

**JUDICIAL COUNCIL MEETING  
Minutes**

**August 23, 2024**

**Meeting held through Webex  
and in person**

**Matheson Courthouse  
450 S State Street  
Salt Lake City, UT 84111**

**8:00 a.m. – 2:30 p.m.**

***Chief Justice Matthew B. Durrant, Chair, Presiding***

**Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. David Mortensen, Vice Chair  
Hon. Suchada Bazzelle  
Hon. Brian Brower  
Hon. Jon Carpenter  
Hon. Samuel Chiara  
Hon. Michael DiReda  
Hon. Susan Eisenmann  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. James Gardner  
Hon. Thomas Low  
Hon. Amber Mettler  
Justice Paige Petersen  
Margaret Plane, esq.

**Presenters:**

Lauren Andersen  
Suzette Deans  
Todd Eaton  
Amy Hernandez  
Alisha Johnson  
Judge William Kendall  
Meredith Mannebach  
Jonathan Mark  
Heather Marshall  
Judge Kirk Morgan  
Jordan Murray  
Judge Douglas Nielsen

**AOC Staff:**

Ron Gordon  
Neira Siaperas  
Brody Arishita  
Shane Bahr  
Michael Drechsel  
Jim Peters  
Nick Stiles  
Sonia Sweeney  
Hilary Wood  
Keisa Williams

**Excused:**

Hon. Keith Barnes

**Guests:**

Sean Faherty  
Robbie Foxxe

**Presenters (cont.)**

Zerina Ocanovic  
Bart Olsen  
Nathanael Player  
Tucker Samuelson  
Jon Puente  
Keri Sargent  
Karl Sweeney  
Shelly Waite  
Tonia Wilson

## **1. WELCOME AND APPROVAL OF MINUTES: (Judge David Mortensen)**

Judge David Mortensen welcomed everyone to the meeting and asked if there were any questions or comments on the previous month's minutes. There were none.

**Motion:** Judge Paul Farr made a motion to approve the July 22, 2024 meeting minutes. Margaret Plane seconded the motion, and the motion passed unanimously.

## **2. STATE COURT ADMINISTRATOR'S REPORT: (Ron Gordon)**

Ron Gordon discussed the Management Committee's administrative order mandating the judiciary's use of Webex webinars instead of Webex meetings and personal meeting rooms due to the recent issue involving members of the public sharing inappropriate content. Mr. Gordon recognized the tremendous amount of work the IT Task Force and judicial teams have put in to mitigate this issue. He added that several judges have made recommendations on changes that might be made, which have been forwarded to Cisco to work through. Mr. Gordon shared that Policy, Planning and Technology (PP&T) will discuss a rule in its September meeting that would go into the Code of Judicial Administration to reflect the Management Committee's administrative order, which will then come to the Judicial Council.

## **3. COMMITTEE REPORTS:**

### **Management Committee Report:**

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

### **Budget & Fiscal Management Committee Report:**

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

### **Liaison Committee Report:**

Michael Drechsel shared that the Liaison Committee will be meeting September 11th to discuss several items the legislature has been working on.

### **Policy, Planning, and Technology Committee Report:**

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

### **Bar Commission Report:**

Ms. Plane shared the following updates: The Bar is working on grading the 353 LSAT exams that were taken last month, and the swearing in will take place in October; the Bar's Fall Forum is scheduled for November 14-15; the Bar hired John Wayas, who will now run the NLTP and LPP program.

## **4.. BUDGETS AND GRANTS: (Karl Sweeney, Alisha Johnson, Jordan Murray)**

Karl Sweeney and Alisha Johnson presented the financial reports.

## FY 24 Year End Requests and Forecasted Available One-time Funds

Forecasted Available One-time Funds			
Description	Funding Type	Amount	
<b>Sources of YE 2024 Funds</b>			
* 1x TOS as of PPE 07/05/2024 (2,080 hrs) (w/ anticipated ARPA reimbursements)	Turnover Savings	2,562,570	
** Turnover savings Estimate for the rest of the year (\$800 x 0 pay hours)	Turnover Savings	-	
<b>Total Potential One Time Turnover Savings</b>		<b>2,562,570</b>	
Less: Judicial Council Delegated to State Court Administrator for Discretionary Use		(250,000)	
Less: Legislative Cut to Budget Savings		(600,000)	
<b>(a) Total Potential One Time Turnover Savings Less LFA Recommendations</b>		<b>1,712,570</b>	
<b>Operational Savings From TCE / AOC Budgets</b>			
Operational Savings From TCE / AOC Budgets	Internal Operating Savings	1,339,870	
Unused Carryforward Request - Webex Virtual Hearing Improvement	Unused Carryforward	150,000	
Reserve Balance (balance from FY 2023 Carryforward)	Judicial Council Reserve	52,997	
Anticipated Reserve Uses - including previously approved and pending requests	Jud. Council Reserve Uses	-	
<b>(b) Total Operational Savings and Reserve</b>		<b>1,542,867</b>	
<b>(c) Total of Turnover Savings &amp; Operational Savings = (a) + (b)</b>		<b>3,255,437</b>	
<b>Legislative Supplemental Funding:</b>			
American Fork Lease Increases (originally a carryforward request for FY 2024)	Legislative Contingent	389,000	
<b>(d) Subtotal - Legislative Supplemental Funding</b>		<b>389,000</b>	
<b>Uses of YE 2024 Funds</b>			
Less: Judicial Council Requests Previously Approved		(587,450)	
Less: Overage for JW1		(90,396)	
<b>(e) Subtotal - Uses of YE 2024 Funds</b>		<b>(677,846)</b>	
<b>Total Potential Carryforward = (c) + (d) less (e) (Legislature approved up to \$3.2M)</b>		<b>2,966,591</b>	
Less: Wellness Council Portion of Carryforward		4,294	
<b>Available for Beginning Balance 2025</b>		<b>2,962,297</b>	

Updated 08/06/2024

Last Reported (7/3/2024) \$ 3,061,836

## FY 25 Year End Requests and Forecasted Available One-Time Funds

Forecasted Available One-time Funds			
Description	Funding Type	Amount	
<b>Sources of YE 2025 Funds</b>			
* Turnover Savings as of PPE xx/xx/xxxx (no entries yet)	Turnover Savings	-	
Turnover savings Estimate for the rest of the year (\$1,200 x 2088 pay hours)	Turnover Savings	2,505,600	
<b>Total Potential One Time Turnover Savings</b>		<b>2,505,600</b>	
Less: Judicial Council Delegated to State Court Administrator for Discretionary Use		(250,000)	
<b>(a) Total Potential One Time Turnover Savings Less Discretionary Use</b>		<b>2,255,600</b>	
<b>Operational Savings From TCE / AOC Budgets - Estimate</b>			
Operational Savings From TCE / AOC Budgets - Estimate	Internal Operating Savings	800,000	
Reserve Balance (balance from FY 2024 Carryforward)	Judicial Council Reserve	847	
Anticipated Reserve Uses - including previously approved and pending requests	Jud. Council Reserve Uses	-	
<b>(b) Total Operational Savings and Reserve</b>		<b>800,847</b>	
<b>(c) Total of Turnover Savings &amp; Operational Savings = (a) + (b)</b>		<b>3,056,447</b>	
<b>Uses of YE 2025 Funds</b>			
<b>(e) Carryforward into FY 2026 (Anticipate request to Legislature for \$3,200,000)</b>	FY 2026 Carryforward	<b>(2,500,000)</b>	
<b>Total Potential One Time Savings = (c) + (d) less Carryforward (e)</b>		<b>556,447</b>	
<b>Less: Judicial Council Requests Previously Approved</b>		<b>(451,427)</b>	
<b>Remaining Forecasted Funds Available for FY 2025 YE Spending Requests</b>		<b>105,020</b>	

Updated 8/7/2024

## Funding Requests

- FY 25 Q1/Q2 Performance Bonus Payments - Revised: Mr. Sweeney explained that the AOC is reducing the request from \$450k to \$294k to match carryforward funds available. He added that if funds are received in the first few months of the year, the AOC will look at boosting that amount back up to the original amount.

**Motion:** Judge Thomas Low made a motion to approve the amended funding of \$294,000 for Q1/Q2 performance bonuses. Justice Petersen seconded the motion, and the motion passed unanimously.

- **All Rise Welcome Dinner:** Jon Puente requested funding on behalf of the All Rise Utah Project to host the program's welcome dinner that takes place every autumn. He added that the program hasn't needed to request funding for the dinner for the past few years due to partner fundraising but explained that this may not be possible this year.

**Motion:** Judge James Gardner made a motion to approve the request as presented. Judge Michael DiReda seconded the motion, and the motion passed unanimously.

- **Byrne State Crisis Intervention Program** - Jordan Murray and Amy Hernandez requested approval to apply for the Byrne State Crisis Intervention Program (SCIP) grant to build an improved protective order records validation process and support the Domestic Violence Criminal Compliance Docket Pilot Program (AKA the DV docket).

**Motion:** Judge Suchada Bazzelle made a motion to approve the request to apply for grant funding as presented. Judge Jon Carpenter seconded the motion, and the motion passed unanimously.

#### **5. OCAP FEE INCREASE: (Nathanael Player, Jonathan Mark)**

Nathanael Player and Jonathan Mark requested permission from the Judicial Council to seek changes to Utah Code 78-A-2-501 from the legislature, specifically to increase the fee for OCAP. Mr. Player explained that the \$20 fee for OCAP has not been increased since the year 2000 and recommended that it should be adjusted to \$60 to account for inflation.

**Motion:** Judge Amber Mettler made a motion to grant approval to present the requested changes to Utah Code 78-A-2-501 to the legislature. Judge Gardner seconded the motion, and the motion passed unanimously.

#### **6. PROPOSED JUDICIAL EDUCATION PROGRAM REQUIRED BY HB 272: (Ron Gordon, Lauren Andersen, Tonia Wilson, Amy Hernandez)**

Amy Hernandez shared information from HB 272, which requires the state court administrator to develop a judicial educational program that will strengthen the courts' ability to identify domestic violence and child abuse in child custody proceedings and make custody decisions that will bring the judiciary into compliance with (UCA 78A-2-232(2)(a)). She added that the state court administrator is required to present this proposed judicial education program to the Judiciary Interim Committee by the committee's September 2024 interim meeting. To prepare for this presentation, Ms. Hernandez and Lauren Andersen requested feedback from the Judicial Council on their proposed program and the four key presentation topics required by HB 272.

**Motion:** Judge Low made a motion to approve the Education Team to give the presentation to the legislature. Judge Carpenter seconded the motion, and the motion passed unanimously.

## **7. RULE 3-102 AMENDMENT: (Ron Gordon)**

Mr. Gordon presented a recommended change to CJA rule 3-102, Assumption of judicial office, which currently states that a judicial appointee must occupy the office within 60 days. He shared that there is a judge that has been recently appointed and confirmed, but the person she's replacing isn't leaving the bench within 60 days. Mr. Gordon explained that the requested change would allow for the Judicial Council, in those circumstances, to extend the time period upon the appointee's request.

**Motion:** Judge Garner made a motion to approve the amendment to Rule 3-102 as presented, effective immediately. Judge Susan Eisenman seconded the request, and the motion passed unanimously.

There was some discussion on whether to include the clause "upon the appointee's request."

**Motion:** Judge Gardner made a motion to reconsider. Judge Farr seconded the motion to reconsider, and the motion passed unanimously.

**Motion-** Judge Low made a motion to remove the clause "upon the appointee's request" and to put the period after the clause "to extend the time period." Judge Carpenter seconded the motion, and the motion passed unanimously.

## **8. EXECUTIVE COMMITTEE ASSIGNMENTS: (Ron Gordon)**

Mr. Gordon presented a recommendation from the Management Committee's for the following changes to executive committee assignments, effective immediately.

- Add Judge Bazzelle to the Management Committee (to replace Judge Lindsley who has retired) and remove Judge Bazzelle from the Policy, Planning, and Technology Committee.
- Add Judge Eisenman (who was appointed to replace Judge Lindsley until the bench elects a permanent member in September) to the Budget and Fiscal Management Committee.

Mr. Gordon added that the Management Committee will recommend additional changes to executive committee assignments during the October Judicial Council meeting to reflect changes in the membership of the Judicial Council that will follow the Annual Judicial Conference in September.

**Motion:** Judge Low made a motion to approve the executive committee assignments as presented. Ms. Plane seconded, and the motion passed unanimously.

## **9. RULES FOR FINAL APPROVAL: (Keisa Williams, Jace Willard)**

Keisa Williams shared that CJA rules 1-204, 4-202.01 are back from a 45-day public comment period and no public comments were received. PP&T recommended the rules be adopted as final with November 1, 2024 effective date.

**Motion:** Judge Farr made a motion to approve CJA rules 1-204 and 4-202.01 with a November 1, 2024 effective date. Judge Samuel Chiara seconded the motion, and the motion passed unanimously.

Jace Willard presented a request for CJA rules 4-401 and 4-206 to be approved on an expedited basis with a September 1, 2024 effective date, followed by a 45 day comment period. He explained the judiciary will not be retaining exhibits in criminal cases anymore because of the statutory amendments that are restrictive of disposing of evidence in criminal cases, specifically biological evidence. He added that all exhibits will be transferred to the prosecution at the conclusion of a criminal case. Mr. Willard discussed some of the concerns raised by clerks of court regarding exhibits offered but not received, and how to potentially handle evidence in juvenile delinquency cases. Judge Eisenman recommended including juvenile delinquency matters in the criminal evidence retention.

Judge Mortensen recommended that it should be added to the rule that if an exhibit is offered, it should be part of the record. Mr. Willard shared that some were concerned that there are so many exhibits offered and it becomes a logistical problem, but many of the other Council members agreed that it would be helpful to record all exhibits offered, whether or not they were received. Mr. Willard made the recommended changes to the rule.

**Motion:** Judge Low made a motion to approve the changes as presented and discussed. Judge Chiara seconded the motion, and the motion passed unanimously.

#### **10. OLD BUSINESS/NEW BUSINESS: (All)**

There was no old or new business.

#### **11. ADJOURN**

The meeting adjourned.

#### **CONSENT CALENDAR ITEMS**

1. Rules for Public Comment
2. Facilities Planning Standing Committee Term Extension
3. Committee on Fairness and Accountability Vacancy
4. Forms Committee - Forms for Approval