

**JUDICIAL COUNCIL MEETING
Minutes**

June 27, 2022

Meeting conducted through Webex

9:00 a.m. – 2:21 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Todd Shaughnessy, Vice Chair
Hon. Keith Barnes
Hon. Brian Brower
Hon. Samuel Chiara
Hon. Augustus Chin
Hon. David Connors
Hon. Ryan Evershed
Hon. Paul Farr
Hon. Michelle Heward
Hon. David Mortensen
Justice Paige Petersen
Hon. Kara Pettit
Margaret Plane, esq.
Hon. Derek Pullan

Excused:

Hon. Elizabeth Lindsley
Cathy Dupont

Guests:

Jonathan Adams, OLRGC
Emily Ashcraft, Deseret News
Sue Crismon, Office of Innovation
Justice Christine Durham, Office of Innovation
Hon. Dennis Fuchs, Senior Judge

AOC Staff:

Ron Gordon
Michael Drechsel
Lauren Andersen
Brody Arishita
Shane Bahr
Todd Eaton
Bryson King
Tania Mashburn
Daniel Meza Rincon
Jon Puente
Jordan Murray
Bart Olsen
Jim Peters
Nathanael Player
Neira Siaperas
Nick Stiles
Karl Sweeney
Melissa Taitano
Keisa Williams
Jeni Wood

Guests Cont.:

John Lund, Office of Innovation
Joyce Pace, TCE Fifth District Court
Alex Peterson, Judicial Conduct Commission
Jonathan Warenne, CEO, Estate Guru

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. The Council held their meeting through Webex. Judge Brian Brower has been selected to replace Judge Brook

Sessions on the Council. Chief Justice Durrant administered the Oath to Judge Brower and welcomed him.

Motion: Judge David Connors moved to approve the May 23, 2022 Judicial Council meeting minutes, as amended to correct typographical errors. Judge Samuel Chiara seconded the motion, and it passed unanimously.

2. CHAIR’S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant has been asked to speak at the Capitol about the new member of the Supreme Court.

3. STATE COURT ADMINISTRATOR’S REPORT: (Ron Gordon)

Ron Gordon and Michael Drechsel will present a judicial compensation brief to the Legislative Commission that oversees judicial compensation in August. The Commission has made this topic a priority.

Mr. Gordon welcomed Neira Siaperas as she transitions to the Deputy State Court Administrator position, effective August 1 when Cathy Dupont retires and Daniel Meza Rincon as the Interim Juvenile Court Administrator. The AOC is working to fill the juvenile court administration leadership team. Chief Justice Durrant said it’s great to see such wonderful people in these positions.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Budget & Fiscal Management Committee Report:

Karl Sweeney mentioned that the work of the committee will be addressed later.

Liaison Committee Report:

Michael Drechsel recommended the Council address how they would like the committee structured with Judge Sessions’ departure. Mr. Drechsel said the committee is working on several issues this summer, including expanding the purpose of preliminary hearings beyond the probable cause determination, to include an assessment of credibility of witnesses and to serve as a discovery tool for defense. Mr. Drechsel met with the Board of District Court Judges to form a specific plan of action.

Policy, Planning, and Technology Committee Report:

Judge Derek Pullan will address some of the work of the committee later in the meeting. The committee continues to transition the former Technology Committee into this committee.

Bar Commission Report:

Margaret Plane said that the Bar Commission is looking for a model for the Office of Innovations. The commission will explore the implications of moving the Office to the Bar. The Bar’s Budget Committee will address the Bar’s current policy regarding financial reserves. The

commission approved funding for a compensation study, including the Office of Professional Conduct.

5. APPROVAL OF 2023 JUDICIAL COUNCIL SCHEDULE: (Ron Gordon)

Chief Justice Durrant welcomed Mr. Gordon, who presented the 2023 Judicial Council schedule.

Chief Justice Durrant thanked Mr. Gordon.

Motion: Judge David Mortensen moved to approve the 2023 Judicial Council schedule, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

6. OPEN AND PUBLIC MEETINGS ACT TRAINING: (Bryson King)

Chief Justice Durrant welcomed Bryson King. Mr. King provided a brief overview of the Open and Public Meetings Act. CJA Rule 2-103(9) states “the Administrative Office of the Courts shall annually train the members of the Council on the requirements of this rule and of Rule 2-104.” Mr. King reviewed various statutes and rules relating to the Judicial Council’s processes including open and closed meetings, quorum requirements, and access to meeting records.

Judge Pullan stated that it’s common for the Council to go into a closed session to discuss litigation, but the reason is because litigation might inform policy decisions that need to be made in an open meeting. Mr. King explained that the statute and court rules contemplate discretion for the Council to discuss, in a closed meeting, how policy issues relate to the litigation that is the subject of a closed meeting.

Chief Justice Durrant thanked Mr. King.

7. JUDICIAL CONDUCT COMMISSION (JCC) REPORT: (Alex Peterson)

Chief Justice Durrant welcomed Alex Peterson. The JCC shall investigate and conduct confidential hearings regarding complaints against state, county, and municipal judges throughout the state. Following its investigations and hearings, the JCC may recommend to the Utah Supreme Court the reprimand, censure, suspension, removal, or involuntary retirement of any state, county, or municipal judge. The JCC cannot remove a judge from a particular case, direct a judge to take a particular action, or overturn a judge’s decision. Utah Constitution, Art VIII, Sec. 13 Judicial Conduct Commission and Utah Code § 78A-11-101 through -113, Judicial Conduct Commission.

Mr. Peterson noted that the JCC supported the Justice Court Conference in conjunction with Dr. Jennifer Yim, Judicial Performance Evaluation Commission. The JCC initiated the electronic complaint form submission, of which 52 complaints have been filed thus far. Judge Shaughnessy’s service on the JCC will expire soon. The JCC began publishing all dismissals with warnings online dating back to FY 2004. Judge Pullan hoped that the JCC could have open conversations about the frequency of complaints with the Education Department so they could focus on tailoring the courts’ conferences appropriately. Mr. Peterson noted the JCC hasn’t seen a spike in complaints related to the pandemic.

JCC Caseload update and analysis

a) As of June 27, there have been 79 cases in FY 2022 (80 in FY 2021, 51 in FY 2020, 64 in FY 2019, and 58 in FY 2018).

b) To date in FY 2022, they have had 0 public dispositions, 2 dismissal with warning dispositions, and 7 reconsideration requests. No cases are before the Utah Supreme Court.

Chief Justice Durrant thanked Mr. Peterson.

8. PROBLEM SOLVING COURT CERTIFICATIONS: (Judge Dennis Fuchs)

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs reviewed the problem solving courts that were presented for recertification.

Courts that meet all Required and Presumed Best Practices

Adult Drug Court	Sanpete County, Manti	Judge Brody Keisel
Adult Mental Health Court	Weber County, Ogden	Judge Noel Hyde

Courts that do not meet all Required and Presumed Best Practices

Adult Drug Court	Carbon County, Price	Judge George Harmond
Adult Mental Health Court	Carbon County, Price	Judge George Harmond
Juvenile Drug Court	Weber County, Ogden	Judge Jeffrey Noland
Family Drug Court	Weber County, Ogden	Judge Michelle Heward
Family Drug Court	Carbon County, Price	Judge Craig Bunnell
Family Drug Court	Utah County, Provo	Judge Brent Bartholomew
Adult Drug Court	Weber County, Riverdale	Judge Paul Olds

Judge Fuchs explained that most of the courts not meeting the Council’s requirements are due to lack of participants but he believed that the number of participants will increase as the courts transition back to in person. Judge Pullan wondered if the courts should create a way for the problem-solving courts to track new arrests, as this seems to be a problem. Judge Fuchs wasn’t sure if juvenile courts or family dependency courts have a means to track new arrests. Judge Fuchs will speak with the Policy, Planning, and Technology Committee about whether this requirement should be eliminated. Judge Michelle Heward explained that tracking does not make sense in juvenile courts. Judge Shaughnessy said it is simple to track recidivism rates in adult drug courts and recommended more training on this. Judge Fuchs said once the statewide problem-solving court coordinator is hired, they will address these issues.

Chief Justice Durrant thanked Judge Fuchs.

Motion: Judge Shaughnessy moved to approve eight of the problem solving courts that do and do not meet Required and Presumed Best Practices as identified above, except for the Adult Drug Court in Carbon County, Price – Judge Harmond, and to readdress that court this next month after follow up with Judge Harmond. Judge Connors seconded the motion, and it passed with Judge Heward abstaining as to her court.

9. JUSTICE COURT REFORM: (Jim Peters and Ron Gordon)

Chief Justice Durrant welcomed Jim Peters and Ron Gordon. The Task Force has been meeting with legislators and has presented to the Judiciary Interim Committee (JIC). The JIC included justice court reform as one of their study items. The Task Force sought feedback from all respective Boards, Judicial Council, TCEs, Clerks of Court, AOC members, and outside entities as this process moves along. Judge Paul Farr and Mr. Peters met with the Utah League of Cities and Towns to address justice court reform. The Task Force prefers having a third party meet with individual stakeholders, but they are working through logistics with the National Center for State Courts (NCSC). A survey will be distributed to entities to gather opinions on the proposals.

The proposed division courts would be focused on misdemeanors and small claims cases, while being housed in the district courts. In addition, Class A misdemeanors and debt collection cases would be transferred from district courts to the new division courts. Justice courts would continue to be operated by local governments to adjudicate infractions. Traffic cases would remain in the justice courts, which may generate more local revenue because they do not take as much time to adjudicate.

To begin analyzing the financial impact of creating division courts, the Task Force selected one urban area, Sandy City, and one rural area, Sanpete County, to model the proposals. As a result, they found that the Sandy City Division Court would have a caseload of about 6,000 cases per year with an anticipated \$438,000 in local revenue and \$572,000 in state revenue. The Sanpete County Division Court would have a caseload of about 1,300 cases per year with an anticipated \$174,000 in local revenue and \$177,000 in state revenue. These estimates do not include administrative costs.

There is a cost for gathering the data, including hiring an economist. The Council approved the Task Force seeking grant funds from the NCSC and PEW Trusts. To determine a fiscal note, staffing and physical locations must first be identified. Chris Talbot continues to work on identifying locations where the courts can lease space from local city and counties. The courts are also working with the Kem C. Gardner Policy Institute at the University of Utah, who develops and shares economic, demographic, and public policy data and research. They are hoping to complete a fiscal note by the fall in anticipation of a proposed bill at the next Legislative General Session. The need for funds is time-sensitive so there may be requests for funding a special budget meeting.

Mr. Gordon explained that the one major question from everyone is “when”. The courts are anticipating a bill as early as the 2023 General Legislative Session. Mr. Gordon clarified that the JIC made it clear that they were opening a bill file to study this item not draft it. Mr. Drechsel will meet with the JIC soon to discuss this issue. The JIC supported or expressed positive understanding about the reform proposal, noting that there are some questions about the fiscal impact.

Mr. Gordon continues to work on getting a fiscal note in place by this fall. Mr. Gordon explained that some components of the fiscal note will be driven by policy decisions that are not the courts to make. Mr. Drechsel noted the Board of District Court Judges has expressed

concerns about the timing based on the desire to seek a judicial compensation increase. Mr. Gordon said if the justice court reform bill passed in FY 2023 with a one-year implementation delay then the fiscal impact would be one year after the judicial compensation increase, if both passed during the 2023 legislative session, the compensation increase would take effect on July 1, 2023 and the justice court reform would take effect on July 1, 2024. Mr. Drechsel recommended the Council prioritize their next fiscal year funding with justice court reform in mind.

Judge Farr said defense attorneys have expressed concerns about eliminating de novo appeals, which is a tool to represent their clients.

Chief Justice Durrant thanked Mr. Peters and Mr. Gordon.

10. JUSTICE COURT JUDGE CERTIFICATIONS: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Mr. Peters sought the Council's certification of Judge Jojo Liu to the Salt Lake City Justice Court.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Augustus Chin moved to certify Judge Jojo Liu to the Salt Lake City Justice Court, as presented. Judge Heward seconded the motion, and it passed unanimously.

11. INTERLOCAL AGREEMENT: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Mr. Peters informed the Council that the proposed interlocal agreement between Stockton Justice Court and Tooele County Justice Court fell through to allow for further analysis. The Council may be presented with a dissolution proposal of the Stockton Justice Court at their next meeting.

Chief Justice Durrant thanked Mr. Peters.

12. PROPOSED ALLOCATIONS FROM JCTST ACCOUNT: (Jim Peters)

This item was postponed.

13. OFFICE OF LEGAL SERVICES INNOVATION REPORT: (John Lund, Sue Crismon, and Justice Christine Durham)

Chief Justice Durrant welcomed John Lund, Sue Crismon, and Justice Christine Durham.

Utah Constitution

Chief Justice Durrant stated that Utah Constitution, Article VIII, Section 4. Rulemaking Power of Supreme Court -- Judges Pro Tempore -- Regulation of Practice of Law states "the Supreme Court by rule shall govern the practice of law." Regulatory decisions that the Supreme Court makes in exercising that authority impact the Judicial Council funding process. Chief Justice Durrant sought to provide more information on the work of the Office so that the Council will better understand the operations.

Justice Durham explained that the Utah Constitution gave separate and independent powers to the Supreme Court for the promulgation of rules and for the regulation of the practice of law. The Supreme Court created rules committees that are formed with volunteers. The regulatory process evolved as a project funded with Bar dues. Justice Durham said the Supreme Court has never had to address their regulatory function with the Legislature or with the Council. The Supreme Court's decision to move into regulatory reform as an avenue to access to justice has hopefully changed, in significant ways, the pricing and availability of services. Justice Durham said this has been accomplished without traditional access to funding. Justice Durham hoped the Supreme Court would have access to independent funds to handle its regulatory function. Justice Durham thought the courts were at a pivotal point in the history of the regulation of the practice of law on how the Supreme Court will be able to use its constitutional powers to improve the circumstances of citizens and to make access to justice a greater reality in their lives.

Access to Justice

There are access to justice gaps because high-income individuals and large companies can afford attorneys, but medium and low-income individuals and small and moderate size companies have difficulty affording attorneys. The Utah State Bar, the Supreme Court, and the Council have done a lot of things to address this gap, but much work remains to be done. Given the magnitude of the problem, pro bono attorneys cannot be the only source for solving the access to justice gaps. The Supreme Court believes that the access to justice gap is exacerbated by the overly restrictive way in which the provision of legal services is regulated. The Supreme Court thought that relaxing certain regulations in a targeted way will allow the free market to bring benefits to the delivery of legal services to individuals with low and moderate incomes. Chief Justice Durrant was confident that Justice Himonas played a critical role in opening the courts eyes to access to justice and that the Supreme Court was able to do something about it. Chief Justice Durrant wants to ensure the Council and Supreme Court work together on access to justice for everyone.

Acceptance into the Sandbox

The Office accepts applications from individuals and entities who wish to structure themselves in a way not permitted by URPC Rule 5.4 Professional Independence of a Lawyer or who wish to deliver legal services in ways not permitted by this rule. If approved by the Office, applications are then forwarded to the Supreme Court for final approval. Once approved, the entity can operate in the legal sandbox. The Office tries to limit their usage of AOC and IT Department personnel. The Office developed a risk-based regulation model for entities engaged in the sandbox, which does not rely solely on consumer complaints to prevent unnecessary harm. Instead, it relies on frequent and detailed data reporting from entities, a robust system for receiving consumer complaints, and targeted service reviews conducted by auditors.

Work of the Office

A fulltime executive director staffs the Office, and those in part time positions include a director of data, assistant data analyst, and a marketing and program coordinator. The Office now consists of 41 participants and has overseen the provision of approximately 22,000 services through both traditional legal providers using novel approaches, and nontraditional providers. The first two years of operations have focused on developing the necessary framework for

entities to experiment in a closely monitored environment with the end goal of developing alternative legal services and structures as one tool to reduce the distance between the unmet legal needs and the available legal services. The initial successes of the Office are due in large part to the dedicated work of the staff, supplemented and subsidized by national and local experts who have volunteered their time as members of their advisory board. The Office realized there is a gap in assistance to small businesses.

Justice Durham explained that the order in connection with legal advocates requires training but doesn't establish a template for the training. The Office has oversight of the approved entities, ensuring the appropriate training is completed. The Office's audit panel consists of lawyers with pertinent legal expertise.

Work of Other Bar Referrals

The lawyer licensed referral system, the debt collection program, and the pro bono clinic each handles approximately 1,000 referrals per year. There are about 500 modest means referrals each year. There are currently 23 licensed paralegal practitioners. Mr. Lund stated that the sandbox providers have assisted 10 times as many services as those.

Multiple jurisdictions outside of Utah have requested information on the Office, such as Washington and Maryland.

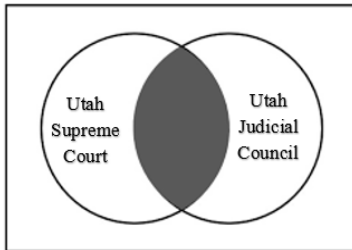
Permanent Placement of the Office

The Supreme Court is unsure as to where the Office will ultimately be housed and is considering several alternatives. As provided by Ms. Plane, the Bar Commission convened a taskforce to study the feasibility of housing the Office at the Bar. Chief Justice Durrant believed the Office should be housed in the Bar due to the nature of its work but thought it was best to allow the Bar Commission time to conduct their study. This situation is complicated with the ongoing mandatory membership lawsuit against the Bar. Chief Justice Durrant said the Office needs funding now to get them through this transitional period. Chief Justice Durrant thought a plausible path might be something equivalent to the Office of Fairness and Accountability, believing this was a legitimate request.

Funding of the Office

Chief Justice Durrant recognized that the costs were underestimated with the new Office, which is working in uncharted territory. As true with the Council, sometimes budgets are under or over estimated. Mr. Lund thought if the Bar or the court funded each of the 41 pilots for \$50,000, that would be about a \$2 million investment in some sort of access to justice. Karl Sweeney confirmed there are about \$550,000 in available carryforward funds.

Diagram by Judge Pullan



Judge Pullan's statement

1. The History:

- a. The Office of Innovation began as a two year pilot program that would be entirely grant-funded.
- b. The Court made a decision to extend the program an additional five years. That Court made that decision without any apparent plan to fund the shortfall in grant-funding, and without consulting with the Council about how the extension may implicate the need for state funding.
- c. Representations were made to the Council
 - i. July 30, 2021 Judicial Council meeting minutes Re: SJI Grant application for Innovation Office
 1. "Will additional state funding be required to maintain or continue the program or its infrastructure when this grant expires or is reduced? Answer: No. The Utah Supreme Court voted unanimously to extend the term of the Legal Regulatory Sandbox to seven years, concluding at the end of August 2027. Operation of the sandbox will continue to be supported by grant funding and possibly through generation of a future operating budget comprised of fees paid by entities enrolled in the sandbox."
 2. "Will the funds to continue this program come from within the Judiciary's existing budget? Answer: No."
- d. As recently as 2 months ago, a proposed budget request was made for \$800,000. While that request has now been drastically reduced, its presentation makes me wonder if the actual costs of operating the Innovation Office are either unknown or vastly understated.
- e. In light of this history, with respect to the Innovation Office, the Court comes to the Council with a problem of its own making.
 - i. At best, the representations made to the Council were ill-informed.
 - ii. I prefer to believe that Justice Himonas was blinded by his passion for this project.
 - iii. Whatever the explanation, the Council relied on the representations of Justice Himonas in authorizing grant applications to fund the Office of Innovation.

2. Grant Funding Generally:

- a. Justice Himonas came to the Council with an agenda to expand dramatically the Grant Portfolio of the Courts. He believed that grant funds were a viable source of long-term funding, and that grant-funded initiatives would have no budgetary impact on the judicial branch.
- b. This world view has proven to be demonstrably mistaken.

- i. Grant money is seed money only. It is intended to foster innovative initiatives on the front end, demonstrate for a time their value, and then leave ongoing maintenance and operation to institutional stakeholders.
- ii. Grant funded initiatives acquire momentum, and when the grant-money runs out those initiatives will inevitably compete for the limited budget funds allocated to the judicial branch. Examples of this include ODR and now the Office of Innovation.
- iii. Knowing that the costs to maintain the farm will inevitably be shouldered by the Council, we ought not cultivate 1,000 acres just because the seed is free.

3. Rule 3-105 governs this issue:

- a. The Supreme Court has exclusive authority to govern the practice of law in the State. The Judicial Council has exclusive authority for the administration of the Judiciary, including authority to establish and manage the budget.
- b. Picture a Venn diagram with two intersecting circles. One circle represents the Court’s exclusive domain, the other represents the Council’s exclusive domain. Where the circles intersect is a place of constitutional crisis. It is a dangerous space where our institution can suffer self-inflicted harm. Where these conflicts play out in public, confidence in the judiciary erodes. Avoiding conflicts in this dangerous space requires a commitment of all parties to adhere to institutional norms. This space is not a place for personalities or brinksmanship. [Credit to Rex Lee who articulated these principles in his book *A Lawyer Looks at the Constitution*, p. 45 (1981)].
- c. Now that the Court has made clear that its regulatory responsibility will require an allocation of funds from the budget, the Office of Innovation substantially implicates both the Supreme Court’s and the Council’s exclusive authority.
- d. Rule 3-105 of the Code of Judicial Administration – (effective May 1, 2021) – governs these circumstances. The rule was designed to establish the very institutional norm necessary to avoid constitutional crisis within the judiciary.
 - i. The rule requires that a designee from the Court meet with the Management Committee to determine whether a particular issue is predominantly within the exclusive authority of the Court or the Council. Where an issue substantially implicates the exclusive authority of both the Court and the Council, then a meeting is required to find a path forward – “to act in a coordinated effort” on the matter.
 - ii. Importantly, if no agreement can be reached for coordinated action – the Supreme Court and the Judicial Council are required to meet in joint session to work it out.
- e. To my knowledge, the meeting required under this rule has not yet occurred and therefore action on the budget request of the Court is premature.

4. Restructuring the Budget Process: My Personal View

- a. Under article VIII, section 4 of the Utah Constitution, the Utah Supreme Court is exclusively tasked with four important responsibilities – rule-making, management of the appellate process, authorizing senior judges/judges pro tem, and governing the practice of law. Performing these duties costs money.
- b. Because these duties are constitutionally-based, when the Court makes a budget request to fund them, that request is of a different quality than when IT, the Legal Department, or the Court Administrator makes a request. This means that the Council has a constitutional

responsibility to provide some level of funding that makes the Court's work reasonably possible.

- c. That having been said, the Court cannot reasonably expect to receive as much money as it wants, when it wants it just because it is the Court asking. Such a view fails to acknowledge two realities:
 - i. First, budgeted funds are limited.
 - ii. Second, the Council's allocation or failure to allocate funds elsewhere has constitutional implications.
 - 1. Not funding sufficient front-counter personnel may offend the open courts provision.
 - 2. Equal justice under law.
 - 3. Educated judiciary.
- d. I remain of the view that each year, the Supreme Court should propose to the Council a line item amount needed to fund its Article VIII, section 4 responsibilities. And that the Council after due consideration of the Court's request and all other obligations, fund a line item to the Court. The Court then has the discretion to allocate those funds in whatever manner it deems most appropriate to perform its Article VIII, section 4 duties. This leaves the Court free to perform its constitutional responsibilities based on its view of the greatest need. In some years, the Court may choose to apply its line-item funds more heavily to regulating the practice of law, as opposed to rule-making or management of the appellate process. In this arena, the Court should be free to fulfill its policy-making role.
- e. This would be a stark change in our budget process, but one that is in my view constitutionally and systemically appropriate."

Judge Shaughnessy's opinion

Judge Shaughnessy echoed Judge Pullan's statement that this discussion is not about the merits of the Office's work, but rather, his concern was about whose responsibility it was to fund the Office. Judge Shaughnessy didn't think there was a constitutional crisis or conflict currently and didn't believe a conflict could occur in connection with the Supreme Courts responsibility to regulate the practice of law. Judge Shaughnessy provided that the Supreme Court has always had a mechanism, through the Bar, to fund its regulation of the practice of law--such as, the Bar covering expenses when Supreme Court made continuing legal education mandatory. He believed the Office should be funded through the Bar, noting that there is no precedent set for the Council to fund something like this. He also felt the Office is basically a modified version of the Office of Professional Conduct (OPC) and was not persuaded that this is a legitimate use of limited judicial resources because the Office is basically regulating for-profit entities in the sandbox. The sandbox is and should be figuring out ways to make money in the marketplace. Judge Shaughnessy thought long term funding belongs with the Bar but supported the efforts initially approved to get the Office started.

Judge Connor's opinion

Judge Connors agreed with the access of justice concept and thought the work of the Office was fabulous for access to justice issues. Judge Connors felt promises were made time and time again that were not kept and felt Judge Pullan's comments regarding Rule 3-105 were well made and well taken. He agreed with Judge Shaughnessy, to the extent that this is a subset

of the regulation of the practice of law, that this should be funded through the Bar. He believed a funding request at this time was inappropriate. Judge Connors wanted to see the funding request go through the proper channels so the Council can prioritize their funding so other budget requests do not get passed over.

Margaret Plane's opinion

Ms. Plane supported the Office goals but felt promises made in the past do not bind the future Council. Things happen where additional funds may be requested. Ms. Plane thought the Supreme Court and Council were in a good position financially. She suggested that the Council could compromise to include conditions on the funding allotment, such as, if grant funding comes through, the approved funding from the Council could be reverted. Ms. Plane concluded that, as a member of the Bar Commission, the members do not take Bar dues increase lightly and the lawsuit is weighing heavy on the Bar.

Judge Chiara's opinion

Judge Chiara expressed concern that there may be no way to identify what the budget needs there will be in the future as the Office grows. Judge Chiara wondered if the Office will be self-supported at some point through dues. Judge Chiara would like to see future financial estimates for the Office, especially the difference between the original request and current request.

Justice Durham

Justice Durham emphasized that the Supreme Court has never ceded regulation to the Bar. All its rules and all its funding come through Supreme Court authority. It is an interesting question as to whether exclusively lawyer funding on regulation of non-lawyer practice of law would ever be accepted by Utah's lawyers. In the context of nationwide challenges to mandatory bars, she thought they would need to contemplate significant obstacles to funding the additional regulation of new entities by lawyer dues. If the mandatory Bar is struck down, this whole issue will be before the courts again in magnified form because all regulations will have to be maintained by a new Office within the Supreme Court.

Judge Shaughnessy thought the mandatory or non-mandatory Bar is a non-issue because this would be part of the mandatory function of the Bar, like OPCs functions. Chief Justice Durrant said lawyers should be educated that the Supreme Court is interested in helping people who are not in a financial position to afford a lawyer, but that there are benefits for lawyers partnering with other professionals.

Judge Mortensen's opinion

Judge Mortensen recognized that Council decisions are always being considered with ongoing information and change in circumstances. He would not consider himself bound to any future funding requests, if he voted in favor of the budget request this year. He pointed out that the Council would be able to reject any future funding requests. Judge Mortensen wondered if this request was a stop-gap. Or if the Council approved this request, would that then put the Council in a future position for the Supreme Court to sense frustration with any future requests because the Council kept approving the funding.

Judge Pullan wondered if the Office anticipated that they could operate for the next seven years on grant funding or if they would be seeking more funds soon. Chief Justice Durrant thought this budget request was a bridge to either move it to the Bar or create a permanent AOC office. Present staff expenses equal about \$20,000 a month not including audit services, however, as more participants join the sandbox, there will be a need for additional audits and licensing costs for databases. The Council understood that there are non-profit and for-profit entities in the sandbox. Mr. Lund said there is an intention to build in a sliding scale fee schedule based on the revenue but that may not cover all expenses. Mr. Lund said they have an expensive contractor and felt a permanent senior data analyst would cost much less.

Chief Justice Durrant thanked Mr. Lund, Ms. Crismon, and Justice Durham for an excellent presentation and felt this was a great vehicle for access to justice to those who need help. Chief Justice Durrant thanked the Council members for their honesty and dedication to the Council and courts.

14. OFFICE OF LEGAL SERVICES INNOVATION GRANT REQUEST: (Jordan Murray and Karl Sweeney)

Chief Justice Durrant welcomed Jordan Murray and Karl Sweeney. The Office of Innovation pilot program was originally presented to the Council with the understanding that it would be fully funded with grant funds. However, the program was extended from two years to seven years, leaving them now in need of additional funds. The Office requested \$324,000 in American Rescue Plan Act (ARPA) funds, which were already approved by the Council. The Office also requested \$200,000 in one-time carry forward funds. The Office is also seeking grant funding, possibly through the Stand Together Foundation for about \$975,000, which if approved, would cover 2 years of work for the Office.

The Budget and Fiscal Management Committee voted to recommend to the Council the ARPA funding and the grant budget items. The request for \$200,000 in one-time carryforward funding was not recommended to be approved by the Council.

Personnel costs

Executive Director	\$176,800
Senior Research Analyst	\$145,600
Program Coordinator	\$52,000
Senior Data and Eval Consultant	\$125,000
Associate Data and Eval Consultant	\$64,000
Total	\$563,400

Office costs

Data equipment and website	\$4,300
Quick base License	\$36,000
Administrative supplies	\$17,500
Regulatory tools – auditors	\$37,500
Total	\$658,700

The Office is currently funded by 3 grants, totaling \$515,020, of which the Office has spent approximately \$220,000 in personnel. The Office forecasted a fourth quarter personnel funds monthly expense between \$20,000 and \$30,000 per month. The increase in monthly expenses is due to the increased entity participation in the sandbox, and the needed salary adjustments for staff to reflect market values.

Initial funding requests for the Office during the first two years of operations (including the ARPA request) were based on individuals volunteering their time and contracted staff being willing to work for significantly less than their market rate in exchange for the opportunity to work on a novel and highly innovative project. And while that assumption has largely held true, it is no longer realistic or fair to rely on these subsidies.

The Office has also enjoyed a high-level of interest and applications for entry into the sandbox. The Office is staffed by independent contractors, who are paid hourly to process these applications. The current estimated annual budget need for the Office is roughly \$658,000. This figure includes approximately \$558,000 for 4 contracted staff members, and \$100,000 for operational expenses including on-going database development.

Judge Pullan asked Mr. Murray to respond to each of the criteria found in CJA Rule 3-411 Grant Management, specifically to section (5)(E)(ii) & (vi). He remembered that the Office represented that they could operate with their current staff at about \$240,000 per year, however, this grant request suggested an amount nearly twice as much. Judge Pullan felt grant money was seed money that would leave the courts to fund the Office once the grant funds run out.

Section (5)(E) states:

“When evaluating Grant Application Proposals, the BFMC and Judicial Council will consider the following: (5)(E)(i) Does the grant contribute to accomplishing the mission of the courts? (5)(E)(ii) Does the grant add value when compared with the burden on existing and future resources, both during the grant project completion phase and thereafter? (5)(E)(iii) Does the grant provide measurable benefits to marginalized, minority, pro se, or similar under-served individuals or communities? (5)(E)(iv) Does the grant assist the courts in solving problems and promoting innovations that cannot be accomplished with existing resources? (5)(E)(v) Does the grant require actions or implementation of policy not in conformity with the mission of the courts or in conformity with policies previously established by the Judicial Council, Supreme Court, or the Utah Constitution? (5)(E)(vi) Does the grant expose the courts to potential long-term, unfunded financial obligations?”

Mr. Sweeney explained that the \$240,000 assumed that all the Office staff continue to work at their current rates. Moving forward, those salaries would increase to market value, therefore, the grant funds would be increased to about \$500,000 - \$650,000.

Mr. Murray explained that the Policy, Planning, and Technology Committee spent a considerable amount of time helping to shape Rule 3-411 and that section (5) was in response to observations about how grants have been martialed through the court system. Mr. Murray said

the Office is in a unique position, where it has already “left the port” so the courts need to make the best of what they can at this point. Judge Pullan responded that the courts embarked on this enterprise under the representation that there would be not funding that would be implicated through the budget but that has changed with this request. Nick Stiles asked if this grant posed any heightened risk for additional funding requests. Mr. Murray was confident that there is no additional staff that would be unfunded liabilities in the future.

Mr. Sweeney said the Office could use their contractors less, which would mean their overall costs would decrease. Justice Paige Petersen noted that the estimate of costs as found in the materials, lists the price at \$659,000. Judge Shaughnessy understood that the staff to the Office would be independent contractors and not employees of the AOC. Mr. Stiles explained that staff can stay on as contractors.

Chief Justice Durrant said that if the grant was funded, the Council would be free to reject any future requests for Office staff to become AOC employees. Judge Shaughnessy wanted to help the Supreme Court but did not support this being funded on a permanent basis through the Council. Mr. Stiles clarified that the approximately \$800,000 request was essentially a discussion item of the Office working through their work.

Judge Connors didn’t have a problem with seeking grant funds if the Council resolves the underlying question of where the Office will be housed. Ms. Plane wasn’t sure how long it would take the Commission to finalize their research with housing the Office but will follow up. Chief Justice Durrant said options could include scaling back the Office, only using grant money or even terminate the program. However, the courts have invested a lot in the Office and it would be generous for the Council to allow these grant funds.

Chief Justice Durrant reviewed previous Council minutes and recognized that the Council would be within their rights to reject any funding requests and wanted any legislative appropriation requests to be allowed for Council consideration. Chief Justice Durrant said the request is for gap-funding until a decision can be made as to where the Office will be housed. He didn’t believe approving this grant in any way, obligates the Council to continue to financially support the Office in the future. Judge Pullan thought the Council is essentially getting to a point where they will have to decide on whether to end funding for this program or continue funding it at the expense of other priorities.

Judge Pullan preferred the Supreme Court not independently seek legislative funding. Judge Shaughnessy mentioned that his beliefs are not based on prior representations and recognized that people may not know what to expect when they start a new office. Rather, the basis of his concern was that the Office is the regulation of lawyers and therefore belongs to the Bar.

Mr. Murray explained that there is no deadline for the grant and that the application has not been received by the courts yet.

Motion: Judge Pullan moved to stay the decision on the request for the \$200,000, stay the decision on whether the grant should be submitted, and comply with Rule 3-105(5)(A), which

states “the Supreme Court or a designated member of the Supreme Court, shall promptly meet and confer with the Management Committee.” This motion was not seconded or voted on.

This could provide an opportunity for the Office to give estimates on what the Office will cost. Chief Justice Durrant clarified section (5)(D) as stating “If after a meeting required under subsections 5(a) and 5(b), no decision can be reached about predominant authority, substantial implication of authority, referral of the matter, or coordination of action, the Supreme Court and the Judicial Council shall meet in a joint session to make the decision.” Chief Justice Durrant didn’t believe the Office could provide any more detail of the cost to run the Office. Mr. Stiles provided that both AOC Human Resources and Finance were involved in creating the amounts identified. Justice Petersen realized that the Office doesn’t have a full plan, because those amounts and staffing could be altered if the Office was housed at the Bar.

Judge Shaughnessy thought this may provide a timeframe to have some of the Council’s questions answered. Judge Pullan said the guardrails require the Council to consider what costs may ultimately be incurred in the future, at time of application. Judge Heward wondered if the Council approved the grant, would that mean that they are bound to accepting the grant. Mr. Murray encouraged the Council to consider the issue of credibility when submitting a proposal and then retracting it, noting that the Stand Together Foundation is an innovative organization.

Chief Justice Durrant provided that though not under the auspices of Rule 3-105, the Office was discussed at the last Management Committee meeting, therefore, he didn’t believe an additional discussion would be productive as to the \$200,000 and grant requests. Judge Pullan observed that when he participated in the draft of Rule 3-105, his intent was that the courts could foreclose constitutional crisis within the institution by having open discussions early on. He felt there would be value in the Supreme Court and Council holding a policy discussion on how they might move this forward together.

Judge Chiara thought there was merit with holding the meeting within the next month or so and believed the Office should be housed elsewhere but was open to further discussion. He thought the Office should be housed outside of the courts for a few reasons, including the effect on market forces because the courts use government money and not market forces. Whereas, if housed at the Bar, the Office would have to be sensitive as to the dues charged, the revenues that come in, and they would need to price things correctly. Judge Chiara was agreeable to funding on a temporary basis, if there was a commitment as to where it will be housed so the Council doesn’t have to revisit this conversation again next year. He understood that the Council does not have authority to determine where the Office will be housed.

Justice Petersen thought this may take longer than one meeting. Chief Justice Durrant reminded the Council that the permanent housing of the Office may take some time to be identified.

Mr. Sweeney explained that the remaining grant funds will cover the Office until around October, which may push staff of the Office to resign. Judge Shaughnessy didn’t have a problem with the Office using ARPA funds if those have already been approved. Mr. Sweeney said the ARPA funds have been approved but we did not originally expect to have enough ARPA funds

to cover the Office. Mr. Sweeney asked the Council if they are willing to recognize that anticipated savings in other ARPA projects will allow funds to be allocated to the Office. Judge Shaughnessy was fine with moving ARPA funds to the Office during this temporary period of not knowing where the Office will be housed but wanted to know their permanent placement before the Council addressed the \$200,000.

Chief Justice Durrant recommended staying the \$200,000 request, allow the Office to use ARPA funds in the amount of \$324,000, and proceed with the grant, pending both stages of Rule 3-105 process, and while proceeding with determining where the Office will be housed.

Chief Justice Durrant thanked Mr. Lund, Ms. Crismon, Justice Durham, Mr. Sweeney, and Mr. Murray.

Motion: Judge Chiara moved to have the Council clarify that the ARPA funds of \$324,000 have been approved for the Office and they can proceed to use that funding, as amended. Judge Shaughnessy seconded the motion, and it passed unanimously.

Chief Justice Durrant recommended convening for the first stage of the Rule 3-105 process where the Supreme Court or a designee meets with the Management Committee. Judge Pullan noted that this would comply with the rule but ultimately if the Office withdraws their \$200,000 request and is moved to the Bar, there would be no need. However, if it is determined that the Office will remain in the Judiciary and will have costs associated, the meeting should take place. Judge Pullan agreed with Justice Petersen that this will need more meetings. Chief Justice Durrant reconsidered and believed the Management Committee should hold a discussion about whether this lies with the Supreme Court or the Council.

Motion: Judge Pullan moved to stay any decision on the \$200,000 request in order to allow the process of Rule 3-105 to take effect. Judge Connors seconded the motion, and it passed unanimously.

Motion: Judge Pullan moved to allow the court to move forward with the proposed grant. Judge Connors seconded the motion, and it passed with Judge Shaughnessy voted nay.

Judge Chiara made it clear for the record that he voted for moving the grant request forward because he didn't want to delay the money if the decisions the Council makes in the next few months require use of those funds. He further explained that he could still vote to not receive the grant money at a future point, depending on how the Council moves forward in the process. Ms. Plane will communicate this discussion with the Bar Commission and let them know that there is some urgency in the court receiving their input. Chief Justice Durrant will also speak with present and future Bar presidents.

15. FY 2023 CARRYFORWARD AND ONGOING TURNOVER SAVINGS REQUESTS: (Judge Kara Pettit, Karl Sweeney, and Alisha Johnson)

Chief Justice Durrant welcomed Judge Pettit, Karl Sweeney, and Alisha Johnson. The Finance Department estimated that the courts will have approximately \$2,377,654 in available one-time funds; turnover savings for FY 2022 totaled \$775,490; and potential one-time savings

of \$4,253,839. Mr. Sweeney believed that should a recession occur and the Legislature request the courts to give up ongoing funds, those funds would come from the next fiscal years budget.

New Judicial Law Clerk Attorney

\$95,850

Ongoing turnover savings

The purpose of this request is to acquire \$95,850 in ongoing funding for one law clerk position for the Fifth District Court. At present, the Fourth District Court and Fifth District Court share a law clerk position. Adding one new law clerk in the Fifth District Court would enable the current shared law clerk FTE to be fully utilized in the Fourth District Court. The Fifth District Court's new law clerk would be funded with ongoing funds, the Fourth District Court's law clerk would be funded with one-time limited funds.

Judge Connors commented that the Council agreed a long time ago to increase the number of law clerks and felt at some point, each judge should have their own assigned law clerk. Mr. Bahr is conducting research with neighboring states and expects to have a proposed legislative budget request next year.

Additional AOC Legal Department Associate General Counsel

\$150,000

Ongoing turnover savings

The 3 Legal Department attorneys (1 general counsel and 2 associate general counsels) support approximately 1,030 court employees and 239 judges, are staff to 9 committees, and are members of an additional 3 committees. On average, the department handles 100 requests per month. That number does not include committee work, confidential HR matters, legal opinions, training hours or litigation. In addition, the attorneys spend approximately 10-15 hours per week in meetings. Mr. Gordon explained that he has been working with Ms. Williams on this advancement and believed the department is significantly understaffed.

Additional Judicial Assistants to Assume Workload Under HB 143

\$320,000

Ongoing turnover funding

After consultation with the Clerks of Court, the request is for four new judicial assistants to be hired to handle the incremental case processing from the passage of HB0143 – DUI Penalty Amendments. The bill requires that certain DUIs be elevated to a Class A misdemeanor from a Class B misdemeanor and thereby transferred from justice courts to district courts to be adjudicated. The fiscal note estimates 1,480 cases annually would be moved to the district court from the justice courts. Mr. Gordon mentioned that without last year's carryforward funds, this request would be much higher.

HR Compensation & Classification Manager

\$120,000

Ongoing turnover savings

The request was for a full-time dedicated employee that would be assigned to ongoing compensation and job classification functions, which would identify essential functions for ADA purposes and how to price a job. Mr. Gordon asked for this item to be added to allow additional work to be done in the department.

Prefund Annual Performance Raises for FY 2023

\$150,000

Ongoing turnover savings

In FY 2021 and prior, the AOC funded annual career ladder payments of \$450,000 which were used to pay new probation officers and judicial assistants for their first 3-6 years of employment. Career ladder was replaced by \$450,000 in performance raises for FY 2022 which provided the opportunity for all court non-judicial officer personnel to be given performance-based raises.

Prefund Portion of Hot Spot Raises for FY 2023

\$82,000

Ongoing turnover savings

In FY 2022, the Council increased the amount of ongoing turnover savings devoted to hot spot raises from \$110,000 to \$200,000 annually. This request will be to fund 40% of the \$200,000 of hot spot raises which the Council has delegated to the State Court and Deputy State Court Administrators.

Partial Restoration of FY 2021 Admin Budget Cuts (Part I)

\$112,500

Ongoing turnover savings

In the FY 2021 budget, the Legislature cut the court's ongoing spending in all admin areas by \$653,000. For FY 2023, the courts sought to restore \$225,000 (50% = \$112,500 through ongoing funds and 50% through one-time carryforward funds) of the cuts which the district TCEs and AOC department heads deemed as essential to their operating budget. This request restores funds for those budget cuts that are essential to court operations. These funds will be distributed to the districts and AOC departments that made the original cuts.

Motion: Judge Connors moved to approve the New Judicial Law Clerk Attorney request for \$95,850 with ongoing turnover savings/one-time limited funds; the Additional AOC Legal Department Associate General Counsel request for \$150,000 with ongoing turnover funding; the Additional Judicial Assistants to Assume Workload Under HB0143 for \$320,000 with ongoing turnover funding; the HR Compensation & Classification Manager request for \$120,000 with ongoing turnover savings; the Prefund Annual Performance Raises request for \$150,000 with ongoing turnover savings; the Prefund Portion of Hot Spot Raises for FY 2023 request for \$82,000 with ongoing turnover savings; and the Partial Restoration of FY 2021 Admin Budget Cuts (Part I) request for \$112,500 with ongoing turnover savings, as amended to change the HR Compensation request from \$120,000 to \$118,000. Judge Shaughnessy seconded the motion, and it passed unanimously.

AALL Conference Attendance Funds

\$845

Carryforward one-time funds

To provide travel and conference funds to the State Law Library to allow the State Law Librarian, to attend and present at the American Association of Law Library's (AALL) Annual Conference in Denver, Colorado July 16-19, 2022.

ODR Program Development

\$46,200

Carryforward one-time funds

To pay for further development of the ODR program and use for volunteer incentives to help with volunteer retention.

Bountiful District Courtroom #2 Audio Upgrade

\$40,000

Carryforward one-time funds

Upgrade the audio system in Bountiful Courtroom #2; it was last updated in 2007 and lacks the current audio technology to best support hybrid/remote hearings.

Law Clerk Commitment Fulfillment

\$11,000

Carryforward one-time funds

To fund the final seven weeks of salary and benefits for a law clerk in the Supreme Court in the event the new Justice immediately hires their own law clerks.

Delayed Delivery of Statewide Routers

\$160,000

Carryforward one-time funds

This request was approved last year but the routers will not be delivered until September 2022.

New Third District Juvenile Court Taylorsville State Office Building Probation Office A/V System – Phase 2

\$61,509

Carryforward one-time funds

The second phase will be upgrading A/V equipment.

Support for In-Person Conferences, Education Team Training and Employee Manager Training

\$168,500

Carryforward one-time funds

This request seeks to fund the shortfall in Education Department’s budget for FY 2023 to enable the department to be responsive to the requests of the various Boards of Judges to continue to offer in-person and hybrid (or streaming) conferences, as well as additional professional development needs for court employees.

Applicant Tracking and Onboarding System Request

\$19,029.54

Carryforward one-time funds

Allow one more year of funding for Applicant PRO, a more secure and independent onboarding and recruitment software application and process. This has decreased the time for recruitments. The Department of Human Resource Management (DHRM) received a request for a new HR system so the courts will wait to determine whether they will continue using this product or move to the system DHRM uses.

Employee Incentive Awards

\$280,000

Carryforward one-time funds

The courts have established a program to provide on-the-spot recognition for outstanding service as well as a formal nomination process to reward employees for their service in the following ways: an innovative idea or suggestion, implemented by the courts, which improves operations or results in cost savings; the exercise of leadership beyond that normally expected in the employee’s assignment; an action which brings favorable public or professional attention to the courts; successful completion of an approved special individual or team project; and continually outstanding performance of normal responsibilities. The incentive can be issued in cash or a gift card. If deserved, a single employee can receive multiple incentive awards in a given year.

Interstate Compact for Juvenile (ICJ) Operations Funding

\$21,000

Carryforward one-time funds

Funding for mandatory Interstate Compact for Juveniles (ICJ) annual dues and other expenses related to administration of the ICJ office.

Educational Assistance Program Funding for FY 2023

\$85,000

Carryforward one-time funds

This request will subsidize education assistance for court employees for FY 2023. The amount requested is \$10,000 higher than FY 2022. The request was increased from last year due to increases in tuition.

Secondary Language Stipend

\$83,200

Carryforward one-time funds

This request deals with the front-counter interpreting which involves qualified employees receiving \$50 per pay period for being available as needed. This is a very cost-effective use of our current court employees who use their language skills in the service of court patrons in situations for which a certified, registered or approved interpreter is not required.

FY 2023 Public Transit Partial Reimbursement Program

\$50,000

Carryforward one-time funds

To provide Court employees state-wide with an opportunity to receive a 75% reimbursement of the costs paid for utilizing public transit until the funds are depleted.

IT WebEx Virtual Hearing Improvement Project

\$150,000

Carryforward one-time funds

This funding request is to complete some additional functionality within Cisco Webex to improve ease of use and ease of attendance at all virtual hearings hosted by Cisco Webex for the public.

Contractor Support for Senior Project Manager/Developer Training and Critical IT Projects in 2023

\$682,000

Carryforward one-time funds

This request is to retain four experienced contract developers to assist the Sr. Project Managers/Developers on critical projects and development tasks.

IT Inventory for Computer, Printer, Scanner and other Peripherals Replacements

\$250,000

Carryforward one-time funds

The IT Department established an annual laptop replacement schedule that provides for each unit to be replaced once every five years. Due to the large one-time CARES spending the courts made in FY 2021 for laptops, the current year request is lower than expected for future years. Starting in FY 2024 the courts anticipate the renewal spend to increase to approximately \$350,000 as laptops are more expensive to replace than the desktops.

Three IT Projects – Webex, IT Bandwidth and Clean Slate Software

\$118,000

Carryforward one-time funds

These three funding requests are for Webex, bandwidth increase and clean slate. They are all intended to be included as part of the IT Judicial Priority request for ongoing funds for the March 2023 session.

IT Staff Augmentation

\$270,000

Carryforward one-time funds

The purpose of this request is to augment IT staff with vendors on state contract supplemented by independent contractors/temps at \$20 - \$25 per hour to perform less technical hardware installation, assembly, etc. throughout the state for various projects in IT. This will enable the department to continue striving to provide a high level of service to court staff and to complete what is currently a daunting list of low-tech projects.

Seventh District Court Storage and Furniture for Carbon and Grand County Courthouses

\$8,840

Carryforward one-time funds

To purchase storage cabinets for Grand and Carbon Counties.

Partial Restoration of FY 2021 Admin Budget Cuts (Part II)

\$112,500

Carryforward one-time funds

In the FY 2021 budget, the Legislature cut the courts' ongoing spending in all admin areas by \$653,000. For FY 2023, the courts sought to restore \$225,000 (50% = \$112,500 through ongoing funds and 50% through one-time carryforward funds) of the cuts which the district TCEs and AOC department heads deemed as "essential" to their operating budget. This request restores funds for those budget cuts that are essential to court operations. These funds will be distributed to the districts and AOC departments that made the original cuts.

District Court – 2 Time-Limited Law Clerks (Continuation of Funding)

\$191,200

Carryforward one-time funds

The Board of District Court Judges has been charged with the distribution of district court law clerk resources. As of April 1, 2022, there are 31 law clerk positions allocated in district courts across the state. Of the 31 law clerk positions, 29 positions are funded through general funds and the equivalent of 2 full-time positions are funded with one-time funding.

Pilot Program for Crisis Services to Jurors

\$35,000

Carryforward one-time funds

This request is to fund a pilot program whereby the courts would offer limited counseling to jurors who experience trauma during their service as a juror and a video for jurors (and court employees/judges) discussing vicarious trauma and self-care. The type of cases that would be offered counseling services are jury trials related to offenses in Utah Criminal Code Title 76 Chapter 5 – “Offenses against the Individual” – which includes murder, rape, human trafficking and assault.

Partner with Kem C. Gardner Policy Institute on Impacts of Justice Court Reform
Up to \$50,000
Carryforward one-time funds

To fund the assistance of the University of Utah’s Kem C. Gardner Policy Institute, which has broad experience in dealing with these types of policy impact issues.

Motion: Judge Connors moved to approve the AALL Conference Attendance Funds request for \$845 with carryforward one-time funds; the ODR Program Development request for \$46,200 with carryforward one-time funds; the Bountiful District Courtroom #2 Audio Upgrade request for \$40,000 with carryforward one-time funds; the Law Clerk Commitment Fulfillment request for \$11,000 with carryforward one-time funds; the Delayed Delivery of Statewide Routers request for \$160,000 with carryforward one-time funds; the New Third District Juvenile Court Taylorsville State Office Building Probation Office AV System – Phase 2 request for \$61,509 with carryforward one-time funds; the Support for In-Person Conferences, Education Team Training and Employee Manager Training request for \$168,500 with carryforward one-time funds; the Applicant Tracking and Onboarding System request for \$19,029.54 with carryforward one-time funds; the Employee Incentive Awards request for \$280,000 with carryforward one-time funds; the Interstate Compact for Juvenile (ICJ) Operations Funding request for \$21,000 with carryforward one-time funds; the Educational Assistance Program Funding for FY 2023 request for \$85,000 with carryforward one-time funds; the Secondary Language Stipend request for \$83,200 with carryforward one-time funds; the FY 2023 Public Transit Partial Reimbursement Program request for \$50,000 with carryforward one-time funds; the IT WebEx Virtual Hearing Improvement Project request for \$150,000 with carryforward one-time funds; the Contractor Support for Senior Project Manager/Developer Training and Critical IT Projects in 2023 request for \$682,000 with carryforward one-time funds; the IT Inventory for Computer, Printer, Scanner and other Peripherals Replacements request for \$250,000 with carryforward one-time funds; the three IT Projects – Webex, IT Bandwidth and Clean Slate Software request for \$118,000 with carryforward one-time funds; the IT Staff Augmentation request for \$270,000 with carryforward one-time funds; the Seventh District Court Storage and Furniture for Carbon and Grand County Courthouses request for \$8,840 with carryforward one-time funds; the Partial Restoration of FY 2021 Admin Budget Cuts (Part II) request for \$112,500 with carryforward one-time funds; the District Court – 2 Time-Limited Law Clerks (Continuation of Funding) request for \$191,200 with carryforward one-time funds; the Pilot Program for Crisis Services to Jurors request for \$35,000 with carryforward one-time funds; and the Partner with Kem C. Gardner Policy Institute on Impacts of Justice Court Reform request for up to \$50,000 with carryforward one-time funds, as presented. Judge Heward seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Judge Pettit, Mr. Sweeney, and Ms. Johnson.

16. HR POLICIES: (Bart Olsen and Keisa Williams)

Chief Justice Durrant welcomed Bart Olsen and Keisa Williams. Mr. Olsen explained that HB0388 Abusive Conduct Reporting Amendments passed the General Legislative Session in 2019, requiring policies, reporting mechanisms, and training on prevention of abusive conduct to begin in 2020, later adjusted to 2021. The HR policies were approved and published effective July, 2021. The investigative procedures had been designed with non-judicial officer employees in mind. The courts realized that the procedures do not sufficiently address necessary differences in investigative purpose and procedure should allegations arise against a judicial officer. Nor do they adequately articulate procedures and protections for judicial officers who advance allegations of harassment or abusive conduct. The proposed amendments to sections 15 and 16 were approved by the Policy, Planning, and Technology Committee. Judge Pullan thought the revisions to the policies make a vast difference acknowledging respective institution roles and should bring comfort that, when allegations are made, they will be fairly investigated through a transparent process.

Chief Justice Durrant thanked Mr. Olsen and Ms. Williams.

Motion: Judge Connors moved to approve the amendments to HR sections 15 and 16, as presented. Judge Heward seconded the motion, and it passed unanimously.

17. OLD BUSINESS/NEW BUSINESS

No additional business was discussed.

18. EXECUTIVE SESSION

An executive session was not held.

19. CONSENT CALENDAR ITEMS

- a) Committee Appointments. The appointment of Professor Scott Jarvis to the Forms Committee; and the appointment of Bryson King to the Committee on Judicial Outreach. Approved without comment.
- b) Rules for Public Comment. CJA Rule 4-206 Exhibits. Approved without comment.

20. ADJOURN

The meeting adjourned.