After consideration on the merits, the Committee recommends the following:

HB17-1303 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1. Amend printed bill, page 4, line 20, strike "13-5.5-114." and substitute "13-5.5-115."
2. Page 4, before line 21 insert:

   "(7) "IMPROVEMENT PLAN" MEANS AN INDIVIDUAL JUDICIAL IMPROVEMENT PLAN DEVELOPED AND IMPLEMENTED PURSUANT TO SECTION 13-5.5-110."

3. Renumber succeeding subsections accordingly.

4. Page 5, after line 9 insert:

   "(14) "VOLUNTEER COURTROOM OBSERVER PROGRAM" MEANS A SYSTEMWIDE PROGRAM COMPRISED OF VOLUNTEERS WHO PROVIDE COURTROOM OBSERVATION REPORTS FOR USE BY STATE AND DISTRICT COMMISSIONS IN JUDICIAL PERFORMANCE EVALUATIONS. THE STATE COMMISSION SHALL DEVELOP RULES, GUIDELINES, AND PROCEDURES FOR THE VOLUNTEER COURTROOM OBSERVER PROGRAM PURSUANT TO SECTION 13-5.5-105 (2)(i)."

5. Page 6, line 19, strike "conflicts. (1) (a)" and substitute "conflicts - repeal. (1)"

6. Page 6, line 27, after the period add "JUSTICES AND JUDGES ACTIVELY PERFORMING JUDICIAL DUTIES MAY NOT BE APPOINTED TO SERVE ON A COMMISSION. FORMER JUSTICES AND JUDGES ARE ELIGIBLE TO BE
APPOINTED AS ATTORNEY COMMISSIONERS; EXCEPT THAT A FORMER
JUSTICE OR JUDGE MAY NOT BE ASSIGNED OR APPOINTED TO PERFORM
JUDICIAL DUTIES WHILE SERVING ON A COMMISSION.

(2)(a) Each commission consists of ten members, appointed
as follows:

(I) The speaker of the house of representatives shall
appoint one attorney and one nonattorney;

(II) The president of the senate shall appoint one attorney
and one nonattorney;

(III) The governor shall appoint one attorney and two
nonattorneys; and

(IV) The chief justice of the supreme court shall appoint
one attorney and two nonattorneys.

(b) (I) The terms of commissioners appointed prior to the
effective date of this section shall continue through January
31, 2019.

(II) Notwithstanding the term for which the commissioner
was appointed, the governor's attorney appointment to a
district commission made pursuant to subsection (2)(a)(III) of this
section and the chief justice's two nonattorney appointments to
district commission made pursuant to subsection (2)(a)(IV) of
this section expire on January 31, 2019.

(III) Except as provided for in subsection (2)(b)(II) of this
section, the term of a commissioner appointed prior to January
31, 2019, shall continue after this subsection (2) is repealed until
such time as the commissioner's term was originally set to
expire.

(c) This subsection (2) is repealed, effective January 31,
2019.

(3) (a) The state commission consists of eleven members,
apPOINTed on or before March 1, 2019, as follows:

(I) The speaker of the house of representatives shall
appoint one attorney and one nonattorney;

(II) The minority leader of the house of representatives
shall appoint one nonattorney;

(III) The president of the senate shall appoint one
attorney and one nonattorney;

(IV) The minority leader of the senate shall appoint one
nonattorney;

(V) The chief justice of the supreme court shall appoint
two attorneys; and

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(VI) The governor shall appoint two nonattorneys and one attorney.

(b) The terms of state commissioners appointed prior to January 31, 2019, shall continue until such time as his or her term was originally set to expire; except that the term of the nonattorney appointed by the chief justice of the supreme court pursuant to subsection (2)(a)(IV) of this section expires on January 31, 2019.

(c) This subsection (3) becomes effective February 1, 2019.

(4) (a) Each district commission consists of ten members, appointed on or before March 1, 2019, as follows:

(I) The speaker of the house of representatives shall appoint one attorney and one nonattorney;

(II) The president of the senate shall appoint one attorney and one nonattorney;

(III) The minority leader of the house of representatives shall appoint one nonattorney;

(IV) The minority leader of the senate shall appoint one nonattorney;

(V) The chief justice of the supreme court shall appoint two attorneys; and

(VI) The governor shall appoint two nonattorneys.

(b) The terms of district commissioners appointed prior to January 31, 2019, shall continue until such time as his or her term was originally set to expire; except that the following commissioners' terms expire on January 31, 2019:

(I) The nonattorney appointed by the chief justice of the supreme court pursuant to subsection (2)(a)(IV) of this section; and

(II) The attorney appointed by the governor pursuant to subsection (2)(a)(III) of this section.

(c) This subsection (4) becomes effective February 1, 2019.

(5) (a) The term for a commissioner is four years and expires on November 30 of an odd-numbered year. The term of a commissioner appointed to replace a member at the end of the commissioner's term begins on December 1 of the same year.

(b) The original appointing authority shall fill any vacancy on a commission, but a commissioner shall not serve more than two full terms including any balance remaining on an unexpired term if the initial appointment was to fill a vacancy. Within five days after a vacancy arises on a commission, the
COMMISSION WITH THE VACANCY SHALL NOTIFY THE ORIGINAL
APPOINTING AUTHORITY OF THE VACANCY. THE ORIGINAL APPOINTING
AUTHORITY SHALL MAKE AN APPOINTMENT WITHIN FORTY-FIVE DAYS
AFTER THE DATE OF THE VACANCY. IF THE ORIGINAL APPOINTING
AUTHORITY FAILS TO MAKE THE APPOINTMENT WITHIN FORTY-FIVE DAYS
AFTER THE DATE OF THE VACANCY, THE GOVERNOR SHALL MAKE THE
APPOINTMENT.

(c) The appointing authority may remove a commissioner
whom he or she appointed for cause.

(6) Each commission shall elect a chair every two years
by a vote of the membership.

(7) State and district commissioners and employees of the
state or a district commission are immune from suit in any
action, civil or criminal, based upon official acts performed in
good faith as commissioners and employees of the state or a
district commission.

(8) A commissioner shall recuse himself or herself from
an evaluation of the person who appointed the commissioner to
the commission.

Strike page 7.

Page 8, strike lines 1 through 18.

Page 9, line 4, after "Observation" insert "by commissioners".

Page 9, strike lines 5 through 7 and substitute "of justices and judges,
as well as information provided to the commissions by the
volunteer courtroom observer program;".

Page 9, strike line 14 and substitute "judges; and".

Page 9, strike lines 15 through 27 and substitute:
"(f) At an individual commission's discretion after it
completes an interim evaluation of a justice or judge pursuant
to section 13-5.5-109, to recommend that the chief justice or
appropriate chief judge develop an individual judicial
improvement plan pursuant to section 13-5.5-110;".

Page 10, strike lines 1 through 5.
Page 10, line 7, strike "5.5," and substitute "5.5 AND SECTION 13-5.5-106,"

Page 10, line 25, strike "GUIDELINES" and substitute "RULES, GUIDELINES,"

Page 11, line 2, strike "GUIDELINES" and substitute "RULES, GUIDELINES,"

Page 11, line 6, strike "GUIDELINES" and substitute "RULES, GUIDELINES,"

Page 11, line 17, strike "PROCEDURES" and substitute "RULES, GUIDELINES, AND PROCEDURES"

Page 11, line 22, strike "13-5.5-106;" and substitute "13-5.5-106 CONCERNING:

(I) THE EVALUATION OF JUSTICES AND JUDGES BASED ON PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107;

(II) THE CREATION OF A STANDARDS MATRIX RELATED TO THE PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107 AND A CLEAR DESCRIPTION OF THE THRESHOLDS FOR THE RECOMMENDATIONS OF "MEETS PERFORMANCE STANDARD" OR "DOES NOT MEET PERFORMANCE STANDARD" AND HOW THAT INFORMATION WILL BE MADE AVAILABLE TO THE PUBLIC; AND

(III) THE CONTINUOUS COLLECTION OF DATA FOR USE IN THE EVALUATION PROCESS, INCLUDING SURVEYS DEVELOPED PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION;

(i) TO DEVELOP RULES, GUIDELINES, AND PROCEDURES CONCERNING A SYSTEMWIDE JUDICIAL TRAINING PROGRAM AND A SYSTEMWIDE VOLUNTEER COURTROOM OBSERVER PROGRAM;".

Reletter succeeding paragraph accordingly.

Page 11, line 24, strike "13-5.5-113." and substitute "13-5.5-114.".

Page 12, line 7, before "AND" insert "RACIAL DISPARITY,"

Page 12, line 25, strike "Guidelines" and substitute "Rules, guidelines,"

Page 12, line 26, strike "GUIDELINES" and substitute "RULES, GUIDELINES,"
Page 13, line 1, strike "GUIDELINES" and substitute "RULES, GUIDELINES,"

Page 13, line 3, strike "SUGGESTED" and substitute "PROPOSED"

Page 13, line 4, strike "GUIDELINES" and substitute "RULES, GUIDELINES,"

Page 13, strike line 8 and substitute "RULES, GUIDELINES, OR PROCEDURES. THE STATE COMMISSION SHALL SUBMIT ANY RULES, GUIDELINES, OR PROCEDURES ADOPTED PURSUANT TO THIS SECTION OR SECTION 13-5.5-105 TO THE INDEPENDENT ETHICS COMMISSION ESTABLISHED PURSUANT TO SECTION 24-18.5-101."

Page 13, line 9, strike "GUIDELINES" and substitute "RULES, GUIDELINES,"

Page 13, line 13, strike "GUIDELINES" and substitute "RULES, GUIDELINES,"

Page 13, line 21, strike "GUIDELINE" and substitute "RULE, GUIDELINE,"

Page 13, line 23, strike "GUIDELINE" and substitute "RULE, GUIDELINE,"

Page 16, line 22, strike "13-5.5-105 (1)(f)," and substitute "13-5.5-110"

Page 16, line 25, strike "ADDRESSED OR" and substitute "ADDRESSED, OR A STATEMENT FROM THE CHIEF JUSTICE OR APPROPRIATE CHIEF JUDGE THAT", and strike "PLAN" and substitute "PLAN, IF ANY, WAS"

Page 18, line 10, strike "FINDINGS" and substitute "FINDINGS, INCLUDING ANY RECOMMENDATIONS FOR IMPROVEMENT PLANS,".

Page 18, line 15, strike "FINDINGS" and substitute "FINDINGS, INCLUDING ANY RECOMMENDATIONS FOR IMPROVEMENT PLANS,".

Page 18, after line 16 insert:

"(2) IF A COMMISSION RECOMMENDS AN IMPROVEMENT PLAN, THE PROCEDURE DEVELOPMENT AND IMPLEMENTATION FOR SUCH A PLAN WILL FOLLOW THE GUIDELINES SET FORTH IN SECTION 13-5.5-110."

Renumber succeeding subsections accordingly.

Page 19, after line 1 insert:
"13-5.5-110. Individual judicial improvement plans. (1) (a) If
the state commission or a district commission recommends,
pursuant to section 13-5.5-109 (1), that a justice or judge receive
an individual judicial improvement plan, the commission shall
communicate such recommendation to the chief justice or
appropriate chief judge. The chief justice or chief judge shall
then develop an improvement plan for such judge and shall send
the improvement plan to the state commission for review. After
the state commission reviews and approves the improvement
plan, the chief justice or chief judge shall have the
responsibility for implementing and overseeing the improvement
plan.

(b) Once the justice or judge has completed the
improvement plan, the chief justice or chief judge shall convey
the results of the improvement plan activities to the appropriate
commission, which will then maintain a copy of the improvement
plan and the statement of results in its files.

(2) If a justice or judge is required to complete an
improvement plan pursuant to this section, and he or she fails to
satisfactorily complete the requirements of such improvement
plan, the appropriate commission shall automatically issue a
"Does Not Meet Performance Standard" designation on his or her
performance evaluation summary."

Renumber succeeding sections accordingly.

Page 19, strike lines 3 through 19 and substitute "(1) Every third year
following the initial appointment of a senior judge to the bench
through a contract pursuant to section 24-51-1105, the state
commission shall conduct a performance evaluation of the
senior judge based on the judicial performance evaluation
criteria set forth in section 13-5.5-107. The state commission
shall complete the performance evaluation of such senior judge
and communicate the related narrative to the chief justice no
later than forty-five days prior to the expiration of the senior
judge's contract for that year. The narrative must include an
assessment of the senior judge's strengths and weaknesses with
respect to the judicial performance evaluation criteria set
forth in section 13-5.5-107."

Renumber succeeding subsection accordingly.
1 Page 22, strike lines 25 through 27.
2 Strike pages 23 and 24.
3 Page 25, strike lines 1 through 6.
4 Renumbe...