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>> Please stand by for real-time captions. The meeting will begin shortly, please stand by. Thank you, captioner.

>> Yes. I know that. So that we can start our meeting, please take a seat.

>> Yes, I was looking for Harry, his old dark oath book.

>> That's okay. I will go and borrow one. Thank you, Harry.

>> It could be anywhere, unfortunately. [Laughter] You did see it, that's right.

>> Thank you.

>> Good afternoon and welcome, it is nice to see everyone. We have not had a meeting since February 20. This is the educational and business meeting for the Judicial Council of California for April 24, 2014. The meeting is officially in session. Based on our agenda that is publicly posted, this is a two-day meeting. We will adjourn at approximately 5:30 p.m., reconvening for the second part of our business meeting. I will not go through the entire admonishment. As a reminder we are being videotaped and live captioning on our website for the benefit of those who are following online today and tomorrow, and understanding there is a larger audience than normal. If you can remember to address each other by name so that listeners and real-time captioners can follow our discussion. Our first order of business is a welcome opportunity to swear in our counsel. It gives me pleasure to welcome a new volunteer, somebody like us on our advisory committee on top of duties, on top of the real job as a judge, for all Californians. I asked Judge Jerry Nadler.

>> And the Constitution of the State of California against all enemies foreign and domestic, that I will bear true faith and allegiance, to the Constitution of the United States and the Constitution of the State of California. I take this obligation freely without any mental reservation or purpose of evasion, that I will well and faithfully discharge the duties upon which I am about to enter. Thank you.

>> [Applause]

>> Chief Justice, I was watching Judge Nadler's demeanor. It appears he took the oath successfully and really meant it.

>> We also provide a book, word for word, with all of our names to enshrine the oath.

>> Our first item of business is the approval of the minutes of our February 20 meeting. Do I hear a motion for adoption?

>> Moved for approval, Judge Jacobson, and Judge Walsh, thank you Judge O'Malley. The minutes, all in favor say aye.

>> Any opposition?

>> Welcome. Next on our agenda is our regular report as Chief Justice of the council. Summarizing engagements since our last meeting of February 20, I think this reporting area can be characterized as involving three main activities, as being defined by two main events. The activities can be grouped under ongoing budget negotiations, judicial branch outreach, and civil engagement. These brought mixed emotions.

>> Recently I was saddened. I was glad to share the recognition of what I believe were her impeccable character and admirable traits with the contributions with the Judiciary address. My themes this month were in fairness and in the context of the Civil Rights Act, I believe important especially in the third and a half year could do -- to highlight accomplishments as a branch, including justice court, and our long-standing history with courts. And delivering equal meaningful access to all Californians, I again stress the idea of a modern civil rights process in our courts, receiving listeners and media follow-up on that -- the meaning of that phrase. As I did in their address, the clear three-year plan for a fully functional judicial branch, also added discussion with the Chamber of Commerce that I attended in Sacramento.

>> As a part of my role in the ongoing budget process, I've been in contact with the executive branch, administration, and Legislature. As I work through the budget cycle, I have worked with many people including Speaker Perez, Senator Jackson, and also the fiscal review committee, Senator Hancock. Also, I met with Richard Bloom and Tony Atkins. I was pleased to participate in the annual awards, recognizing the unique contributions of those who live and work in the nine cities in her Assembly district. Presiding Judge Wesley joined me thereafter in Los Angeles. There were combined legislator efforts, thank you who all attended, and met with legislators that they another days, and testified at region Senate budget committees.

>> Senator Hancock has called on the legislative office and the AOC on proposed solutions and efficiencies. It was a great judicial branch effort. To collaborate with identifying solutions for our sister branches of government, to consider responses in all of their concerns, I am grateful to the staff, the Bench-Bar Coalition, and the system partners that have voiced their support and still to this day continue to do, to encourage reinvestment in our justice system. I took an opportunity to attend and lend my support to other programs and initiatives including the San Francisco public hearing on that language access plan, the tribal court state for state court, and the Legal Aid Association with California, and key association [Indiscernible], and for the single largest courthouse construction project under our judicial branch, the new San Diego courthouse. A lot of planning including cost reduction has gone into the project. It will be a source of great civic pride. I said before, the strength of our democratic institution relies on the public's understanding of those institutions. That is the primary reason why I believe in civic learning and civic engagement. Civic learning is important because it creates an understanding of government including an understanding of the relationship between the judicial branch and sister branches. It creates an interest in our branch and in our democracy.

>> It acts as a pipeline for students to have careers in the legal system and then potentially on the bench, further civic engagement office, in school, and out of court. And it reduces the risk of a pathway that could lead to the additional criminal adult system. This was a busy one in meetings with democracy and justice. California tax force on K-12 civil learning, and the committee. Frank Maguire and Mark Robinson are involved in these efforts. And I am glad in the Judith -- and also [Indiscernible], it is a collaborative effort by all branches.

>> It was inspiring to present two of the three statewide learning awards to the public high school this is an award for both Tom, Brawley, California is a site to San Diego and three hours east. And also the civic toss program in Sacramento. It is interesting to see what they can create together. I was also at UC Berkeley undergraduate program to speak to them specifically about the role of the judicial branch of a democracy. I also had the opportunity to speak with a professional responsibility class at Golden Gate University law school, and to participate in the Q&A leadership conference at the John F. Kennedy High School government class, and participate at your and imagine yourself suppose the them at the University 900 students, lawyers, judges from the local area came to attend that suppose him, all these were great opportunities to engage with students teachers and their communities on topics of interest to them. And how those relate to the judicial branch, and overall interest in seeing a judicial funded branch as a coequal member of government.

>> Speaking with access, I wanted take this opportunity to congratulate a judicial branch -- not only in California but with the National Center for State Courts, I continue my ongoing contacts with the legal community, and for the luncheon with [Indiscernible], and the attorney of the we are awards, called Clay awards, and all the [Indiscernible]. Lastly, I welcomed groups of judges participating in the new orientation program to my chambers, Judge Wesley to participate in thankfully an annual event, swearing in of all judges, I am happy to see many other active leaders to come and attend the ceremony. I think my report shows progress, on all fronts on judicial policy priorities, directives, and understanding, access, liaison with communities about what we do at council. Through collaboration and unity of purpose we are achieving positive outcomes. I believe while we have been optimistic about this branch, there is an opportunity for renewed optimism.

>> That concludes my report. I would like to turn it over to Judge Steven Jahr, for the [Indiscernible]. That afternoon, council members, there is a written report essentially summarizing all activities on behalf of the administrative office.

>> I briefly noted a few of those items as the Chief indicated we have begun both the Senate subcommittee associated with our branch, and conducted their hearings. The Assembly was limited to two items leaving open the judicial branch budget for later consideration, those two items were proposed 33.1 to two items leaving open the judicial branch budget for later consideration, those two items were proposed \$33.1 million enhancement independent -- dependency council which was drawn from the Chief Justice budget blueprint.

>> Also relative to collaborative courts, though they were both approved, likewise supported strongly as effective tools to save cost in the process and work positive social change, we ask that the funding processes associated with them be left to the trial courts in each which has unique challenges facing it. We have trial courts with self-help centers that are inadequately staffed to individuals for whom English is not a first language. In those circumstances the trial

court should have the discretion to determine where those dollars go. I should say also, to the Senate budget subcommittee a broader agenda relative to trial court findings, a component of the budget was addressed. As was the case with the Assembly subcommittee. Consent agenda items relative to our programs were approved. With respect to the balance of the budget after the conversation in the Senate hearing, all matters remain open. With each of those hearings there were 30 to 40, I would estimate judicial branch stakeholders who spoke when the time for public comment arose. There was a new norm is interesting uniformity in the comments that came in from court reporters, processing staff, courtroom clerks, and stakeholders in the system. Each in his or her own way, repeatedly I heard in the hearings referencing to and request to the Chief budget blueprint. We were able to hear that we answered the opposed question would you need to have a fully functioning branch? With the progress that we had this year the Chief budget was able to be constructed. When asked about the barriers to access budget reductions they have caused, we are able to point to this year's court by court snapshots that were helpful to us last year. Was actually occurring on the ground, in the courts, we were also asked to provide an illustration of what kind of restoration of access could be accomplished by various increments of funding.

>> To produce a document that we provided to both subcommittees, we surveyed the trial courts and asked them to forecast what they would look like in fiscal year 2014 and 2015, for the trial court augmentation to become the budget as compared to the \$356 million which was drawn from the overall \$612 million, in the budget blueprint less items associated with judicial salaries and the dependencies alike. You will see the compilation of governmental affairs that present a stark contrast. Must've been something I said.

>> [Laughter]

>> At any rate, I will direct your attention to the document of the budget blueprint that has been advanced by the Chief. We have strong support in both venues. Senator Hancock, especially with reinforcement into our branch, I used to all -- I would also like to thank the branch when surveys are sent out for snapshots, and response to surveys that give rise to a compilation like this. It is enormously time consuming and very difficult to pull away from regular duties. We are grateful for the fine assistance that we have received in that regard. We have no follow-up hearings that follow up before the May revise, those have been pushed off. At this juncture, all eyes are on revenue projections, and our dialogue of course as the Chief indicated continues in the meantime, with the executive branch and the legislature the budget-related materials are contained in the report. The joint legislative audit committee commissioned, in them illustrative office, the Chief designated Judge O'Malley on the accountability for efficiency of our branch to represent the council with the auditor's office which has been staked with the task to conduct the audit, both with the California State auditor here at the AOC have tendered our full cooperation, in that auditing process if final report is expected late fall.

>> A couple of technology highlights worth mentioning, and bringing to special attention, since the last council meeting initiated 17 projects, and 17 superior courts I should say, and where necessary to support telecommunication services in the branch, this is a phase project. They would complete all 58 trial courts by July of 2015. Separately our Trial Court Administrative Office (TCAS), where all financial services for trial courts are handled in accounts receivable, in the issuance of checks and billions of dollars are operated by that program successfully with TCAS and oversight. There is also a module that you are aware of. It is currently deployed in

eight courts and supplies the courts for old [Indiscernible], most recently the court in Yuba County, there [Indiscernible] HR will be run in May, Superior Court and the Tehama County support -- court with the adoption of Phoenix HR in each instance, in their respective counties are providing plans that they may not provide that service for court [Indiscernible], our staff has facilitated more than 18 advisory groups on the education side, since the last council meeting 20 live educational meetings were also conducted. The balance and summary of those activities are contained in the reports. On the business process reengineering front, as you may recall the administrative office worked with the joint working group, Judges Advisory Committee, and in developing an excellent workshop to reengineering their business processes to achieve better efficiencies in the last year seven workshops in business process reengineering have been conducted for court employees with a great team of Kim Turner and Teresa -- executive officers respectively and the work of AOC project office Maureen Dumas and also finding ways in the efficiency and reduced sources, I would like to recognize one of our employees today that was honored at last month's self-help and family [Indiscernible] -- -- she was awarded a joint award in assisting courts in South litigants, Deborah is here. She deserves a round of applause.

>> [Applause]

>> Congratulations, Deborah.

>> Finally today is the last day of the three-day international summit on community justice, this is being held at the headquarters, I have welcome the participants they help from around our country and around the world and are influenced about the justice program and the benefits they provide to the society. The summit jointly [Indiscernible] by the council, United States of Department of Bureau justice assistance, brought together judges, attorneys, court administrators, law Forstmann, clinical staff, and nonprofit organizations importantly, to discuss exchange relation on best part is in procedural justice, risk needs assessments and alternative assessments and restitution. We are honored and pleased that it was cited at our office. Should mention that one of the speakers were Michael Botticelli, acting director at the national drug policy, Diane who was also here present arranged a meeting -- as well of course Diane, we had a constructive session we will follow up with his office, finally a newflash, this does not appear in your report, we just learned this morning that the bonds to build the Stockton courthouse, have gone to successful sale. 49.6%. I would like to welcome folks in their work in arranging that significant project. That concludes my report.

>> Thank you Judge Jahr. Thank you, judge.

>> I would like to add an enhancement to expand the opportunity for public comment at the convenience of the public and counsel, they reflect the public's belief in enriching all of our discussions and understanding of the diversity of opinion that may come before the committee, I think Justice Miller, and I also like to turn this over to share details about the enhancement.

>> Thank you, Chief.

>> We are making this more flexible and accommodating the process provides council members the opportunity to hear public comment before we decide to take any action on agenda items before we hear from panelists and question them, it helps us better understand issues, there are two ways to present public comment, first you can send in written notice or sign up at the

beginning of the meeting or appear at the meeting, and then we will call for public comment on the agenda items. Again there will be two opportunities to make public comment, general comments on judicial administration will be heard at the beginning of the council meeting, comment on specific items that will be heard when we get to that particular point of the agenda. For today. Before we start, if it's okay, is there anyone here today that would like to make a general comment on justice? For the record I do not see anyone requesting that. Is there anyone who would like to make public comment on item number one, which is the discussion of the Judicial Council discussion open body meetings rule? Again I do not see anyone requesting comment.

>> I do know that a very capable Jespersen, I know that you did forward all of our changes on our public comment, and the notice of the open meeting rule, and other interested parties prior to today's meeting. Thank you. We will take up item number one, which is an action item. I would like to invite Justice Miller.

>> Hull, and Miller, and Tran12.

>> Thank you Chief and Judicial Council members. To come up with an open meetings role for judicial branch, just before we begin Chief I want to let you know how we appreciate this contrary to rumor we do not bear any ill will for signing this task [Laughter]. I hope you believe that.

>> Before you go further, I want to say I'm grateful for the extensive time all of you put in. I know it was not always easy. It was not always harmonious, or unanimous, because we had such transparency and access, I heard it all. I thank you for working through a difficult issue.

>> The rumor was we didn't get along. We did get along with everybody but Mary Ann.

>> We believe that this opens -- and sets a high bar for the first time it will require an established open meetings for more than 20 advisory bodies and many more subcommittees. I have no doubt, no doubt that this will be a challenging and learning process. But it is a big move and a big move in the right direction.

>> When you became Chief Justice a little more than three years ago, you immediately opened up the branch and made it transparent including opening up the council meetings that were once closed. And if I could I would like to --

>> If I could I would like to start with the PowerPoint. I want to give you background. I know some of you have heard this, those who are listening in, maybe you can hear it from sections, I do want to thank sincerely.

>> I want to thank sincerely—we've had many telephone calls—Justice Hull, Judge Herman, and also Judge O'Malley. I want to name them personally at the end, in June 30, 2013.

>> Opening to the public all meetings of all committees and all other advisory bodies that report to the council, about three months to draft and adopt the rule.

>> They should have the opportunity to develop their own rules to expanding public access to well recognizing the unique role and the judicial branch needs the analyst office supplemented report language it was adopted by the Legislature and intent and request for follow-up recording, it does not go to the Governor for review and is not subject to veto. To counsel --

>> To report by January 1 24 two nonimplementation on open meeting rule, it also recorded the following rule is shall apply to any committee subcommittee, advisory group working group, task force, order any similar body that reports to the Judicial Council and the quote. After the Governor's veto, they asked the chair to conduct a comprehensive review to conduct how the council may expand, and they have been working since August of 2013 to that project, and the open meeting that apply to other governmental meetings, the open meetings law, the open meeting act, and the executive branch which applies to the legislative bodies of local agencies. We also consider the rules that apply to the Judicial Council meetings and, we consider the council --

>> We consider other judicial officers that volunteer their time that serve on the advisory bodies. We are also guided in developing the rule by the following actors, the public interest, important public interest, and having access to meetings advisory bodies to better understand the work that they do and to provide work that they do, and important input. Before advisory to the council, the public interest in having an effective rule process was fair innovative, and workable, fully conceived proposals, to further equal access independent justice statewide, we consider the unique limits and imposes of officers that volunteer that serve on the advisory bodies. Lastly, the realities of limited staffing resources following several resources of judicial branch funding, which we have dealt with over the many years. We recommend the role today, we saw him put from many sources and did unique things in that regards, we spoke with lead staff, we met with various court leaders, we developed a preliminary draft and rule, and held two briefings or representatives and for media we also held it press conference to answer questions, providing a special opportunity for the public to provide input that was from November 14, through November, through November 20. After considering those comments we made changes to the draft rule, and posted it on the [Indiscernible] providing public comment. This ran through February 20—seven additional weeks. We received many responses but --. We received limited comments from 17 sources, some of them shared comments blankly proposed.

>> They ran the gamut to they went too far, to not far enough, across the spectrum and we received comments from [Indiscernible]. We also received the committee and also chair, senior committees, budget committees, from them news media, readers saved comments from the labor SEIU California State Council and the to seven of the state, county, and municipal employees. Advocates of open government, Californians aware first amendment coalition, and from a nonprofit law firm, and the members of the public, we received comments from the branch, and Superior Court of Los Angeles, San Mateo, received comments from three committees, civil and claims, probate, and mental health advisory. All of the comments were excellent. All of the comments reflected Karen thought. We carefully, carefully considered all of them. We made adjustments to all the rules based on all of them. Now we present the final product that we recommend the council adopt. You have read the report and the attached rule with the chart we will cover key parts of the rule noting some of the adjustments based on the comments received, let's look at the rule.

>> It was written both to confirm the purpose of the rule, and second to educate, we wanted to let the public know on the onset that the is just -- that this will -- Rule which gives public access to the work and the advisory bodies, with that in mind subdivision a says the intent of the rule is to extent on procedures providing public access to the council and its advisory bodies and it expands public access to advisory body meetings. "Then it provides a definition of advisory body, the rule states advisory body states anybody committed by the council to review issues and report to council." Because in used in other, this does not include the bodies of the Judicial Council for purposes of this rule 10.75. This does include the internal committees advisory committees and most of the subcommittees. It includes this is under cover bodies, sub D. It advises members of the body outstanding committees that are charged else addressing such subject matter. Subdivision C1, it describes and or ask that meetings will review issues and that they will report to the Judicial Council that are open to the public and accept otherwise provided." This specifically includes budget meetings, under the meeting budget meeting is a meeting or the portion it of the meeting to discuss the proposed recommendation of the advisory body that the approved allocation again the key approve and allocation. In subdivision C1 and advisory body are open, some advisory body do not review issues to the Judicial Council, some meetings provide educational meetings for members. And throughout the state that can exchange best practices, these exchanges foster statewide connections among colleagues, providing more resources among court leaders in providing their job and providing effective leadership within the branch.

>> The rule strikes a balance, for one to present to a council, in that context, while two to meet and share training and resources. We will talk about exam bodies subdivision C2. This is litigation management committee, advisory committee on civil jury instruction, these committees exclusively talk about topics that are difficult and members to discuss in ethical standards the meetings in these committees are not subject to other committees for example about posting notices or agenda or creating minutes. In addition six committees that are charged in developing California Rules of Court, there expected generally closed, budget meetings are exception, if they hold a budget meeting to discuss recommending Judicial Council approve -- they must be open to the public. The six will committees have many members who are judicial officers and bound by the California Code of Judicial -- these comments discuss topics uniquely important and [Indiscernible] -- just to review the six rule committee advisory committee, civil and small claims, traffic advisory committee, should know unlike the three exempt committees -- the six rule committees are subject to this rule and they will hold closed meetings. By posting meeting notices and agendas, and preparing minutes. Some express certainly be on this point we have we were just we worked the language to make sure it is clear.

>> To provide some information to these committees while allowing them to have a discussion without worrying that judicial officers who participate may be violating the ethics rules, unique to judicial branch and judges. We made other changes following the comment period, we removed the rules and project committee and internal committee from the list and sub division C3, and those who hold closed meetings. They usually occur at a policy level. They have limited time to discuss cases and ethical challenges if discussed in public, also though they have the discretion to open a nonparticular budget meeting or a portion of the meeting. In other words, to have him in open setting. Although we have just discussed committees that will continue to have closed meetings it is important to note what this rule opens. Open public meetings for more than 20 advisory bodies and many more subcommittees, some committees that have held public

meetings, and many others that have not. The Trial Court Budget Advisory Committee, the judicial advisory committee, that have had successful meetings.

>> Like other open meeting laws, the rule also will allow advisory bodies to discuss certain topics the list of closed topics are committed -- are in subject D, and other open meeting laws for example topics that implicate privacy concerns, pending litigation, discussions of negotiation, discussions of nonfinal audit reports, and trade secrets or privileged confidential information. The rule also allows topics that they may not discuss them publicly without risking a violation of the California Code of Ethics, refusal, or disqualification, including rules, forms, standards, or jury instructions. It is interesting a number of commentators were concerned about this provision, they advised other subsections in D and they may refrain from comment for ethical issues, and the risk of ethics violation should not suffice to justify closing a meeting. We saw it differently, judges who are appointed to those bodies because of special knowledge and experience in those areas that the bodies will address. They are key members of those committees the public interest is best served—I stress best served—by having full and active participation, if we do not have the provision many offices are very busy with their day jobs deciding cases, and they will not decide to part the public will ultimately receive -- lose a resource.

>> They can be taken out of context, misheard, or spark challenges creating workload issues because we met they will also provide direction. Notice must be posted on the webpage five business days before an open meeting, if urgent circumstances require prompt action and open meeting may be conducted on 24 hours advance public notice. Note that the notice and the agenda requirements apply to all meetings subject to the rule whether they are open or closed. This includes closed meetings of the rule committee I mentioned in subdivision C3, we clarify this point as we understand there were some confusion.

>> Open advisory -- there were some confusion, and in open advisory meetings, if they gather in person at a single location for a meeting, the chair may include such attendee attendance.

>> Other open meeting laws require that the public permit to attend all open meetings in person, if a member joint meetings by telephone they do so were the public may also gather and listen in to give comment. As we have explained in the report unfortunately we are not able to offer this option advisory body meetings typically occur by telephone, before or after a daily court calendar when judges, attorneys, and others who work in court can make time to join, joining from individual locations most likely from an office or chambers, or across the State of California, we do not have the budget to pay the travel cost. For members to gather in person for each meeting. We do not have enough meeting space to handle public attendance and common sessions the rule will provide by telephone, the same method that the members of the committee use to join most meetings. Subdivision can ensure for public comment for open advisory meaning it establish written comments will be welcome for all meetings. For a special meeting public comments will be received one business day beforehand, if the public is attended by telephone rather than in person comments must be submitted in writing. This is necessary because advisory bodies do not have the staff or the bodies to handle the multiple phone lines. Also they must cover agenda minutes if they cannot be spoke -- the public must be permitted to speak on agenda items. They would need to sign up before it begins, there is only one staff person advisory meeting, that person is working and not able to treat late arrivals to check to see if they want to speak. The rule also allows to take action by e-mail between e-mails in unusual

circumstances, if they are discussed in a previous meeting or if any permission was needed or if a top chair action is needed, if it concerns open session topic the advisory body generally must provide public notice and allow one complete business day before acting upon it.

>> Of the e-mail proposal concerns open session topic advisory members cannot talk with each other until the body has acted upon the also, communications with each other about the proposal must be by e-mail. The limit on talking with each other about the proposal applies from one, the time is distributed to all members; two, that the body ask on the proposal, rather than talking they must vote by e-mail, and this creates a public record and a level of transparency. Written minutes must be prepared to describe the action taken on an e-mail proposal for open session topic. The minutes must attach any open comments received. Once received, they must be approved and posted on the California website. As a number of response to comments, and mechanism we added subdivision P. It would require to review the rules impact within one year of adoption, and periodically afterward. It will give that counsel the opportunity to consider whether changes are needed. In conducting this review as listed in this subdivision, the Judicial Council among other factors the public interest and access to the advisory body meetings the judiciary body to apply with standards, and the public interest to the ability of advisory body to assist the council by offering alternative or at improving the administration of justice. In the meantime, our work is not over. We are working with staff to develop guidelines and proper guidelines for the application of the rule to help immediate chairs and staff to provide uniformity predictability and access to the public. Although we consider this rule to be the best we can produce in light of the all keen interest we recognize in some ways it is a work in progress. The rule represents a change for the judicial branch. We will have to change our business practice to accommodate the rule we the Judicial Council and staff will likely be challenged by the demand of the of the New Rule. It will be a challenge but I sincerely think it is the right and appropriate thing to do, we have been guided to this point by the leadership of the Chief Justice again with regards to transparency, and issues of openness I commend you for the direction that you have given us, and the sample that you have set for us and all for all Californians. Lastly, I would be remiss if I would not thank Debbie Brown and their LSO staff Brenda Morrison, and also [Indiscernible] -- Pam Reynolds. They were wonderful [Applause]. I cannot tell you how many times I've received e-mails over the weekend and at 10:00 at night from them; they have done a great job. Are there any comments that you would like to make?

>> Thank you, Justice Miller, Chief.

>> I wanted to make a comment or two before I turn it over to the council for discussions. As Justice Miller mentioned, we started this at the urging of the Legislature and the Governor's office last summer. I was originally of a mind that we should limit our role of matters limiting to finances and budget. Seems to me that the impetus behind the movement towards this rule was largely based upon knowing how the branch spends its money. That is public knowledge, but how they decide how to spend its money. I suspect in some circumstances some hope that there could be voices added to those decisions. From outside the advisory committee and council, at the time I did not think that we should have a rule called for open meetings advisory committees that did not involve budget discussions, even so I was persuaded. As we talked, I was persuaded a broader rule would benefit the branch as Justice Miller said before you, you have the end result of our labor.

>> It is my understanding perhaps six of the 56 states.

>> The others do not. Judicial branch meetings as I understand are closed, I firmly believe as I believe all of us do, the California citizens have a right to know how it operates, how the legislative branch operates and the judicial branch and how it operates. To the establishment of rules, significantly it would interfere with the branch's ability to carry out its constitutional duties. When in a little while we are called to vote on the proposal, I will vote in favor of it. I still have some reservations. I just wanted to mention two: one reservation I do not have excuse me. Is one that suggests that the council of many advisory committees have anything to hide. I have been on the council now for three years. We have nothing whatsoever to hide. There are two I thought I would mention this morning as Justice Miller already mentioned. One has to do with judicial ethics. We are all familiar with Canon 3D9, which a judge should not make a comment on any impending matter, all of us served on advisory committees and who have come to know the work of advisory committees know much of what is done, and discussed in those meetings they could be construed on a pending, matter opening these two -- to opening this have violated Canon 3. We also need to be alert which reads all assigned to a judge. In other words, any judicial officer is ethically obligated to decide the cases assigned to him, or here and less of there is a disqualification, if certain discussions during advisory committee meeting public or otherwise, would suggest that taking a vision on a certain legal issue may lead in turn to a demand that that judicial officer would recuse himself from certain proceedings, a self-proposed disqualification I suppose.

>> Contrary to what is just suggested, literally hundreds of judicial officers that volunteer their time in the work of advisory committees are absolutely critical in providing justice for Californians. If due to a concern that participation calls upon a judicial officer to violate the canon of ethics, that would be seriously diminished and the work of the branch will be severely compromised the role that has that effect has gone too far. Then we have subdivision D10, which bears repeating, it will allow closed meeting, that judicial officers may not discuss while violating the California Code of Judicial Ethics, and motions against them. I am confident that the advisory committee chairs will be vigilant to this problem and authorize their advisory appropriately.

>> Also I may want to talk about the advisory bodies; this is no small matter either. I was doing research on the law, and I came once again to the Supreme Court decision against Nixon decided in 1974, 10 2nd 1039. As you recall, this rose out of the subpoena to the President in having a discussion with his advisers, which came out in the Watergate scandal. The Chief Justice writing for the unanimous court page 10 of 62 of that observation, in support of this claim of absolute privilege the council urges to grounds which is particular to our system of separation of powers, the first ground is the valid need for protection of communications, between high government officials and those who advise in the assistant of the manifold duties, the importance of this confidentiality, is to require further discussion, this teaches that this public dissemination of the remarks may candor with the concern of it, with the decisionmaking process whatever the nature of the privilege of confidentiality of communications in the exercise of article 2, it can be said to drive to the supremacy within each branch of its own assigned area, certain powers and privileges from the nature of the powers of confidentiality of communications similar to the Constitution under pending. Institutionally at this point they set forth a footnote, he pointed out there was nothing noble about government confidentiality, further noting that the meetings of 1987 were privately held, all records were sealed for over 30 years after the convention and most of the Constitution acknowledged without secrecy no Constitution of the kind developed, could have been written. I'm not suggesting that we are anywhere near that point. I put out those

comments by the Chief Justice as to these matters. As validating a concern, that while we have open meetings we also have the necessary latitude in our discussions to make a decision that we need to make. I think in short that the people's right to know has to be balanced against the confidentiality necessary to be effective in judicial decisionmaking of the judicial branch. If for this branch it sacrifices the latter in favor of the former, the rule has gone too far. In that regard, I will note once again with what Justice Miller noted, in subdivision P, we will review the rule in its actual working. If in practice the rule has gone too far we will amend its provision just as the judicial branch can continue effectively to call out its duties.

>> Thank you for your time.

>> Thank you.

>> We are open to questions.

>> Motion?

>> Comment?

>> Thank you, Chief. This is quite an endeavor. I am really intrigued by the fact that there are so few judicial branches; that have an open meeting rule at all. My first question is: at little speculation on your part, why do you think that is? Why is it that once we adopt a rule, will it be a minority in terms of open discussion?

>> I cannot speak to all 44 of other states. It is my understanding there are a number of states who have judicial branches who take the stance that what they do in their meetings is not involved in the decisionmaking process. It sounds harsh.

>> I also think they have been the leader and the model in the judicial branch. I'm not sure how many others have a significant working body as the council here, and called upon the making and the working groups we have so I am not sure that they have gotten to that point where they have thought about in that regards.

>> I'm not sure if it is totally responsive, based on my sessions and experience, in the conference Chief Justices, created uniquely with their judicial branch. The Chief Justice, Governor, here she makes the rules and in some the chief, division in the Supreme Court. I will tell you when I go to West Virginia in July. To spend the Congress with the board members, I will be presenting on collaborative report if you think about presenting amongst the country in California is a rule leader in that also, in other states they have confided to me that they have watched what California does, they watch California and New York.

>> Yes, I would like to thank the internal committee chairs for doing a difficult job, balancing and others. With your concerns and hours, that too much openness will have a chilling effect on the fine work that has been done for years, that has given us the reputation in being leaders in the country. I am all for openness. The advisory committee charged with working on the budget, or headed by -- who has been open the main change that this proposed rule brings is opening up all those other advisory committees. I think comment an opposition to this role, it claims it is not open enough, from a continuing misunderstanding of our advisory committees. These are not

committees or voting members of the council. They consist of staff, and essentially user groups. One Judicial Council member, judges, and attorneys and others -- to work up issues to present essentially as staff memos or reports to the voting body that is the Judicial Council where there will be an open discussion of the issues. To require opening up such staff functions, even if there are judges there are no Judicial Council voting members, this goes well beyond the Brown Act. I believe it is inappropriate and unnecessary. I support this rule not because it is necessary for the appropriate democratic transparency. I don't think it is; we already have that. I support it because if we do not pass this rule those in Sacramento, those who continue to misunderstand how our branch functions, based on that and the misunderstanding, it would be appropriate. I thank the five committee chairs, well done, I support this measure.

>> I just have a comment and then a final question. I just want to express my feelings, and all the staff that work so hard on the proposal. I have some concerns. We all believe in transparency, certainly this is possible. I am concerned that we have gone too far as the first step. I know I wasn't present at the meeting, I certainly appreciate that. However, I have been involved in drafting legislation for many years, at this in the attorney's office I just wonder if we could start smaller. We are negotiating against ourselves with this proposal. My thought was the legislature was concerned and not worried about how the jury instructions -- I'd like to make them listen to that kind thing [Laughter] when do we ever see something this comprehensive to become less inclusive, fiercely. Harry, you just said you consider this beginning with the budget. I think we can do budget and technology. Those things would be the most concern to them. I worry rather than being all-inclusive, all budget, we have done what we have set forth these numerous objectives, we have all these exemptions. Those are my general comments about it. My question is how would this be raised, at the time? Somebody will say that is an issue that deals with perhaps pending legislation, or pending case whatever. And then we are going to close? How is that going to work?

>> I think it will arrive in many different locations, and the agenda that has to be posted five days before, that will all be taken into consideration, then agenda will indicate which part is closed, it may require consultation to determine those, and yes there may be occasions where something may arise out of a particular meeting, and that conversation held with LSO and whether the exemptions apply. We received comments and that regard, we certainly discussed and ultimately after we got done with all discussions, we looked at a small rule, or a broad rule, we thought we should write the best one that deals with all circumstances and do it in a way that covers all different aspects.

>> Judge Rubin.

>> Thank you, Chief. I don't mean to cut off discussion orienting. People worked very hard. I would like to move adoption of the rule.

>> Official discussion. I will second the motion.

>> Judge Brandlin, you have the floor.

>> I want to commend the committee members on a job well done. This is a lot of work, I share Justice Hull's concerns, and certain requirements. I have a question maybe the committee members may want to address that issue? Although it does not happen often, what happens if

you are in a presumption we open meeting, because additional information is needed there is an agenda that is posted and then exchanged by e-mails between the advisory group task force or committee. Pages 57 and 58, in the report it describes the notice and the e-mail issues and the communication cycle. The official record. In the last sentence of that paragraph, a read quote, the e-mails exchanged a proposal that otherwise considered in a closed meeting, will constitute the official meeting of the proposal. My question is e-mail exchanges between the committee members, in that follow-up meeting, I assume it is the meeting itself, if it is open, and addresses the agenda meeting, a part of the minutes record, am I correct?

>> I do not want to answer for anyone else, the section you are reading from, in the rule, it is 04, and it had a different topic. It was great confusion on this. I supported committees -- where you need to get something to the council, and you need more information. We have done those by e-mail. We have also had times where there needs to be some kind of prompt action taken, we only have one more day taken before the E&P has to post agenda and you need to get further information something like that, 04, doesn't apply to any other provision it stands under, when you are able to do that by e-mail.

>> I am having difficulty with terminology in otherwise considered closed meeting, if e-mail changes are a part of the discussion with the e-mail exchanges be presumptively part of their record, and open for inspection -- I assume so although the language is confusing.

>> Open for inspection? I assume so although the language is confusing.

>> In the minutes they summarize with the actual e-mail exchanges be included or just a summary?

>> Hi this is --

>> Can you come up to the podium?

>> [Captioners Transitioning]

>> And in my experience the e-mail reply is I agree, I approve, or yes, motion carries, the difficulty that we have was there are those who commented, who were afraid, and believing in the good faith in this matter, they were afraid that we can have this swallow the rule and have discussions adjourning this topic and then over the next two days or two or three weeks, they were closed out of their ability and their decisionmaking process, this will take Justice Miller mentioned, for all of us we will see changes, even small things and then maybe I have missed spelling or a word not properly done. You know to think it will be proposed under rule, it gets your attention I think for Judge Brown's question. This is the best compromise to come up with.

>> We spent so much time it doesn't happen often, a you cannot talk to each other your e-mails will be posted and then at this one point we think maybe we'll just ban these types of meetings, in one sense we, even though it is not on a regular basis the part of how we do this business. We try to make the compromise. Thank you for clarification.

>> Thank you Judge Brown, let me say a few things before I call for a few discussions, I will forget it if there's a statement now. That is, Jody Patel is integral to all of our initiatives and

projects, I know she has been in all the meetings with you I wanted to point out all the feedback and the connections that she makes for all the legal experts, Jody is so often with this in all of these kind of conversations we forget she is there in this discussion all of this discussion all of you have had regular contact on a regular basis. First let me say. About the need for the branch, to create a rule I certainly understand the Legislature demand despite the relationships we have to pick up the phone and call information, it does not bend over backward. All of us know I am grateful to the Governor for understanding, think this is my speculation as a lawyer I think it was a plea for letting us do it ourselves, the criteria and the different challenges we face in the profession with our canons, and this Code of Civil Procedure, and the rule, and ethics etc. There were discussions about the scope and how far out we should cover, always in the back of my mind, whether right or wrong, I felt if we didn't do this in the way that the branch does in the due diligence, hands-on, good faith effort, we would be able to find us in a year from now, we would be held back. I know three years ago in this council we talked about open meetings. The trouble is in the last three and a half years. This was not something that we didn't get around to it and it was thought with the discussion, we just never got there because of other intervening proceedings and causes of fate it brought us here to create this rule. On the lighter side, I don't know who all outside this branch really understands except lawyers and judges how nitpicking we go after rules, to do it by committee. In my experience 20 years as a judge and justice, it is almost impossible—all of us know how hard it is—to come up with competing interests and ideas. I'm grateful for the opportunity to craft our own. For all of the comments made here today, I agree with every single one of them. Everyone is right today. About what has been said about the bill, the rule, the fears about working around, and I know Judge Brandlin exactly what you're talking about e-mail communication, ask Debbie Brown about my concerns and issues with that and how broad it was. All of us as judges and lawyers bring to the rulemaking process the same way that we have understood the rules [Indiscernible], I am grateful for the way that these five chairs have gone about two public comments, in a way that truly understand how difficult and how the branch is. We are a statewide branch, we are the largest in the country, and we try rulemaking amongst ourselves, and we are hands-on with oversight. This rule with all of it detailed, truly affects us as we operate in our own business, and our free time. It is not going to be perfect under anyone's view, but it is a step in the right direction for not only public access or public understanding of the branch, that will in the long run help aside. I do not have any predictions in how this will go. I will review it and make ranges as necessary in data. So in that regard, I want to say in my view this rule reflects what's best about the branch. It was thoughtful, it was contentious, it was thought to cover all possible -- of how we meet, no one is happy with this language, it is groundbreaking. We could not have done it without the staff who helped us along within the eight months. It is conceptually something to be proud of. I do not mean to influence the vote. This is the history of where we are, and where we could be, and where we might be in the future.

>> [Captioners Transitioning]

>> And now, it is called for an end of discussion to take the vote. If it is not a motion, then the chair can decide.

>> I am going to construe it as a call for a vote.

>> Okay.

>> Thank you.

>> First I am going to try a voice vote, so all in favor of the rule as indicated out of your material, please say aye.

>> Aye.

>> All opposed?

>> Thank you, the rule passes. [Pause]

>> We are going to continue with the agenda. We are not going to take our break at this time. We are going to call item 2, do we have anyone here who would like to make public comment of item 2? Of modernization fund, any public comment? No one requested public comment, thank you.

>> Welcome Judge Earl and Mr. Theodorovic. This is an action item.

>> On a lighter note.

>> [Laughter] [pause]

>> Good afternoon. We are here with several items on the agenda today. The first one has to do allocations with the trial court improvement and modernization fund. Um, there is a subcommittee of the Trial Court Working Group calls the ex CHUR subcommittee. They meet annually or more often as needed. Lately it seems as more often as needed. We meet and we do line item reviews of both the improvement and modernization fund and the Trial Court Trust Fund. As you can see, the improvement and modernization fund supports many programs in projects that are near and dear to the trial courts. And, we met last fall for two days, I think it was in November, two days in San Francisco. We heard from all of those who oversee these programs. They came in and saw the materials they put together for us and answered our questions and gave us a summary of what the programs were. We knew that we had to make some difficult choices. We wanted to know if we were going to make some decisions to reduce or eliminate budgets of what we would be giving up in order to do that. At the end of that meeting, we made some recommendations but we decided to wait to see what the Governor's proposal was before we go further. We have seen that and unfortunately, we have brought this to you late. We'll go through the decisions that we have made and I will follow up at the end.

>> Thank you.

>> Yes, what I have brought to you that's authorized by the councils to make allocations out of the state to make improvements and fund. This is gone through multiple process use within the budget advisory committee. What we are doing is actually, I think -- this is sooner than we have brought to you. We are trying to do the advance O the budget and so there is plenty of time for programs to do the work as we go in the budget year. So this allocation assuming that the budget remains intact and those resources that are being allocated here will be in the budget to the extent that there is any changes. We'll have marginal adjustments coming to you rather than waiting for the entirety of the KAL allocations to be made. Mostly in August, there was physical follow-up

allocation in January of this year for some IT issues. We are trying to get ahead of the game so folks have an opportunity to plan. What's important is -- that the work regarding the IMF is going to be difficult as we go forward. The budget for the revenue situation for the IMF is an issue that we have been dealing with for some time now. The budget advisory committee and the subcommittee in October and November, we at that time made recommendations that would generated a deficit? We are waiting to see what the Governor's budget will hold for us. We are going to bring these recommendations simply we see what they're looking for. We are still evaluating what options we have to deal with the shortfall. We did bring some issues and options to the Budget Advisory committee to address the 2014/2015 shortfall and even with what we are presenting to you now, we do have a \$6 million shortfall in the 2015/2016 fiscal year. What we are looking for is get the allocations in place for the 2014/2015 fiscal year but start our work for the 2015/2016 fiscal year in August and September so that in order to reach that gap, we'll have to come back to council with serious adjustments. Alternatives that need to be addressed potentially say budget change proposals if we feel we should secure additional resources rather than cutting into the very important programs. Several times this year and three times in January, and March, and April to deal with allocations from the IMF, I would say that the discussions have been good and robust and many issues have been discussed. We have come to unanimous decisions and recommendations to the councils in this regard. As I said that we have a \$13 million shortfall. Our first recommendation is regarding a map that's currently transferred from the modernization fund to the Trial Court Trust Fund as part of budget solutions over the last several years and the amount has been moved from the IMF to the TCTF to assist in dealing with budget reduction to the trial courts. The discussion was that we should reserve and retain that \$20 million in the IMF in order to assist and maintain its solvency. In addition to that, there was some cost related to our version three of our system that are paid for several courts. Those are along with the \$20 million for which of the IMF. We are allowing technology cost and right now we are spreading between the two funds. Moving technology-related cost. That's sort of bringing them all in one area so we can evaluate the entirety of our technology expenditures there. We thought that the subcommittee discussing it, why we would further -- but given the program that we have in the IMF, they strongly supported this movement of the \$20 million, even if they are potentially impacted of the allocations on the margins of 2014 and 2015. We have a structure deficit, meaning there are revenues below the revenue of \$20 million. We have before us coming up in August and September that we need to deal with. That's the first recommendation. That was unanimously unrecommended by both the revenue expenditure committee and the advisory committee.

>> May I ask a question?

>> No, go ahead.

>> Recommendation number 1, this is Rosenberg. Why not just keep it at \$13 million or \$14 million? Why are we retaining \$20 million? If we want to correct the problem in 2014/2015, then allow the remaining \$6 or \$7 million to go to the trust fund.

>> This is based on revenue projections and we have seen a little bit of decline in revenues having some fund balance and allowing to address the fluctuation in the revenues that's coming in the IMF. So to bring it up to zero, we'll be back here looking to do linear deductions to the program. So I thought this was a reasonable approach to deal with that. The projections and I think was the clear issue to do. We are dealing the \$20 million implication in item number 5

when we talk about the additional for the trial court and the revenues there. That gets addressed on that end of the issue.

>> [Pause]

>> Okay, I can move onto recommendation number 2.

>> Yes, thank you.

>> Now, we are talking about the action allocation of those revenues out to the programs. And the proposed \$78 million from the IMF. The report showing high levels by area that's composed of being allocated. The line share of the expenditures are in that area. We have \$13.9 million for the Phoenix program and \$4 million for litigation programs, very important programs that are funded out of the IMF. There is detailed line item of all the programs that are funded out of the IMF in attachment A. There might be some small adjustments and we'll bring those to you again in June. We hope to have another revenue expenditure subcommittee meeting and a budget committee meeting in late May to bring you some more issues that we can address at the end of the June meeting; sort of the highlight that we have. We have some movement between funds and part of this clean up and as I mentioned to you of the three sustained cause moving in th. We want to highlight that part of the program that was discussed quite a bit and finding small savings there. Again, our changes and 34 other projects and programs from the prior allocations that have resulted in that decrease of \$1.9 million. The materials are 500 pages presented in developed by all the programs that's part of the -- [Indiscernible Audio]

>> We are looking at multiprojections and the fund condition as we go forward. The fund is an important one for us to really get back on the structural footing but we think that for 2014/2015, we have a one-year solution with much ahead of us.

>> And then one recommendation number 3 relates to the issue where the IMF and the -- have been spending allocating funds to courts for certain case management costs, and we want to ask the councils to ask the JCPC to look at and develop a plan that would result in future expenditures from these funds and shifting to some alternative news potentially also including courts picking those costs up out of their own based budgets like maybe other courts are doing now.

>> Thank you. Thank you, it should be obvious that our recommendations today are premise on the Dwyer of the condition of the IMF. And it is relied on its fund balance in order to mitigate that but the fund balance will be dried up and will not be sufficient to cover it next in fiscal year of 2015/2016. The deficit fund is expected to double in fiscal year 2016/2017. So our committee will have to make difficult decisions to eliminate funding in some of these IMF programs. They're essential for the trial courts. We have been transferring \$20 million since fiscal year 2011/2012 to help offset funding reductions. We could have done that this year but it meant fining reduction us and almost \$14 million of the program and we decided not to do that. The last that we make is to begin planning for the future to courts CCMS sustain justice addition costs. Our committee recognizes that the IMF is intended to fund statewide projects and programs. When we conducted the line item reviews, we focused on the extent of certain programs and specifically, how many of the states benefit from a particular program. We found that with both CCMF and sustained, without the meaning and the value of the system and to benefit the system

have it on the courts that utilize them, the cost associated with them represent substantial expenditures for the IMF. And that's to eliminate the subsidy. We ask that you keep in mind and when opportunity remind of the programs that are funded FRD the IMF of the need to be cautious and how they approach fiscal year beyond 2014/2015.

>> Thank you.

>> First, Judge Herman and Justice Miller.

>> First, I want to comment on the revenue and for the community for its work. I know I am honored and in particular working out with the Information Technology Services Office in terms of allocations of these programs. You got a tough job because all the programs that are supported are technology related and provide service to time courts. I just want to say on behalf of NCTC your work is appreciated. It is ashamed of the structural deficits.

>> Thank you, Judge Herman. Second by Justice Miller.

>> I want to talk about item 3.

>> So if you want to proceed on items one and two.

>> Any further discussion or the motion to move item one and two.

>> Do I hear all in favor adopting recommendations one and two, please say aye.

>> Aye.

>> One and two carried.

>> Was there any reasons why we should not ask that to be referred to JCTC for them to evaluate it and make recommendations to the councils?

>> That's what the recommendation is. For example, we brought to you issues regarding the loss and the adjustments and we would come to the councils and they can determine whether or not it's appropriate to refer that issue to the former working group. The idea that we bring this to you so that it is your request to the JCTC for them to do the work. Rather than us immediately asking them, we feel it is appropriate for them to come to the council.

>> Let me just speak a moment and then refer back to the justice and perhaps shape a motion. As we have thought this was in January. We have been working at the JCTC level on this project. And today we have spent a substantial amount of time as everyone here from the report tomorrow looking at specifically at the sustain decisions that's maintained inside the center. We are kind of ahead of the curve on this. It is a matter for us to evaluate and make a recommendation back to the council.

>> Did you want to be heard, Justice Miller?

>> As worded, the recommendation is basically for JCTC to make it happen. What I am thinking and I am hearing from Judge Herman is they like to discuss it without having the council having ruled this is what you need do and have them work it out and talk to those courts and their committee and figure out all the different avenues and the ways of which it may be done and those courts will collapse—I don't know. I think they should go through the committees first before they're given the saying of make it and then it comes back here and we know where it stands with the JCTC and both knowing all the effects and the impact it would have on those.

>> Were you about to say something?

>> Yeah, I don't need to say it now. I don't disagree with Judge O'Malley.

>> We are trying to follow the appropriate governance here when we think of something that should be referred to another committee and bringing it back to you, whether it is discussing a plan, I think either is appropriate. Judge Herman and I have talked about this back in January when our committee decided this is the direction that we were heading and we knew he had to bring it back to you.

>> I think it is the right direction.

>> So are you comfortable with that then?

>> For consideration.

>> No, I would prefer the language that we talked about.

>> Okay.

>> For the motion you are going to change the language, Justice Miller?

>> Yeah, I am going to move to refer to JCTC and recommendation to Judicial Council recommendation number 3.

>> Thank you. Jim Fox.

>> So with that amended language, move to refer to recommendation number 3 to JCTC or recommendation to councils. Any further discussions? All in favor please say aye.

>> Aye.

>> Any oppositions? Recommendation number 3 amended and passed.

>> Thank you. Good job.

>> I hate it when you make sense.

>> [Laughter]

>> We are going to stand in 15 minutes of recess and come back at 2:47.

>> [Break] [captioner standby]

>> Judge Nelson, are you there?

>> Yes, can you hear me all right?

>> Yes, you have three minutes.

>> Thanks for allowing me to appear by telephone. We appreciate the time given by the request of the committee and the Judicial Council. We thought we would be one of many requests that we are surprised to find that we are the only one in this. And that's a good testament of the acceptance of the wisdom of the committee. We feel that their analysis is incorrect with regards to our requests. We believe that it needs to be adjusted which have branched courts with significant population center and remote geographic locations. Our request by Judge Henderson is in exhibit B in the document of 2013. Our branch court needs to be served by a full-service court because it serves about a third of the population and it is more than an hour from our main court. It really presents an access to justice issue.

>> I think justice -- on behalf of California's commission on access to justice raises some of the issues. The small branch court subject to in efficiency for the funding of the smaller cluster of one course of what you have done of that funding mechanism has been adjusted to address some of the issues of the small courts. There are still areas of the remote branch courts that need to be addressed. The committee thought the larger issues of branch court is above the -- but, we think this specific issue of remote branch court at least an hour from the main court and serves a significant population of 20,000 people or more. That should be addressed. It applies to up to eight courts or so by our calculation. We request your adjustment of that, thank you.

>> Thank you, Judge Nelson.

>> Is there anyone else here to make public comment on item number 3?

>> No one has indicated they like to make public comment. Chief, that concludes the public comment and item 3.

>> Thank you.

>> You may -- at your pleasure. Thank you.

>> On October 15 of last year, Presiding Judge Richard Henderson of the superior court submitted a letter. His letter was consistent with the WAFM adjustment process. The process is to adjust WAFM to request for additional funding. Such that the court is unable to provide reasonably adequate court service to the entire court population. A small working group of the funding subcommittee was formed and met by conference calls and analyzing the request of our invitation. Judge David Nelson also participated. The recommendation of the small working group was to deny the request. The matter was not presented of the full -- and Judge Nelson was invited to join that discussion as well. On March 25, the request was presented to the Trial Court

Budget Advisory Committee. Judge Nelson participated by teleconference and the advisory members voted to deny request as well. The opportunity to identify factors unaccounted for in the model and request ongoing adjustments to their funding needs which is separate and distinct from making ongoing adjustments of funding allocations. The request was on the foundation. The funding need this year based on workload analysis is \$7.2 million. Mendocino, however, due to decreased funding from the state general fund, the funding this year was \$4.5 million. Almost \$2 million less than their workload is needed. We quickly came to the determination that the issue that Mendocino raises did not cause -- or any trial courts of the funding need. They have calculated their need of \$7.2 million and, as they conceive, it is efficient. Had they been funded, they'll be able to afford the 2 or 3 addition. While we sympathize with them and its court users, many of California's trial courts are not adequately funded to support the full panel of services to support the branch court. Many counties closed courthouses, not because their need was insufficient but because their state funding was insufficient. Their problem in our opinion is not at all unique. That does not mean there is a shortcoming within the model. Our committee firmly believes that the underlying issue the Judicial Council should address: where courthouses are located, and how far should litigants and witnesses travel to courthouses, and how far jurors should travel to fulfill their duties. This extends beyond the scope of our budget committee. We encourage these conversations to take place and we are more than willing to participate. Such decisions may simply be goals for better times. We are ready and willing to partner in those decisions or discussions. The bottom line, I think and I will let Locke go weighing in and I know that David and Mary Beth like to join in as well.

>> I don't have anything to offer but if David and Mary Beth have anything participation in the discussion.

>> Thank you, Mary Beth Todd and David.

>> Just to add, we recognize that every county has unique access issues. We do feel that at some point in time, the branch does need to take a look at the issues that Judge Earl pointed out as far as how far should somebody have to go. I don't think in any way or shape or form, we are trying to say the county does not need a facility in Fort Bragg. I am sure—they probably do. It is just when we looked at the model and we look at their need it did not appear if a funding adjustment needed to address having that facility. Right now with the issue of the facility are the budget reductions that we have experienced and the fact that we are not fully refunded at our need. I think it is important to say that in no way is anybody trying to say Mendocino does not need a courthouse in Fort Bragg, not at all. Hopefully, we'll see a better year in 2014 and 2015 and we'll see a better recovery of our funding, and they'll begin to be in reservice.

>> This is David, we applaud Mendocino to maintain service. The branch has been forced to make decisions to reduce services but not for the absence of funded. We probably would address this thing more universally and try to maintain the most optimal services. There are many challenges we are facing due to the funding reductions that we have sustained.

>> Thank you.

>> Yes, Jacob.

>> Yes, I want to say reviewing these materials, both letters from Mendocino counties as well as situations across the state, I have to say my heart goes out to Mendocino. It is a sad situation that this is a reasonable choice. Under the circumstances I do support the recommendation and making a motion to adopt it.

>> I will second it.

>> Any further discussion? I know the material and we have not had the opportunity to review them. Okay, no further discussion, understanding the issue and being concerned with it and fully aware that this may be a policy issue that council needs to address but it is not related to the WAFM Methodology. All in favor of the recommendation, please say aye.

>> Aye.

>> Any oppositions?

>> Thank you. The motion carries to deny at this time, we keep this on council's mind. Thank you.

>> All right, next we'll call item number 4, which is new fiscal year 2014 and 2015 requests for trial courts. Is there anyone here who would like to make public comments with regards to item number 4? No response.

>> Thank you. Once again, Judge Earl and also -- Judge Earl is pointing.

>> I brought Steven Chang, if there are technical questions that I am not able to address.

>> Thank you. Welcome Colin and Constantine. Steven.

>> Thank you, I have the right to request a traditional fund for trial courts. Also, the council has had the authority to allocate the fund to the Budget Act. Those are recommendations of change proposals that are going through the budget advisory committee and as well as allocations from the TCTF. In the August meeting of 2013, council approved a variety of the trial courts and a branch as a whole. February 2013, allocation funds for the -- [Indiscernible Audio].

>> It directed us to pursue benefit funded. The fund has been funding benefit costs. This is part of our blueprint that we presented with the Legislature administration. Up until March 25, the budget advisory committee considered recommendations made. Previously, the revenue expenditure subcommittee has made recommendations of allocations regarding funds. As the name clearly implies, they do look at projections. We regularly update it and the budget advisory committee on the status and the methodologies that we use in addressing those revenues. The Governor's budget as proposed generally did reflect a reduction in our anticipated revenues. That was based on what revenues we see at the end of the 2014/2015 fiscal year. We are hopeful that the economics would show that we might have a turnaround in the Trial Court Trust Fund. We did reflect reductions in revenues based on two months of data in the 2013 fiscal year. As we are going through the winter and into the early spring, we were evaluating the data that was coming in and we saw that the trend was continuing downward and so we felt that it was important that we raise and sort of revise the 2014/2015 forecast. The reason what we were concerned of stuff

that we need to take a more conservative approach, and adjustments in the budget, we thought it is important that we continue this trend and present the issue to you because we basically exhausted our fund out of the TRUPS. Over the past two fiscal years, we have spent \$56 million of trust fund balance to cover costs not addressed by the state with the 1% capped. The big concern is that if we continue our historical forecasting the methodology that if the revenues do not materialize in the 2014/2015 years, we'll be coming back to reduce allocations. We thought that was not the appropriate approach; that we should be forward thinking and attempting to address this. Now, the projection that we are including in the Governor's budget, it is not something that we submit or accepted by the finance. It is a process that we present those projections and continuing and have conversations of our methodologists, and it is not methodologies. And they do evaluate them and concerns regarding the projection method and what is reflected is not also our request but our concurrent of the revenue projections. That's important to understand. It is not a process where they take it at face value. Also, we do work with the -- in term of our projection and how we go forward, and the methods that we use to make these projections. This is sort of a historical trend downward and first paper filings. Every time we wrote this at any of the budget meetings, everybody shook their head. Should we continue of the steep or should we be optimistic where the revenues will be in the next fiscal year? It is difficult to understand what behavior will be, so we do make adjustments downward. We thought we made it further to be conservative going into the 2014/2015 fiscal year. With that, the recommendation that we bring forward to you is recommended unanimously as we pursue a \$7 million at the court level -- [Indiscernible Audio]

>> People in the finance department spotted one area, probably because of the down economy, is a little short on revenues. They're pointing this out. It is not that somebody made a mistake nor is this any way change of the budget advocacies. That brings our overall request for appropriate budget to say \$3.8 billion. It is still \$3.8 billion. Some of that money is going to come from general fund and some from other sources. But, this does not change anything about what we are doing in Sacramento. I think it is the right thing to do to bring it up even though it is a little improper to do so. It gives me more confidence and not less and the numbers of the people in finance and with that I would urge or move to approve this recommendation.

>> Thank you, Judge Walsh. I appreciate you clarifying that. I know this was the topic of some rumors and a call that I received. I appreciate you addressing that head on. Judge O'Malley.

>> I received a letter from the alliance that was telling me that somebody was asleep at the wheel and this was something that should have been foreseen. There have been conversations as far as you know how this has progressed, and so I am just happy to hear that's not true and again disappointed about the misinformation that's out there about the job that you are doing and the committee as well.

>> Thank you, Judge O'Malley.

>> So David?

>> I would second the motion.

>> Second by David.

>> Please say aye?

>> Aye.

>> Recommendation carries. Thank you.

>> Recommendation two is regarding an action that was taken by the council regarding ongoing funding of \$4 million for benefit costs that have not been addressed inside the State Budget in 2012/2013 and 2013/2014. It was noted to allocate that ongoing basis into the extent that there is not sufficient trust fund revenues and general funds. We bring this to you so you can affirm that we are pursuing this part of the blueprint and that would not have this ongoing allocations and hopefully the outcome of the blueprint and reinvestment that these costs would be of the general fund and on an ongoing basis.

>> Any discussions?

>> Yes.

>> Justice Hull.

>> Thank you, Chief.

>> I noticed that in the report there is reference of the council having a separate 2014 and 2015 BCP to finance this amount of money. What's the status of that, can you tell me?

>> It is something that we hope for and is part of our blueprint. We have a \$64.8 million request. It's not funded by the general fund. We got a question about breaking out the benefit cost by type and year. So that gives me hope that it is still in their minds and planning as they are preparing for the revisions. We'll be a part of that in some fashion.

>> Okay, thank you.

>> From my understanding, that sort of the genesis of this arose at a time where the entire state is facing consequences and it is the first time that I understand it but I am asking you where the state's general funds for the first time failed chose not to fund the judicial branch for health and benefit cost increases and so that was now an additional burden for the branch somehow sustained while it was also going through the cost reduction requirements.

>> Right. From there, there were individual and budget change proposals that were submitted and developed and worked through the budget process. And the state appropriation and started in existing of three years and the branch and the sum of money, they used that funding to KOV these types of cost. There is no adjustment but the branch rightfully says that we need to have funding for baselines and operational costs addressed and methodology was developed similar in the way that state agencies adjusted for retirement and benefit costs. That was done for a couple of years. But, as the economy turn and the department of finance situation concerns about benefits of cost-sharing issues between the branch and employees, they seize funding that process. And, I think they sort of, especially saw the fund balance as an opportunity to address those costs. So that was sort of an expectation of them on us that will be using in the trust fund.

They talk about in the future they would look to evaluate an updated methodology. We had a few years with no funding.

>> Thank you.

>> The recommendation number 3, any more discussion or do I hear a motion?

>> Motion.

>> Thank you. Judge Jacobson.

>> No further discussion, all in favor of recommendation number 2, please say I.

>> Any oppose?

>> Recommendation number 2 carries. Thank you. Item number 5 is an action item. Trial court—savings from program 45. 45. Interpreters expenditures, it says Presiding Judge Barry Goode. I assume it is you.

>> Anyone here on item number 5 who would like to make public comment?

>> No one had indicated, Chief.

>> Thank you, we are reporting back to you on an issue that you asked us to look at. The January council meeting of the working group to address interpreters' issue to expand reimbursement for cost related to court interpreters and domestic violence cases and family law cases that includes domestic violent issues. At that time, you also directed that the Trial Court Budget Advisory Committee provide a recommendation on the maximum amount of each trial court would be eligible to receive reimbursement from the accumulated unused savings from that program 45/45 fund. In response, we formed a small working group of judges and CEOs to address the issue and the working group was chaired by Judge Barry Goode and included Judge Steven Austin. During the work group's discussions, the CEO members expressed concerns with providing each trial court with a maximum reimbursement rate as they recognize implementing and expanding interpreters' services. The CEO felt that providing a maximum reimbursement rate with the regions would be consistent with current practice and manageable. When their concerns were brought to our attention, whether his committee would be having a discussion with this issue and report back to us. I will give David an opportunity to address in a moment and provide an alternative that would allocate interpreters' funds rather than court date basis. Following the meeting and armed with their recommendations, our committee convened a public meeting and voted to adopt the CX. That's our first recommendation regarding the methodology for allocating money for the unused savings; that is, each interpreter region would be eligible to receive a percentage of a total that's equal to the average percentage of program 45/45 reimbursements received over the past five years. There are two courts, the Solano and the Ventura courts. Funds for these two courts would be earmarked over the same methodology. In recommendation number 2, we present recommendations regarding collecting and tracking the rate of the unused savings drawing down; and in recommendation number 3, we address the importance of sufficient funding and mandated in violent cases. Lastly, we address the need of seeking expenditure authority.

>> I will add that we have submitted with consistent of the action of their councils of a request of the department of finance to increase the expenditures authority and this program by \$3 million based on the estimated collection and the reimbursement rate.

>> David, did you want to provide for details of the CX discussion?

>> Sure, the CX supports the action of the councils in extending the ability of interpreters and the areas they identify, and the proposal and the reaction of the council were to spend money at the conclusion of the 2014/2015 fiscal year. This year, as we started to go into the subject, we discovered many complex issues that we believed require further development and that was trying to expand the steps going forward and the usage of remaining money and all the while trying to preserve the intent which the council acted upon in the January meeting and some of the things we do not know right now is what the demand is going to be going forward and one of the recommendations was to kind of rule out the ability of interpreters by type and as we start better understand what the need is, that obviously, enables us to look at what the resources are and allocate the variability funds by regions to ensure this money provide the service but also recognize that by regions there may be differences in demand. So, on the schedule review, the committee will have an opportunity to make available perhaps more money in some regions and moving the money from other regions that may not have used the resources as they have historically. Making interpreters available is met but at the same time realizing that we continue to have to reevaluate how the money is made available and that unfortunately may not enable us to expend the resources at conclusion of the 2014/2015 fiscal year. Hopefully, council supports the idea of approaching this and in conjunction with the recommendations that have been presented.

>> Thank you, David.

>> Justice Hull.

>> Thank you, Chief

>> In my judicial career have not had contact. This strikes me as a rather controversial issue. We have been trying over the past years, however, to make sure if there is some significant disagreement among the advisers and committees that bring these matters before us that be made known. I don't see anything in here that would suggest that, so my question that it sounds to me both budget advisory committees putting a reform of the recommendation that this should go forward.

>> They were Justice Hull, and that's also why we had Judge Austin participating in this. And Donna participated to make sure that we kept within the intent of that work group and what the council envisioned, and they both voiced support for us as well so I think we are in unison on this.

>> Great, thank you.

>> Do I hear a motion regarding this recommendation?

>> So move.

>> Second.

>> Thank you, any further discussions? All in favor, please say aye.

>> Aye.

>> Recommendation carries, thank you.

>> At this point, I'd like to have council skip to item number 7 and --

>> Thank you, Chief. I appreciate it.

>> Can I just ask, we are getting in the habit.

>> We are moving to item 7. You need to be here as early as possible. Is there anyone here who would like to make public comment on item number 7? No one has indicated, Chief.

>> Thank you, Justice.

>> Thank you, I appreciate you taking out your time. This was an item where we thought it is good for the council to hear it this year. In 2010 and 2011 -- the budget requires what is called the supplement -- are annual basis. This is information that's required of state agencies to submit to the department of finance and ultimately to the Legislature. The reason we bring it to your attention is because this is the kind of information that we'll say we should not be providing on this part of budget transparency and providing the kinds of information that state agencies do provide. There is a detailed report that there have been some question about. Where do we spend our operation equipment on? As you can see, it includes things like printing, and traveling, and out of state. So I think it is another of important information that the branch provides so that we have greater information about your budget expenditures.

>> Thank you.

>> Justice Miller.

>> Is it an action idea for us to vote or is it automatic?

>> We are bringing information for you to be aware that we are keeping like other state agencies with this kind of information.

>> Thank you. I believe it is online at 342 pages. Is this correct?

>> No, this is a different one. This is the contract report that's required for submission to the Legislature. This is separate. This is a summary.

>> It is in the attachments, correct?

>> Yeah.

>> It is a long attachment.

>> Thank you.

>> Thank you for the information. I don't see any hands raised. Thank you for your presentation this afternoon.

>> Appreciate it, Chief.

>> Back in the agenda, the judicial branch on the augmentation on the 2013/2014 budget.

>> Any comments regarding the newer item?

>> Thank you, Chief.

>> Of the materials relative to the item were transmitted by way of website on April 18. The councils were recalled that within the Budget Act of 2013, budget control language was introduced which requires no later than the first of September of last year, each of the individual superior courts presented its plan as how they utilized of the trial courts in that budget. The court receives the plans and compiles a report and with plans made of submissions in August. The budget control language also requires that now the council files the written report to those same fiscal and policy committees of the Legislature on how the funds are projected to be spent back in August were in fact spent or will be spent in the remaining of the two months of the fiscal year. For that purpose, OGA surveyed all of the reports which have been summarized on the report that we ask the council to approve and to direct us to submit the Legislature requires by the budget controlled language. And at high level as I suspect you already aware from relatively exact summary report, the court's response to the second set of survey demonstrates their actual expenditures were very similar in terms of outcomes to what they predicted that they would spend the money on for the sake of enhancement access that obviously, \$60 million did not produce great access for courts and customers. We advocated to the Legislature that we be held to report an account for additional augmentations as the appropriate tool by which the Legislature could gauge of the expenditures in lieu of calls in some areas and some circles in line item budgeting. We were grateful for the opportunity to have this approach utilized. We are again very much in the debt of the trial courts who spend considerable time on both surveys. We believe that ultimately beneficial as we demonstrated our response to the Legislature. It would be a staff's request in light of the language, the budget control language, that the council's report that appears in your material and direct our office to submit to the Legislature timely.

>> Thank you. Any questions or comments?

>> No.

>> Thank you. Second by Judge De Alba. Any further discussions? I see no hands raised. All in favor, please say aye.

>> Aye.

>> Any oppose? Recommendation carries. Last one on the agenda but not least is the judicial plan for 2014–2016, item number 6.

>> As they come forward, we'll ask if there is any public comment on item number 6, the education plan 2014–2016.

>> Thank you, nobody has indicated.

>> We welcome Doctor Diane Cowdrey and also Judge Weathers.

>> Good afternoon, members of council. On behalf of the committee, Judge Weathers, and myself, and Diane, we are pleased to present to you its review of the 2014–2016 education plan. This is the plan developed by the committee based upon the current education developed. We are proud of this product. It is the work of our committee after reviewing the recommendations of the nine committees that were made up of judicial officers and court executives throughout the state. The justices and the judges and the court staff who are sitting on these nine curriculum committees have presented education recommendations to the government for consideration. As you know a member of the governing committee itself is assigned to each governing committee and a staff to assist a particular education plan recommended by the particular curriculum committee. Our governing committee then reviews each of the particular discipline suggestions and we then proceed to draft the plan before you. You have a summary that's very diverse and a group of well-respected men and women of the state. We want to thank them publicly for their important work in judicial education. At the present time, this council is composed of certain members of those curriculum committees, including Commissioner Alexander and Judge O'Malley and they serve in the council at this time. I also believe other members of various councils have previously served, affecting the series plan in the past. That experience should trigger an awareness of the process. Finally, I want to acknowledge the tremendous work of the staff itself, a group of dedicated individuals who are serving this branch despite financial and size limitations, and the preparation of this report, and the CJER program itself.

>> Good afternoon. The committee is extremely proud. This education plan will be the plan for the next two years for branchwide education. It consists of over 150 statewide programs over regional and local courses as well as 190 distance education items. Those items include webcasts and webinars, and online courses, and videos and video conferences, and so on. The event and the programs will serve many different audiences including justices and judges, and trial court leaderships, and appellate court attorneys, and staff. This plan you have today began roughly a year ago. In the summer of 2013, the nine curriculum committees, where they work under CJER, they assessed the program they had in place and the message that was used at the time to present to the various courts. These would be live or face-to-face programs, or webinars, or video conferencing. This review permitted the assessment of past and educational programs and importantly served for the guide of 2016 and 2015 plans. Most of these discussions took place over several meetings on the phone with the number of the committee. As a result of this process, particular education committees came up with what they believed their particular committee felt should be implemented in an education plan for the branch. This process resulted in recommendations by these individual curriculum committees. Importantly, their recommendations were prioritized and their submission to the governing committee itself. Again, a member of the CJER governing board is assigned to release these government committees and he or she did assist the curriculum group in the development of priorities as well as individual

CJER members being assigned to assist in that organization. The purpose of this procedure is obvious. It is to ensure the education content of the committee recommendations is sound, and relevant, and timely for the current target audiences for the branch and the committee they serve. It supports sound educational principles. This process allows the CJER staff to review the proposals consistent with resource availability. Diane.

>> Thank you.

>> As you all know, with the ongoing financial staff reduction at the AOC and all the courts have been dealing with it. It has become more challenging of making the reduction. Several years ago we scaled back our institute and expanded the use of technology because it was a more cost-effective method. These changes are affected in the plan that you see; it is reflected. Judges are increasingly asking for more live education and I certainly got that feedback as well. You can note on page 5 under the implementation requirements cost and operational impacts in your report, that our financial analysis was done using a baseline budget that was on its own. The planning process approving IMF fund occurs later in our planning process. We needed to make an assumption about budgets so we can do our financial analysis.

>> That'll give us plenty of time to make adjustments if we needed to do that. With respect to this plan, I want to point out when making decisions regarding the delivery of education. As you know, some delivery might cost more than others. We develop a process for use by the curriculum committee and governing committee, as these are the groups who make those decisions. I provided that in attachment E. Each curriculum committee in addition prioritizes and makes recommendations. Lower cost items would include webinars and video conferencing, or local courses, or regional courses held in courts.

>> Now, some of the recommendations indicated do involve high-cost items and you will see that the governing committee and curriculum committee, each community, nine of them as well the governing committee itself consider the issues whether the costs was worth the program or whether alternative methods are more attractive. Attachment A of your material, you will see the analysis of the process as well as the particular approach used by the governing committee itself in assessing it after the procedure was engaged by the curriculum committee. That shows you how we did it in each of the committees as well as the governing committee itself.

>> When we did that, it became apparent that we could not and needed direction from the governing committee. We noted this on page 5 on attachment B of the financial staffing analysis. We provided information to the governing committee on those items which caused us to be over budget. Judge Weathers will talk about the few modifications of the governing committee.

>> We wanted to give you ideas of examples that were made by the committee that were considered or either modified, or accepted, or rejected by the governing committee. Based on over enrollment had requested that court be provided to the judges every year rather than the current schedule of having it every other year. This is a high-class item illustrated by the classes' analysis. They would deny the request to have this program every year. We felt as though the enrollment of this program could be expanded, that we could devote the resources of having it every year to other programs. Ultimately, it would have it once every other year. We felt there was a request of a benchguide and this is another high-class item, but the governing committee determined that the course materials from the course could actually develop to an online

benchguide and so would conserve resources there. Another example was the request from the criminal committee to develop a new criminal evidence course—strictly evidence course—which would be a three-day course which would be three days a year. There is a combined three-day course that was offered three times a year. And we got a lot of feedback that they should have special courts devoted to criminal issues. After consideration, the governing committee determined that it would be more appropriate to expand the existence of combining criminal and -- of a three-day program and that would allow for criminal and justice. The civil curriculum committee requested that we have the evidence course three times a year; that was ultimately denied based upon resources. The other request was made by the curriculum committee. Currently, they have a probate institute every other year which was the schedule from most institutes. This was another class item. They requested that this be held every year due to their particular need. Although the governing committee recognized the need for this area, ultimately it decided to maintain the schedule to have an annual every-other-year program. So the curriculum committee did also conduct a class benefit analysis of all of the proposals that were made by the curriculum committee in conjunction with the procedures staff made to the governing committee.

>> There is a process that we are engaging in to deal with the review of planned education programs by the curriculum committees and assessing it from the perspective of cost and benefit analysis. I think we are comfortable with the fact that we have a process of review by the governing committee, which was being offered by the education groups, as well as an awareness that we have to be economical in how we approach this requirement and the current issues facing the branch. I do think that we have a program before you today which is education on point as far as these of the branch, and it is cost effective as we can envision it and meets the need which we hear about from the judges and staff members who are on these various education committees.

>> Thank you.

>> I want to say I appreciate the careful way that CJER has gone about considering the needs of the branch and education, which all of us benefit from—including the public—that's copied from the state and the heavy influences described by Justice Dondero on the cost and benefit analysis and the costs which are heavily involved and based on the feedback from the judges who benefit from education. I appreciate the report, thank you. Any discussion or motion, Judge Jacobson.

>> We do have a motion to adopt this plan. It is very comprehensive and looks like outstanding work. I will move to adopt.

>> Thank you.

>> I will second.

>> Nadler second. Comment, Judge O'Malley?

>> Again, I want to thank the governing committee for presenting this report and looking at aspect as well as concerning yourself also with our budget constraints. You did that beautifully, thank you very much for that. I hear it all the time and I am an active teacher that these programs are so well developed and they're taught by judges who really know what it is they're doing and people just want more and more. It is hard to say no when there are judges dealing with all kinds

of issues, and new cases and predicaments. I appreciate that more than anybody because this council had to say no quite often for the last five years for a lot of different reasons.

>> So again, the thought of the full process of going through this and the weighing and the balancing and having to make hard decisions by I know what is a very well thoughtful, very experienced governing board. I truly appreciate all the hard work that you do and commend you for it.

>> Thank you. Judge Rosenberg.

>> Looking five years or maybe 10 years down the line, what's your best belief of the future? Is it going to be a more centralized teaching, or regional, or local teaching, or is it electronic teaching?

>> Well, I will take a whack at that.

>> [Laughter]

>> I guess I like the fact that we have a lot of options. I think this is one of the strengths of this organization, that we have a really nice mix of distant education and live education. I recently conducted a survey at the end of last year asking them their opinion about your distant education product and do they like short or long programs? We have all these choices. While there are different opinions, I got a lot of responses. I got people saying we are judges, and we need to see each other and talk to each other. While they appreciate the opportunity of sometimes having education in their chambers and a lot of people say, "I won't make time for it unless I have to get out of my office and go somewhere." I think that's the reality of the judicial life, and I think because your jobs are so unique and you have to talk with your colleagues. So, my hope for the next five years is to continue to have more opportunities for live interactions. You know, I wish we had a really big conference facility. Maybe put that on your plate. [Laughter]

>> I think with old habits it is hard to get rid of them, and they last for a long time. I think the judges have been on the bench at a time when things are much more financially attractive and now judges still enjoy the idea of meeting with each other, and I think we are trying to do as much 21st century education as possible. I think it is a critical feature of the branch. If you lose that feature of the branch as a statewide feature, it is not a very good thing for the branch to experience. So I think we have to try as much as possible to have face-to-face statewide meetings where we get to know one another and names on pieces of paper are faces who we recall. That's important.

>> I think in the future we are going to have much customized individual learning opportunities. A person can go if they want to look at programs and online courses. I mean we all have our own music to listen to. We should be able to create a learning plan of what we want. I want to have that opportunity to have a wide variation of things for judges to pull from, starting with the live conferences and interactions to the short benchguides and tools when they need them.

>> Judges Herman, and Miller, and Stout, and Hull.

>> One of the things I regretted is—that's one of the real values of CJER—that none of the rotating in a teaching role after they have been a student, I cannot say enough that the judicial college that's granted to the table.

>> And I am pleased that Judge Weathers is going to be the next chair for the judicial college and thank you very much for all the good stuff that you do. I would say that my court really appreciates the regional presentation for our judges and for some reason they don't have time to get up and rather places where education that's really helpful and I really encourage those programs. Also, I barely go online and look at the benchguides. There are online resources that you are providing to us. Thank you.

>> Justice Miller?

>> I know it is extra pressure on you. The commitments are not being made in that regards, right? You are going to wait until that IMF fund is approved before the financial commitment is made beyond the budget funds that we know we may not have.

>> I guess I can say this, when we do the program here on-site just like when you have council meetings here on-site. There are contracts with hotels for space only and those are commitments that can be rescinded. For the vast majority of our programs as well as other programs the AOC puts on, those are easy to rescind if we need to. For the larger programs, the only ones that we do that require space are institutes and colleges. 1058 and we have the assigned judges programs. Those are done in facilities and those are contracted several months ahead because we have to get space ahead of time, and it is getting more and more difficult to do those. Those contracting processes take some time. We usually do have something and a couple of things have contracted. Since I have been here, we have only had, we are usually able to negotiate with hotels to do something at another time. I am not concerned about that. There is so few of those things and like I said there are things like the college that we would probably do. We might modify but we would do it. The sooner that you know, we can look at IMF funding for the next fiscal year, the better for us and we like to plan ahead. It makes our staff efficient because we can plan ahead that way.

>> [Captioners Transitioning]

>> Looking to California, and the judicial branch, and our state and really the model for the rest of the nation, and I think, along with CFCC, are divisions of programs that really identify that, how to do it right. And I think this educational plan describes educationally on point and I think that's a very good description. I know the community as mentioned has made some very difficult choices. I need to personally say thank you for -- judge's institute. I can't begin to say how important that is to small judges where the one-stop shop, so to speak and that educational opportunity, so necessary and so valuable. I also appreciate and I know the community and talking with doctor -- I know very mindful of the structural deficit, we've talked about today with IMF funding, obviously, some planning as we discussed, Z has to go forward, do that very thoughtfully and conservatively. And again, negotiating wherever possible to avoid any possible cancellation fees, and do the best we can to maintain this high level of education and be mindful of the fiscal realities. I think that's also evidence. I think looking at this educational plan, we can clearly see how the cost benefit analysis has been integrated into your processes in the plan and particularly having the extra layer of review in the high cost programs, I think, is very

appropriate and responsible, especially at this time. So I congratulate you and all the members I know who worked behind the scenes so hard on this.

>> I'll say preliminarily, and we all know this to be true and that is that in my case, almost from day one, when I was sworn in to the superior court in Sacramento County, and every day since that time, I have benefited, we have all benefited from the really spectacular work that has been done for the past 19 years and I congratulate you on your work and the work of prior committees. It is invaluable. The one thing I wanted to mention, there have been in the past certain dissenting members of the branch who suggested that in-person educational programs and opportunities are wasteful, that they should be instead conducted electronically. And I think it was a year or so ago, I was asked to respond to one of those suggestions. And I recruited Doctor Cowdrey's help in responding to the importance of in-person meetings. But Doctor Cowdrey, you have mentioned that there are also studies that have been undertaken in other states with judicial education, otherwise, that show that actually in-person meetings are more productive from an educational sense. Do I recall that correctly?

>> Yeah, at that time, I had just read a study that was done by the U.S. Department of Education and it was done for case DR college. And they looked at online education, live education, and actually, the accommodation of both, blended education, and the finding was that the blended education was the most effective because you got to be together, learn together, and then continue on by doing some things online. But the online education by itself was the least effective. And I appreciate you saying that because you know, if you think about it, the point of education is to educate. And so you know, we want to be mindful of the cost and do it as effectively and efficiently as we can, but you want to make sure you provide an environment where people are able to learn. If they're looking at their computer, and checking their phone, and texting their kid, you know, sometimes you really have to be in person. I think that you would appreciate how these council meetings are so much more impactful than when you're on the phone with one another. That is the more effective way to learn.

>> That's the conversation I had, and important to add also.

>> O'Malley.

>> Well, just to follow up with that, having participated so much in face-to-face education, for NJO, as well as the college, as well as some of the other more experienced courses, with experienced judges, the judges learn from each other. And the teachers engage in the students, and the students are engaged and looking at a screen and pressing a button as far as what might be the correct answer on a scenario is one thing and testing your knowledge in an area. But when you have to go to a whole new assignment, and when you have to learn about an area of the law, AB 109, from Judge Morris Jacobson, that you have no idea what this law entails, you need to hear from all sorts of people who have experienced different situations. And when you're in live education, people are engaged and ask lots of questions and you come out of there not only having known the curriculum that was needed to be covered by the instructor, but you're learned from all the other participants, who are there and also engaged to learn and see if they made a mistake, if they didn't make a mistake, what's a better practice, and you come out of there sharing information, practices, and procedures that courts are willing to help and share. It's irreplaceable.

>> Thank you. Motion has been made and seconded. Not seeing any further hands raised for discussion, all in favor please say aye.

>> Recommendation carries. Thank you very much for all of your work.

>> [APPLAUSE]

>> At this time, we adjourn our meeting, we will reconvene tomorrow morning Friday, at 8:30 in the morning. Good evening.