

The Judicial Council of California is the constitutionally created policymaking body of the California courts. The council meets at least six times a year for business meetings that are open to the public and audiocast live via the California Courts Web site. What follows is captured live captioning, formatted and unedited, of the last meeting. The official record of each meeting, the meeting minutes, are usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts Website at <http://www.courts.ca.gov>.

>> Good afternoon. This is the business meeting of the judicial Council of California for January 17, 2013. Our first meeting of the calendar year -- this meeting is now in session. As you know, I remind you that our meetings are audio cast with real-time captioning on the California website. Also, 12 council members are attending by phone because of the shorter than usual agenda. This is to minimize disruption in their personal work calendars and to reduce travel costs. Shortly, I will conduct a roll call. For the benefit of all the council members joining us by phone and the online audience, please speak into your microphone and address each other by name so that listeners in real time captioning can follow the discussion. I would also ask the Council members on the phone to identify themselves by name when commenting or asking questions. Also, please mute your polls when not speaking. Please don't put us on hold last week be subject to the on hold music.

Portions of these meetings are also routinely videotaped for later broadcast on the website. I will now conduct a roll call for the members joining us by phone. I will do this alphabetical order starting with voting members and then advisory members. Please indicate present when I call your name.

>> Judge James Brandlin?
>> Present.
>> Angela Davis?
>> Present.
>> Judge David D Alba?
>> Present.
>> Presiding judge Sherrill A Ellsworth?
>> past presiding judge.
>> Thank you I will make that a memo.
>>Present.
>> Ms. Edith Matthai?
>> Present.
>> Judge David Rosenberg?
>> Present.
>> Mr. Alan Carlson?
>> Present.
>> Presiding Judge Lori Earl?
>> Present.
>> Presiding Judge Bryan McCabe?
>> Present.
>> Ms. Mary Beth Todd?

>> Present.

>> Assistant presiding Judge Charles Wachob?

>> Present.

>> Thank you for attending by phone. Before we commence the agenda, with the recent publication of the governors 2013-14 proposed budget, we remain focused on judicial branch budget issues as our number one priority. It is the first item on the discussion agenda and we will have more comments. Our concerns are not just with this year's proposal, but also with the cumulative effect of previous years budget act. In the press conference, Governor. Brown spoke eloquently about justice and equality and fairness in the budget process.

>> We share those goals and objectives and we are very closely connected to the values more than most. But, as I said in the comments in a conference call with reporters, it is January, not June, and we are entering into this budget cycle with open minds and their objectives. Around achieving adequate funding for the branch and a fair deal and the ability to fulfill our constitutional obligations of equal access to justice for all Californians. I was pleased to read recent coverage and editorials about the consequences of cuts to the judicial branch and the public we serve. I would like to knowledge the dedication and determination of all the justices and judges and our members who have clearly communicated the effect of our cuts on the judicial branch.

>> In particular, I would like to thank our trial court funding group -- the working group and the members of this council who have been working tirelessly to inform the public and our sister branches about the unique issues faced by the judicial branch.

>> We have intelligent, creative, and passionate leaders advocating on our behalf. I am grateful for your service.

>> After roll call, I have the chief justice report. It will be brief. It is reporting on activities since the last meeting which was December 14 and included the holiday season. I finished last year as I began this year needing with the governor and members of the media. In December I had my annual press briefing with legal affairs correspondent.

>> In January I participated in a teleconference with the judge and the press on the perspectives about the governors budget proposal and the belief that no additional reductions, but our concern about the existing ongoing cuts and the proposed use of construction funds. Last night I attended, along with Justice Baxter and Miller and judge [indiscernible] and Judy and Judge Hardcastle -- I may have missed [indiscernible]. , A reception with legislators hosted by justice system partners was stepped up to support the branch during these difficult times. That is the "coalition - the California defense counsel, consumer attorneys of California, Sacramento County Bar Association -- presiding Judge Earl was present last night as well. And the state are of California. A diverse group, all unified in supporting the branch. I was gratified to meet the legislators and to share their optimism and enthusiasm about going forward in this coming year.

>> I also have special thanks for Joe done and Nancy travel for putting this together. All of these activities and events and the trend of things has given me reason for cautious optimism for 2013. This ends my report. I will ask Judge Steven Jahr to present his report.

>> Thank you. The written report of the administrative director is a compendium of activities that occur. I invite your attention to this at your convenience. A few highlight points I would like to raise for you. First, budget related, I should tell you -- it will be no surprise to you -- staff has been burning -- burning the midnight oil digesting the governors proposal and developing material in assisting us to create a transparent and clear advocacy position, not the least of which materials are graphs and charts and so forth that we are bringing that into a clear focus. They have worked long days and weekends and this I can attest to. I am grateful for their sustained commitment and efforts.

>> With respect and, more obviously, relatively budget in due course -- with respect to the AOC restructuring process and conformance with the directives of the Council, the executive and planning committee provided direction to staff to us to defer a formal status report from today's meeting as originally scheduled to February in light of the short agenda and other considerations associated. I would, however, like to make a brief highlight of activities to calm. [indiscernible] is working on finalizing recommendations regarding a cost-benefit analysis of the extensive coverage of this education programs for the February meeting. HR is working on two very important activities. This relates to restructuring objectives and directives also for presentation at the February meeting.

One concerns the telecommute -- teleworking or remote work I'll is he depending on the label applied -- you may be aware or recall that originally we were planted to come forward at this meeting to provide a report relative to the telecommute policy and a recommendation for you concerning its contents. I, indeed, had considerable assistance with staff and developed a proposed program that would tighten up considerably certain facets of the process; however, when we sat with the executive planning committee to prepare for the presentation, it became clear that members of the executive in planning committee wanted us to explore additional considerations in terms of recommendations to the Council. So, they asked that we delay the condition so we can enlarge and expand the topic in our report for February. February is when you will see the telecommute recommendations coming for.

>> The second piece that HR has been working our has to do with the classification and compensation study activities which are germane to a series of directives. Many of the others are tied into those. HR is developing a proposal and alternative proposals for your considerations as to how that classification and compensation study process should be concluded. You will see in February those options for your consideration following which, of course, we will be able to move forward with dispatch.

>> The present staffing metrics for the agency -- I have the workforce total. This includes permanent as well as contract and temporary staff. This drops from 806 in November twit current workforce number of HR 1.73. We are initiating the first of a two step approach in red speck to temporary and contract staff in light of the reports that observed that there is additional expense associated with retaining on a long-term basis temporary employees and contract staff. We have made a conversion of 32 long-term temp agency staff to regular employee status. This approach is consistent with the goal of ensuring the appropriate use of temporary workers to meet short-term needs and this has no effect on the overall total workforce numbers because the numbers embrace those categories. In a similar but phased effort, a plan is being to develop to convert

long-term contractors is appropriate to reduce the costs. Once again, these have no immediate impact on and will not have a future impact on the numbers that I laid out for you. So, we believe that these steps as they are ongoing will address a workload need and reduce dependency on the temporary untracked worker categories and also maintain institutional knowledge in such critical areas as facilities and IT, the latter of which, as all of you know, has a number of contract staff.

>> The last piece -- I will ask Curt Soderlund and Diane Cowdrey to share. This is a new initiative undertaken within the administrator of office. During his term as interim chief a theater director, Curt Soderlund assessed agency resources for the administrative office and, particularly associated with the subject of management training. We are fortunate that Curt with more than two decades of experience in management in the executive branch has the perspective to bring to bear with regard to where we stand as an agency and he identified an area that needed serious attention, just as trial court management training has been addressed. We need to address training with guard to AOC management staff itself. He initiated a project in collaboration with Ken Couch of Human Resources and Diane Cowdrey of CJER and Chief Counsel Mary Roberts to develop a training program and a work group was assembled for that purpose. There was a synergistic effect using the Core 40 program for court management and as a consequence, a series of mandatory management training courses designed to support AOC assistant managers -- excuse me -- assistant directors, managers and supervisors in a day-to-day response abilities and improve operations throughout the agency as a consequence. are kicking off this month. There are six programs and they will be presented throughout the course of a year. This will better equip our leadership teams with knowledge and skills that are needed in this challenging effort. This was not a directive, but an outgrowth of a self-assessment and self examination that was a product of the chief's initiative that began with the formation of the SEC. With that, I will turn things over to Curt and Diane and thank them for their great work along with Mary.

>> I'll just say a couple of things.

>> We have been doing a program called [indiscernible] for many years. It is a management training program . [indiscernible] Sorry -- I can't hear you.

>> Thank you for letting us know.

>> Thank you. I had my elbow on that button.

>> What I was saying -- we have adopted a program that we have been holding for many years for court readership called the core 40 program. This is one of the nice things about CJER we do a lot of training with group that we can repurpose things and so we have adapted this curriculum to be relevant for the management. In addition to the six classes that we are holding, and we are holding them here and in fact in Sacramento and by you conference to Burbank or the southern region. We will develop a couple of online classes. This is so they will be available 24/7 to the management staff. We will be on employment law and one will be a basic orientation to management. We have been holding management training programs over the last few years sporadically. The primary one is the orientation for the managers and supervisors and because we have not had any, that has been postponed. This is a really great effort that we are reenergizing -- the management training -- I am exciting that we can use the court 40 curriculum to do that.

>> Thank you. Most people want me to put my elbow on the mute button.

>> The training will focus largely on performance review and evaluation and changes in the law. And in the administration and management of personnel. This is an in-house program using some of our seasoned experienced directors -- assistant directors and managers and supervisors. We are very encouraged by this. We are going to encourage all supervisors and managers to attend these trainings. Again, it is an ongoing program and I would reiterate the comments that this is consistent with the themes and the direction and structure of the JCS cc recommendations.

>> Thank you. Judge Jahr, anything else?

>> Any questions or comments?

>> I want to call on Justice Miller for a brief update. I also forgot to mention people -- also present last night and very helpful in putting this together were Cory and Teresa. Also, special thanks to Michael [last name indiscernible] for helping us facilitate that reception.

>> I will ask Justice Miller, then, to address the Council.

>> Thank you. I don't have a report, but we do have to judicial Council members who have made contact with their liaison court then they are welcome to provide those reports to us. First, we will hear from Judge Teri Jackson.

>> Thank you. I visited on January 11 what with Santa Cruz and San Benito. I met with all the judges. In Santa Cruz, I met with 10 of 11 judges there. I will share with you some of the comments. Not in terms of priority, but first they were concerned about the maintenance of the courts and what the budget impact will have on tile core facilities and maintaining the courts. As many of you are aware, they are currently in a County building and they will go to a new building. The question is -- who will maintain a? For San Benito, they did it or operations such as water, trash, and so forth, -- is it a County function or core function or an AOC function? The court executive was concerned about that.

>> Santa Cruz, on the other hand, has existing buildings that it is challenging to maintain. Therefore, it is a priority for them that the AOC keeps it's funny to maintain those buildings.

>> Another concern among both boards -- the methodology that will be used. They want to know when it will be implemented and number two -- how it will be implemented. And before it is rolled out in terms of the reallocations of the court, whether or not the courts will have input. It is very important that the courts implement this -- the courts have a say. San Benito said that there court functions with -- they have a visiting judge. That judge handles all of their law matters the other two judges can only handle trials that are consistent with a day and attend how. They call themselves a solid court in that they do the basic needs for the community and ensure that there is access to justice, but they don't have the ability to things such as veteran court or behavioral court or drug court. Their concern is that if the courts that do that -- would they suffer in the methodology? Asked why they thought it was imperative that before anything is implemented that all the courts have a say. Santa Cruz echoes that.

>> Also consistent among the two courts that I visited -- they would like to meet the new [indiscernible]. They know him, but they would like to have the opportunity to talk to him about the AOC restructuring. The proposal was that Santa Cruz and San Benito -- they want to include Santa Clara -- how did you get with that group? I thought you were up here with us in Monterey.

>> That those courts would have a meeting in March or April and they would do it in Watsonville and have an opportunity to meet Steve and they want me to come back. I didn't do anything to embarrass you so I was invited back. Justice Miller and various other representatives -- to talk about reorganization and to get to know everyone.

>> Just so you know, Steve, I volunteered.

>> We are going sometime in March.

>> [laughter] When I went to the meetings and they had an issue, I gave them everyone's names and phone numbers. [laughter] Both Santa Cruz and San Benito are incurred addressed it in -- Judge Harmon, you will hear from them. Send me an e-mail.

>> [indiscernible] was a big issue for them. They enjoyed it and they understand the budget, but they really want the input -- the one-on-one input. Getting it off the computer is good, but they would like to have the program if and when the budget gets together. So we could have more procedure training.

>> There was a concern by one of the judges, apparently at the judicial college, that the programs were eliminated. I said I would talk to the liaisons about that. Family law and delete with the. They thought that was necessary, particularly as many of the new judges sit in on those assignments.

>> They would also like -- interested in the judicial Council looking at jury trial reform and criminal law area. Challenges for misdemeanor cases. The composition of Charlie trials for misdemeanors. Because they believed this would be a significant cost savings for the court.

>> They -- both courts were familiar -- apparently there is a proposal circulated by the presiding judge dealing with the composition. They were well aware of that and they would like for the Council to look at that issue.

>> Santa Cruz mentioned case management and I told them that Judge Herman is handling that. I told them about the strategic plan they were hoping that a consideration for some of the common vendors as well as not only common vendors but some time some place where particular vendors can be linked to other courts. They hoped that that would be included.

>> Last but not least, one of the judges -- by the way, when I go to these meetings -- I say I am not a filter -- whatever you want me to raise, I will. So, that is for open discussion and I think all issues to be raised. One of the judges raised the salaries. There has not been a cost-of-living and they want to know if the Council is going to do anything about that.

>> So, that is my report. I told them that I would talk to them on a monthly basis and attend with judge Jahr and Justice Miller the meeting in March or April.

>> Thank you.

>> Just to follow-up -- judge Jahr didn't mention it in his report, but he visited my County to be the keynote speaker at the dedication of our North County clerks office. I wanted to add to what Judge Jackson was saying. My court officers and staff were tremendously grateful. For her participation in our big day. He went out of his way -- he had to drive all the way down from Sacramento because plane service between Santa Barbara and Sacramento -- you can't really get there from here. Then he had to drive after the ceremonies back up to Redding. He really did go out of his way to take a tremendous amount of time. His keynote speech was inspirational. He met our North County traditional officers and staff -- judicial officers and staff. They uniformly were extremely pleased that they could now connect a face with a name. So, I wanted to express to judge Jahr my appreciation on the behalf of a humble fishing village for his very effective outreach. Thank you.

>> Thank you, judge. It was a treat to be with all of you. Also, by video the judges in the Santa Barbara courthouse. I got a construction hardhat out of the deal.

>> [laughter] Judge Hardcastle?

>> Thank you, Justice Miller. I had the pleasure of going up to Lake County on December 20. Lake County was where I had practiced at times. So, I enjoy going out there and seeing judge Herrick was about to retire. He presided over my last jury trial. Prior to my apartment on the bench. For you city folks, it was a cow in the roadway case.

>> [laughter] Did you represent the cow X

>> Actually, the house owner. It turned out well. That was in 1996.

>> Was that an open range we don't even know what a cow is.

>> It comes before the cart.

>> [laughter] So, I enjoy going up there. They have four judges -- they are about to have a brand-new judge. Now, 4.62 judicial officers and they have a retired Commissioner from Mendocino who comes over the hill to hear cases three days a week. Their issues are the same that we have statewide, but it is profound when you go to a county and see the dramatic effect. They are only down 11 employees, so that doesn't sound like much until you realize that that is more than 35% of their workforce. Their staff morale, unfortunately, is extremely low. They haven't had a raise in six years. They have had 16 for low days over the last couple of years. 16 days per year. What is really sad -- I think it is unacceptable -- they have folks that are "full-time employees" who are on food stamps. That is sad to hear. Many of them got tearful in the two-hour meeting that they had with me. They are very upset. They feel they cannot achieve what they believe to be access to justice. They have professional pride. It is hurt. They don't have a staff to personally man the phones. They said that people get on the phones after I have an hour

and start to yell about what they can do. Write down the name of the legislators who represent this district. I provided those to the public. I would let them know.

>> They have one window for all the filing. The line gets long there because the self-help centers are being cut. Unfortunately, the self-help Center in Lakeport which is where the main courthouse is lost their lease and now they are moving it over to the city of Clearlake, about a half-hour drive.

>> People will have to go to the court and back to Clearlake and back with their documents. It doesn't make a lot of sense. The facility is very inadequate for a big clumsy guy like me -- I had trouble negotiating through the staff areas because they have files stacked here and there in the hallway. It is a bit of a trail to get through.

>> The judges and the staff and the CEO as well as the other judges are on a different allocation schedule because as they point out -- although they are small County, they have a large methamphetamine problem in a large gang problem. One of the judges had just finished a 2.5 month trial on a multi-defendant homicide case which is pretty routine for a large County, but for a small County to tie at 25% of their departments at one time is significant.

>> When they transport in custody defendants, they put up a portable wall between the defendant and the folks in what you would consider to be their lobby. I could look over the wall, so it was not terribly high. When they do juvenile cases, they have to block off the bathrooms so you can't use the bathrooms on the fourth floor where the court is located. They put plywood over the windows so no one can see an. They are anxious to have their project go forward. They are on the list to go forward.

>> That is most of their concerns. I invited them to come to the meetings. I hope they are listening today. They listen Rivoli. I invited them to come and speak during the public comment section because the Council would like to hear from them personally. Have my report. Thank you.

>> Thank you, judge Hardcastle and Judge Jackson. It is critical to have these report from the counties. It is important. We used to do site visit, but the -- your reports are focused and detailed and we understand and better understand the challenges of our sister courts. We are working toward a resolution that they should be hearing about in the meeting toward alleviating much of the concerns that they have. Their concerns are our concerns and we share their pain in hearing the description and lack of service to the folks and what the employees need. Thank you for delivering those messages.

>> Doug asked me if I wanted to make a report. I told him I would make a full report at the next meeting. Briefly, to tell you, when I stopped by the courthouses both in Bishop and independence last Friday, they were so gracious. I had seen Tammy. She said stop by anytime. I just dropped in. They could not have been more welcoming. They were happy to see me. They are hard-working people in terrible conditions. The courtrooms are just awful. There is no ADA, of course. If they have an issue, they have to use a remote building. I will give a complete report, but I wanted to thank Tammy for coming up here and representing her court. I would be happy to provide more detail next time.

>> Thank you.

>> We plan on telling the stories about each court in the legislature to the lawmakers -- the people who make these decisions. We plan to paint a graphic picture that we know exists in each of these counties about the need for an adequate and sound judicial branch budget.

>> We are at the point in our agenda where we are at public comment. Let me just say that we have three speakers. All three, however, pertain to item G -- the trial court pilot project. We will hear from all three of them when we reach item G. Also we have received this already -- one written the comment from the Riverside County Bar Association. This is included in your material and it is also posted on the judicial Council meeting page on the website. Having had no request to address the Council consent agenda items for matters generally affecting the administration of justice, we will now take up the consent agenda -- on your calendar you can see that it is consent for items couple a through C.

As a way of background, as you know the executive and planning committee placed items on the consent agenda in the duration of Council meeting time. This is to ensure that the work of the Council and advisory committees can be as effective as possible in setting policy and implementing solutions. Placement on the consent agenda itself in no way reflects on the significance of a proposal. Prior to the meeting, any Council member may request that an item on consent may be moved to the discussion agenda. We have three items relating to report to the Legislature on today's consent agenda. Do I hear a motion to move the agenda?

>> Judge O'Malley and Judge Baxter -- second by Judge Jacobson. The consent is moved that we were onto the discussion agenda item.

>> Item D -- the midyear budget update.

>> We welcome judge Jahr, Cory Jespersen, and Judge Theodorovic In November, we learned for the first time that the Department of finance, in order to address the promised restoration of \$418 million of a one-time \$540 million general fund reduction to support the courts was proposing not to restore the full 418 but to restore 218 of that amount with a balance of 200 million to be comprised of the aggregated fund balances sometimes called reserves in the trial courts.

>> The chief and many of us, of course, urged reconsideration of deposition given the frightening outcomes that have occurred in 2014 -- where the fund balance amounts which are being spent down Perloff over 1% to a two year period to be suddenly unavailable. On January 10 the governor issued his budget message of proposing, indeed, a restoration of 218 million, not, unfortunately, the full forwarded 18 million. -- Forwarded and 18 million.

>> He proposed to balance the 200 million. As a consequence of a redirection of construction funds from what we commonly refer to as the immediate and critical needs account. This, of course, has an effect on the facilities revenue stream. In addition, for the most part the budget change proposals which have been forwarded on behalf of the Council during the summertime were decline. This included some benefit and compensation increases both at the trial court and

state level which customarily have been matters that have been dealt with outside of the existing budgets of the courts.

>> The governor's budget proposal also indicates that the Long Beach courthouse, when payments begin in fiscal 2013 2014 would be paid to the revenue stream in the 1407 fund.

>> The net effect of the governor's budget proposal was that it would become the budget bill is that while the fund balances remain in the hands of the trial courts to the balance of 2013 2014 for their use in cushioning the reductions and support for operations funding, our construction program, of course, is damaged as a consequence. With the ultimate budget to reflect the governor's proposal, there are several cumulative effects.

>> One-time offsets that we have been able to provide to the trial court for state wide funds -- for example, the modernization fund, are largely a thing of the past because of the depletion of those sources. Multiple fee and increases over the last few years, of course, threatened to narrow access to the public courts as a cost of filing an action responding to an action or answering a simple traffic citation, if you will, go considerably higher.

>> Since facilities money is also raised, the revenue stream for Facilities construction and maintenance is also raised via lines and penalty assessments -- fines and fees. The redirection of those revenue streams has the effect of rapidly transforming our branch into a fee for service entity.

>> For example, the LAO office -- legislative analyst -- issued a report that noted that whereas four years ago the general fund accounted for 56% of the total judicial branch budget -- the general fund being mean the unencumbered funds that we think about of as our income tax dollars -- sales-tax dollars that goes into a state fund less than \$100 billion -- accounted for only 56% of our entire branch budget just four years ago. Now it reports that that amount is now only 20% of the total funding.

>> Another way to look at the general fund issue is that taking all state general fund spending throughout all state activities, for every dollar of general fund and, one penny goes to the judicial branch. There are obviously practical considerations that are access related associated with an increasingly be driven support of the branch -- the different support -- but there are philosophical issues associated with the branch which belongs to and serve the citizens, were that they come into court for jury duty or not. So, the work is cut out for us. We have some minimal level funding that we are facing as a budget proposal for this year. We will advocate that the annual fund not other funds resources replenish and reinvest and be returned to our branch. We will advance a return of the balance of this year's general fund reduction, also, which numbers roughly \$125 million that is presently scored as a permanent cut. We will advocate for the budget change proposals reflecting at a cost to the branch, not the least of which, of course, are the benefits enhancements or enlargements that I mentioned previously.

>> The next step, of course, involve, as most of you are aware, action in a concerted and organized way. The office of governmental affairs is serving as a clearinghouse and organizing point for that activity. The policy driven day to day response is being focused in the branch budget planning group formed by the chief and at the same time she formed a rapid sponsor

subcommittee of that group which is developing and has developed an action plan for advocacy and partnering. We are refining and sharpening the messages as I speak. For that group. And, we have also kicked off sessions internally and with the broad array of attorney groups that -- most of which are under the umbrella of what we commonly refer to as the "coalition.

>> As was mentioned already, the legislative reception -- it was put on by several of the Bar Association's last evening -- was a great success. The chief had an opportunity to meet and greet most of the new legislators and we were delighted at the response to the invitation to attend. Of course, the social partners in this process are the California Judges Association and the edge Mark coalition and the specialty bar and we are teeing up a common message and we are obviously grateful to the presiding judges and court executives officers whose hugely assist in this effort which is already afoot.

>> Once again, our office will serve as an organizing point so we are certain that the messages are uniform and transparent and consistent and that there is an organized process by which we communicate the important message that we must communicate.

>> One thing that I know we are addressing head-on is the clear and plain message of the Department of finance and from the stakeholders will come back to us having spoken with those in Sacramento that we address the allocation metrics now. We need to resolve those issues probably. With that, I will turn things over to Cory and Zlatko. They have been working 24/7.

>> I don't have much to add. One thing I will note that is important is that the Department of finance did include a number of deficiencies that the Council was pursuing which, I think, went to a good process which some subgroups and went to the Council to get some relief from some statutory requirements as well as some minor fee adjustments. One particular interest to many of the courts is the inclusion of the \$10 administrative fee on the vehicle code lookups. That was something that this Council has dealt with over the last few months. So, we are pleased to hear that. Hopefully, that will be something that will begin the legislative process. In addition to that, the Department of finance indicated their support are working with the branch on developing cash flow solutions given the current language on the 1%. So, we are encouraged by that, but we are still fighting and looking for increases in that fund balance amount. Notwithstanding, we are working on cash and that is a critical issue that many courts have been concerned about. I just wanted to say that in a meeting.

>> Could I get a clarification? In the governor's budget proposal, previously we had at least 17 deficiencies that we brought to their attention. In the governor's proposed budget, he adopted 11, is that correct?

>> Yes.

>> I should jump in quickly before Cory speaks with you to indicate that my oversight -- a monumental oversight -- did not mention the issue of fund balance restoration. The 1% number that is staring us in the face is simply unworkable. From a variety of points of view, not the least of which is the problem of fundamental cash flow needs. Things like making payroll. Advancing the funds grant fund activities. An example of which is the very important a be 1058 child support Commissioner program. Our courts advance -- months in advance -- before they receive

reimbursement. Those fund balances must be present in order for those programs just to continue. So, forgive me for that oversight. Cory?

>> I would add -- there was a total of 17 deficiency. So, this would be a leading of those and the remaining six that for the Council's directions we would pursue as standalone policy bills that we have another handful that should be coming to the Council next month to be included in that discussion as well.

>> With that, I have nothing further to add.

>> One more thing -- the percent of total budget that the branch -- the general fund. With respect to the total budget, the branch is 2.2% when all funds are considered and as far as share of general fund, we are at 1.2. We have been having numbers in people's minds -- we are still down from the prior highs, but we are at 2.2 of the total budget when you consider all the funds.

>> So, Zlatko, when I said one penny, I should've said 1.2?

>> Accept my apology.

>> It is just knew from the governor's budget.

>> I to close, then, before people may have questions by indicating that as I stated previously, my view is that the government is engaged on this issue. My view is that he is intensely incur concerned about ensuring that justice is available to all Californians and, obviously, he also is challenged by serious fiscal problems a long-standing. I also have the impression from the initial discussions that have begun throughout Sacramento that the importance of and the problems associated with funding our branch are very definitely on the radar screen for our colleagues in the legislature.

>> Thank you.

>> Justice Miller and then Commissioner Alexander.

>> I wanted to follow-up on the efficiencies because I think it is important. To my understanding, we have tried in the past to have those included in the budget language and have not been successful. This year with 11 -- is not that the other six are not agreed to or they disagree with them, it is that they fit into a different category. Is that correct?

>> Yes.

>> The idea is that the statutory change that accompanies the budget. In their minds, the 11th that they agree to go with the budget where were as the other six they felt were more policy oriented. Not that they disagree with them in any way, but they should be dealt with in that normal policy old process.

>> Thank you.

>> Commissioner Alexander?

>> A couple of years ago they took money from 1407 that was a loan.

>> Yes.

>> My understanding is that it will not be -- that it not be paid back -- is that right or wrong?

>> I don't think they are disavowing it. They are pushing back the payback date from what we had previously been told.

>> There are 2 loans.

>> Yes, 350 million and -- as a part of the broader budget proposal that the governor made, we reported that the LAO estimated 1.9 billion. How will they now reporting that there is no budget hole? Part of that is that there is half \$1 billion of what was anticipated to be paid in 1314 in a variety of loans that are being pushed out.

>> That is one of their budget techniques -- what we thought we were going to pay back in loans -- we will defer for another year or two depending on the needs of the program and our fund was one of those being pushed out.

>> Thank you.

>> Justice Baxter?

>> I would like to tag onto justice Miller's -- or I guess it was Judge Jahr 's comment about the governor's willingness to be involved in a continuing dialogue. I think that is true. What we did see when the chief justice met with the governor and the director of finance, the primary issues were discussed. The reserves issue and also the prior rejection of efficiencies that had been presented to the Department of finance and to the legislature.

>> All I can say is that the governor's budget reacted to both of those important issues. I think this is evidence of good faith and his willingness to engage in a continuing dialogue that, hopefully, will get us out of the woods. By June.

>> IQ.

>> Anymore comments or questions?

>> Chief -- this is Judge Rosenberg on the phone.

>> Thank you.

>> I have a question for Zlatko. You mentioned the percentages that were a total of the state budget. I want to make sure that we compare apples to apples. What did you say the current percentages?

>> It is calculated at 1.2% of the total general fund and 2.2% of all funds.

>> Two point what?

>> 2.2.

>> 2.2.

>> And, wasn't there a time when the judicial grant portion was closer to 3% of the total state budget?

>> I believe so.

>> That is an important thing to understand. Historically what the judiciary has received the total state budget. I just wanted to emphasize that.

>> That's a good point. Last year it was 1.4% was it not?

>> Yes.

>> The judiciary's workload has not decreased. Yet our total support within the state budget has decreased substantially.

>> I think Judge Rosenberg brings up a point in terms of workload. As you know, the Council approved us pursuing funding for enacted legislation including the homeowners Bill of Rights and in the memo from Judge Jahr out to the branch, there was no funding included for additional mandates coming from statutory changes. Our funding is not going -- the responsibilities of the branch are increasing. There is additional workload out there formed at the trial courts without additional resources.

>> This further creates cost increases that have less and less resources to deal with.

>> Judge O'Malley and then David [last name indiscernible] For the people listening in, they may not understand what the deficiencies are -- Judge Jahr, can you elaborate what they are and who originated them ? I believe they came from a subgroup of the trial court presiding judge advisory committee. I think that Judge Morris in another committee helped to work on areas of legislation and requirement and statutes that were out of date or no longer highly relevant and things that the judicial branch was required to do that we requested of the legislature to try and take a look at to see if these could be dissolved in some manner or ceased to have to fulfill these requirements. So, I think these are some or part of these efficiencies. Also, things that we felt would help streamline matters. That is what was proposed. I don't think there are a lot of people that know what that was.

>> I can give you a short list of 11 items included -- improved tools for collection, search fees, destruction of records, preliminary hearing transcripts, procedures for pursuing reimbursement, tile by written declaration, increased fees for XM application of record, copy of comparison fees, fees for clerk mailing services of a claim on order of a definitive small claims, court costs

deferred and entry of judgment and the previously mentioned \$10 administrative fee on vehicle violation look up.

>> Thank you.

>> Anymore comment?

>> David?

>> Thank you. I wanted to make a comment about one of the points that Judge Jahr made about the significance of making headway in the retention of trial court fund balances. This year we have seen a tremendous challenge, especially because of the prospect of losing the fund balance or limiting it to 1%. We have done internal analyses that identified many courts running out of money this year. Trying to try to find an interim solution. Some of the interim solutions have included the prospect of borrowing money from different sources, perhaps from local counties. That is not the situation of the branch should be facing. Borrowing money to make payroll. I am hopeful that the realities we are facing resonate in Sacramento the necessity to make adjustments there, too. I know that the legislative office previously reported the importance of allowing courts to retain fund balances just to make ends meet and I am hopeful that this message can continue to resonate to all of the avenues we can pursue.

>> Reinforcing that point.

>> Thank you, David.

>> At this time, then, this concludes what will be an ongoing discussion for counsel. And for the branch and with our sister branches on the budget. Thank you.

>> Next we will move to item E. 1407 project and fiscal year 201 813 and 2014 we will welcome Justice Brad Hill, chair of the core facilities working group. As an aside, [indiscernible] pool should also be recognized for her work yesterday.

>> Thank you very much, chief. And members of the Council. I appreciate once again the opportunity to join you to talk about the facilities program. Unfortunately, once again I am making recommendations to you on behalf of the working group that none of us which to make. We understand the fiscal realities of our state now and in the foreseeable future dictate that all of us must be very prudent and extremely careful when spending the public money. Each and every program must be scrutinized thoroughly. Times have changed. Government at all levels must adapt. We get that. We understand. We also understand that the public deserves safe and secure courthouses. They deserve courthouses that -- as I have told you before -- that will not collapse in an earthquake. We have courthouses located throughout the state the would not survive. We, quite frankly, have an obligation to the public that is at risk to make sure that these buildings are safe for them. The public also deserves courthouses that are safe because of the security deficiencies that we have throughout the state of California. Security experts tell us that our citizens are at risk if we don't do something about these courthouses. And do it soon.

Victims, witnesses, jurors, all of them need to know that their attendance in our courthouses will not put them in danger. At this point, we cannot give them those assurances. People with

disabilities also need to be able to have reasonable access to our courts. Coming to court in many counties is not just difficult for people with disabilities, it can be nearly impossible. We had 26 hours of public hearings not long ago and we heard story after story about access being denied to people with disabilities. In one County the family law traffic and juvenile courts were only accessible by stairs. 15 of them. What are we telling people with disabilities? We just don't care? We just can't afford to provide access to justice? I can't imagine that our stat -- our state through the legislative branch doesn't care enough to make our courthouses accessible. We also have many buildings throughout the state that were determined to be obsolete 30 or 40 years ago. In Los Angeles they have a storeroom full of parts for elevators and other equipment. They simply don't make these any longer. They can get the parts. They are store housing old parts and hoping that they last as long as possible because if the elevator breaks down and they are out of parts, no one in the US makes those parts any longer. In other counties we have potential jurors standing in the snow because there is no room inside the court. In several counties we have parts of buildings that routinely all the way and fall into public areas where at this point we have several courthouses around the tape -- around the state -- tape blocking off these areas. The list goes on and on.

>> We heard countless hours of public testimony and if you had joined us for that you would be as shocked as we work that the state of the facilities is as bad as it is. I think that we all realize that we have these facilities with the great needs that we have, but we also need to understand that we need to do something now. Not in five or 10 years.

>> California has always prided itself on its infrastructure. The need to serve the citizens of our state. We need roads and transportation. We need water. We need many things for our citizens. But, let's not forget that literally millions of Californians use our courthouses. We can't ignore them for the safety or other hazards that await them when they come to our courts. With that said, let me speak for a moment about what we're doing to make sure that the courthouses are will with the funds are being not built not only to last, but are built in a cost-efficient manner.

>> As you recall, last year I asked Justice Johnson to chair the subcommittee. He is taking his job very seriously.

>> I think that you can ask any court that has gone through this process -- you will hear it is not a cursory process at all. The committee is made up of architects, attorneys, court executives, judges, and they are spending countless hours poring over documents and making suggestions for cost savings.

>> Were presented as of every court project have been meeting with this committee and everything from the size of the building to the finish on the walls is on the table.

>> To date, over \$100 million has been saved with more to come. Numbers of the Council, we are making recommendations that you have before you reluctantly. With the hope that soon we can move forward with the court projects that we are asking for now that you defer. Sacramento, Fresno, Los Angeles, and Nevada. We are also making the recommendation as you see before you that the Sacramento land be purchased and it is critical. If this property is lost, the project cannot move forward. It is a key piece of land and our working group felt strongly and unanimously that we need to move forward with it now.

>> Given the budget proposal in the past week from the governor, we are asking at this time to defer recommendations two and three. And to move forward with 1 and 4.

>> We need to assess, given the fact that \$200 million is being spent, what that leaves us with. If anything, this year.

>> Although Judge power and his advisory committee that is trying desperately to keep all the court facilities operating in our state, they need additional funds and they needed now. We hope to come back with a recommendation and the recommendation that you have before you number 2 and 3 -- perhaps that your February meeting. Judge Powers is doing a great job with very little money. I know that Judge Powers and judge [last name indiscernible] came to last year and told you that to keep the courthouses operational, it would take \$80-\$100 million a year. At the very most often times they have half of that. We're going to try to the extent that we can to provide additional funding to them. We have watched as 1 billion has been taken from the construction program and perhaps 1,000,000,003 from the governor as done by the legislature. We have continually watched as the goalposts keep moving. We don't know what to plan for what lies around the corner. I hope that at some point in the coming year we will have some certainty so we can move forward to build safe, secure, economical courthouses. The citizens of our state deserve nothing less. Thank you. I am open for questions. Kelly Quinn has joined me as well.

>> Any questions or comments?

>> Anyone on the line?

>> Justice Miller?

>> I make a motion that we approve items 1 and 4 and we defer 2 and 3 to a later date.

>> Seconded by Judge Jackson and David Yamasaki and Jim [last name indiscernible] This has been front and center and we have all watched and read this with interest and listened with great interest about the difficult decisions you had to make with your committee. We know the hard work that you and the justices are making with the excellent assistance of Kelly Quinn from that division. It pains us to do this and we know we are working in an ominous environment, but we will be advocating on behalf of the construction program strongly as well. Thank you for your leadership here. These are hard issues to decide and you have managed to do this in a transparent and collaborative way. You may not always agree, but everyone gets their say. I appreciate that greatly. Thank you.

>> Thank you, chief. If you for your support. I would like to say that our working group has worked hard and often times convening at a moment's notice to do this work. We appreciate everything they have done.

>> Thank you, Justice Hill. All in favor of the motion say Aye.

>> And he opposed?

>> -- And he opposed the X

>> Thank you.

>> Are all the parties present for item F -- Justice Baxter with Cory and Teresa.

>> I will make a few preliminary comments. You may recall that the last judicial Council meeting we discussed and the Council adopted the legislative priorities for this coming year and to paraphrase the priorities, they were budget, budget, and budget.

>> The issue that was discussed briefly and submitted back to the policy committee for further consideration dealt with the issue of judge ships. Funding the second set and authorizing the third, as I recall. That matter came back to the policy committee. It was one of these committees where there was very Thoreau discussion. Clearly a sense of need for the additional judgeships. This was countered with the very important need for budget negotiations. When the dust settled after the discussion, the policy committee unanimously agreed. They agreed that the best course of action is to simply defer the issue of judgeships until the next fiscal year. So as not to detract from what we all believed were our super primary important legislative priorities.

>> So, the recommendation of the committee to the Council would be to defer that particular issue and hope for a better economic climate in the next fiscal year and to proceed at that time with the very important issue.

>> It is more important to keep the courts open. It is more important to provide the basics of access to justice and keep the focus on those primary issues. So, Cory and Teresa, would you like to add to that?

>> Yes. Chief and Council members, I would add by way of legislative history that since the needs were established for 150 judgeships, we have in the past in 2005 had authorization and funding for 50 -- that was approved and funded -- in 2007 the second set of 50 judgeships was authorized. But it was not funny. Then, in 2008 and 2009 and 2011 and 20 and 12 there was an attempt to secure funding for the second set and authorization for the third set as well. Those measures were held in the Senate Appropriations Committee for budgetary reasons. We agreed

>> [no audio]

>> Once again attempting to get judgeships that will not be authorized or funded, most likely.

>> That is our port.

>> Thank you.

>> Any questions?

>> Yes.

>> Two things –

>> Chief, this is Judge Rosenberg. I have a question.

>> Go ahead.

>> Thank you. I do understand the decision of the committee. I appreciate that there was a thorough discussion and it was not an easy decision for the committee to make. Personally I to disagree. It sends the wrong message. It sends a message that filling the needs of the Judiciary for the needs of the state and the public is of a lower priority. We really do need to push for funding of the second set. We really do need to push for legislation to approve the third set. And if we defer it, are we sending a message that is just not that important? There are other things that are greater report importance? I don't want to keep deferring this. There are courts out there like Riverside that are grossly under judge, if you will. They need many more judges because of the growth of the caseload and growth of population. So, I appreciate and understand the decision, but I disagree.

>> I understand. What you described is the letter from the Riverside Also, judge Jacobson has moved to adopt the recommendation. The recommendations as to deferred this request -- this movement for one year.

>> I heard Judge Baxter say one fiscal year. Is that correct -- it would be a fiscal year? It would be considered in July, 2013?

>> My intention was one fiscal year.

>> Thank you.

>> Is there a second?

>> Second -- Judge O'Malley and Jim Fox.

>>. No further discussion or hands raise, all in favor -- please say Aye.

>> Aye

>> Rosenberg vote no and Ellsworth votes no.

>> We assume the Dave Wesley Mantel.

>> [laughter] I understand.

>> This matter carries.

>> We are ahead of schedule. We don't have everyone present for item G in terms of the public speaker, so we will wait and take a break at this time. We stand at recess until two o'clock.

>> [Judicial Council of California meeting is on recess until 2:00 Pacific Time. Captioner standing by]

>> Before we get started on item G, Judge Jahr will take role given the 12 members on the phone.

>> Judge James Brandlin?

>> Speaking.

>> Present.

>> [laughter] All right. Mr. Carlson?

>> Present.

>> Ms. Davis?

>> Judge Earl?

>> Present.

>> Judge Ellsworth?

>> Present.

>> Judge David De Alba?

>> Present.

>> Judge McCabe?

>> Present.

>> Judge Rosenberg?

>> Present.

>> Judge Charles Wachob?

>> Present.

>> Ms. Davis had telephone problems on her and fellow. Efforts are ongoing to get her back online but apparently it is on the phone system on her line of things. The records should reflect that Ms. Davis was out of touch.

>> Thank you, judge Jahr This is item G -- -- Traffic and Court Technology Advisory Committee I welcome judge -- Jonathan Conklin from Fresno superior court and we also have Ms. Mary Calderon and Mr. Courtney Tucker from the legal services office.

>> Before we get started, there are request from public comment. We have speakers that will share 5 min. and one for 5 min. I will call to the podium Ignacio Hernandez, welcome.

>> Would you like Michael Ferreira to go first?

>> He is the president of the California Federation of interpreters. Will you share your time with Anabelle Garay?

>> No, I will speak along.

>> Other members of the Council, good afternoon. I am Michael Ferreira, the president of the interpreters that represents employee interpreters. In the California course numbering around 900+ individuals. First and foremost, membership represents the judicial symptoms linchpin in providing language access for limited English efficient court users all throughout California. Both for in court proceedings as well as events ancillary to or arising out of those hearings. Have

come today to comment on the pilot program for remote video proceedings, a program that we understand will only deal with infraction level cases primarily for traffic matters.

>> Our membership is concerned with the language of this component of the program. How there may be some oversight as to how the courts would be providing their services. As well as other facets contingent upon interpretation over any remote system whether it be simply telephonic or TeleVideo in nature.>> When we first got information concerning this project it was not clear where the interpreter would fit into the system. While it is understood that the bench officer would be in one location in the court users in several if not many others, it was unclear where the interpreters would be positioned. I have recently been informed that there is a commitment to assign the interpreters, that is to say the members will provide the language access service at the various locations throughout the judicial branch entities of the jurisdiction.

>> This is music to our ears, so to speak. This will be essential to maintain the professional best practices particularly as being able to see and understand not only the spoken language of our LEP individuals, but also the extra linguistic cues that are a part of the total communication. Complete and precise interpretation will be maintained. Also, one of the mainstays of the protest court interpreters is to provide transmissions that documentations for users may receive such as instructions for payment and traffic school enrollment details. If the interpreters at the same site as the core user -- this site translation facet is not just facilitated, but guarantee. What users need a strong commitment on the part of the judicial Council to have an interpreter on site at the remote location as a requirement of the pilot program proposal. This will go a long way to perfect the language access component. However, allow me a moment to highlight some other considerations that may it not be considered with regard to presenting archivist to the bench officer during arraignments are presenting evidence or witnesses during a traffic trial.

>> For example, how would the documents and the photos and things of that nature be shown to the bench officer on the other end? Were will be law-enforcement officer or law enforcement with this witnesses be positioned? If a defendant brings a lawyer or there is a litigant to converse confidentially with their witness, what feature in their system would ensure privacy? Would it be a dedicated channel or an on and off switch for audio? Finally, what arrangements have been made for interpretation of the witness and defendant when the witness for the people in both the defendant and the witness needs interpreting services? Our ethics as and routers is to stay with one of the other.

>> Access to this question and many others that would appear as the program get underway are crucial to its success. I am here to say that this program can be improved and turned into a system to expand access to the courts and I am here to say that CFI is ready to participate as a justice partner to perfect any language access to the system you may wish to design and implement. We are ready with the expertise and the knowledge base and a wide broad experience to partner with the judicial Council to improve and expand every aspect of language access in the course. All events or language needs and ancillary to the resulting court proceedings.

>> We are not just your interpreter ploy base, we are your just as partisan helping to improve access to the courts for all Californians. Take you for your consideration. Take you for the opportunity to address this body.

>> Thank you.

>> Ms. Anabelle Garay?

>> Okay -- Mr. Ignacio Hernandez Mr. Welcome.

>> Thank you. I am here on behalf of the California attorneys for criminal adjustments -- a statewide association. I am also here in addition on behalf of the California Federation of interpreters who represented their comments and I will highlight the request which is to amend the proposal to require that the interpreter be physically present at the remote location that is not included in the current labor to the proposal. It is a proposed amendment and I hope we can have a discussion and a motion to include that in the proposal.

>> As far as the criminal defense attorneys -- we have many issues. Let me focus on one. This came up after last week's amended proposal. That is the potential violation of the confrontation clause. I have been involved in this discussion on using remote video equipment for a number of years. In the legislature when there have been proposals for the initial Council. We have never had a proposal to use video technology in a trial proceeding. This would be the first time. In the new twist that came up last week, we will allow for law-enforcement officers to be physically present at the courthouse when the defendant driver is at a remote location. So, the cross-examination of the witness will occur through video agreement. This is new. This is problematic. Generally, this is a violation of the confrontation clause. In the seven days I have had to research this issue -- again, it was never raised in the discussion over the last few months that this would be a part of the proposal, in the last few days I have dug in and done my case research and reached out to community organizations that deal with these issues. I have reached out to top constitutional scholars in this country. The response has been that this could be a violation of the confrontation clause.

The proposal does not even address this issue. The staff work -- let me back up -- this construct a sincere place. I know there are issues in Fresno County. We want to be helpful. But, we cannot exchange efficiency for violations of the Constitution. It is just not what this body should do. I am asking that this proposal be amended to remove that provision. We do not want the law-enforcement officers somewhere else. There is some waiver language and I do not think this is adequate. We can have a further discussion on that going forward. If it ever wants to get added to the pilot project.

>> Two things I want to mention -- this is not a pilot project as we normally can see that. A pilot project is normally a County or two counties or three counties with limited time. That is how it was described with me. That it would be for Fresno County. The proposal allows for every county in California to request remote video sites. I asked the study to get it right the first time. I feel as if the approaches -- let's move this quickly and do it now. Apologize later. That is not how the study normally operates. I urge you to reconsider the proposal as it stands now. Let us sit now with the representatives from Fresno County. I have not had a chance to do this. I have had a chance to reach out with the cities -- I spoke with the city managers earlier this week. I talk to them about the issue and they are supportive of the into printer idea of having the interpreter physically present. They were not sure what their feelings were on the law-enforcement piece of it. They were willing to have a discussion. I think that is what we need to have. A full discussion.

Not just been judicial Council and the advisory boards. Not just with those that you normally discuss with, but the stakeholders that have an interest. The attorneys. The interpreters. The individuals who do represent the folks that live in Fresno County.

I reached out to a community organizations I work with in Fresno County and they were completely shocked by this proposal. They support the idea of greater access as to I as does my organization, but they were uncomfortable with the idea that a law-enforcement officer would be somewhere else and the potential that the judge -- the law-enforcement officer and the temperature would be at the courthouse while the driver was in a remote location simple because we are trying to make it easier for the individual to access the courts. If the focus is on what is best for the defendant, for the accused, then let's be consistent. Let's make sure that we do not even going to a gray area of rolling back the constitutional rights. Let's make sure they have the interpreter next to them and let's get it right the first time. I know you want to move quickly. A few weeks of discussing this -- you can have it on the February agenda. It can be done. At the very least, limited to Fresno and make the changes on the interpreter and the changes on the confrontation clause so you don't run into that problem so that the judicial Council is not singled out as going out front and violating the confrontation clause out of an urgency to address an issue.

>> The last thing -- I hope there will be an opportunity -- I know it is not normal procedure, but after the presentation is made, I don't know if there's an opportunity to respond to questions, but I will ask the Council if that comes up or if there is a question that we can respond to, this is a way that I think we can fix this proposal. I want to find a way to fix this and we have not had an opportunity to discuss these issues in this kind of form, especially since it was just posted last week. I asked the body to consider that change in procedure. Thank you.

>> [Captioners transitioning]

>> Thank you Chief Justice and members of the cap Valletta time when we are folks forced to close our courtrooms an entire courthouses, we are forced to find ways to at least try to mitigate or immediate rate the negative impact this is having on our citizens access to justice. This proposal, to allow at the defendant's request only, remote video appearances in traffic infraction matters is one such effort. Because of the urgency that many of our courts face including the Fresno court, we try to expedite this effort to get a reasonable proposal before the council that we can pilot and try on a temporary basis, from which we can hopefully learn and expand the effort.

>> As you've already heard from the comments today, technology is not the limiting factor on our ability to provide reasonable public access to court services, the issues are far beyond technology. At this point, I will do for to the presentation on these matters to Mr. Tucker and judge well.

>> Thank you justice –

>> Chief Justice and members of the Council, it is my pleasure to join you here today aided with justice Bruiniers and Courtney Tucker to make this present Tatian to you this forward thinking puzzle. The adoption of the rule and the forms that you are considering will establish a platform in which local courts can if they choose pursuant to Court rules and with the council's approval

provide a means by which an infraction defendant may elect to have his or her trial or arraignment conducted from a remote location via eight two-way video link. In Trial Courts that conduct remote video proceedings, under the pilot project the defendants in eligible cases will be able to choose to appear at arrangements and/or trial by two-way video link from a remote location selected by the court. The proposed rule and implementing forms will enable courts to provide public, the public with ongoing access to court proceedings at a time when court resources are being substantially reduced and courthouses are being closed.

Because the proposal is for a pilot project, the experience and information gathered will aid you in determining best practices that will help us in decision-making in the future. The suggestion for remote video reseating's originated from Fresno and I would like to thank our colleagues from Fresno for joining us on the phone today. They can explain to you how the budget cuts have affected their courtroom, their court branch, and has encouraged them and prompted them to close six outlying courtrooms, courthouses. Those facilities are no longer available to service the communities that previously depended upon them. Many of the individuals that those courthouses service our challenge when it comes to the process of getting themselves to court in Fresno.

>> This is the solution for that problem. Therefore, we view this proposal as a win-win. It serves the council's goals and objectives of developing effective case management rules to promote fair and efficient processing of cases. Additionally, and importantly, the proposal will improve access to justice and to promote fair and convenient proceedings. This proposal originally included a legislative update to the rules and forms for remote video proceedings in compulsory school attendance cases as those traffic infraction matters. Ultimately, school officials in Fresno decided against implementation of the program for a compulsory attendance offense and that component was removed from the proposal.

>> Because of the urgency of the situation, developing a rule and forms for the pilot project in traffic infraction cases was determined to be the best approach. Because the proposed actions are consistent with the council's rulemaking authority, and are not inconsistent with existing law, recognizing that the proceedings only take place upon the informed election of the defendant. The judicial council we believe may take action promptly to adopt the proposed rule and form which will enable the program.

>> After circulation of the proposal for public comment, the committee has made numerous changes to address issues raised by the comments. And what I would like to do is turn the podium over to Mr. Tucker, so he may outline for you the components of the program as it currently exists.

>> Thank you.

>> Chief Justice and members of the Council, as now posed, rule 4.220 has comprehensive provisions to cover authorization for the pilot project how the courts would apply for approval. The rule -- [Indiscernible] defines the scope of the rule and how courts designate their locations where the court clerk will be present during the proceedings. The rule explains the scope of the pilot project and how defendants request to be included in our program. There are express provisions for deposit of bail, appearance of witnesses, the statement that the program would

violate the confrontation clause does not take into account that there are expressed waivers of rights by the defendant included in the process. That the defendant -- if the defendant wishes to confront the officer are when the officer is appearing at the core court, the defendant has the white -- try to go to the court and have the proceedings heard of the court, which would in many cases impose significant inconvenience and travel and expense to the defendant.

>> This is designed to acknowledge that they have those rights. They have the option to appear in court to exercise those rights or if they to something which is more convenient, and can be handled by remote reseating's, in a single joint arrangement and trial or a separate arraignment and trial may have the option to do that to try and address their case anyway that is less burdensome, which is a result of all that court closures that we are now facing.

>> The role also has provisions regarding extensions of due dates notice to the arresting officer, what happens if the defendant is not complying, determination of [Indiscernible] and fees by bench officers, and the ability for the local court to have additional rules and forms to address whatever has been left to their discretion, because the intention of the proposal is to leave as much as possible, to the discretion of the local court to determine how they administer their cases and how case processing best works in their jurisdiction. A provide the framework without micromanaging the courts anyway that is unnecessary.

>> And ultimately, it is a pilot project and the point of it is to experiment in a way that is within the law. Permitted by the law and collect information and generate reports that will enable the Council and the judiciary to determine whether this program should be continued or expanded or not, ultimately. As now proposed, it is limited to traffic infraction cases. The proposed rule expressly requires that the court clerk be present at the remote location. Originally, the proposal was that all RVP traffic infraction cases be a combined joint -- trial and now this has been expended to allow for more flexibility, to allow courts that just want arraignment and tries to be held separately so the defendant does not have to deposit bail, that is an option, now. The combined honorarium and trial process is used, then it would deposit bail which is consistent with current law for same-day arraignment and trial. The pilot project would be in effect from February 1 through December 31 in that period of time should provide sufficient information and opportunity for interested courts to obtain valuable experience and information for evaluation of the program.

>> Courts that want to establish a pilot project and the guidelines developed would submit an application that includes information about the procedures and forms the court intends to incentive for processing cases including procedures with respect to the use of interpreters. The proposed application procedure will have court submit application to the councils internal technology committee. The technology committee would review the application and prepare report recommendation that is presented to the Council of the public meeting where interested parties can provide input and report and recommendations. The Council would then decide whether the court's application is approved.

>> There are three proposed forms that provide information about the alternative procedures available and provide two different forms for RVP requests and brave were right one for combined for combined arrangement the child and another for separate arrangement -- arraignment and trial. The forms, the separate arraignment and trial include a paste to the amount

of bail required and requires to schedule a brief trial date. No deposit of bail is required to schedule arraignment on a separate it from trial date. Forms also include expanded notices to the defendant the court may permit the officer who position the ticket and other witnesses to appear in court to testify because examined while the defendant appears that the remote location. And as I said previously, there are expressed waivers of rights included in the form to allow the defendant to make that choice.

>> In addition, we believe that the express requirement of having the interpreter present, that the interpreter must be present at the remote location is not required by current law that it would improperly restrict the rights or the options of the court and the defendant ultimately it is the defendant's right to the interpreter. And so if the defendant chooses to say that there is no certified interpreter present at the remote location, nonetheless, I would like to appear there and have the interpreter interprets for me from the courthouse, they should have the right to do that and the court should have that option. Ultimately, the court has the discretion to say we require an appearance physically of everyone in the court and the other variations of that are at the discretion of the court as well. So, in this specific instance the court would make the judgment as to whether under the specifics are met -- circles as RVP is approved. If there are witnesses that are involved or interneers of alt ultimately the court would make that determination as to whether it is appropriate under these circumstances to allow this particular case to be included in the pilot project or not. There will be reports generated to identify what works, what doesn't work, what is beneficial, and what is problematic.

>> I think judge per now what might have I have a few closing comments to make so I will turn that Mike back to judge the route.

>> Thank you.

>> I know my time is drawing to a new year so I would simply suggest to you that the traffic and court technology advisory committees recommend that the judicial council, number one, adopt rule of court for 4.220 effective February 1, 2013 to authorize pilot projects for remote video proceedings in traffic infraction cases and, two, adopt forms TR 500 INF oh, TR 505 and TR 5010 effective February 1, 2013 to assist courts and the public in implementing and using remote video proceedings for traffic infraction cases. I'd be delighted to answer any questions that you may have.

>> Thank you judge.

>> Thank you to this really is and a question, thank you anyway. But a couple of observations on the rule. First of all, it is significant to me that we have subsection A2 with Mr. Tucker said requires a County water to a pilot object to bring details of that project back to the Council for approval before the county was allowed to go forward. In that sense, listening to the very sincerely stated comments of Mr. Ignacio Hernandez and Mr. Michael Ferreira, perhaps those concerns are slightly premature at this point. If for instance the county came County came back and said we want to have the interpreter either the courthouse or have the option of being one place and the other, ultimately the Council would then be making a decision as to which of those where appropriate as to the confrontation clause, issue that Mr. Fernandez raises, if the pilot project comes back to the Council and there continues to be a confrontation clause issue, we

can have that researched and we can have that fairly considered to make sure we are not violating the defendant's constitutional rights, which I have a little difficulty understanding when the defendant is the only one who can insist on the remote location.

>> In any event, the pressing need for this rule and to give the counties and the residents of the counties this option, I think outweighs those concerns today. By quite a lot. I will say that having been involved for about 18 months now on the rules and projects committee, there is certainly in certain circumstances a very beneficial and grave need to make uniform statewide rules. Vista parts from that, somewhat. In my view and I think the current thinking of most of the members of the committee -- is that we also need to build in the flexibility when it is appropriate for local communities to serve their constituencies, local courts as best meets those community needs and I think in this circumstance the way this is for pros and the way it is set forth in the rule accomplishes that quite nicely and I certainly support the proposal.

>> Judge Jacobson and justice Baxter.

>> Thank you, Chief. I want to respond specifically or most particularly to Mr. Fernandez -- Mr. Hernandez and comments on the attorneys for kernel does. A couple of months ago in one of our telephone meetings when we were looking at this, I share the same concern. I was concerned about the confrontation issues and the possibility of there being some level of perceived unfairness if we ended up with a police officer present in the same room with me judge that is hearing the case. And the defendant at a remote location, I expressed a preference for if any of this can be remote, all of it should be remote. And we discussed that at that time. I know that in the report under Item G-letter of the extent, this express is responded to in that paragraph. I have also, my thinking has evolved somewhat as I thought about this over the last couple of months. I think it is very significant that, right now the defendant has to show up for live appearance, that is the way that our rules work at this point.

>> This provides an additional option, presumably aimed at people that have resource issues that may not be otherwise able to make it to court and may suffer some sort of adverse action by failing to appear. This provides a good alternative to simply failing to appear. The choice is the defendant. We are talking about a written waiver situation and I am mindful that as recently as yesterday, I allowed an individual to waive his confrontational right in exchange for 39 years in a federal prison. We do this waiver idea of the confrontational right, this is something that is part and parcel of our system. Here, but we are talking about is a narrow experiment with the smallest category of cases. And I don't mean to demean those cases, but it is a safe place for us to experiment in this way.

>> The five-day notice that the police officer would have to give the police officer attends -- intends to show up live, gives the defendant the opportunity to respond differently. I think that is a fairness factor that is built-in, here. I also think that Fresno County is suffering from an acute problem. We need to respond. We need to be flexible. This experiment, this response is appropriate in this situation. Finally, I think that this is a pilot project. Which, the label itself, tells us that it is an experiment. To some extent, as two problems that we are concerned about, and I have concerns about confrontation rights, that we need to let it play out of little bit and see whether these problems are hypothetical or in fact real and common. I have a motion to adopt rule four-point 220 and the forms that go with it.

>> Motion is on the table it is noted on hear from justice Baxter and judge Herman that Judge Baker and judge Hardcastle.

>> I would like to second the motion. When I started my career, as a lawyer in Fresno, as a deputy district attorney, I used to go out to those will courts. I would drive out to fireball, I would drive out to Kalinga, I would drive out to Herman, and these were major undertakings. This wasn't San Francisco County where you are talking about 10 miles. This is a great distance. And if your car happened to break down, halfway between Fresno and fireball, you might be lost for a few days. And if someone suggested to me at that time, that within my lifetime those courts would be eliminated, I would have bet the ranch against it. I just could not imagine politically, or on a policy basis, or on any other measure that this could ever happen. But, it did happen. And, I have to say, it really created a very difficult situation, the budget situation facing the Fresno County superior court forced them into making a very, very unpopular decision.

>> They did what they had to do. This proposal, this proposal doesn't talk about -- it is limited to traffic infractions. It is limited to waivers. My concern is how about all these other cases? How about the landlord-tenant controversies? How about the other measures that are more significant? This is a very, very modest resolution of a small problem. There are greater problems out there. I think the last thing we want to do is to micromanage the Fresno Superior Court. Those judges are perfectly capable of hearing these arguments on confrontation and other related arguments. And presumably, they will make just decisions. Based on the facts before them. Again, I am proud to second the motion and I strongly urge approval.

>> Thank you justice Baxter -- if I could get a line to comment again [Indiscernible]

>> Dave Rosenberg as well.

>> [Indiscernible]

>> This is Dave D all by as well.

>> Okay, got it.

>> Judge Herman?

>> I appreciate the input from stakeholders on what we're trying to do here. Their comment there, is critical to our evaluation ultimately of how this pilot project plays out. I think we will certainly be mindful, I know Fresno will be mindful and absurd these issues from a laboratory perspective. I just observed that, the real headline here is, this is about access to justice and providing a forum for parties that otherwise might not have a trial at all, because they don't have either the money or the ability to travel 40 or 50 miles and in some counties hundreds of miles in order to get a live hearing on site at the County seat or some other court house.

>> We do have some precedent in the fact that we currently have traffic cases -- trials by declaration, where there certainly is no quote unquote confrontation occurring when the -- submit the declaration in terms of their view of traffic issues. In terms of access, it seems to me that the

video opportunity is a higher quality access to justice than a trial by declaration for those folks that are living in a remote location in a County and there is a local facility or court that is accessible to them. I agree with the comments that have been previously made in terms of, I think this is a positive for the citizens of California.

>> Chief I'm sorry to interrupt, it is difficult to hear judge Herman, is he referring to his last traffic ticket?

>> Have you been running my DMC report?

>> Anyway, I support the motion.

>> Thank you, Judge Baker?

>> Thank you, Chief. Most of my comments would now be redundant. I wholeheartedly agree with all the comments that have been made so far. I will just add that I come from Shasta County, it is a very large County about 4 million square miles. We have one court house and people in the outlying parts of the County, it takes them a very long time to get to Redding California. Often, in the county at this time of year, passes are closed with snow. I strongly support the motion and access to justice in a County like ours when it becomes a constitutional issue and it is so difficult to get to the Court us.

>> We have one facility in the Eastern part of the County in a place called Bernie, which due to budget constraints we are now in doubt to staffing it once a month to handle traffic matters. That is whether we are able to staff that in the future in light of the budget issues is probably doubtful. So, this motion, this new role goes along way to improving access in the County of our nature.

>> Judge Hardcastle req.

>> Thank you, Chief. My comment goes to form TR 405 my suggestion would be after hearing from speakers was to perhaps have a block for a defendant to initial as two each one of those rights. A judge might feel more comfortable if they've actually read the form, if they have to initial it rather than a single page of single-spaced text with a signature at the end. It just might be helped to make the record and that would be my only comment.

>> Thank you, I'll take up your amendment to the motion in a moment after I [Indiscernible] others, Mary Beth Todd?

>> Thank you, Chief. First I just want to applaud Fresno Superior Court further efforts to mitigate the impact of what I'm sure was a very tough decision to close their more remote ranch facilities and I think it is a testament to the spirit of the judicial branch that notwithstanding the difficult economic times, we still are putting the public's access to justice 1st and foremost and going to great lengths to ensure that we preserve their ability to access the court. That being said, given this version of the role, really had a very short cycle and I'm not real clear how exactly far along it got distributed for comments. This morning I did have an opportunity to talk with Mr. Tucker about one technical issue I had in the rural and we were not able to conclude that conversation. I'm going to go ahead and raise it here.

Perhaps some further explanation will satisfy my concern or perhaps we can come up with a solution to satisfy the issue. In subsection F2 it contemplates where eight defendant has appeared for arraignment remotely and then scheduled for trial. It indicates that the court may require the deposit of bail. My concern was that as part of this pilot we are not attempting to allow courts by policy to require the deposit of bail at the arraignment, but that the court may require deposit of bail as they would normally require it in accordance with the law to guarantee the defendant's appearance in court and that we are not putting any additional burden here outside of the law to require a defendant to deposit bail.

>> I put that on the table. I think it could be -- if I am mistaken, I would like to have Mr. Tucker address that and if for any reason I am not, I think some clarification is important then it could be a comp list either by removing subsection to all together because is already provided by law or just clarifying that the court may require the deposit of bail as it in accordance with the law to guarantee the appearance of the defendant in court.

>> Mr. Tucker, did you care to address that?

>> In terms of traffic cases, the bail is somewhat different than the bail for other criminal cases. It is not primarily intended to guarantee the appearance of the defendant who has been released from custody. They defendant has ever been in custody. Primarily, the bail for traffic infraction cases is meant to deposit the amount of the fine, the standard amount of fine and penalties that would be imposed and therefore if that defendant fails to appear the trial, the court would have been on deposit and can apply that to the events. There is not a lot of law available, the distinctions between traffic bail and other criminal bail. I think the attention is not that the Court have a blanket policy to do that, it is more that the judicial officer and the individual case can decide to do that. Based on the specifics of that case as two whether the person should be released because they have subjected themselves to the jurisdiction of the court by appearing for the arraignment, but in other words, it is a case-by-case situation. Maybe it should say they judicial officer may require deposit of bail or I'm not sure, it is just –

>> My concern is with the pilot language that somehow this could be interpreted to mean come a it is part of the pilot you could have more of a blanket policy.

>> It is supposed to be a case-by-case determination, not a blanket policy.

>> Anyway, I put that out there as a possible amendment.

>> Mary Beth, so I understand, what is your specific amendment two subdivision f2.

>> It would be to remove it altogether are put in a qualifier and even Mr. Tucker suggestion that instead of referring to the court that we save the judicial officer.

>> Okay. So, it would read –

>> Is that definitely that already?

>> The second line says the court made. One of the options of your amendment Mary Beth is that they judicial officer may require deposit of bail so that is to prevent the idea that there is a blanket core policy?

>> Exactly.

>> It is a Second Amendment to the motion and judge Jacobson is shaking his head but I wanted to get to all the comments before we discuss this. Thank you.

>> Does that conclude your comments, Mary Beth?

>> Yes, it does. Thank you.

>> Judge Rosenberg?

>> First of all, this is a really fine discussion and I want to commend everyone. I think there were legitimate concerns raised regarding the interpreter issues and constitutional issues such as the confrontation clause. I think the issues will need to be sorted out, primarily in the development of an appropriate form, which that is something judges to all the time. I think we need to make sure that the waivers are knowing and intelligent and I am confident that the judges will do that. Or judicial officers, as the case may be. Ultimately, I think we have to give Trial Courts the ability to be imaginative and innovative and to provide equal access to justice in difficult times. Ideally, we would have courthouses conveniently located in communities. We do not have that ability or luxury anymore.

>> We have to undertake innovation, while making sure that as we develop these pilot programs to broaden them, we have protected everyone's rights. The devil is in the detail. It is in the form that we use. I am certainly willing to launch this process.

>> [Indiscernible - Low Volume] I missed the last part of your comments.

>> I'm sorry, and judge Rosenberg I missed the last part of your comments.

>> I said I am certainly willing to launch this process, because I think we have to make sure that we give our Trial Courts the ability to be imaginative and innovative in these times. I am completely in support of it, with the understanding that we are going to develop appropriate forms and these forms will evolve to make sure that rights are protected.

>> Thank you, judge Rosenberg. Judge Diablo?

>> Thank you chief, I want to say that I agree with judge Rosenberg's comments and all of justice Baxter and justice halls earlier comments and I will vote for the pilot program and certainly urgent adoption. But, I do have concern that was expressed by the public speakers about interpreters and translations as it applies and affects those of limited English proficiency. One, the adopted or the forms that we propose to adopt, I express this in committee and I just want to say publicly, I'm hopeful it will not be an issue, but obviously, there needs to be some translation of the forms and particularly the waiver of the constitutional rights. And as two the

location of the interpreter, during these remote proceedings, our analysis that we have before us, that has been provided to us on page nine, of the second to the last paragraph, the last sentence, addresses the question, and comments that courts will arrange to have an interpreter present at the remote video location, I don't see that in the rules currently. Maybe it is there and I overlooked it, but certainly that issue, the issue of security at the remote site, the issue of confrontation and others are one like Justice Hall and others have said, questions that we will examine when the applications are brought forward to us. I have no doubt that this role will be universally applauded for the convenience it makes Orwell offer the public, the savings and of course the prudent use of technology. Thank you, Chief.

>> Justice Hall you have a comment. .

>> I actually have a question relating to two Judge Diablo's comment and also -- I said we are going to have a multifaceted friendly amendment here shortly in order to avoid multiple votes. I read page nine Tuesday the court will determine from the forms if an interpreter is needed and arranged to have one present for the RVP, I don't read that as saying, the interpreter must be present at the sight of the RVP. And I think that it was fashioned that way in order to give the counties who undertake these pilot projects some flexibility in confronting this issue. As two parts of the proposed friendly amendment, about the deposit of bail, I just have a question. Never having served in traffic court and maybe Mr. Tucker, you can tell me with this since you've touched on it. It sounded to me like the current practice and probably long-standing practice in traffic court was to require bail deposit or not in all cases, but it was certainly authorized to require bail to be deposited at the time of the arraignment if the defendant requested trial. And if that is the case, if that has been the law, I don't oppose the suggestion but I'm not sure if that has been the law and whether it's necessary to do that.

>> And policy and practice varies from quarter court. In general, if you want to get a trial scheduled without deposited bail, you need to go into an arraignment and have the bench officer authorized that the clerk cannot do that. I think it may be common practice to grant the request once the defendant has shown that they have subjected themselves to the jurisdiction of the court but certainly the bench officer has the discretion to require bail based on the circumstances of the case in front of them if the person has failed to appear for prior validations they have a good cause to require bail.

>> Okay, thank you.

>> Judge Coffman, the?

>> I'm sitting here listening to the big court judges talk except for Judge Baker, of course, but seriously we are on a role here anything that allows people to have a day in court is exciting, it is something we should be encouraging. And if you took a vote of the general populace and said to them, you can come to court and try your case or you could actually stay home and have a video camera and try your traffic citation in your living room, how many people would go for that? I think just about everybody would. Of course, that would inundate us, but that is neither here nor there. I'm excited about it. I think this is a great idea. I trust the trial judges to develop a way of handling it in their courts and make sure that justice is done and they are not going to let anybody's rights be trampled on.

>> As Morris Jacobson said before, the pope wave the right every day. It is part of the way we do business. Nobody is forcing anybody to do anything. Quite honestly in the past, you've always had the right, if you've got a citation in fireball you had a right to say to the officer I want to go to the county seat. That has been on the books for 150 years. We are not changing anything, it is just implementing and putting technology into the mix and it's making it work to our vantage.

>> [Indiscernible]

>> Judge Jacobson?

>> Afterward, it is McCabe can you add me to the list?

>> Did you have more comic, judge Jacobson?

>> Judge McCabe, please let proceed.

>> I will limit my comments not to repeat what my honorable colleagues on the Council of already said. I think they are insightful and I am in agreement with a lot of what they have said. Number one, I am looking at the recommended guidelines for video remote interpreting, ASL or interpretive events and ASL is one that needs interpretation, this is for sure handed out by the AOC and I understand is a pilot project, Riverside is one of the counties. And I follow videos with the material and look for it now, the interpreter's off-site. I'm not sure how that reconciles with the objection that is presented now, that the interpreter must be present. With the defendant. I just know that. Number two, the option right now generally speaking is they can appear or because of limitation of resources, of finances, mechanical, to get there they either appear or they don't appear and the trial proceeds in proceed in absentia. It gives them an option to prevent that from happening, because of limitation and resources. And I know that it is not a requirement, it is a voluntary option and I think we should be excited about presenting another option to the public.

>> 3rd and finally, there was a comment about the number of pilot projects, all 58 counties versus the traditional one, two, or five. the pilot project emphasis is that it is an experiment and temporary, it is not a quantitative, but qualitative nature. The quality is in the conduct or activity itself to see if it works or doesn't work. It really is not a critical, how many of these are occurring. I think in the past, they were limited because of resources. Here, we are going to have input from all 58 counties and the more the merrier. I think we can learn from the process to find out what needs to be done to improve this.

>> I am opposed to trying to figure out what would be ideal, because if we do, we would be in committee for another three years. I really think there is an urgent need and not just in Fresno County, San Bernardino, etc. We need to do something to meet the need and leveraging technology, which is available now, really is the answer. With that, I will stop.

>> Thank you, so we have to amendments to the motion and the first one I will take it order is judge Hardcastle's amendment to the form TR 505 and putting check boxes. I need know that judge Jahr confers and clarifies where those pledges go on the form? Judge Jahr req.

>> My understanding is for clarification relative to proposed amendment one, turning to the form that is entitled notice and waiver of rights and request for remote video arraignment and trial, judge Hardcastle is proposing not that there be initial boxes by the first five bullets at the top of the page under the heading, notice to defendant of rights, but rather that there be initial boxes opposite each of the three pole it did express did express waivers that appear below the title waiver of rights and request for remote video arraignment and trial. There is a box that appears after the first line with the words defendant initials, a box after t he second line that is the line that reads, my right to a speedy trial within 45 days ; and, and finally at the conclusion of the three line sentence opposite the third bullet, again a box with defendant initials. My further understanding for the record is that on the page that is numbered 17 as Todd's proposed amendment number two would appear at line nine, the substitution of the words additional officer for the word court. Judge Hardcastle, did I get number one right?

>> Yes except Commissioner Alexander Whited out that should also apply to TR 5-10 in the same way you described. That is the form the next page o ver.

>> Identical, checkboxes and the proposed amendment would apply to each of those forms, TR 505 and TR 510 which appears printed on the backside of the same sheet of paper in our materials.

>> Do you accept those amendments judge Jacobson?

>> I need to note that judge Hardcastle is friendly and once again in this circumstance it appears to me to be friendly and reasonable it amendment that I cap other them.

>> Justice Baxter you reiterate your second?

>> Yes.

>> All in favor than of the recommendations say I req.

>> I.

>> Thank you, any apposed?

>> [Silence]

>> Thank you, thank you Fresno, the matter passes unanimously.

>> Thank you to the presenters.

>> Next on our agenda item h, the preside is our the cochair of the working group and Mr. Zlatko Theodorovic cochair of trial court budget working group and Stephen Chang. Thank you, go ahead.

>> Thank you, Chief. Are we in place.

>> We are.

>> I'm going to try and do this remotely and I know Stephen and had to have a para point, so hopefully we can coordinate this.

>> Pardon me?

>> [Indiscernible - Low Volume]

>> It is very good use of video technology, go ahead.

>> There are two issues before the Council for action today, both of which have some issues. They are trial court allegations regarding the new \$30 court reporter fee revenue and Phoenix financial services costs. Starting with the first one, it relates to revenue that some Trial Courts are collecting as a result of the enactment of government code section 68 08 six, which requires a \$30 fee for court reporting services and several proceedings lasting under one hour. The sub issues associated with that are a recommendation regarding allocation method, asking for increased expenditure authority and distribution request. I will also address later some remaining reduction offsets that we have identified that we are recommending deferral on.

>> In terms of the first recommendation, I will give you a background on that. The trial court budget working group discussed whether to recommend allocation of this revenue back to all Trial Courts or rather only to those courts to collect the fees and incur the costs. Government code section 68 085.1 requires Trial Courts to remit any monies collected pursuant to this section to the trial court trust fund but is silent on how those money monies should be allocated among the courts.

>> Section of that shop these should be used to always pay for the cost for an official court reporter in proceeds. In light of the fact that some Trial Courts no longer employed court reporters in civil proceedings, and thus do not have costs associated with official court reporters, and do not collect this fee, the trial court budget working group is recommending that the judicial council allocate revenue collected pursuant to government code section 68086 in an amount each court has collected and remitted to the trial court trust fund.

>> Moving on to the second sub issue, which is slide number four, I believe. However the budget act of 2012 does not include expenditure authority for distribution of this new revenue to the trial courts. It does provide authority for the judicial council to request additional trial court trust fund expenditure authority. Based upon amounts remitted to the trial court trust fund, in the first four months of the fiscal year, it is anticipated that the total amount of revenue collected in the current fiscal year will be approximately \$3.8 million. However, if collections of the remaining months are on average higher than the first four months, the total revenue collected

will exceed or likely exceed \$3.8 million. Thus, we believe that prudent to request additional expenditure authority and the amount of \$4 million. The trial court budget working group is therefore recommending that the judicial council direct the AC to request from the Department of finance and the legislature an additional \$4 million in trial court trust fund program 45.10 expenditure authority for the purpose of distributing the new court reporter fee revenue to courts.

>> Lastly, and as two the sub issue which is slide number five, although the budget act of 2012 does not include expenditure authority for distribution of this new revenue, there is estimated to be \$25.1 million available trial court trust fund program 4510 expenditure authority which can be used to distribute this revenue. The trial court budget working group recommends allocating this revenue regardless of approval of additional appropriation authority, since direct costs have been and continue to be incurred by the trial courts that provide for reporting services in civil proceedings lasting under one hour. If the Department of finance and/or the legislature did not approve the request for additional expenditure authority, there would continue to be an estimated \$21.1 million in remaining expenditure authority.

>> As two their remaining one and \$1.1 million, in expenditure authority. My cochair and I recommend deferring any action by the Council on allocation of this money pending further discussion by the trial court budget working group. I will entertain any questions on the issue as it relates to the court reporter fees I suppose before we move onto the next issue unless you want me to keep going?

>> I don't see any hands -- to Mr. Alexander, thank you.

>> I had a question, if we are going to give the money back to the courts that collected, when we asked them for the of 40, could we ask for legislation to just say we get to keep it as opposed to turning the money over to the trust fund and then redistributing back to the people that collected it?

>> [Indiscernible]

>> We could, I think it our discussions with the Department of finance, they like the view of the money coming to the state and being able to see it and then coming back down to the trial courts. So, from their perspective there is a sense of transparency in the transaction rather than it remaining at the Trial Courts that collected.

>> That is very cost to that -- used to report it and have it stay there, because it seems like there is a cost to send it and he cost to send it back that we are spending money just to move money around.

>> The Knack I think transactionally, I don't know I can't speak to how the courts go about it, but I assume some kind of electronic Ross S-letter –

>> So it really is not a big cost.

>> Not with the current process right now.

>> Thank you, good question. Thank you.

>> When you get a chance you are next after David Yamasaki.

>> I want to make a motion to approve recommendations 1a, 1b, 1 c., many of the courts have had had to make decisions whether to provide reporters in these areas types of proceedings. In conjunction with the budget act, many of the courts have already started collecting these resources. Today, none of us have actually received any of the moneys. We have actually been Inc. erringly expense, but not necessarily the reimbursement. So, I think this is within the spirit of the discussions that took place within the trial court budget working group and therefore recommend the adoption of 1A, 1B, 1 C.

>> I would second that, Chief.

>> Judge L-letter Word, did you want to go further beyond t he second.

>> No, I just urge that we adopt this.

>> All in favor of adopting items 1 A, 1 B, and one C as recommended, please say I click.

>> AYE.

>> Any apposed?

>> This is Judge Miller, if I could just say I was there president and I have been on the last two motions by phone, so I went to make sure I was on the roll call.

>> Thank you, justice Miller.

>> You are in two places at once?

>> Pretty good with the video.

>> I want to confirm there were no, knows on this?

>> So it passes unanimously. Judge Earl, did you want to address number two?

>> Yes. The next issue which is our recommendation relating to recommendation number two relates to recommendations to the trial costs for cost incurred by their use of services related to the financial component of the Phoenix financial and human resources services program. The Phoenix program offers services related to both human resources and accounting. The cost of the use of Phoenix is borne by each trial court out of their trial court trust fund allocation. Only seven Trial Courts use the human resource service of Phoenix and the trial court budget working group makes no recommendation relating to those costs.

>> However, all 58 Trial Courts use the financial services of the Phoenix program. In an attempt to provide financial relief to the trial courts, from the significant funding reductions in fiscal year

2012/13, the Trial Courts I get working group has identified \$6.69 million available from the state trial court improvement and modernization fund to fully fund direct costs related to the financial component of the Phoenix program. This would alleviate the need for Trial Courts to bear these costs from their trial court trust fund allocation. Therefore our second recommendation is that the trial court budget working group -- from that trial court working group is that the judicial council allocate 6.76 \$9 million in one-time funding from the state trial court improvement and modernization fund for direct costs related to the financial component of Phoenix financial and human resources services that had been paid for by courts in previous years.

>> Thank you, judge Earl, any discussion or comment or question on the recommendation number two?

>> Do I hear motion?

>> I would like to move it come a Rosenberg.

>> Judge Rosenberg –

>> I would like to second that.

>> Judge Al Gore the McCabe second that. All in favor of recommendation number two place a Aye c lick.

>> Aye.

>> Any apposed please say no.

>> Matter passes unanimously, thank you.

>> Thank you, judge Earl. We conclude today's meeting with a brief remembrance of our judicial colleagues recently deceased. Hon. John Lewis Sacramento County Superior Court Hon. George Crawford Sacramento County Superior Court Hon. William Blanckenburg Napa County Superior Court Hon. George Clarke San Diego County Superior Court Hon. John Golden Lake County Superior Court Hon. Harold Knight Orange County Superior Court Hon. Irving Perluss Sacramento County Superior Court Hon. Paul Teih Santa Clara County Superior Court.

>> All were retired from the bench and we honor them for their service to their court and two the cause of justice.

>> The next regularly scheduled business meeting of the judicial council is on favorite 25 and 26. Thank you all for being here. Thank you for attending by phone. This meeting is adjourned.

>> Thank you.