

Why Utah Legislature should not follow U.S. Senate in judicial candidate review, Editorial Board writes
Utah Senate has to be able to do a better job than the U.S. Senate Judiciary Committee.



(Evan Vucci | AP) Sen. Mike Lee, R-Utah, listens during the confirmation hearing for Supreme Court nominee Ketanji Brown Jackson before the Senate Judiciary Committee, Monday, March 21, 2022, in Washington.

By The Salt Lake Tribune Editorial Board
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It was all too much, even for some Republicans.

Last week's Senate Judiciary Committee hearings on the nomination of judge Ketanji Brown Jackson for a seat on the Supreme Court of the United States devolved into an embarrassing display by some committee Republicans who ignored the important matter before them and trotted out a flood of ridiculous talking points on race, gender, child pornography and terrorism.

The hearings were a master class from which members of the Utah Legislature should take examples of how not to behave as they, in the coming weeks, consider nominations for two seats on the Utah Supreme Court.

Instead of using the process as a way to play to the cheap seats, Utah lawmakers should give the nominees who will come from Gov. Spencer Cox a respectful and serious consideration.

Nebraska Sen. Ben Sasse extended a sort of an apology and some advice to Jackson, noting that the behavior of some of his fellow Republicans was an argument that the Supreme Court should not feel compelled to follow the Senate's example of having its proceedings televised.

"We should recognize that the jack-assery we often see around here is partly because of people mugging for short-term camera opportunities," [Sasse said](#). Before he sadly, if predictably, [announced that he would vote against](#) Jackson's confirmation.

Sens. Lindsey Graham, Josh Hawley, Ted Cruz and Marsha Blackburn were clearly there to mug for the cameras. They ridiculously blamed the nominee for [supposedly light sentences](#) she and other judges have handed down to child abusers, for critical race theory and anti-racism, for changing gender roles, for the existence of terrorism and for the fact that, under our system of laws, every defendant in every criminal case is entitled to counsel for the defense — something that was once Jackson's job.

[Utah's Sen. Mike Lee's](#) behavior was merely in the normal range of absurdity compared to some of his GOP colleagues. He asked the nominee to express opinions on federal land policy and other matters even though Lee and everyone else knows that, because those questions are likely to come before Jackson as a justice, she is obliged to remain undecided.

Jackson's reward for maintaining a cool and judicial calmness through two days of "jack-assery" is likely to be a positive recommendation from the Judiciary Committee and approval from the full Senate. She is highly qualified and should win the votes of not only all the Senate's Democrats but also of all fair-minded Republicans. (Looking at you, Mitt Romney.)

That was a lot more than the Utah Senate afforded [Margaret Plane](#), an experienced and accomplished attorney who was nominated to the Utah Court of Appeals by then-Gov. Gary Herbert in 2020. The Utah Senate, shirking its clear duty under the state Constitution, never took up the nomination.

Senators never explained why, either, though it was reasonable to assume that Plane's gender, along with the fact that she did her job as an attorney representing the American Civil Liberties Union and calling the government to account, was fatal to her chances in the eyes of Republican crusaders who dominate the Legislature.

The Utah Senate will soon be considering replacements for two recently retired members of the state's top court — [Thomas Lee](#) and [Constandinos "Deno" Himonas](#). The Utah Appellate Judicial Nominating Commission has put before Cox the names of [seven candidates](#) to fill the Himonas seat, and will soon be doing the same for the post left vacant by Lee (Mike Lee's brother).

Whoever Cox sends to the Senate for confirmation deserves a respectful hearing and a review that deals with the nominees' qualifications and fitness for office. It should not be treated as a game where politicians try to catch nominees in an embarrassing flub or politically controversial gaffe.

And the process must not become a soap box that state senators use to pontificate and pound the table over their petty and invented grievances that have little to do with their duty and everything to do with ingratiating themselves to the conspiracy theorists who make up a small but active part of their political base.

Utah politicians like to blame everything that's wrong on the federal government and Congress. This is a case where Utah's Legislature has the opportunity to show itself as superior to Congress and do the job of vetting judicial nominations the right way. Voters should [urge their state senators](#) to do exactly that.