

Judicial Retention Changes
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Karianne Lisonbee
Senate Sponsor:

LONG TITLE

General Description:

This bill addresses judicial retention.

Highlighted Provisions:

This bill:

- modifies the ballot requirements for judicial retention elections;
- modifies the information contained in the voter information pamphlet for judicial retention elections;
- requires the lieutenant governor to transmit a retention recommendation from the Joint Legislative Committee on Judicial Performance to a county clerk;
- amends the ballot language for a judicial retention election to address a retention recommendation from the Joint Legislative Committee on Judicial Performance;
- provides that certain records for the Joint Legislative Committee on Judicial Performance are private;
- requires the Judicial Conduct Committee to provide records to the Joint Legislative Committee on Judicial Performance under certain conditions;
- defines terms related to judicial performance evaluations;
- requires the Judicial Performance Evaluation Commission to provide the Joint Legislative Committee on Judicial Performance with a list of judges who are subject to a retention election in the next scheduled regular general election;
- creates the Joint Legislative Committee on Judicial Performance;
- addresses the membership, length of appointment, selection of the chairs, quorum requirements, and compensation for the Joint Legislative Committee on Judicial Performance;
- allows the Joint Legislative Committee on Judicial Performance to evaluate a judge and provide a recommendation to the public as to whether the judge should be retained for another term;
- provides the evaluation and recommendation process for the Joint Legislative Committee

on Judicial Performance, including requiring the Joint Legislative Committee on Judicial Performance to:

- hold any committee meeting to evaluate a judge before August 15 of the year in which the judge is subject to a retention election in a regular general election; and
- provide a retention recommendation for a judge to the lieutenant governor on or before August 15 of the year in which the judge is subject to a retention election in a regular general election; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-6-301, as last amended by Laws of Utah 2021, Chapter 136

20A-6-304, as last amended by Laws of Utah 2021, Chapter 136

20A-6-305, as last amended by Laws of Utah 2020, Chapter 49

20A-7-701, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

20A-7-702, as last amended by Laws of Utah 2024, Chapter 465

20A-7-801, as last amended by Laws of Utah 2021, Chapter 100

20A-12-201, as last amended by Laws of Utah 2023, Chapter 394

63G-2-302, as last amended by Laws of Utah 2024, Chapter 234

63G-2-305, as last amended by Laws of Utah 2024, Chapters 18, 101, 135, 267, 344, and 522

78A-7-203, as last amended by Laws of Utah 2020, Chapter 52

78A-11-112, as last amended by Laws of Utah 2009, Chapter 114

78A-12-102, as last amended by Laws of Utah 2022, Chapter 11

ENACTS:

78A-12-201.1, Utah Code Annotated 1953

78A-12-208, Utah Code Annotated 1953

78A-12-301, Utah Code Annotated 1953

78A-12-302, Utah Code Annotated 1953

78A-12-303, Utah Code Annotated 1953

78A-12-304, Utah Code Annotated 1953

65 **78A-12-305**, Utah Code Annotated 1953

66 **78A-12-306**, Utah Code Annotated 1953

67 RENUMBERS AND AMENDS:

68 **78A-12-201.2**, (Renumbered from 78A-12-201, as last amended by Laws of Utah 2022,
69 Chapter 11)

70 REPEALS:

71 **78A-12-101**, as enacted by Laws of Utah 2008, Chapter 248

72

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

74 Section 1. Section **20A-6-301** is amended to read:

75 **20A-6-301 . Manual ballots -- Regular general election.**

76 (1) Each election officer shall ensure that:

77 (a) all manual ballots furnished for use at the regular general election contain:

78 (i) no captions or other endorsements except as provided in this section;

79 (ii) no symbols, markings, or other descriptions of a political party or group, except
80 for a registered political party that has chosen to nominate its candidates in
81 accordance with Section 20A-9-403; and

82 (iii) no indication that a candidate for elective office has been nominated by, or has
83 been endorsed by, or is in any way affiliated with a political party or group, unless
84 the candidate has been nominated by a registered political party in accordance
85 with Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

86 (b) at the top of the ballot, the following endorsements are printed in 18 point bold type:

87 (i) "Official Ballot for ____ County, Utah";

88 (ii) the date of the election; and

89 (iii) the words "certified by the Clerk of _____ County" or, as applicable, the
90 name of a combined office that includes the duties of a county clerk;

91 (c) unaffiliated candidates, candidates not affiliated with a registered political party, and
92 all other candidates for elective office who were not nominated by a registered
93 political party in accordance with Subsection 20A-9-202(4) or Subsection
94 20A-9-403(5), are listed with the other candidates for the same office in accordance
95 with Section 20A-6-305, without a party name or title;

96 (d) each ticket containing the lists of candidates, including the party name and device,
97 are separated by heavy parallel lines;

98 (e) the offices to be filled are plainly printed immediately above the names of the

- 99 candidates for those offices;
- 100 (f) the names of candidates are printed in capital letters, not less than one-eighth nor
101 more than one-fourth of an inch high in heavy-faced type not smaller than 10 point,
102 between lines or rules three-eighths of an inch apart; and
- 103 (g) on a ticket for a race in which a voter is authorized to cast a write-in vote and in
104 which a write-in candidate is qualified under Section 20A-9-601:
- 105 (i) the ballot includes a space for a write-in candidate immediately following the last
106 candidate listed on that ticket; or
- 107 (ii) for the offices of president and vice president and governor and lieutenant
108 governor, the ballot includes two spaces for write-in candidates immediately
109 following the last candidates on that ticket, one placed above the other, to enable
110 the entry of two valid write-in candidates.
- 111 (2) An election officer shall ensure that:
- 112 (a) each individual nominated by any registered political party under Subsection
113 20A-9-202(4) or Subsection 20A-9-403(5), and no other individual, is placed on the
114 ballot:
- 115 (i) under the registered political party's name, if any; or
- 116 (ii) under the title of the registered political party as designated by them in their
117 certificates of nomination or petition, or, if none is designated, then under some
118 suitable title;
- 119 (b) the names of all unaffiliated candidates that qualify as required in Chapter 9, Part 5,
120 Candidates not Affiliated with a Party, are placed on the ballot;
- 121 (c) the names of the candidates for president and vice president are used on the ballot
122 instead of the names of the presidential electors; and
- 123 (d) the ballots contain no other names.
- 124 (3) When the ballot contains a nonpartisan section, the election officer shall ensure that:
- 125 (a) the designation of the office to be filled in the election and the number of candidates
126 to be elected are printed in type not smaller than eight point;
- 127 (b) the words designating the office are printed flush with the left-hand margin;
- 128 (c) the words, "Vote for one" or "Vote for up to ____ (the number of candidates for
129 which the voter may vote)" extend to the extreme right of the column;
- 130 (d) the nonpartisan candidates are grouped according to the office for which they are
131 candidates;
- 132 (e) the names in each group are placed in the order specified under Section 20A-6-305

with the surnames last; and

- (f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

- (a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

- (b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107;

- (c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206; and

- (d) the judicial retention section of the ballot includes:

- (i) [-]a statement at the beginning directing voters to the Judicial Performance Evaluation Commission's website in accordance with Subsection 20A-12-201(4)[-] ;
and

- (ii) any retention recommendation from the Joint Legislative Committee on Judicial Performance for a judge or justice who is listed on the ballot as described in Subsection 20A-12-201(4).

Section 2. Section **20A-6-304** is amended to read:

20A-6-304 . Regular general election -- Mechanical ballots.

(1) Each election officer shall ensure that:

- (a) the format and content of a mechanical ballot is arranged in approximately the same order as manual ballots;

- (b) the titles of offices and the names of candidates are displayed in vertical columns or in a series of separate displays;

- (c) the mechanical ballot is of sufficient length to include, after the list of candidates:

- (i) the names of candidates for judicial offices and any other nonpartisan offices; and
(ii) any ballot propositions submitted to the voters for their approval or rejection;

- (d) the office titles are displayed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

- (e) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is displayed adjacent to the candidate's name; and

- (f) if possible, all candidates for one office are grouped in one column or upon one

display screen.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are displayed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are displayed in accordance with Section 20A-6-107;

(c) bond propositions that have qualified for the ballot are displayed under the title assigned to each bond proposition under Section 11-14-206; and

(d) the judicial retention section of the ballot includes:

(i) [-]a statement at the beginning directing voters to the Judicial Performance Evaluation Commission's website in accordance with Subsection 20A-12-201(4)[-] ;
and

(ii) any retention recommendation from the Joint Legislative Committee on Judicial Performance for a judge or justice who is listed on the ballot as described in Subsection 20A-12-201(4).

Section 3. Section **20A-6-305** is amended to read:

20A-6-305 . Master ballot position list -- Random selection -- Procedures -- Publication -- Surname -- Exemptions -- Ballot order.

(1) As used in this section, "master ballot position list" means an official list of the 26 characters in the alphabet listed in random order and numbered from one to 26 as provided under Subsection (2).

(2) The lieutenant governor shall:

(a) within 30 days after the candidate filing deadline in each even-numbered year, conduct a random selection to create a master ballot position list for all elections in accordance with procedures established under Subsection (2)(c);

(b) publish the master ballot position list on the lieutenant governor's election website no later than 15 days after creating the list; and

(c) establish written procedures for:

(i) the election official to use the master ballot position list; and

(ii) the lieutenant governor in:

(A) conducting the random selection in a fair manner; and

(B) providing a record of the random selection process used.

(3) In accordance with the written procedures established under Subsection (2)(c)(i), an election officer shall use the master ballot position list for the current year to determine

the order in which to list candidates on the ballot for an election held during the year.

(4) To determine the order in which to list candidates on the ballot required under Subsection (3), the election officer shall apply the randomized alphabet using:

(a) the candidate's surname;

(b) for candidates with a surname that has the same spelling, the candidate's given name; and

(c) the surname of the president and the surname of the governor for an election for the offices of president and vice president and governor and lieutenant governor.

(5) Subsections (1) through (4) do[-] not apply to:

(a) an election for an office for which only one candidate is listed on the ballot; or

(b) a judicial retention election under Section 20A-12-201.

(6) Subject to Subsection (7), each ticket that appears on a ballot for an election shall appear separately, in the following order:

(a) for federal office:

(i) president and vice president of the United States;

(ii) United States Senate office; and

(iii) United States House of Representatives office;

(b) for state office:

(i) governor and lieutenant governor;

(ii) attorney general;

(iii) state auditor;

(iv) state treasurer;

(v) state Senate office;

(vi) state House of Representatives office; and

(vii) State Board of Education member;

(c) for county office:

(i) county executive office;

(ii) county legislative body member;

(iii) county assessor;

(iv) county or district attorney;

(v) county auditor;

(vi) county clerk;

(vii) county recorder;

(viii) county sheriff;

- (ix) county surveyor;
- (x) county treasurer; and
- (xi) local school board member;
- (d) for municipal office:
 - (i) mayor; and
 - (ii) city or town council member;
- (e) elected planning and service district council member;
- (f) judicial retention questions and recommendations; and
- (g) ballot propositions not described in Subsection (6)(f).

(7)(a) A ticket for a race for a combined office shall appear on the ballot in the place of the earliest ballot ticket position that is reserved for an office that is subsumed in the combined office.

- (b) Each ticket, other than a ticket described in Subsection (6)(f), shall list:
 - (i) each candidate in accordance with Subsections (1) through (4); and
 - (ii) except as otherwise provided in this title, the party name, initials, or title following each candidate's name.

Section 4. Section **20A-7-701** is amended to read:

20A-7-701 . Voter information pamphlet to be prepared.

- (1) The lieutenant governor shall cause to be prepared a voter information pamphlet designed to inform the voters of the state of the content, effect, operation, fiscal impact, and the supporting and opposing arguments of any measure submitted to the voters by the Legislature or by a statewide initiative or referendum petition.
- (2) The pamphlet shall ~~[also]~~include a separate section ~~[prepared, analyzed, and submitted by the Judicial Council]~~describing the judicial selection and retention process.
- (3) Voter information pamphlets prepared in association with a local initiative or a local referendum shall be prepared in accordance with the procedures and requirements of Section 20A-7-402.

Section 5. Section **20A-7-702** is amended to read:

20A-7-702 . Voter information pamphlet -- Form -- Contents.

The voter information pamphlet shall contain the following items in this order:

- (1) a cover title page;
- (2) an introduction to the pamphlet by the lieutenant governor;
- (3) a table of contents;
- (4) a list of all candidates for constitutional offices;

- (5) a list of candidates for each legislative district;
- (6) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before 5 p.m. on the first business day in August before the date of the election;
- (7) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:
- (a) a copy of the number and ballot title of the measure;
 - (b) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;
 - (c)(i) for a measure other than a measure described in Section 20A-7-103, the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel; or
 - (ii) for a measure described in Section 20A-7-103, the analysis of the measure prepared by the presiding officers;
 - (d) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;
 - (e) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets;
 - (f) for each initiative qualified for the ballot:
 - (i) a copy of the initiative as certified by the lieutenant governor and a copy of the initial fiscal impact statement prepared according to Section 20A-7-202.5; and
 - (ii) if the initiative proposes a tax increase, the following statement in bold type:
"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and
 - (g) for each referendum qualified for the ballot, a complete copy of the text of the law being submitted to the voters for their approval or rejection, with all new language underlined and all deleted language placed within brackets, as applicable;
 - ~~[(8) a description provided by the Judicial Performance Evaluation Commission of the selection and retention process for judges, including, in the following order:]~~

- ~~[(a) a description of the judicial selection process;]~~
~~[(b) a description of the judicial performance evaluation process;]~~
~~[(c) a description of the judicial retention election process;]~~
~~[(d) a list of the criteria of the judicial performance evaluation and the certification standards;]~~
~~[(e) the names of the judges standing for retention election; and]~~
~~[(f) for each judge:]~~
~~[(i) a list of the counties in which the judge is subject to retention election;]~~
~~[(ii) a short biography of professional qualifications and a recent photograph;]~~
~~[(iii) a narrative concerning the judge's performance;]~~
~~[(iv) for each certification standard under Section 78A-12-205, a statement identifying whether, under Section 78A-12-205, the judge met the standard and, if not, the manner in which the judge failed to meet the standard;]~~
~~[(v) a statement that the Judicial Performance Evaluation Commission:]~~
~~[(A) has determined that the judge meets or exceeds minimum performance standards;]~~
~~[(B) has determined that the judge does not meet or exceed minimum performance standards; or]~~
~~[(C) has not made a determination regarding whether the judge meets or exceeds minimum performance standards;]~~
~~[(vi) any statement, described in Subsection 78A-12-206(3)(b), provided by a judge whom the Judicial Performance Evaluation Commission determines does not meet or exceed minimum performance standards;]~~
~~[(vii) in a bar graph, the average of responses to each survey category, displayed with an identification of the minimum acceptable score as set by Section 78A-12-205 and the average score of all judges of the same court level; and]~~
~~[(viii) a website address that contains the Judicial Performance Evaluation Commission's report on the judge's performance evaluation;]~~

(8) information pertaining to the selection and retention process for judges in the following order:

- (a) a description of the judicial selection process that is provided by the Judicial Performance Evaluation Commission;
(b) a description of the judicial performance evaluation process for the Judicial Performance Evaluation Commission, including a list of the criteria of the judicial

performance evaluation and the certification standards, that is provided by the
Judicial Performance Evaluation Commission;

(c) a description of the judicial performance evaluation and recommendation process for
the Joint Legislative Committee on Judicial Performance that is provided by the Joint
Legislative Committee on Judicial Performance; and

(d) a description of the judicial retention election process that is provided by the Judicial
Performance Evaluation Committee;

(9) the following information for each judge standing for a retention election:

(a) the name of the judge;

(b) a list of the counties in which the judge is standing for a retention election;

(c) a short biography of the judge's professional qualifications and a recent photograph
that is provided by the Judicial Performance Evaluation Commission;

(d) a statement, provided by the Judicial Performance Evaluation Commission, that the
Judicial Performance Evaluation Commission:

(i) has determined that the judge meets or exceeds minimum performance standards;

(ii) has determined that the judge does not meet or exceed minimum performance
standards; or

(iii) has not made a determination regarding whether the judge meets or exceeds
minimum performance standards;

(e) any statement described in Subsection 78A-12-206(3)(b), provided by the Judicial
Performance Evaluation Commission, from a judge whom the Judicial Performance
Evaluation Commission determines does not meet or exceed minimum performance
standards;

(f) in a bar graph provided by the Judicial Performance Evaluation Commission, the
average responses to each survey category, displayed with an identification of the
minimum acceptable score as set by Section 78A-12-205 and the average score of all
judges of the same court level;

(g) a website address, provided by the Judicial Performance Evaluation Commission,
that contains the Judicial Performance Evaluation Commission's report on the judge's
performance evaluation; and

~~[(9)]~~ (h) ~~[for each judge,]~~ a statement, provided by the Utah Supreme Court, identifying
the cumulative number of informal reprimands, when consented to by the judge in
accordance with Title 78A, Chapter 11, Judicial Conduct Commission, formal
reprimands, and all orders of censure and suspension issued by the Utah Supreme

- 371 Court under Utah Constitution, Article VIII, Section 13, during the judge's current
 372 term and the immediately preceding term, and a detailed summary of the supporting
 373 reasons for each violation of the Code of Judicial Conduct that the judge has received;
 374 (10) an explanation of ballot marking procedures prepared by the lieutenant governor,
 375 indicating the ballot marking procedure used by each county and explaining how to
 376 mark the ballot for each procedure;
 377 (11) voter registration information, including information on how to obtain a ballot;
 378 (12) a list of all county clerks' offices and phone numbers;
 379 (13) the address of the Statewide Electronic Voter Information Website, with a statement
 380 indicating that the election officer will post on the website any changes to the location of
 381 a polling place and the location of any additional polling place;
 382 (14) a phone number that a voter may call to obtain information regarding the location of a
 383 polling place; and
 384 (15) on the back cover page, a printed copy of the following statement signed by the lieutenant
 385 governor:
 386 "I, _____ (print name), Lieutenant Governor of Utah, certify that the
 387 measures contained in this pamphlet will be submitted to the voters of Utah at the election to
 388 be held throughout the state on ____ (date of election), and that this pamphlet is complete and
 389 correct according to law.
 390 SEAL
 391 Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day
 392 of ____ (month), ____ (year)
 393

(signed) _____

Lieutenant Governor".

- 395 Section 6. Section **20A-7-801** is amended to read:
 396 **20A-7-801 . Statewide Electronic Voter Information Website Program -- Duties**
 397 **of the lieutenant governor -- Content -- Duties of local election officials -- Deadlines --**
 398 **Frequently asked voter questions -- Other elections.**
 399 (1) There is established the Statewide Electronic Voter Information Website Program
 400 administered by the lieutenant governor in cooperation with the county clerks for
 401 general elections and municipal authorities for municipal elections.
 402 (2) In accordance with this section, and as resources become available, the lieutenant

governor, in cooperation with county clerks, shall develop, establish, and maintain a state-provided Internet website designed to help inform the voters of the state of:

- (a) the offices and candidates up for election;
- (b) the content, effect, operation, fiscal impact, and supporting and opposing arguments of ballot propositions submitted to the voters; and
- (c) the status of a voter's trackable ballot, in accordance with Section 20A-3a-401.5, accessible only by the voter.

(3) Except as provided under Subsection (6), the website shall include:

- (a) all information currently provided in the Utah voter information pamphlet under [~~Chapter 7, Part 7, Voter Information Pamphlet, including a section prepared, analyzed, and submitted by the Judicial Performance Evaluation Commission describing the judicial selection and retention process~~] Part 7, Voter Information Pamphlet;
- (b) on the homepage of the website, a link to the Judicial Performance Evaluation Commission's website, judges.utah.gov;
- (c) a link to the retention recommendation made by the Judicial Performance Evaluation Commission in accordance with Title 78A, Chapter 12, Part 2, Judicial Performance Evaluation Commission, for each judicial appointee to a court that is subject to a retention election, in accordance with Section 20A-12-201, for the upcoming general election;
- (d) all information submitted by election officers under Subsection (4) on local office races, local office candidates, and local ballot propositions;
- (e) a list that contains the name of a political subdivision that operates an election day voting center under Section 20A-3a-703 and the location of the election day voting center;
- (f) other information determined appropriate by the lieutenant governor that is currently being provided by law, rule, or ordinance in relation to candidates and ballot questions;
- (g) any differences in voting method, time, or location designated by the lieutenant governor under Subsection 20A-1-308(2); and
- (h) an online ballot tracking system by which a voter can view the status of the voter's trackable ballot, in accordance with Section 20A-3a-401.5, including:
 - (i) when a ballot has been mailed to the voter;
 - (ii) when an election official has received the voter's ballot; and

- 437 (iii) when the voter's ballot has been counted.
- 438 (4)(a) An election official shall submit the following information for each ballot under
439 the election official's direct responsibility under this title:
- 440 (i) a list of all candidates for each office;
- 441 (ii) if submitted by the candidate to the election official's office before 5 p.m. no later
442 than 45 days before the primary election or before 5 p.m. no later than 60 days
443 before the general election:
- 444 (A) a statement of qualifications, not exceeding 200 words in length, for each
445 candidate;
- 446 (B) the following current biographical information if desired by the candidate,
447 current:
- 448 (I) age;
- 449 (II) occupation;
- 450 (III) city of residence;
- 451 (IV) years of residence in current city; and
- 452 (V) email address; and
- 453 (C) a single web address where voters may access more information about the
454 candidate and the candidate's views; and
- 455 (iii) factual information pertaining to all ballot propositions submitted to the voters,
456 including:
- 457 (A) a copy of the number and ballot title of each ballot proposition;
- 458 (B) the final vote cast for each ballot proposition, if any, by a legislative body if
459 the vote was required to place the ballot proposition on the ballot;
- 460 (C) a complete copy of the text of each ballot proposition, with all new language
461 underlined and all deleted language placed within brackets; and
- 462 (D) other factual information determined helpful by the election official.
- 463 (b) The information under Subsection (4)(a) shall be submitted to the lieutenant
464 governor no later than one business day after the deadline under Subsection (4)(a) for
465 each general election year and each municipal election year.
- 466 (c) The lieutenant governor shall:
- 467 (i) review the information submitted under this section, to determine compliance
468 under this section, prior to placing it on the website;
- 469 (ii) refuse to post information submitted under this section on the website if it is not
470 in compliance with the provisions of this section; and

(iii) organize, format, and arrange the information submitted under this section for the website.

(d) The lieutenant governor may refuse to include information the lieutenant governor determines is not in keeping with:

(i) Utah voter needs;

(ii) public decency; or

(iii) the purposes, organization, or uniformity of the website.

(e) A refusal under Subsection (4)(d) is subject to appeal in accordance with Subsection (5).

(5)(a) A person whose information is refused under Subsection (4), and who is aggrieved by the determination, may appeal by submitting a written notice of appeal to the lieutenant governor before 5 p.m. within 10 business days after the date of the determination. A notice of appeal submitted under this Subsection (5)(a) shall contain:

(i) a listing of each objection to the lieutenant governor's determination; and

(ii) the basis for each objection.

(b) The lieutenant governor shall review the notice of appeal and shall issue a written response within 10 business days after the day on which the notice of appeal is submitted.

(c) An appeal of the response of the lieutenant governor shall be made to the district court, which shall review the matter de novo.

(6)(a) The lieutenant governor shall ensure that each voter will be able to conveniently enter the voter's address information on the website to retrieve information on which offices, candidates, and ballot propositions will be on the voter's ballot at the next general election or municipal election.

(b) The information on the website will anticipate and answer frequent voter questions including the following:

(i) what offices are up in the current year for which the voter may cast a vote;

(ii) who is running for what office and who is the incumbent, if any;

(iii) what address each candidate may be reached at and how the candidate may be contacted;

(iv) for partisan races only, what, if any, is each candidate's party affiliation;

(v) what qualifications have been submitted by each candidate;

(vi) where additional information on each candidate may be obtained;

(vii) what ballot propositions will be on the ballot; and

(viii) what judges are up for retention election.

(7) The lieutenant governor shall ensure that each voter may conveniently enter the voter's name, date of birth, and address information on the website to retrieve information on the status of the voter's ballot if the voter's ballot is trackable under Section 20A-3a-401.5.

(8) As resources are made available and in cooperation with the county clerks, the lieutenant governor may expand the electronic voter information website program to include the same information as provided under this section for special elections and primary elections.

Section 7. Section **20A-12-201** is amended to read:

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

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

(b) After the first retention election:

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

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

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

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

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

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

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

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

(ii) If a justice court judge is appointed or elected to more than one judicial office, the

539 declaration of candidacy shall identify all of the courts included in the same
 540 general election.

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

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

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

549 (ii) transmit a certified list containing the names of judges of other courts declaring
 550 their candidacy to the county clerk of each county in the geographic division in
 551 which the judge filing the declaration holds office[-] ; and

552 (iii) transmit a retention recommendation for a judge or justice from the Joint
 553 Legislative Committee on Judicial Performance to the county clerk of each county
 554 if the name of the judge or justice is on a certified list described in Subsection
 555 (3)(a)(i) or (ii) for that county.

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

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

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

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

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

564 "Shall _____ (name of justice or judge) be retained in the
 565 office of _____? (name of office, such as "Justice of the Supreme
 566 Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the Business and Chancery
 567 Court of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the
 568 Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county)
 569 County or (name of municipality)")

570 Yes ()

571 No ()-"]

572 (ii) for each justice or judge standing for a retention election in the county:

- 573 (A) if the Joint Legislative Committee on Judicial Performance transmits a
574 statement indicating that the Joint Legislative Committee on Judicial
575 Performance recommends retention of the justice or judge, the following
576 statement: "The Joint Legislative Committee on Judicial Performance
577 recommends that [insert name of justice or judge] be retained in the office of
578 [insert name of office and the applicable court or jurisdiction].";
579 (B) if the Joint Legislative Committee on Judicial Performance transmits a
580 statement indicating that the Joint Legislative Committee on Judicial
581 Performance recommends against retention of the justice or judge, the
582 following statement: "The Joint Legislative Committee on Judicial
583 Performance recommends that [insert name of justice or judge] NOT be
584 retained in the office of [insert name of office and the applicable court or
585 jurisdiction]."; and
586 (C) the following question: "Shall [insert name of justice or judge] be retained in
587 the office of [insert name of office and the applicable court or jurisdiction]?
588 Yes () or No ()."
589 (b) If a justice court exists by means of an interlocal agreement under Section 78A-7-102,
590 the ballot question for the judge shall include the name of that court.
591 (5)(a) If the justice or judge receives more yes votes than no votes, the justice or judge is
592 retained for the term of office provided by law.
593 (b) If the justice or judge does not receive more yes votes than no votes, the justice or
594 judge is not retained, and a vacancy exists in the office on the first Monday in
595 January after the regular general election.
596 (6) A justice or judge not retained is ineligible for appointment to the office for which the
597 justice or judge was defeated until after the expiration of that term of office.
598 (7)(a) If a justice court judge is standing for retention for one or more judicial offices in
599 a county in which the judge is a county justice court judge or a municipal justice
600 court judge in a town or municipality of the fourth or fifth class, as described in
601 Section 10-2-301, or any combination thereof, the election officer shall place the
602 judge's name on the county ballot only once for all judicial offices for which the
603 judge seeks to be retained.
604 (b) If a justice court judge is standing for retention for one or more judicial offices in a
605 municipality of the first, second, or third class, as described in Section 10-2-301, the
606 election officer shall place the judge's name only on the municipal ballot for the

voters of the municipality that the judge serves.

Section 8. Section **63G-2-302** is amended to read:

63G-2-302 . Private records.

(1) The following records are private:

- (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
- (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
- (c) records of publicly funded libraries that when examined alone or with other records identify a patron;
- (d) records received by or generated by or for:
 - (i) the Independent Legislative Ethics Commission, except for:
 - (A) the commission's summary data report that is required under legislative rule;
 - and
 - (B) any other document that is classified as public under legislative rule; or
 - (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;
- (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;
- (f) records received or generated for a Senate confirmation committee or the Joint Legislative Committee on Judicial Performance concerning character, professional competence, or physical or mental health of an individual:
 - (i) if ~~[, prior to the meeting, the]~~ a chair of the committee determines before the meeting that release of the records:
 - (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or
 - (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and
 - (ii) after the meeting~~[,]~~ if the meeting was closed to the public;
- (g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

- 641 (h) records or parts of records under Section 63G-2-303 that a current or former
642 employee identifies as private according to the requirements of that section;
- 643 (i) that part of a record indicating a person's social security number or federal employer
644 identification number if provided under Section 31A-23a-104, 31A-25-202,
645 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 646 (j) that part of a voter registration record identifying a voter's:
 - 647 (i) driver license or identification card number;
 - 648 (ii) social security number, or last four digits of the social security number;
 - 649 (iii) email address;
 - 650 (iv) date of birth; or
 - 651 (v) phone number;
- 652 (k) a voter registration record that is classified as a private record by the lieutenant
653 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
654 20A-2-204(4)(b);
- 655 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 656 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
657 verification submitted in support of the form;
- 658 (n) a record that:
 - 659 (i) contains information about an individual;
 - 660 (ii) is voluntarily provided by the individual; and
 - 661 (iii) goes into an electronic database that:
 - 662 (A) is designated by and administered under the authority of the Chief Information
663 Officer; and
 - 664 (B) acts as a repository of information about the individual that can be
665 electronically retrieved and used to facilitate the individual's online interaction
666 with a state agency;
- 667 (o) information provided to the Commissioner of Insurance under:
 - 668 (i) Subsection 31A-23a-115(3)(a);
 - 669 (ii) Subsection 31A-23a-302(4); or
 - 670 (iii) Subsection 31A-26-210(4);
- 671 (p) information obtained through a criminal background check under Title 11, Chapter
672 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 673 (q) information provided by an offender that is:
 - 674 (i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and

- 675 Child Abuse Offender Registry; and
- 676 (ii) not required to be made available to the public under Subsection 77-41-110(4);
- 677 (r) a statement and any supporting documentation filed with the attorney general in
- 678 accordance with Section 34-45-107, if the federal law or action supporting the filing
- 679 involves homeland security;
- 680 (s) electronic toll collection customer account information received or collected under
- 681 Section 72-6-118 and customer information described in Section 17B-2a-815
- 682 received or collected by a public transit district, including contact and payment
- 683 information and customer travel data;
- 684 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 685 (u) a completed military-overseas ballot that is electronically transmitted under Title
- 686 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 687 (v) records received by or generated by or for the Political Subdivisions Ethics Review
- 688 Commission established in Section 63A-15-201, except for:
- 689 (i) the commission's summary data report that is required in Section 63A-15-202; and
- 690 (ii) any other document that is classified as public in accordance with Title 63A,
- 691 Chapter 15, Political Subdivisions Ethics Review Commission;
- 692 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an
- 693 incident or threat;
- 694 (x) a criminal background check or credit history report conducted in accordance with
- 695 Section 63A-3-201;
- 696 (y) a record described in Subsection 53-5a-104(7);
- 697 (z) on a record maintained by a county for the purpose of administering property taxes,
- 698 an individual's:
- 699 (i) email address;
- 700 (ii) phone number; or
- 701 (iii) personal financial information related to a person's payment method;
- 702 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
- 703 exemption, deferral, abatement, or relief under:
- 704 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 705 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 706 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 707 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 708 (bb) a record provided by the State Tax Commission in response to a request under

Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); [and]

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;

(ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109; and

(ff) a record including confidential information as that term is defined in Section 67-27-105.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section

77-7a-103, that record sound or images inside a home or residence except for recordings that:

- (i) depict the commission of an alleged crime;
- (ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
- (iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
- (iv) contain an officer involved critical incident as defined in Subsection 76-2-408 (1)(f); or
- (v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3)(a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

- (i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or
- (ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 9. Section **63G-2-305** is amended to read:

63G-2-305 . Protected records.

The following records are protected if properly classified by a governmental entity:

- (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;
- (2) commercial information or nonindividual financial information obtained from a person if:
 - (a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;
 - (b) the person submitting the information has a greater interest in prohibiting access than

777 the public in obtaining access; and

778 (c) the person submitting the information has provided the governmental entity with the
779 information specified in Section 63G-2-309;

780 (3) commercial or financial information acquired or prepared by a governmental entity to
781 the extent that disclosure would lead to financial speculations in currencies, securities, or
782 commodities that will interfere with a planned transaction by the governmental entity or
783 cause substantial financial injury to the governmental entity or state economy;

784 (4) records, the disclosure of which could cause commercial injury to, or confer a
785 competitive advantage upon a potential or actual competitor of, a commercial project
786 entity as defined in Subsection 11-13-103(4);

787 (5) test questions and answers to be used in future license, certification, registration,
788 employment, or academic examinations;

789 (6) records, the disclosure of which would impair governmental procurement proceedings
790 or give an unfair advantage to any person proposing to enter into a contract or agreement
791 with a governmental entity, except, subject to Subsections (1) and (2), that this
792 Subsection (6) does not restrict the right of a person to have access to, after the contract
793 or grant has been awarded and signed by all parties:

794 (a) a bid, proposal, application, or other information submitted to or by a governmental
795 entity in response to:

796 (i) an invitation for bids;

797 (ii) a request for proposals;

798 (iii) a request for quotes;

799 (iv) a grant; or

800 (v) other similar document; or

801 (b) an unsolicited proposal, as defined in Section 63G-6a-712;

802 (7) information submitted to or by a governmental entity in response to a request for
803 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not
804 restrict the right of a person to have access to the information, after:

805 (a) a contract directly relating to the subject of the request for information has been
806 awarded and signed by all parties; or

807 (b)(i) a final determination is made not to enter into a contract that relates to the
808 subject of the request for information; and

809 (ii) at least two years have passed after the day on which the request for information
810 is issued;

- (8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:
- (a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;
 - (b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
 - (c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;
 - (d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or
 - (e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;
- (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
- (a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or
 - (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
- (10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:
- (a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
 - (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
 - (c) would create a danger of depriving a person of a right to a fair trial or impartial

- 845 hearing;
- 846 (d) reasonably could be expected to disclose the identity of a source who is not generally
847 known outside of government and, in the case of a record compiled in the course of
848 an investigation, disclose information furnished by a source not generally known
849 outside of government if disclosure would compromise the source; or
- 850 (e) reasonably could be expected to disclose investigative or audit techniques,
851 procedures, policies, or orders not generally known outside of government if
852 disclosure would interfere with enforcement or audit efforts;
- 853 (11) records the disclosure of which would jeopardize the life or safety of an individual;
- 854 (12) records the disclosure of which would jeopardize the security of governmental
855 property, governmental programs, or governmental recordkeeping systems from
856 damage, theft, or other appropriation or use contrary to law or public policy;
- 857 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
858 facility, or records relating to incarceration, treatment, probation, or parole, that would
859 interfere with the control and supervision of an offender's incarceration, treatment,
860 probation, or parole;
- 861 (14) records that, if disclosed, would reveal recommendations made to the Board of
862 Pardons and Parole by an employee of or contractor for the Department of Corrections,
863 the Board of Pardons and Parole, or the Department of Health and Human Services that
864 are based on the employee's or contractor's supervision, diagnosis, or treatment of any
865 person within the board's jurisdiction;
- 866 (15) records and audit workpapers that identify audit, collection, and operational procedures
867 and methods used by the State Tax Commission, if disclosure would interfere with
868 audits or collections;
- 869 (16) records of a governmental audit agency relating to an ongoing or planned audit until
870 the final audit is released;
- 871 (17) records that are subject to the attorney client privilege;
- 872 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
873 employee, or agent of a governmental entity for, or in anticipation of, litigation or a
874 judicial, quasi-judicial, or administrative proceeding;
- 875 (19)(a)(i) personal files of a state legislator, including personal correspondence to or
876 from a member of the Legislature; and
- 877 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
878 legislative action or policy may not be classified as protected under this section;

879 and

880 (b)(i) an internal communication that is part of the deliberative process in connection

881 with the preparation of legislation between:

882 (A) members of a legislative body;

883 (B) a member of a legislative body and a member of the legislative body's staff; or

884 (C) members of a legislative body's staff; and

885 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of

886 legislative action or policy may not be classified as protected under this section;

887 (20)(a) records in the custody or control of the Office of Legislative Research and

888 General Counsel, that, if disclosed, would reveal a particular legislator's

889 contemplated legislation or contemplated course of action before the legislator has

890 elected to support the legislation or course of action, or made the legislation or course

891 of action public; and

892 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the

893 Office of Legislative Research and General Counsel is a public document unless a

894 legislator asks that the records requesting the legislation be maintained as protected

895 records until such time as the legislator elects to make the legislation or course of

896 action public;

897 (21) a research request from a legislator to a legislative staff member and research findings

898 prepared in response to the request;

899 (22) drafts, unless otherwise classified as public;

900 (23) records concerning a governmental entity's strategy about:

901 (a) collective bargaining; or

902 (b) imminent or pending litigation;

903 (24) records of investigations of loss occurrences and analyses of loss occurrences that may

904 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the

905 Uninsured Employers' Fund, or similar divisions in other governmental entities;

906 (25) records, other than personnel evaluations, that contain a personal recommendation

907 concerning an individual if disclosure would constitute a clearly unwarranted invasion

908 of personal privacy, or disclosure is not in the public interest;

909 (26) records that reveal the location of historic, prehistoric, paleontological, or biological

910 resources that if known would jeopardize the security of those resources or of valuable

911 historic, scientific, educational, or cultural information;

912 (27) records of independent state agencies if the disclosure of the records would conflict

with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

- (37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:
- (a) the donor requests anonymity in writing;
 - (b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and
 - (c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;
- (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
- (39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;
- (40)(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:
- (i) unpublished lecture notes;
 - (ii) unpublished notes, data, and information:
 - (A) relating to research; and
 - (B) of:
 - (I) the institution within the state system of higher education defined in Section 53B-1-102; or
 - (II) a sponsor of sponsored research;
 - (iii) unpublished manuscripts;
 - (iv) creative works in process;
 - (v) scholarly correspondence; and
 - (vi) confidential information contained in research proposals;
- (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- (41)(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit

981 prior to the date that audit is completed and made public; and

982 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
983 Office of the Legislative Auditor General is a public document unless the legislator
984 asks that the records in the custody or control of the Office of the Legislative Auditor
985 General that would reveal the name of a particular legislator who requests a
986 legislative audit be maintained as protected records until the audit is completed and
987 made public;

988 (42) records that provide detail as to the location of an explosive, including a map or other
989 document that indicates the location of:

990 (a) a production facility; or

991 (b) a magazine;

992 (43) information contained in the statewide database of the Division of Aging and Adult
993 Services created by Section 26B-6-210;

994 (44) information contained in the Licensing Information System described in Title 80,
995 Chapter 2, Child Welfare Services;

996 (45) information regarding National Guard operations or activities in support of the
997 National Guard's federal mission;

998 (46) records provided by any pawn or secondhand business to a law enforcement agency or
999 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand
1000 Merchandise, and Catalytic Converter Transaction Information Act;

1001 (47) information regarding food security, risk, and vulnerability assessments performed by
1002 the Department of Agriculture and Food;

1003 (48) except to the extent that the record is exempt from this chapter pursuant to Section
1004 63G-2-106, records related to an emergency plan or program, a copy of which is
1005 provided to or prepared or maintained by the Division of Emergency Management, and
1006 the disclosure of which would jeopardize:

1007 (a) the safety of the general public; or

1008 (b) the security of:

1009 (i) governmental property;

1010 (ii) governmental programs; or

1011 (iii) the property of a private person who provides the Division of Emergency
1012 Management information;

1013 (49) records of the Department of Agriculture and Food that provides for the identification,
1014 tracing, or control of livestock diseases, including any program established under Title

1015 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
1016 of Animal Disease;

1017 (50) as provided in Section 26B-2-709:

1018 (a) information or records held by the Department of Health and Human Services related
1019 to a complaint regarding a provider, program, or facility which the department is
1020 unable to substantiate; and

1021 (b) information or records related to a complaint received by the Department of Health
1022 and Human Services from an anonymous complainant regarding a provider, program,
1023 or facility;

1024 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided
1025 under Section 41-1a-116, an individual's home address, home telephone number, or
1026 personal mobile phone number, if:

1027 (a) the individual is required to provide the information in order to comply with a law,
1028 ordinance, rule, or order of a government entity; and

1029 (b) the subject of the record has a reasonable expectation that this information will be
1030 kept confidential due to:

1031 (i) the nature of the law, ordinance, rule, or order; and
1032 (ii) the individual complying with the law, ordinance, rule, or order;

1033 (52) the portion of the following documents that contains a candidate's residential or
1034 mailing address, if the candidate provides to the filing officer another address or phone
1035 number where the candidate may be contacted:

1036 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
1037 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405,
1038 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

1039 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

1040 (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

1041 (53) the name, home address, work addresses, and telephone numbers of an individual that
1042 is engaged in, or that provides goods or services for, medical or scientific research that is:

1043 (a) conducted within the state system of higher education, as defined in Section
1044 53B-1-102; and

1045 (b) conducted using animals;

1046 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
1047 Evaluation Commission concerning an individual commissioner's vote, in relation to
1048 whether a judge meets or exceeds minimum performance standards under Subsection

1049 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
1050 (55) information collected and a report prepared by the Judicial Performance Evaluation
1051 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12,
1052 Judicial Performance [~~Evaluation Commission Act~~] Evaluations, requires disclosure of,
1053 or makes public, the information or report;
1054 (56) records provided or received by the Public Lands Policy Coordinating Office in
1055 furtherance of any contract or other agreement made in accordance with Section
1056 63L-11-202;
1057 (57) information requested by and provided to the 911 Division under Section 63H-7a-302;
1058 (58) in accordance with Section 73-10-33:
1059 (a) a management plan for a water conveyance facility in the possession of the Division
1060 of Water Resources or the Board of Water Resources; or
1061 (b) an outline of an emergency response plan in possession of the state or a county or
1062 municipality;
1063 (59) the following records in the custody or control of the Office of Inspector General of
1064 Medicaid Services, created in Section 63A-13-201:
1065 (a) records that would disclose information relating to allegations of personal
1066 misconduct, gross mismanagement, or illegal activity of a person if the information
1067 or allegation cannot be corroborated by the Office of Inspector General of Medicaid
1068 Services through other documents or evidence, and the records relating to the
1069 allegation are not relied upon by the Office of Inspector General of Medicaid
1070 Services in preparing a final investigation report or final audit report;
1071 (b) records and audit workpapers to the extent they would disclose the identity of a
1072 person who, during the course of an investigation or audit, communicated the
1073 existence of any Medicaid fraud, waste, or abuse, or a violation or suspected
1074 violation of a law, rule, or regulation adopted under the laws of this state, a political
1075 subdivision of the state, or any recognized entity of the United States, if the
1076 information was disclosed on the condition that the identity of the person be
1077 protected;
1078 (c) before the time that an investigation or audit is completed and the final investigation
1079 or final audit report is released, records or drafts circulated to a person who is not an
1080 employee or head of a governmental entity for the person's response or information;
1081 (d) records that would disclose an outline or part of any investigation, audit survey plan,
1082 or audit program; or

- 1083 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1084 investigation or audit;
- 1085 (60) records that reveal methods used by the Office of Inspector General of Medicaid
1086 Services, the fraud unit, or the Department of Health and Human Services, to discover
1087 Medicaid fraud, waste, or abuse;
- 1088 (61) information provided to the Department of Health and Human Services or the Division
1089 of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
1090 58-68-304(3) and (4);
- 1091 (62) a record described in Section 63G-12-210;
- 1092 (63) captured plate data that is obtained through an automatic license plate reader system
1093 used by a governmental entity as authorized in Section 41-6a-2003;
- 1094 (64) an audio or video recording created by a body-worn camera, as that term is defined in
1095 Section 77-7a-103, that records sound or images inside a hospital or health care facility
1096 as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider,
1097 as that term is defined in Section 78B-3-403, or inside a human service program as that
1098 term is defined in Section 26B-2-101, except for recordings that:
- 1099 (a) depict the commission of an alleged crime;
- 1100 (b) record any encounter between a law enforcement officer and a person that results in
1101 death or bodily injury, or includes an instance when an officer fires a weapon;
- 1102 (c) record any encounter that is the subject of a complaint or a legal proceeding against a
1103 law enforcement officer or law enforcement agency;
- 1104 (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f);
1105 or
- 1106 (e) have been requested for reclassification as a public record by a subject or authorized
1107 agent of a subject featured in the recording;
- 1108 (65) a record pertaining to the search process for a president of an institution of higher
1109 education described in Section 53B-2-102, except for application materials for a publicly
1110 announced finalist;
- 1111 (66) an audio recording that is:
- 1112 (a) produced by an audio recording device that is used in conjunction with a device or
1113 piece of equipment designed or intended for resuscitating an individual or for treating
1114 an individual with a life-threatening condition;
- 1115 (b) produced during an emergency event when an individual employed to provide law
1116 enforcement, fire protection, paramedic, emergency medical, or other first responder

1117 service:

1118 (i) is responding to an individual needing resuscitation or with a life-threatening

1119 condition; and

1120 (ii) uses a device or piece of equipment designed or intended for resuscitating an

1121 individual or for treating an individual with a life-threatening condition; and

1122 (c) intended and used for purposes of training emergency responders how to improve

1123 their response to an emergency situation;

1124 (67) records submitted by or prepared in relation to an applicant seeking a recommendation

1125 by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the

1126 Audit Subcommittee, established under Section 36-12-8, for an employment position

1127 with the Legislature;

1128 (68) work papers as defined in Section 31A-2-204;

1129 (69) a record made available to Adult Protective Services or a law enforcement agency

1130 under Section 61-1-206;

1131 (70) a record submitted to the Insurance Department in accordance with Section

1132 31A-37-201;

1133 (71) a record described in Section 31A-37-503;

1134 (72) any record created by the Division of Professional Licensing as a result of Subsection

1135 58-37f-304(5) or 58-37f-702(2)(a)(ii);

1136 (73) a record described in Section 72-16-306 that relates to the reporting of an injury

1137 involving an amusement ride;

1138 (74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a

1139 political petition, or on a request to withdraw a signature from a political petition,

1140 including a petition or request described in the following titles:

1141 (a) Title 10, Utah Municipal Code;

1142 (b) Title 17, Counties;

1143 (c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

1144 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

1145 (e) Title 20A, Election Code;

1146 (75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a

1147 voter registration record;

1148 (76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature

1149 described in Subsection (74) or (75), in the custody of the lieutenant governor or a local

1150 political subdivision collected or held under, or in relation to, Title 20A, Election Code;

- 1151 (77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5,
1152 Victims Guidelines for Prosecutors Act;
- 1153 (78) a record submitted to the Insurance Department under Section 31A-48-103;
- 1154 (79) personal information, as defined in Section 63G-26-102, to the extent disclosure is
1155 prohibited under Section 63G-26-103;
- 1156 (80) an image taken of an individual during the process of booking the individual into jail,
1157 unless:
- 1158 (a) the individual is convicted of a criminal offense based upon the conduct for which
1159 the individual was incarcerated at the time the image was taken;
- 1160 (b) a law enforcement agency releases or disseminates the image:
- 1161 (i) after determining that the individual is a fugitive or an imminent threat to an
1162 individual or to public safety and releasing or disseminating the image will assist
1163 in apprehending the individual or reducing or eliminating the threat; or
- 1164 (ii) to a potential witness or other individual with direct knowledge of events relevant
1165 to a criminal investigation or criminal proceeding for the purpose of identifying or
1166 locating an individual in connection with the criminal investigation or criminal
1167 proceeding;
- 1168 (c) a judge orders the release or dissemination of the image based on a finding that the
1169 release or dissemination is in furtherance of a legitimate law enforcement interest; or
- 1170 (d) the image is displayed to a person who is permitted to view the image under Section
1171 17-22-30[-] ;
- 1172 (81) a record:
- 1173 (a) concerning an interstate claim to the use of waters in the Colorado River system;
- 1174 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
1175 representative from another state or the federal government as provided in Section
1176 63M-14-205; and
- 1177 (c) the disclosure of which would:
- 1178 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
1179 Colorado River system;
- 1180 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
1181 negotiate the best terms and conditions regarding the use of water in the Colorado
1182 River system; or
- 1183 (iii) give an advantage to another state or to the federal government in negotiations
1184 regarding the use of water in the Colorado River system;

- 1185 (82) any part of an application described in Section 63N-16-201 that the Governor's Office
1186 of Economic Opportunity determines is nonpublic, confidential information that if
1187 disclosed would result in actual economic harm to the applicant, but this Subsection (82)
1188 may not be used to restrict access to a record evidencing a final contract or approval
1189 decision;
- 1190 (83) the following records of a drinking water or wastewater facility:
- 1191 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
1192 and
- 1193 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the
1194 drinking water or wastewater facility uses to secure, or prohibit access to, the records
1195 described in Subsection (83)(a);
- 1196 (84) a statement that an employee of a governmental entity provides to the governmental
1197 entity as part of the governmental entity's personnel or administrative investigation into
1198 potential misconduct involving the employee if the governmental entity:
- 1199 (a) requires the statement under threat of employment disciplinary action, including
1200 possible termination of employment, for the employee's refusal to provide the
1201 statement; and
- 1202 (b) provides the employee assurance that the statement cannot be used against the
1203 employee in any criminal proceeding;
- 1204 (85) any part of an application for a Utah Fits All Scholarship account described in Section
1205 53F-6-402 or other information identifying a scholarship student as defined in Section
1206 53F-6-401;
- 1207 (86) a record:
- 1208 (a) concerning a claim to the use of waters in the Great Salt Lake;
- 1209 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
1210 person concerning the claim, including a representative from another state or the
1211 federal government; and
- 1212 (c) the disclosure of which would:
- 1213 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
1214 Great Salt Lake;
- 1215 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms
1216 and conditions regarding the use of water in the Great Salt Lake; or
- 1217 (iii) give an advantage to another person including another state or to the federal
1218 government in negotiations regarding the use of water in the Great Salt Lake; [and]

- 1219 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is
 1220 reclassified as public as described in Subsection 13-2-11(4)[-] ; and
 1221 (88) a record of the Utah water agent, appointed under Section 73-10g-702:
 1222 (a) concerning a claim to the use of waters;
 1223 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
 1224 representative from another state, a tribe, the federal government, or other
 1225 government entity as provided in Title 73, Chapter 10g, Part 6, Utah Water Agent;
 1226 and
 1227 (c) the disclosure of which would:
 1228 (i) reveal a legal strategy relating to the state's claim to the use of the water;
 1229 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions
 1230 regarding the use of water; or
 1231 (iii) give an advantage to another state, a tribe, the federal government, or other
 1232 government entity in negotiations regarding the use of water.

1233 Section 10. Section **78A-7-203** is amended to read:

1234 **78A-7-203 . Term of office for justice court judge -- Retention -- Reduction in**
 1235 **force -- Addition of a justice court judge position.**

- 1236 (1) The term of a justice court judge is six years beginning the first Monday in January
 1237 following the date of election.
 1238 (2) Upon the expiration of a justice court judge's term of office, the judge shall be subject to
 1239 an unopposed retention election in accordance with the procedures set forth in Section
 1240 20A-12-201:
 1241 (a) in the county or counties in which the court to which the judge is appointed is located
 1242 if the judge is a county justice court judge or a municipal justice court judge in a
 1243 town or city of the fourth or fifth class; or
 1244 (b) in the municipality in which the court to which the judge is appointed is located if
 1245 the judge is a municipal justice court judge and Subsection (2)(a) does not apply.
 1246 (3) Before each retention election, each justice court judge shall be evaluated in accordance
 1247 with the performance evaluation program established in [~~Chapter 12, Judicial~~
 1248 ~~Performance Evaluation Commission Act~~] Chapter 12, Judicial Performance Evaluations.
 1249 (4) A municipality or county that has more than one justice court judge and the weighted
 1250 caseload per judge is lower than 0.60 as determined by the Administrative Office of the
 1251 Courts may, at the municipality's or county's discretion and at the end of a judge's term
 1252 of office, initiate a reduction in force and reduce, lay off, terminate, or eliminate a

judge's position in accordance with the municipality's or county's employment policies.

- (5) A municipality or county may only add a new justice court judge position if the Judicial Council, after considering the caseload of the court, approves creation of the position.

Section 11. Section **78A-11-112** is amended to read:

78A-11-112 . Confidentiality.

- (1) The transmission, production, or disclosure of any complaints, papers, or testimony in the course of proceedings before the commission, the masters appointed under Section 78A-11-110, or the Supreme Court may not be introduced in any civil action.

- (2)(a) The transmission, production, or disclosure of any complaints, papers, or testimony in the course of proceedings before the commission or the masters appointed under Section 78A-11-110 may be introduced in any criminal action, consistent with the Utah Rules of Evidence.

(b) This information shall be shared with the prosecutor conducting a criminal investigation or prosecution of a judge as provided in Section 78A-11-106.

- (3) Complaints, papers, testimony, or the record of the commission's confidential hearing may not be disclosed by the commission, masters, or any court until the Supreme Court has entered its final order in accordance with this section, except:

(a) upon order of the Supreme Court;

(b) upon the request of the judge who is the subject of the complaint;

(c) as provided in Subsection (4);

(d) to aid in a criminal investigation or prosecution as provided in Section 78A-11-106; or

(e) this information is subject to audit by the Office of Legislative Auditor General, and any records released to the Office of Legislative Auditor General shall be maintained as confidential, except:

(i) for information that has already been made public; and

(ii) the final written and oral audit report of the Legislative Auditor General may present information about the commission as long as it contains no specific information that would easily identify a judge, witness, or complainant.

- (4) If the Senate Judicial Confirmation Committee requests ~~[Judicial-Conduct-Commission records]~~ records from the commission, the commission shall disclose the information to the Senate Judicial Confirmation Committee or its staff if the chair of the Senate Judicial Confirmation Committee certifies in writing that the committee will limit the disclosure of any information received to the minimum amount necessary to allow the Senate to

evaluate the candidate's fitness for office.

(5) If the Joint Legislative Committee on Judicial Performance requests records from the commission, the commission shall disclose the information to the Joint Legislative Committee on Judicial Performance or staff of the Joint Legislative Committee on Judicial Performance if the chairs of the Joint Legislative Committee on Judicial Performance certify in writing that the committee will limit the disclosure of any information received to the minimum amount necessary to allow the committee to evaluate the judge's judicial performance.

[(5)] (6) Upon the dismissal of a complaint or allegation against a judge, the dismissal shall be disclosed without consent of the judge to the person who filed the complaint.

Section 12. Section **78A-12-102** is amended to read:

CHAPTER 12. JUDICIAL PERFORMANCE EVALUATIONS

78A-12-102 . Definitions for chapter.

As used in this chapter:

- (1) "Commission" means the Judicial Performance Evaluation Commission [established by this chapter] created in Section 78A-12-201.
- (2) "Committee" means the Joint Legislative Committee on Judicial Performance created in Section 78A-12-302.
- (3) "Regular general election" means the same as that term is defined in Section 20A-1-102.
- [(2) "~~Does not meet or exceed minimum performance standards~~" means that:]
 - [(a)(i) ~~a judge does not meet the certification standards under Section 78A-12-205;~~
and]
 - [(ii) ~~the presumption, described in Subsection 78A-12-203(4)(b)(ii), that the judge does not meet or exceed minimum performance standards is not overcome by substantial countervailing evidence; or]~~
 - [(b) ~~a judge meets the certification standards under Section 78A-12-205, but the presumption, described in Subsection 78A-12-203(4)(b)(i), that the judge meets or exceeds minimum performance standards is overcome by substantial countervailing evidence.~~]
- [(3) ~~Except as provided in Section 78A-12-207, "judge" means a state court judge or a state court justice who is subject to a retention election.~~]
- [(4) "~~Justice~~" means a judge who is a member of the Supreme Court.]
- [(5) "~~Justice court judge~~" means a judge appointed pursuant to Title 78A, Chapter 7, Justice Court.]

1321 [(6) "Meets or exceeds minimum performance standards" means that:]

1322 [(a)(i) a judge meets the certification standards under Section 78A-12-205; and]

1323 [(ii) the presumption that the judge meets or exceeds minimum performance
1324 standards, described in Subsection 78A-12-203(4)(b)(i), is not overcome by
1325 substantial countervailing evidence; or]

1326 [(b) a judge does not meet the certification standards under Section 78A-12-205, but the
1327 presumption described in Subsection 78A-12-203(4)(b)(ii), that the judge does not
1328 meet or exceed minimum performance standards, is overcome by substantial
1329 countervailing evidence.]

1330 Section 13. Section **78A-12-201.1** is enacted to read:

1331 **Part 2. Judicial Performance Evaluation Commission**

1332 **78A-12-201.1 . Definitions for part.**

1333 As used in this part:

1334 (1) "Does not meet or exceed minimum performance standards" means that:

1335 (a)(i) a judge does not meet the certification standards under Section 78A-12-205; and

1336 (ii) the presumption described in Subsection 78A-12-203(4)(b)(ii) that the judge does
1337 not meet or exceed minimum performance standards is not overcome by
1338 substantial countervailing evidence; or

1339 (b) a judge meets the certification standards under Section 78A-12-205, but the
1340 presumption described in Subsection 78A-12-203(4)(b)(i) that the judge meets or
1341 exceeds minimum performance standards is overcome by substantial countervailing
1342 evidence.

1343 (2) "Judge" means a state court judge or justice who is subject to a retention election.

1344 (3) "Justice" means a judge who is a member of the Supreme Court.

1345 (4) "Justice court judge" means a judge appointed in accordance with Title 78A, Chapter 7,
1346 Justice Court.

1347 (5) "Meets or exceeds minimum performance standards" means that:

1348 (a)(i) a judge meets the certification standards under Section 78A-12-205; and

1349 (ii) the presumption described in Subsection 78A-12-203(4)(b)(i) that the judge
1350 meets or exceeds minimum performance standards is not overcome by substantial
1351 countervailing evidence; or

1352 (b) a judge does not meet the certification standards under Section 78A-12-205 but the
1353 presumption described in Subsection 78A-12-203(4)(b)(ii) that the judge does not
1354 meet or exceed minimum performance standards is overcome by substantial

1355 countervailing evidence.

1356 Section 14. Section **78A-12-201.2**, which is renumbered from Section 78A-12-201 is
renumbered

1357 and amended to read:

1358 **[78A-12-201] 78A-12-201.2 . Judicial Performance Evaluation Commission --**
1359 **Creation -- Membership.**

1360 (1) There is created an independent commission called the Judicial Performance Evaluation
1361 Commission consisting of 13 members, as follows:

1362 (a) two members appointed by the president of the Senate, only one of whom may be a
1363 member of the Utah State Bar;

1364 (b) two members appointed by the speaker of the House of Representatives, only one of
1365 whom may be a member of the Utah State Bar;

1366 (c) four members appointed by the members of the Supreme Court, at least one of
1367 whom, but not more than two of whom, may be a member of the Utah State Bar;

1368 (d) four members appointed by the governor, at least one of whom, but not more than
1369 two of whom, may be a member of the Utah State Bar; and

1370 (e) the executive director of the Commission on Criminal and Juvenile Justice.

1371 (2)(a) The president of the Senate and the speaker of the House of Representatives shall
1372 confer when appointing members under Subsections (1)(a) and (b) to ensure that
1373 there is at least one member from among their four appointees who is a member of
1374 the Utah State Bar.

1375 (b) Each of the appointing authorities may appoint no more than half of the appointing
1376 authority's members from the same political party.

1377 (c) A sitting legislator or a sitting judge may not serve as a commission member.

1378 (3)(a) A member appointed under Subsection (1) shall be appointed for a four-year term.

1379 (b) A member may serve no more than three consecutive terms.

1380 (4) At the time of appointment, the terms of commission members shall be staggered so that
1381 approximately half of commission members' terms expire every two years.

1382 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
1383 appointed for the unexpired term by the same appointing authority that appointed the
1384 member creating the vacancy.

1385 (6)(a) Eight members of the commission constitute a quorum.

1386 (b) The action of a majority of the quorum constitutes the action of the commission,
1387 except that the commission may not make a determination that a judge meets or

exceeds minimum performance standards, or that a judge does not meet or exceed minimum performance standards, by a vote of less than six members.

(c) If, because of absences, the commission is unable to make a determination described in Subsection (6)(b) by at least six votes, the commission may meet a second time to make a determination.

(d) If a vote on the question of whether a judge meets or exceeds minimum performance standards or does not meet or exceed minimum performance standards ends in a tie or does not pass by at least six votes, the record shall reflect that the commission made no determination in relation to that judge.

Section 15. Section **78A-12-208** is enacted to read:

78A-12-208 . Reports for the Joint Legislative Committee on Judicial Performance.

(1) On or before June 1 in each odd-numbered year, the commission shall provide the committee with a list of each judge, including a justice court judge, who is subject to a retention election in the next scheduled regular general election.

(2) The commission shall provide the committee, upon request, with:

(a) the judicial performance survey results of a judge for whom the committee is required or intends to evaluate under Section 78A-12-303; and

(b) a copy of the retention report for any judicial performance evaluation of the judge.

Section 16. Section **78A-12-301** is enacted to read:

Part 3. Joint Legislative Committee on Judicial Performance

78A-12-301 . Definitions for part.

As used in this part:

(1) "Office" means the Office of Legislative Research and General Counsel.

(2) "Judge" means:

(a) a justice of the Supreme Court;

(b) a judge of the Court of Appeals;

(c) a judge of the Business and Chancery Court; or

(d) a judge of a district court, a juvenile court, or a justice court.

(3)(a) "Judicial performance" means the effectiveness and efficiency of a judge.

(b) "Judicial performance" includes a judge's legal knowledge and ability, impartiality, procedural fairness, administrative performance, courtroom management skills, communication ability, and overall demeanor and temperament.

Section 17. Section **78A-12-302** is enacted to read:

78A-12-302 . Creation of Joint Legislative Committee on Judicial Performance**-- Members.**

- (1) There is created the Joint Legislative Committee on Judicial Performance.
- (2) The committee is composed of the following members:
- (a) five representatives, appointed by the speaker of the House of Representatives, no more than four of whom may be from the same political party; and
- (b) four senators, appointed by the president of the Senate, no more than three of whom may be from the same political party.
- (3)(a) The president of the Senate shall select one of the members from the Senate to act as cochair of the committee.
- (b) The speaker of the House of Representatives shall select one of the members from the House of Representatives to act as cochair of the committee.
- (4)(a) A member shall serve a one-year term on the committee.
- (b) A member may be reappointed upon the expiration of the member's term.
- (5)(a) A majority of the members of the committee constitutes a quorum of the committee.
- (b) The action by a majority of the members of a quorum constitutes the action of the committee.
- (6) The salary and expenses of a committee member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
- (7) The office shall provide staff support to the committee.

Section 18. Section **78A-12-303** is enacted to read:

78A-12-303 . Evaluation and retention review process.

- (1) The committee may:
- (a) evaluate the judicial performance of a judge before the judge is subject to a retention election in a regular general election; and
- (b) provide a recommendation to the public as to whether the judge should be retained for another term in office.
- (2) The chairs of the committee shall determine whether a judge is evaluated by the committee under Subsection (1).
- (3) If a judge is subject to a retention election in the next scheduled regular general election, the chairs of the committee may direct the committee's staff to:
- (a) obtain any performance evaluation and retention report prepared by the commission

- 1456 for the judge;
- 1457 (b) obtain the judge's disciplinary record from the Judicial Conduct Commission; and
- 1458 (c) investigate any issue raised by a member of the committee, the Legislature, or a
- 1459 member of the public.
- 1460 (4) To obtain information or conduct an investigation under Subsection (4), committee staff
- 1461 may contact any person that might have information regarding the judge's judicial
- 1462 performance.
- 1463 (5) The chairs of the committee shall:
- 1464 (a) notify a judge that the committee intends to evaluate and provide a recommendation
- 1465 as to whether the judge should be retained for another term; and
- 1466 (b) direct the preparation of a news release that includes:
- 1467 (i) the name of the judge;
- 1468 (ii) a brief description of the purpose of the committee;
- 1469 (iii) a request that a member of the Legislature who wants to provide comments about
- 1470 the judge contact the chair or the office by the deadline specified in the news
- 1471 release; and
- 1472 (iv) a request that a member of the public who wants to provide comments about the
- 1473 judge submit a written statement to the office with the member's name, telephone
- 1474 number, and mailing address by the deadline specified in the news release.

1475 Section 19. Section **78A-12-304** is enacted to read:

1476 **78A-12-304 . Public hearing and comment -- Committee action.**

- 1477 (1) The committee shall hold any committee meeting to evaluate a judge under Subsection
- 1478 78A-12-303(1) or (2) before August 15 of the year in which the judge is subject to a
- 1479 retention election in a regular general election.
- 1480 (2) The committee shall provide public notice of a committee meeting with:
- 1481 (a) the name of a judge for whom the committee intends to discuss or hold a vote;
- 1482 (b) an explanation that:
- 1483 (i) an individual who wants to testify regarding the judge shall submit a written
- 1484 request to testify to the office at least 24 hours before the meeting is scheduled to
- 1485 begin; and
- 1486 (ii) portions of the meeting may be closed under Title 52, Chapter 4, Open and Public
- 1487 Meetings Act.
- 1488 (3) Before convening a committee meeting, the chairs of the committee shall:
- 1489 (a) review all written statements from individuals desiring to address the committee

- 1490 regarding a judge;
- 1491 (b) review all records to be distributed to the committee and classify each record as a
- 1492 public or private record by applying the standard contained in Subsection
- 1493 63G-2-302(1)(f)(i);
- 1494 (c) determine which individuals making a timely request to testify may address the
- 1495 committee; and
- 1496 (d) if necessary, establish reasonable time limits for public comment.
- 1497 (4) In conducting a committee meeting, the chairs:
- 1498 (a) shall allow the judge to address the committee before the committee hears any other
- 1499 testimony, after the last witness testifies before the committee, and before the
- 1500 committee makes the committee's decision;
- 1501 (b) may hold committee meetings in the geographic area to be served by the judicial
- 1502 office of the judge who is the subject of the committee meeting; and
- 1503 (c) may allow testimony from an individual wishing to testify regardless of whether the
- 1504 individual has submitted a written request to testify.
- 1505 (5) The committee may close the committee meeting at any time and for any of the
- 1506 purposes provided in Title 52, Chapter 4, Open and Public Meetings Act.
- 1507 (6)(a) In determining whether to recommend that a judge be retained for another term,
- 1508 the committee shall:
- 1509 (i) review any other documents or information related to the judge's judicial
- 1510 performance;
- 1511 (ii) consider the oral testimony of the judge and any individual testifying to the
- 1512 committee; and
- 1513 (iii) base the committee's recommendation on the judge's judicial performance.
- 1514 (b) The committee may consider a judge's rate of cases that are overturned on appeal in
- 1515 evaluating the judge's judicial performance under Subsection (6)(a)(iii).
- 1516 (7) The committee may, but is not required to, vote to recommend or not recommend a
- 1517 judge be retained for another term.
- 1518 (8)(a) If the Utah Supreme Court issues a public sanction of a judge after the committee
- 1519 evaluates a judge, the committee may reconvene to reconsider the committee's action
- 1520 before the committee is required to submit the committee's action for the ballot in
- 1521 accordance with Section 78A-12-305.
- 1522 (b) The committee may invite the judge described in Subsection (8)(a) to appear before
- 1523 the committee during a closed meeting for the purpose of reconsidering the

1524 committee's action.

1525 Section 20. Section **78A-12-305** is enacted to read:

1526 **78A-12-305 . Publication of the recommendation.**

1527 (1) The committee shall provide a description of the judicial performance evaluation and
1528 recommendation process for the committee as described in Section 20A-7-702 to the
1529 lieutenant governor for the voter information pamphlet in the manner required by Title
1530 20A, Chapter 7, Issues Submitted to the Voters.

1531 (2) On or before August 15 of the year in which a judge who is evaluated under Subsection
1532 78A-12-302(1) or (2) is subject to a retention election in a regular general election, the
1533 committee shall transmit a retention recommendation for the judge to the lieutenant
1534 governor for publication on the ballot in accordance with Section 20A-12-201 stating
1535 that:

1536 (a) the committee recommends the judge be retained in office if the committee votes to
1537 recommend retention; or

1538 (b) the committee recommends the judge not be retained in office if the committee votes
1539 to not recommend retention.

1540 Section 21. Section **78A-12-306** is enacted to read:

1541 **78A-12-306 . Committee records -- Copy to judge.**

1542 (1) The committee shall ensure that a record received by the committee classified as a
1543 private, protected, or controlled record under Title 63G, Chapter 2, Government Records
1544 Access and Management Act, is only released if the requirements of Title 63G, Chapter
1545 2, Government Records Access and Management Act, are met.

1546 (2) The office shall provide a copy of this part to each judge subject to an evaluation under
1547 this part from the committee.

1548 Section 22. **Repealer.**

1549 This bill repeals:

1550 Section **78A-12-101, Title.**

1551 Section 23. **Effective Date.**

1552 This bill takes effect on May 7, 2025.