

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

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

576 (3) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and  
577 [63A-3-107](#).

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

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

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

584 Amendments:

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

586 "As used in this part:

587 (1) "Commission" means a judicial nominating commission created under Section

588 78A-10a-302, 78A-10a-402, or 78A-10a-502.

589 (2) "Commissioner" means an individual appointed by the governor to serve on a

590 judicial nominating commission created under Section 78A-10a-302, 78A-10a-402, or

591 78A-10a-502.";

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

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

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

595 seven most qualified applicants per judicial vacancy;

596 (ii) a district and juvenile court nominating commission shall certify to the governor a

597 list of the five most qualified applicants per judicial vacancy; and

598 (iii) the business and chancery court nominating commission shall certify to the

599 governor a list of the seven most qualified applicants per judicial vacancy.";

600 (4) renumbering Section 78A-10-401 in H.B. 216 to Section 78A-10a-501 and

601 amending Subsection 78A-10a-501(1) to read:

602 "Commission" means the Business and Chancery Court Nominating Commission

603 created in Section 78A-10a-502.";

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

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

606 amending Section 78A-10a-503 to read:

607 "(1) The Business and Chancery Court Nominating Commission shall consist of seven

608 commissioners, each appointed by the governor to serve a four-year term.

609 (2) A commissioner shall:

610 (a) be a United States citizen;

611 (b) be a resident of Utah; and

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

613 (3) The governor may not appoint:

614 (a) a commissioner to serve successive terms; or

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

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

619 (5) The governor shall appoint the chair of the commission from among the  
620 membership of the commission.

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

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

625 (b) A replacement commissioner appointed under Subsection (7)(a) may not be  
626 reappointed upon expiration of the term of service.

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

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

631 (a) the reference in Section 78A-10a-504 from "Section [78A-10-103](#)" to "Section  
632 [78A-10a-201](#)"; and

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

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

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

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

639 If this S.B. 129 and H.B. 251, Court Amendments, both pass and become law, the  
640 Legislature intends that, on July 1, 2024, when the Office of Legislative Research and General  
641 Counsel prepares the Utah Code database for publication, the Office of Legislative Research  
642 and General Counsel not implement the coordination clause affecting Sections [31A-5-414](#),  
643 [31A-5-415](#), and [31A-16-111](#) in H.B. 251.