

**JUDICIAL COUNCIL MEETING**  
**Minutes of the July 22, 2011, Meeting**  
**San Francisco, California**

Chief Justice Tani Cantil-Sakauye, Chair, called the meeting to order at 10:30 a.m. on Friday, July 22, 2011, at the Administrative Office of the Courts (AOC) in San Francisco. The council met in closed session from 10 to 10:30 a.m. and from 4:15 to 5:00 p.m.

**Judicial Council members present:** Chief Justice Tani Cantil-Sakauye; Justices Marvin R. Baxter, Judith Ashmann-Gerst, Harry E. Hull, Jr., and Douglas P. Miller; Judges Stephen H. Baker, James E. Herman, Ira R. Kaufman, Mary Ann O'Malley, Burt Pines, Winifred Younge Smith, Kenneth K. So, Sharon J. Waters, David S. Wesley, and Erica R. Yew; Senator Noreen Evans; Ms. Miriam Aroni Krinsky (by telephone), Ms. Edith R. Matthai, Mr. James N. Penrod, and Mr. William C. Vickrey; and **advisory members:** Judges Keith D. Davis, Kevin A. Enright, Terry B. Friedman, Teri L. Jackson, and Robert James Moss; Commissioner Sue Alexander; Mr. Alan Carlson, Mr. Frederick K. Ohlrich, Mr. Michael M. Roddy, and Ms. Kim Turner.

**Absent:** Assembly Member Mike Feuer and Mr. Joel S. Miliband

**Others present included:** Justices Terence L. Bruiniers, Brad R. Hill, and William R. McGuinness; Judges David Abbott, Robin Appel, Diana Becton, Stacy Boulware Eurie, David F. De Alba, William R. Chidsey, Jr. (ret.), Charles S. Crandall, Laurie Earl, Katherine Feinstein, David Lampe, David M. Rubin, and David P. Warner; Court Executive Officers Tamara Beard, Sherri R. Carter, Mike Planet, Ken Torre (ret.), Kiri Torre, David H. Yamasaki, and T. Michael Yuen; , Mr. Rafael Alfara, Mr. Michael Barenz, Mr. Gregory Bruj, Mr. Jeremy Carroll, Ms. Doris Cheng, , Mr. Andrew Chow, Ms. Haylee Coplis, Ms. Brenda Dabney, Ms. Maria Dinzeo, Mr. Jay Donato, Mr. Curtis Draves, Ms. Jean Field, Mr. John W. Givens, Ms. Julie Granger, Mr. Ron Gutierrez, Ms. Sayre Happich, Ms. Diana Herbert, Ms. Beth Jay, Mr. Ignacio Hernandez, Ms. Yolanda Jackson, Mr. Jeff Karotkin, Mr. Chris Keay, Ms. Anoush Lancaster, Mr. Michael Laurence, Ms. Angela Long, Mr. Harry Ma, Ms. Linda Mascero, Ms. Jill McInerney, Mr. Jose Merida, Ms. Maria Miller, Ms. Arcelis Montoya, Mr. Mark C. Moore, Ms. Ann Murphy, Mr. Mark Natoli, Mr. Ralph Ochoa, Mr. Benjamin Palmer, Mr. Steven Patti, Ms. Debra Pearson, Ms. Sharis Rae Peters, Mr. Gil Purcell, Mr. Brandon Scovill, Ms. Raquel Silva, Ms. Arnella Sims, Ms. Deborah Trujillo, Dave Warner, Ms. Adrienne Williams, and Ms. Kimberly Wong; **AOC staff:** Mr. Peter Allen, Mr. Nick Barsetti, Mr. Dennis Blanchard, Ms. Margie Borjon-Miller, Ms. Deborah Brown, Ms. Nancy Carlisle, Marcia Carlton, Mr. Philip Carrizosa, Mr. James Carroll, Ms. Roma Cheadle, Mr. Curtis L. Child, Dr. Diane Cowdrey, Mr. Edward Ellestad, Mr. Ekuike Falorca, Mr. Chad Finke, Ms. Cristina Foti, Mr. Ernesto V. Fuentes, Ms. Lynn Holton, Mr. John A. Judnick, Mr. Kenneth L. Kann, Ms. Leanne Kozak, Ms. Maria Kwan, Ms. Debora Morrison, Mr. Stephen Nash, Mr. Ronald G. Overholt, Ms. Kimberly Papillon, Ms. Jody Patel, Ms. Christine Patton, Ms. Mary M. Roberts, Mr. Brent Robinson, Ms. Virginia Sanders-Hinds, Ms. Dorey Schranz, Mr. Colin Simpson, Ms. Nancy E. Spero, Mr. Lee Willoughby, and Ms. Maureen Wingfield; and **media representatives:** Mr. Adam Bayley, *KQED News FM*; Mr. Trey Bundy, *Bay Citizen*; Ms. Julia Cheever, *Bay City News Service*; Ms. Maura Dolan, *Los*

*Angeles Times*; Mr. Bob Egelko, *San Francisco Chronicle*; Ms. Laura Ernde, *Daily Journal*; Mr. David Ferra, *Wall Street Journal*; Ms. Kristina Flaherty, *California Bar Journal*; Ms. Cynthia Foster, *The Recorder*; Mr. Aaron Glantz, *Bay Citizen*; Mr. Juan Carlos Guerrero, *KGO-TV*; Mr. Paul Mill, *CBS 5*; Ms. Kate Moser, *The Recorder*; Mr. Todd Rogers, *Daily Journal*; Mr. Mark Seelig, *KCBS Radio*; and Mr. Garvin Thomas, *NBC Bay Area*.

### **Meeting Introduction**

Chief Justice Cantil-Sakauye opened with a statement of the meeting's purpose, a special session devoted to the judicial branch budget as provided for in the Budget Act for fiscal year 2011–2012. She announced two new chair appointments to Judicial Council internal committees: Justice Douglas P. Miller as chair of the Executive and Planning Committee and Justice Harry E. Hull, Jr., as chair of the Rules and Projects Committee.

### **Welcome Extended to Incoming Judicial Council Members**

The Chief Justice welcomed the incoming Judicial Council members present at the meeting:

Judge David F. De Alba, Superior Court of California, County of Sacramento,  
Presiding Judge David Rosenberg, Superior Court of California, County of Yolo,  
Judge David M. Rubin, Superior Court of California, County of San Diego and  
President-elect of the California Judges' Association, and  
Mr. David Yamasaki, Court Executive Officer, Superior Court of California, County of Santa Clara.

### **Swearing In of New Council Member**

The Chief Justice administered the oath of office to new Judicial Council member Justice Judith Ashmann-Gerst of the Court of Appeal, Second Appellate District, Division Two.

### **Comments from Senator Noreen Evans**

The Chief Justice invited comment from Senator Noreen Evans, chair of the California Senate Judiciary Committee and member of the Judicial Council, who spoke on the state's unprecedented budget crisis, the challenge of making the necessary budget decisions, and opportunities for forging collaboration across state government as the foundation of a new era in California.

### **Public Comment Related to Trial Court Budget Issues**

Written statements, letters, and e-mails submitted to the Judicial Council for the meeting are attached. Fifteen individuals made requests to speak on trial court budget matters and spoke in the following order:

1. Hon. Robin Appel, Presiding Judge, Superior Court of California, County of San Joaquin
2. Hon. Laurie M. Earl, Assistant Presiding Judge, Superior Court of California, County of Sacramento
3. Hon. David R. Lampe, Judge, Superior Court of California, County of Kern, representing the Alliance of California Judges
4. Hon. Katherine Feinstein, Presiding Judge, Superior Court of California, County of San Francisco

5. Mr. Michael Laurence, Executive Director, Habeas Corpus Resource Center
6. Mr. Mark Natoli, Vice President, Local Union 575, and Ms. Sharis Rae Peters, President, Local Union 276, Association of Federal, State, and Municipal Employees (AFSME)
7. Mr. Curtis Draves, President, and Mr. Brandon Scoville, Representative, California Federation of Interpreters
9. Ms. Doris Cheng, Board Member, Bar Association of San Francisco
10. Ms. Debbie Pearson, Chapter President for Superior Court of Alameda County, Service Employees International Union (SEIU), accompanied by Ms. Adrienne Williams, SEIU San Francisco Local, and Ms. Arnella Sims, SEIU Los Angeles Local
11. Mr. John W. Givens, private citizen, Nevada City, Nevada County, California

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**CLOSED SESSION (RULE 10.6(B))—DISCUSSION PROTECTED BY  
THE ATTORNEY-CLIENT PRIVILEGE**

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***Council action***

The Judicial Council, effective July 22, 2011, determined that all council actions will require a concurrence of the majority of all voting members. Justice Douglas P. Miller, Chair, Executive and Planning Committee, would announce this decision during the open meeting.

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**DISCUSSION AGENDA (ITEMS 1–3)**

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**Item 1     Budget: Allocation of \$350 Million Ongoing Reduction to the Judicial Branch**

Presenters: Hon. Brad R. Hill, Administrative Presiding Justice, Fifth Appellate District; Hon. Gary Nadler and Ms. Kim Turner, Members of the Trial Court Budget Working Group; with the assistance of Mr. Ronald G. Overholt, Chief Deputy Director AOC, and Mr. Stephen Nash, Executive Officer, Superior Court of San Bernardino County (former Chief Financial Officer, AOC Finance Division)

For FY 2011–2012, the Budget Act of 2011 includes \$350 million in new ongoing reductions to the judicial branch. Of these reductions, the Legislature scheduled \$200 million on a pro rata basis throughout the branch. While the additional \$150 million reduction was to the trial court operations item only, the Budget Act contains language that authorizes the council to allocate and offset the reduction to other areas in the branch, subject to 30-day notification to the Legislature. Specifically, the language authorizes the council to transfer funds from (1) other items in the Trial Court Trust Fund; (2) appropriated funding for the Supreme Court, Courts of Appeal, Judicial Council/Administrative Office of the Courts (AOC), Judicial Branch Facility Program, and Habeas Corpus Resource Center (HCRC); and (3) funds from the Immediate and Critical Needs Account (ICNA), State Court Facility Construction Fund (SCFCF), Trial Court

Improvement Fund, and Judicial Administration Efficiency and Modernization Fund in order to reduce the impact of the funding reduction to trial courts in FY 2011–2012.

**Council action**

Based on recommendations from the Trial Court Budget Working Group, the Judicial Council approved an allocation of \$350 million in reductions on a one-time basis in FY 2011–2012 to the Supreme Court, Courts of Appeal, trial courts, and HCRC as indicated in columns E and F of Attachment A. This allocation incorporates the council's approval with a vote of 11 to 7, with 1 abstention, that the budget for HCRC attorney staff, as court-appointed indigent counsel, be eliminated from the calculation of the HCRC share of reduction, consistent with the treatment of the court-appointed indigent counsel for the appellate courts and court-appointed dependency counsel for the trial courts. The Judicial Council rejected, with a vote of 3 to 16, that the reductions allocated to the AOC for FY 2011–2012 were a minimum amount. The council approved, unanimously, not to make any decisions at this meeting about allocations of reductions for FY 2012–2013.

A copy of the results of the two roll call votes are attached to these minutes as Attachments 1 and 2.

**Item 2 Trial Court Budget: Allocations for Fiscal Year 2011–2012**

Presenters: Hon. Brad R. Hill, Chair, Court Facilities Working Group; Hon. Terence L. Bruiniers, Chair, CCMS Executive Committee; Hon. James E. Herman, Chair, CCMS Internal Committee; Hon. Gary Nadler and Ms. Kim Turner, Members of the Trial Court Budget Working Group; Mr. Ronald G. Overholt, Chief Deputy Director, AOC; and Mr. Stephen Nash, Court Executive Officer, Superior Court of San Bernardino County (and formerly Chief Financial Officer, AOC Finance Division); assisted by AOC staff Mr. Lee Willoughby, Office of Court Construction and Management; Mr. Mark A. Moore, CCMS Program Management Office; and Mr. Steven Chang, Finance Division.

In accordance with Government Code section 68502.5(c), the Judicial Council has the responsibility to allocate funding for the trial courts. The Trial Court Budget Working Group made recommendations on the allocation of new funding and reductions contained in the Budget Act of 2011 (Stats. 2011, ch. 33) to the trial courts for fiscal year 2011–2012.

**Council action**

The Judicial Council approved, effective July 22, 2011:

1. Offsets and adjustments to trial court reductions in the amount of \$122.4 million to mitigate the impact of the overall reduction in trial court funding. These offsets and adjustments consist of:
  - \$56.4 million in savings from funding of the California Court Case Management System. The CCMS Internal Committee and the CCMS Executive Committee will return to the Judicial Council at its October 2011 meeting to review all options for moving forward with CCMS within the new budget constraints.

- \$63 million to be transferred from the Immediate and Critical Needs Account (\$25 million) and the State Court Facilities Construction Fund (\$38 million).
- \$3 million of the \$4.8 million savings in the fiscal year 2009–2010 Court Interpreter Program. The council intends the remaining \$1.8 million to be for the use of the Court Interpreter Program.

The council rejected, with a vote of 2 to 15, a motion to allocate \$82.2 million in additional offsets to trial court budget reductions.

A copy of the results of the roll call vote is attached to these minutes, as Attachment 3.

2. An allocation of \$138.3 million in reductions to courts as indicated in Attachment B, column A. The Judicial Council rejected, with a vote of 5 to 12, a restoration of \$374,000 to the Equal Access program.

A copy of the results of the roll call vote is attached to these minutes, as Attachment 4.

3. An allocation to the trial courts of \$52.5 million appropriated in the Budget Act of 2011 for the full-year impact of 2010–2011 cost changes in employee health benefits, retirement and retiree health, on a pro-rata basis as indicated in Attachment B, column B.
4. A reduction in trial court base budgets, as indicated in Attachment B, column C, reflecting court sheriff security funding that is being transferred to the counties as part of the realignment of government services from state to local government; and
5. A delegation of authority to the Administrative Director of the Courts to make minor technical adjustments in the amounts reduced from court budgets, as appropriate, in order to accommodate adjustments to these reductions, if needed.

### **Item 3 Budget: Allocation of Special Fund Budgets for Fiscal Year 2011–2012**

Presenters: Hon. Gary Nadler and Ms. Kim Turner, Members of the Trial Court Budget Working Group; Mr. Ronald G. Overholt, Chief Deputy Director AOC; Mr. Stephen Nash, Executive Officer, Superior Court of San Bernardino County (former Chief Financial Officer, AOC Finance Division); and assisted by Mr. Steven Chang, Finance Division.

The Judicial Council has statutory authority to allocate funding from statewide special funds for projects and programs that support the trial courts. The Trial Court Budget Working Group presents recommendations related to FY 2011–2012 allocations for specific projects and programs funded from the Trial Court Improvement Fund, the Judicial Administration Efficiency and Modernization Fund, and the Trial Court Trust Fund.

#### ***Council action***

The Judicial Council, effective July 22, 2011, approved:

1. An allocation of \$28.351 million for projects and programs from the Modernization Fund (\$6.204 million) and the Improvement Fund (\$22.147 million).
2. An allocation of \$19.070 million for ongoing services for trial courts from the Modernization Fund (\$0.755 million), the Improvement Fund (\$10.122 million), and the TCTF (\$8.193 million).
3. An allocation of \$65.544 million for statewide technology infrastructure maintenance and operations from the Modernization Fund (\$11.698 million), the Improvement Fund (\$22.004 million), and the TCTF (\$31.842 million).
4. An allocation of \$5.716 million for statewide technology infrastructure projects from the TCTF.
5. A delegation of authority to the Administrative Officer of the Courts to adjust allocations of funds to courts and for approved programs and projects as needed to address unanticipated needs and contingencies. Any adjustments will be reported to the council at the end of the fiscal year.

Mr. Vickrey proposed that staff from the Administrative Office of the Courts prepare information for future consideration by the council and its Executive and Planning Committee as to which courts face financial risk this fiscal year.

***Council action***

The council approved the recommendation.

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**INFORMATION ONLY ITEMS (NO ACTION TAKEN)**

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**Government Code Section 68106: Implementation and Notice by Trial Courts of Closing Courtrooms or Clerks' Offices or Reducing Clerks' Office Hours (Report #5)**

In the 2010 Judiciary Budget Trailer Bill, Senate Bill 857, the Legislature provided fee increases and fund transfers for the courts and also added a new section 68106 to the Government Code. The latter directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' office hours on days that are not judicial holidays, and (2) the council to post on its website and relay to the Legislature all such court notices. This is the fifth report providing information about the implementation of these notice requirements. Since the first four reports, three more courts have issued such notice: Butte on July 1, 2011, San Joaquin on July 19, 2011, and Shasta on July 7, 2011.

**There have been no circulating orders since the last business meeting.**

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**CLOSED SESSION (RULE 10.6(B))—PERSONNEL MATTER**

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***Council action***

The Judicial Council approved the appointment of Mr. Ronald G. Overholt as Interim Administrative Director of the Courts, effective September 10, 2011, succeeding Mr. William C. Vickrey, who will retire on September 9 after serving as the fourth Administrative Director of the Courts for 19 years. The council also requested that the Chief Justice appoint a committee to recommend the process for selecting the next Administrative Director of the Courts.

There being no further public business, the meeting was adjourned at 5:30 p.m.

Respectfully submitted,

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William C. Vickrey  
Administrative Director of the Courts and  
Secretary of the Judicial Council

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**CLOSED SESSION (RULE 10.6(B))—PERSONNEL MATTER**

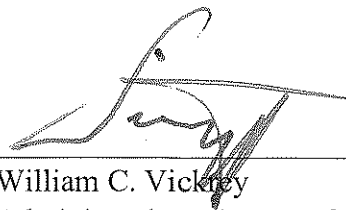
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# JUDICIAL COUNCIL

## ROLL CALL VOTE

*Judge Waters motion*

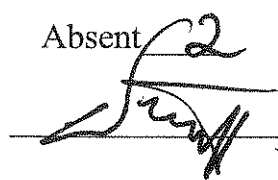
Subject Eliminate lawyer Date 7-21-1 Tab # \_\_\_\_\_

*salaries of HCRC before calculating reduction*

	NAME	VOTE <sup>1</sup>		
		YES	NO	ABSTAIN
1.	Hon. Tani Cantil-Sakauye, Chair	✓		
2.	Hon. Judith Meisels Ashmann-Gerst		✓	
3.	Hon. Stephen H. Baker	✓		
4.	Hon. Marvin R. Baxter		✓	
5.	Hon. Noreen Evans			✓
6.	<del>Hon. Mike Feuer</del>	N/A	N/A	N/A
7.	Hon. James E. Herman	✓		
8.	Hon. Harry E. Hull, Jr.	✓		
9.	Hon. Ira R. Kaufman	✓		
10.	Ms. Miriam Aroni Krinsky	✓		
11.	Hon. Edith R. Matthai	✓		
12.	<del>Mr. Joel S. Miliband</del>			
13.	Hon. Douglas P. Miller	✓		
14.	Hon. Mary Ann O'Malley		✓	
15.	Mr. James N. Penrod		✓	
16.	Hon. Burt Pines		✓	
17.	Hon. Winifred Younge Smith	✓		
18.	Hon. Kenneth K. So	✓		
19.	Hon. Sharon J. Waters	✓		
20.	Hon. David S. Wesley		✓	
21.	Hon. Erica R. Yew		✓	

Total: Yes 11 No 7 Abstain 1

Absent 2



William C. Vickrey  
Secretary to Judicial Council

<sup>1</sup> The Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member, as his or her name is called, responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain").

After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. At the conclusion of the roll call, the names of those who failed to answer can be called again or the chair can ask if any voting member entered the room after his or her name was called. Changes of vote are permitted at this time, before the result is announced.

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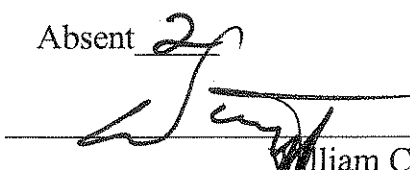
# JUDICIAL COUNCIL

## ROLL CALL VOTE

Subject Judge Wesley motion to hold rate for FY 11+12, FY 12-13 Date 7-21-11 Tab # \_\_\_\_\_  
*MOC are a minimum*

#	NAME	VOTE <sup>1</sup>		
		YES	NO	ABSTAIN
1.	Hon. Tani Cantil-Sakauye, Chair		✓	
2.	Hon. Judith Meisels Ashmann-Gerst		✓	
3.	Hon. Stephen H. Baker		✓	
4.	Hon. Marvin R. Baxter		✓	
5.	Hon. Noreen Evans		✓	
6.	<del>Hon. Mike Feuer</del>	N/A	N/A	N/A
7.	Hon. James E. Herman		✓	
8.	Hon. Harry E. Hull, Jr.		✓	
9.	Hon. Ira R. Kaufman		✓	
10.	Ms. Miriam Aroni Krinsky		✓	
11.	Hon. Edith R. Matthai		✓	
12.	<del>Mr. Joel S. Miliband</del>			
13.	Hon. Douglas P. Miller	✓		
14.	Hon. Mary Ann O'Malley		✓	
15.	Mr. James N. Penrod		✓	
16.	Hon. Burt Pines	✓		
17.	Hon. Winifred Younge Smith		✓	
18.	Hon. Kenneth K. So		✓	
19.	Hon. Sharon J. Waters		✓	
20.	Hon. David S. Wesley	✓		
21.	Hon. Erica R. Yew		✓	

Total: Yes 3 No 16 Abstain \_\_\_\_\_ Absent 2

  
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 William C. Vickrey  
 Secretary to Judicial Council

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# JUDICIAL COUNCIL


## ROLL CALL VOTE

*Judge Wesley motion*  
 Subject to Reallocate 81 m. Date 7-22-11 Tab #           
*to provide additional officers to trial court budget reduction*

NAME	VOTE <sup>1</sup>		
	YES	NO	ABSTAIN
1. Hon. Tani Cantil-Sakauye, Chair		✓	
2. Hon. Judith Meisels Ashmann-Gerst		✓	
3. Hon. Stephen H. Baker		✓	
4. Hon. Marvin R. Baxter		✓	
<del>5. Hon. Noreen Evans</del>	N/A	N/A	N/A
<del>6. Hon. Mike Feuer</del>	N/A	N/A	N/A
7. Hon. James E. Herman		✓	
8. Hon. Harry E. Hull, Jr.		✓	
9. Hon. Ira R. Kaufman		✓	
10. Ms. Miriam Aroni Krinsky		✓	
11. Hon. Edith R. Matthai		✓	
<del>12. Mr. Joel S. Miliband</del>	N/A	N/A	N/A
13. Hon. Douglas P. Miller			
<del>14. Hon. Mary Ann O'Malley</del>	N/A	N/A	N/A
15. Mr. James N. Penrod			
16. Hon. Burt Pines	✓		
17. Hon. Winifred Younge Smith		✓	
18. Hon. Kenneth K. So		✓	
19. Hon. Sharon J. Waters		✓	
20. Hon. David S. Wesley	✓		
21. Hon. Erica R. Yew		✓	

Total: Yes 2 No 15 Abstain         

Absent 4

  
 William C. Vickrey  
 Secretary to Judicial Council

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# JUDICIAL COUNCIL

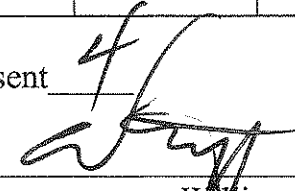
## ROLL CALL VOTE

Subject Judge Friedman Motion Date 7-22-11 Tab # 2  
Reduce Equal Access  
Fund cut by \$370,000

#	NAME	VOTE <sup>1</sup>		
		YES	NO	ABSTAIN
1.	Hon. Tani Cantil-Sakauye, Chair		✓	
2.	Hon. Judith Meisels Ashmann-Gerst		✓	
3.	Hon. Stephen H. Baker	✓		
4.	Hon. Marvin R. Baxter		✓	
5.	<del>Hon. Norreen Evans</del>	N/A	N/A	N/A
6.	<del>Hon. Mike Feuer</del>	N/A	N/A	N/A
7.	Hon. James E. Herman	✓		
8.	Hon. Harry E. Hull, Jr.		✓	
9.	Hon. Ira R. Kaufman		✓	
10.	Ms. Miriam Aroni Krinsky	✓		
11.	Hon. Edith R. Matthai			
12.	<del>Mr. Joel S. Miliband</del>	N/A	N/A	N/A
13.	Hon. Douglas P. Miller		✓	
14.	<del>Hon. Mary Ann O'Malley</del>			
15.	Mr. James N. Penrod		✓	
16.	Hon. Burt Pines		✓	
17.	Hon. Winifred Younge Smith		✓	
18.	Hon. Kenneth K. So		✓	
19.	Hon. Sharon J. Waters	✓		
20.	Hon. David S. Wesley		✓	
21.	Hon. Erica R. Yew	✓		

Total: Yes 5 No 12 Abstain \_\_\_\_\_

Absent 4

  
 William C. Vickrey  
 Secretary to Judicial Council

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