JUDICIAL COUNCIL MEETING Minutes

March 16, 2023

Meeting held through Webex and in person Hyatt Place 1819 S. 120 E. St. George, Utah 84790

1:00 p.m. – 4:05 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:	AOC Staff :
Chief Justice Matthew B. Durrant, Chair	Ron Gordon
Hon. David Mortensen, Vice Chair	Neira Siaperas
Hon. Keith Barnes	Michael Drechsel
Hon. Suchada Bazzelle	Lauren Andersen
Hon. Brian Brower	Brody Arishita
Hon. Samuel Chiara	Shane Bahr
Hon. Augustus Chin	Todd Eaton
Hon. Michael DiReda	Alisha Johnson
Hon. Ryan Evershed	Jordan Murray
Hon. Paul Farr	Jim Peters
Hon. James Gardner	Nathanael Player
Hon. Elizabeth Lindsley	Nick Stiles
Hon. Thomas Low	Karl Sweeney
Justice Paige Petersen	Sonia Sweeney
Hon. Kara Pettit	Melissa Taitano
Margaret Plane, esq.	Keisa Williams

Excused:

Guests:

Jonathan Adams, ORLGC Travis Erickson, TCE Seventh District Court Martha Knudson, Utah State Bar Russ Pearson, TCE Eighth District Court

Guests Cont.:

Jeni Wood

Cade Stubbs, TCE Fifth District Court Nancy Sylvester, Utah State Bar Gary Syphus, Legislative Fiscal Analyst Mark Urry, TCE Fourth District Court Hon. Michael Westfall, Fifth District Court Katie Woods, Utah State Bar Elizabeth Wright, Utah State Bar

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

Motion: Judge Brian Brower moved to approve the February 27, 2023 Judicial Council meeting minutes, as amended to add an apostrophe on the motion on section 5 and to change item 7 to "The justice court changes bill will narrow justice court judges' pay range to fall more in line with district court judges; recognize that justice courts are part of the Judiciary; will require a law degree under most circumstances; and create a legislative taskforce. A substitute bill is expected to better identify the members of the legislative taskforce that will consider justice court reform." Margaret Plane requested adding to her Bar Commission report "recognizing that costs have been increasing and attendance has been decreasing." Judge Samuel Chiara seconded the motion, and it passed unanimously.

2. OATH OF OFFICE - JUDGE MICHAEL DIREDA: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant administered the Oath of Office to Judge Michael DiReda.

3. JUDICIAL COUNCIL EXECUTIVE COMMITTEE ASSIGNMENT: (Ron Gordon)

Ron Gordon recommended new Council member Judge DiReda replace Judge David Connors on the Policy, Planning, and Technology Committee.

<u>Motion</u>: Judge Paul Farr moved to approve having Judge DiReda serve on the Policy, Planning, and Technology Committee, as presented. Judge Elizabeth Lindsley seconded the motion, and it passed unanimously.

4. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant credited much of the successful legislative session to Mr. Gordon, Neira Siaperas, and Michael Drechsel. Chief Justice Durrant thought the Women Lawyers of Utah group event at the University of Utah Law School was inspirational. He appreciated the Supreme Court justices' participation in the event.

5. STATE COURT ADMINISTRATOR'S REPORT: (Ron Gordon)

Mr. Gordon was pleasantly surprised that all 10 Judicial Council budget priorities were funded this session. Judicial salaries will increase by 10% (5% increase plus 5% COLA). The Courts received a substantial appropriation for attorney law clerks and for non-judicial court employees in positions requiring a JD degree. State court employees, other than judges, will receive a 5% COLA. The Courts will receive additional funds for discretionary salary increases for employees other than judges and commissioners. Commissioners will receive a salary increase in addition to the COLA so that they will continue to be funded at 90% of a trial court judge's salary. The legislature also fully funded the judiciary's budget requests on an ongoing basis: Fourth District Juvenile Court Judge; Self-Help Center Forms Attorney; Wasatch County Courtroom Addition; Domestic Violence Program Manager; District Court Law Clerks; Tribal Outreach Program Coordinator; Third District Jury Selection Assistants; Online Dispute Resolution Administrator; and the Essential Court Operations Software was funded with one-time funding.

6. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Budget & Fiscal Management Committee Report:

The work of the committee will be discussed later in the meeting.

Liaison Committee Report:

Justice Paige Petersen said it was a pleasure to be among such a great team of committee members, Mr. Gordon, Ms. Siaperas, and Mr. Drechsel. She thought they were constructive and built good relationships with the Legislature.

Policy, Planning, and Technology Committee Report:

The work of the committee will be addressed later in the meeting.

Bar Commission Report:

The report from the Bar Commission will be provided later in the meeting.

7. LEGISLATIVE UPDATE: (Michael Drechsel)

Chief Justice Durrant welcomed Michael Drechsel. There were 929 bills introduced in this session. Of those, 575 passed. About 300 of the bills that passed were court-related or of interest to the Courts. The review process and the Courts' feedback entailed over 950 fiscal impacts to the Legislature. Mr. Drechsel will summarize 95 of the bills during his upcoming Legislative Updates.

2023 Legislative Session Fiscal Note Appropriations

					ON GOING I ME			_		NE-TIME IMP			FY2	123 0	NE-TIME IMP	ACTS
BILL NO.	TITLE		RT FISCAL SPONSE	APF	ACTUAL PROPRIATION	PURPOSE										
HB0216	BUSINESS AND CHANCERY COURT	s	671,900	s	671,900	IT for FY2024 only — then BCC judge / staff	\$	1,658,000	\$	1,655,800	Facilities					
	AM ENDMENTS	\$	62,400	<u>s</u>	62,400	DATA										
SB0220	JUVENILE COURT JUDGE AMENDMENTS	\$	475,000	\$	475,000	Work JVC	Г									
SB0163	CHILD WELFARE MODIFICATIONS	\$	121,100	\$	121,100	Work JVC	Г									
		\$	25,000	<u>\$</u>	25,000	r	s	473,000	<u>\$</u>	473,000	rr					
HB0060	JUVENILE JUSTICE MODIFICATIONS	\$	73,900	\$	73,900	Work JVC										
HB0304	JUVENILE JUSTICE REVISIONS	s	33,300	s	33,300	Work JVC	Г					s	37,200	<u>s</u>	37,200	IT \$32,400 DATA \$4,800
HB0385	MENTALLY ILL OFFENDERS AMENDMENTS	\$	32,400	\$	9,700	Work DC	Г					s	9,600	s	9,600	DATA
SB0290	JUVENILE COURT MODIFICATIONS	\$	14,900	\$	14,900	Work JVC	s	14,800	\$	14,800	Work JVC					
SB0169	ENTICEMENT OF A MINOR AMENDMENTS	s	5,500	s	5,500	Work DC	Г									
SB0087	CRIMINAL PROSECUTION MODIFICATIONS	\$	3,300	\$	3,300	Work DC	s	18,300	<u>s</u>	18,300	DATA					
HB0330	CIVIL COMMITMENT AMENDMENTS	s	11,200	s	1,200	Work DC	Г									
HB0099	SEX OFFENDER RESTRICTIONS AMENDMENTS			s	300	Work DC	Г									
HB0225	FIREARM POSSESSION AMENDMENTS						s	88,400	s	88,400	IT / DATA					
HB0192	TRAFFIC VIOLATION AMENDMENTS						s	70,500	\$	-	rr					
HB0156	SEX / KIDNAP / CHILD ABUSE OFFENDER REGISTRY ADMINISTRATION AMEND.						s	10,700	s	10,700	IT / DATA					
HJR002	JOINT RESOLUTION AMENDING RULES OF CIVIL PROCEDURE ON INJUNCTIONS								\$	6,500	Work DC					
HB0046	CRIMINAL CODE RECODIFICATION AND CROSS REFERENCES						Г					s	43,000	s	43,000	iT

Mr. Drechsel explained that the chancery court will not begin until the fall of 2024. The bill sponsor understood that refinements will need to be made before the implementation of the chancery court. Mr. Drechsel didn't anticipate the chancery court needing to have a presiding judge because it will consist of only one judge, nor did he think the new court would need a seat on the Council. With only one judge, there also will not be a need for a Board respective to the court, however, the court will need a mechanism to funnel any concerns to the Council. They are working out the details on law clerks because the new court judge will need to draft and publish all of their orders and rulings, which can take considerable amount of time.

The IT and Data and Research Departments will have large impacts of modifying systems with the new bills. Mr. Drechsel appreciated their work.

The Courts were appropriated funds for SB0105 Traffic Enforcement Amendments and SB0178 Sexual Crime Modifications. However, those bills did not pass. The Legislature is expected to reverse those appropriations.

SB0129 Judiciary Amendments passed with new procedures for judicial nominating commissions beginning July 1, 2023. The bill allows for the nominating commissions to consult with the Judicial Council. Mr. Drechsel thought the Courts could offer assistance to the nominating commissions, such as, explaining to them what the expectations and duties are for judges. Judge Lindsley suggested notifying the presiding and associate presiding judges of the support needed for the new nominating commissions.

Last year legislation passed putting a moratorium in place to eliminate the filing fees for expungements. The bills that were proposed to extend the moratorium did not pass, therefore, as of July 1, 2023, the statutory filing fees for expungements will resume.

SB0238 Court Fee Amendments did not pass. This bill would allow the Courts to charge electronic payment fees for court litigants who use credit card. This bill may be pursued in the next session.

HB0531 Court Fee Modifications requires an annual report from the AOC that identifies all court fees, their purpose, the reason for the fees, and the collection of the fees.

SB154 Adoption Amendments requires the Courts to create a very specific form for judges to complete regarding the costs of adoptions. The form must be sent to the Office of Licensing. The Office will aggregate data, prepare a report showing average costs, and send it to the Judicial Council. The Council must disseminate the report to judges who make those decisions.

Seven new bills passed proposing new private causes of action as an enforcement mechanism for statutory compliance. These will be difficult to track because many may be filed as miscellaneous case types. To the extent that these are policy decisions, the Courts would defer to the Legislature. But should this route become the sort of mechanism that creates uncertain impacts for judicial administration, Mr. Drechsel recommended communicating with the

Legislature through the Office of General Counsel that the Courts have concerns about the enforcement mechanism to buffer policy bills.

HB0385 Mentally Ill Offenders Amendments relates to a guilty plea with a mental condition. CORIS will be adjusted to comply with this bill. The Legislature funded this with the assumption that only 20 individuals will request that this plea be entered. Mr. Drechsel cautioned the Council of the anticipated financial impact if the cases far exceed the expected 20 cases per year. The biggest bulk of Legislative funding was for treatment services. Judge Thomas Low asked if judges were required to accept stipulations of counsel as to someone's mental condition. Mr. Drechsel said judges can accept the stipulation of the parties if it is supported by sufficient evidence.

Chief Justice Durrant thanked Mr. Drechsel.

8. FIFTH DISTRICT COURT REPORT: (Judge Michael Westfall and Cade Stubbs)

Chief Justice Durrant welcomed Judge Michael Westfall and Cade Stubbs. Judge Westfall introduced Cade Stubbs as the new TCE for the Fifth District Court. Judge Westfall announced his retirement for late August. In 2022, the Fifth District Court had a total of 14,990 case filings; 11,364 in Washington County, 3,090 in Iron County, and 536 in Beaver County. In 2021, the court had 15,402 total case filings and in 2020 they had 14,890.

In late 2022, the Fifth District Court was allotted a third Attorney Law Clerk position and that position was filled in February, 2023. They now have three Attorney Law Clerk to assist their seven District Court Judges. The Southwest Utah branch of the federal court has been housed in the Fifth District's St. George Courthouse since 2009. The federal court is looking for a new home as the district continues to grow. After 10 years on the bench, Judge Jeffrey Wilcox retired in February, 2023. Judge Jay Winward was sworn in on February 21, 2023 and assumed his role on the bench in Washington County.

Washington County recently broke ground on a new Receiving Center. Located in Hurricane, this center will be a short-term crisis-care facility for individuals dealing with mental health or substance abuse crises. The Center is expected to open in late 2023. The local area continues to be fast-growing. Nearly 7,000 people have moved into Washington and Iron Counties between July, 2021 – July, 2022.

Judge Westfall noted that he served on the Council more than a decade ago. He felt this was a rewarding experience. Chief Justice Durrant thanked Judge Westfall and Mr. Stubbs.

9. TCE REPORT: (Russ Pearson and Travis Erickson)

Chief Justice Durrant welcomed Russ Pearson and Travis Erickson. Mr. Erickson stated that there are 11 TCEs throughout the state, 3 of which have turned over this year. The TCEs were excited to learn that the new TCEs have extensive experience with assisting judges in the clerical department. As to juvenile courts, when Ms. Siaperas was the Juvenile Court Administrator, they began reviewing juvenile probation work. Sonia Sweeney has taken the lead in ensuring quality assurance of probation and ensuring assessments and records are reflective of the youth and the Courts. Chief probation officers, supervisors, and training coordinators have

been deeply involved with case processing improvements. This project is ongoing; Mr. Erickson said they continue to identify new programs.

The TCEs appreciated the work of the IT Department for remote and hybrid hearings and meetings. ARPA funds have contributed significantly to remote and hybrid meetings. The IT Department hired staff throughout the state. This has proven to be an effective process in quickly getting systems back on line and allowing judges and staff to continue their valuable work.

Mr. Pearson said the clerical weighted caseload committee is working to better identify staff workloads for remote hearings and remote jury selections. The Third District Court's noshow rate has declined dramatically since they transitioned to remote jury selection. Mr. Gordon said the Courts are tasked with providing an efficient system. Virtual jury selections are incredibly efficient for jurors but they require more work for court staff.

Chief Justice Durrant thanked Mr. Pearson and Mr. Erickson.

10. UTAH STATE BAR REPORT: (Katie Woods and Elizabeth Wright)

Chief Justice Durrant welcomed Katie Woods and Elizabeth Wright. Chief Justice Durrant appreciated working closely with Ms. Woods, Bar President. Chief Justice Durrant thought the Bar was fortunate to have Ms. Wright and Nancy Sylvester. Ms. Woods said the Bar supported the judicial salary increase recognizing the heavy workload of judges. The Bar is working on improving communication with Legislators to better provide input on proposed bills. The February Bar exam was held for 83 people during a record-breaking snowstorm.

Ms. Woods was proud of the attorney wellness programs being offered. She noted that Utah is gaining a positive reputation of addressing the mental health of their attorneys.

The November Fall Forum will be held in Salt Lake City. There are more than 300 attendees at the Spring Convention being held in St. George. Ms. Woods welcomed the Council members to the Bar Convention beginning this evening. Ms. Woods said the Bar actively reaches out to judges but also welcomes judges' ideas for their conventions.

Ms. Wright appreciated meeting the Council in person. Their access to justice office has worked hard to help pro bono attorneys. They are in the process of collecting data on how the Bar is helping unrepresented litigants.

Chief Justice Durrant thanked Ms. Woods and Ms. Wright.

11. UTAH STATE BAR WELLBEING SERVICES: (Martha Knudson)

Chief Justice Durrant welcomed Martha Knudson. Justice Petersen was thankful that the Bar hired Ms. Knudson as the Director of The Utah State Bar's Well-Being Committee for the Legal Profession. Ms. Knudson appreciated the drive from the Supreme Court to initiate this mental health effort, which is being recognized nationally.

Tava is a free, confidential mental health benefit available to all Bar members, employees of the Utah State Bar, and their spouses and dependents (age 13-25). This benefit provides up to

6 free sessions annually with licensed clinicians through Tava's secure, web-based technology platform. There are 800 therapists available with Tava.

The Bar has also partnered with Unwind, an app that provides confidential access to tools, training and exercises to support mental wellbeing. Utah is the first Bar to offer the app to all of their members. Bar members can also provide access to the app to a friend. Ms. Knudson volunteered to provide additional trainings on Tava and the Unwind app.

The Bar's "Utah helping lawyers" program provides help for lawyers in recovery, transitioning their practice, dealing with opposing counsel, and a variety of other services. There is also a national peer-to-peer support group available for attorneys.

Chief Justice Durrant thanked Ms. Knudson.

12. RULES FOR FINAL APPROVAL AND HR POLICIES: (Keisa Williams)

Chief Justice Durrant welcomed Keisa Williams. The Policy, Planning, and Technology Committee recommended that the following rule be approved with a May 1, 2023 effective date. This rule has gone through a 45-day public comment period.

UCJA Rule 3-403. Judicial education Proposed amendments require judicial officers and court employees to complete annual training on harassment and abusive conduct, ethics, inclusion, and elimination of bias.

<u>Motion</u>: Judge Farr moved to approve UCJA Rule 3-403 for final action with an effective date of May 1, 2023, as presented. Judge Augustus Chin seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Ms. Williams.

13. BUDGET AND GRANTS: (Karl Sweeney, Alisha Johnson, and Jordan Murray) Chief Justice Durrant welcomed Karl Sweeney, Alisha Johnson, and Jordan Murray.

FY 2023 Ongoing Turnover Savings

			Actual	Forecasted
#		Funding Type	Amount YTD	Amount @ YE
1	Carried over Ongoing Savings (from FY 2022, includes unallocated ongoing appropriation)	Internal Savings	250,392	250,392
2	Ongoing Turnover Savings FY 2023	Internal Savings	545,568	745,568
3	TOTAL SAVINGS		795,960	995,960
	2023 Hot Spot Raises		(163,003)	(200,000)
	2023 Authorized Ongoing for Performance Based Raises (will be used at the end of the FY)		-	(450,000)
4	TOTAL USES before YE Requests		(163,003)	(650,000)
	Actual Turnover Savings for FY 2023 as of 03/01/2023		\$ 632,958	\$ 345,960

FY 2023 One-Time Turnover Savings

			Actual
#		Funding Type	Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 02/03/2023)	Internal Savings	2,518,624.64
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 02/03/2023)	Reimbursements	578,536.35
3	Est. One Time Savings for 840 remaining pay hours (\$2,000 / pay hour)	Internal Savings (Est.)	1,680,000.00
Total	Potential One Time Savings		4,777,160.99

There is \$7,614,581 in remaining ARPA funds. Finance anticipated that ARPA funds will run out in October 2024.

FY 2023 Year End Forecasted Available One-time Funds

	Description	Funding Type	Amount
	Sources of YE 2023 Funds		
•	Turnover Savings as of PPE 2/03/2023 (including anticipated ARPA reimbursement)	Turnover Savings	3,097,161
••	Turnover savings Estimate for the rest of the year (\$2,000 x 840 pay hours)	Turnover Savings	1,680,000
(a)	Total Potential One Time Turnover Savings		4,777,161
(b)	Operational Savings From TCE / AOC Budgets	Internal Operating Savings	455,170
(c)	Reserve Balance (balance from FY 2022 Carryforward)	Judicial Council Reserve	500,076
(d)	Anticipated Reserve Uses - including previously approved and pending requests	Judicial Council Reserve Uses	(152,000)
_	Uses of YE 2023 Funds		
	Carryforward into FY 2024 (Request has been made to Legislature for \$3,200,000)	Historical Carryforward	(3,200,000)
ot	al Potential One Time Savings = (a) + (b) + (c) less Carryforward		2,380,407
ot	al Potential One Time Savings = {a} + {b} + {c} less Carryforward		2,380,407
ot	al Potential One Time Savings = (a) + (b) + (c) less Carryforward		2,380,407
lot	al Potential One Time Savings = (a) + (b) + (c) less Carryforward		2,380,407
.es	al Potential One Time Savings = (a) + (b) + (c) less Carryforward :: Judicial Council Requests Previously Approved :: Judicial Council Current Month Spending Requests		2,380,407 (1,836,722 (554,855

American Fork Courthouse Rent Increase \$172,905 one-time turnover savings

The lease with American Fork was revised since the Council last approved this request.

<u>Motion</u>: Judge Mortensen moved to approve the American Fork Courthouse Rent Increase for \$172,905, as presented. Justice Petersen seconded the motion, and it passed unanimously.

Windows 10 Enterprise Upgrades and Software Assurance \$135,000 one-time turnover savings

In 2020 using one-time funds, the Courts purchased 1,400 licenses for Windows 10 Enterprise including 3 years of Software Assurance for \$401,674 (\$133,891 per year). Software Assurance ensures the courts can continue to upgrade to the latest and most secure version.

<u>Motion</u>: Judge Chiara moved to approve the Windows 10 Enterprise Upgrades and Software Assurance for \$135,000, as presented. Judge Barnes seconded the motion, and it passed unanimously.

Google Licensing for Enterprise Plus \$148,000 one-time turnover savings

This request will cover increased cost of Google renewal for this year.

<u>Motion</u>: Judge Brower moved to approve the Google Licensing for Enterprise Plus for \$148,000, as presented. Justice Petersen seconded the motion, and it passed unanimously.

Adobe Pro Licenses for all Staff \$120,000 one-time turnover savings

To cover the first year cost to migrate court staff from perpetual licenses for Adobe Acrobat Pro into the Adobe Pro Cloud version.

<u>Motion</u>: Judge Mortensen moved to approve the Adobe Pro Licenses for all Staff for \$120,000, as presented. Judge Michael DiReda seconded the motion, and it passed unanimously.

Microsoft M365 – 630 Additional Licenses for Court Employees \$90,000 one-time turnover savings

To cover the cost of an additional 630 licenses of Microsoft M365 for the remaining court staff still using the perpetual Microsoft Office licenses.

<u>Motion</u>: Judge Lindsley moved to approve the Microsoft M365 - 630 Additional Licenses for Court Employees for \$90,000, as presented. Judge Bazzelle seconded the motion, and it passed unanimously.

SurveyMonkey Subscription \$45,000 one-time turnover savings

To cover the cost of the SurveyMonkey tool that is used statewide for jury selection questionnaires. Mr. Eaton said this request was to move this from the IT Department's budget to the general court funds.

<u>Motion</u>: Judge Barnes moved to approve the SurveyMonkey Subscription for \$45,000, as presented. Judge Brower seconded the motion, and it passed unanimously.

Chief Justice Durrant and Mr. Sweeney thanked Gary Syphus for his assistance with the legislative session.

Mr. Murray sought the Council's approval for a non-federal grant application from the National Center for State Courts Eviction Diversion Initiative for \$157,000. This grant falls within Tier 2 impact. Tier 2 is described as greater than \$50,000 but less than \$1 million per year; or adds more than 0 but less than 11 permanent full or part time employees; or requires the state to expend up to \$1 million per year in new state monies as match. Funding for this project would help support the creation of a new program promoting the provision of education and brief advice for tenants further upstream in the process.

Project goals

- Educating parties on the basics of landlord-tenant/evictions and/or debt collection law;
- Earlier intervention and direct access for financial assistance and community services;

- Conducting triage and establishing realistic expectations;
- Increasing time and ability to file disclosures;
- Improving the quality of exhibits and witness testimony/affidavits;
- Provide better mentorship and improved quality of services for volunteers; and
- Expanding the reach of ATJ services to include statewide assistance.

Mr. Player felt the grant would be worthwhile because 94% of all defendants in eviction cases represent themselves. Judge Pettit expressed her skepticism that legal assistance didn't seem to put people being evicted in a better position. Mr. Player explained that the grant would be used for assistance, such as the coordination of providing social services. Mr. Player said if this was successful in the Third District Court then it could be expanded.

<u>Motion</u>: Judge Lindsley moved to approve the NCSC Grant, as presented. Judge DiReda seconded the motion, and it passed unanimously.

14. OLD BUSINESS/NEW BUSINESS: (All)

No additional business was discussed.

15. EXECUTIVE SESSION

An executive session was not held.

16. CONSENT CALENDAR ITEMS

a) Rules for Public Comment. UCJA Rule 1-205 Standing and Ad Hoc Committee; Rule 3-117 Committee on Court Forms; and Rule 3-406 Budget and Fiscal Management. Approved without comment.

17. ADJOURN

The meeting adjourned.