

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 meeting of October 26, 2012. 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>.

>> Chair Cantil-Sakauye: Good morning, welcome to our business meeting, a continuation from yesterday, this is our business meeting for October 26, 2012. The meeting is now in session. Again, I always remind council members that our meetings are audio cast live with realtime captioning on the California courts website. For the benefit of the online audience, please speak into your microphones and address each other by name so listeners and the realtime captioning readers can follow our discussions. Portions of these meetings are also routinely videotaped for later broadcast on our California courts website. We start this morning with our consent agenda. And having received no requests from council members to move any of the items on consent to the discussion, we approve these proposals and recommendations.

By way of information, the executive and planning committee places items on the consent agenda in consideration of council's meeting time. Placement on the consent agenda in no way reflects on the significance of a proposal. Prior to the meeting any council member may request that an item be removed from consent to the discussion agenda. This takes us now to our discussion agenda. I would note that we have speakers, but the speakers have indicated they're here for specific items. So we will hear from the speakers prior to calling the item.

For item F, the first item, judicial branch education, final report on the 2010-2012 governing committee, education plan. We have no speakers. We invite the honorable Robert Dondero, and Dr. Diane Cowdrey, the Director, Office of Education, CJER.

>> Hon. Robert Dondero: First of all I want to thank the council for permitting Diane Cowdrey and my twelve to appear before you to discuss the governing committee's final report on the first branchwide education plan covering years July 12010 through June 30, 2012. Justice Robie, who is the chair, wanted to attend but he had a personal commitment that prevented him from doing so. The governing committee adopted -- was very successful. It allowed the committee to reach its educational goals for the audience we serve in the branch. It is important because it was the first attempt we had to create a comprehensive education plan for the entire judicial branch and I believe it was very successful.

The creation of this plan and its execution was motivated by a desire to develop the overall redesign of how education is delivered within the branch in light of the fiscal issues presented to the branch. The educational model developed by the governing committee aims to increase accountability and transparency it of CJER, to the governing committee itself, which has been given education responsibility by the council for the branch. The benefits of the educational plan you have are several. Any interested party is able to see what education we are providing for what audience and how the education plan is being delivered.

Any change that takes place is triggered by factors such as budget matters, they can be addressed by the particular curriculum committees set up with the approval of the governing committee. Under our restructured curriculum committees which have been in place for a period of time, the governing committee appoints the members of all major educational areas such as criminal, family, juvenile, leadership, and the like. The eight committees created have core responsibility for drafting recommendations for the education plan in their particular substantive area. And then submitting those particular recommendations to the governing committee. Which has the duty to consider the recommendations and formulate the particular education plan itself.

Naturally before the governing committee addresses recommendations of several curriculum committees, the CJER personnel staff will consider the recommendations of the individual committees in light of the resource allocation both human and financial. Now, the focus on current human and financial resources at CJER, which we're all aware of, and 24 is reflected by the current education plan for 2012-2014 which demonstrate a significant increase in webinar educational events while this technology was rarely used during the first plan of 2010-2012. It is the view of our governing committee at the present time that this type of delivery system, webinars and like technology, will remain a popular and very useful method for our charge to deliver education to the branch itself the Judicial Council also in 2011 directed CJER and the governing committee to consider greater flexibility in satisfying the hour requirements ordered by the rules of court in existence for members of the judiciary and their respective staffs. Therefore under the recently revised rules of the council, appellate justices can earn up to one half of their education hours via distance education, but the remaining 15 hours over a 3-year period in live education.

Also, importantly, the court staff members need only have four hours of live education over a two-year period. The rest can be satisfied by other processes. Additionally, the notion of live education has been relaxed to encompass traditional face to face education but also video conferencing and webinars, it is the belief of the governing committee and also the CJER staff that these distance technologies have features like the traditional face-to-face education teaching programs. I also want to mention that the sources of judicial education currently recognized have been expanded for the members of the judiciary and staff members to include not only classroom teaching but also bar education programs and like programs. The goal of these changes and assessments is to make it easier for judicial officers and their staff to comply with the requirements during a period of time when obviously time away from the courtroom is a key concern of our branch.

With our educational plan in place, it's the view of the governing committee and also CJER, that we can determine the costs of each type of delivery method to the actual programs. We can answer the questions where we are spending money and which audience and by what method are we spending that fund. A review of the plan itself, which is attached to your materials, indicates that most of the programs encompassing the features of the plan were successfully launched. The number of programs either delayed or cancelled was quite small -- roughly 10 percent. The report indicates that many of the programs, how they were presented and how they were eventually satisfied -- for example, at Page 4 of the report, new judge orientation, you'll see that

seven programs of that new judge orientation category, item No. 9, were not held during the years 2011-2012 because of low enrollment.

You'll also see that for example at Page 7 in the viewing report, item No. 19-E, that a particular class was cancelled due to low enrollment but that the CJER staff then directed the participants who wish to engage in the educational program particularly, could involve themselves in another related program which allowed the participants to obtain comparable education at a different venue. These types of indications are throughout the report, the final report that you have. Those -- that completes my remarks to the committee.

>> Chair Cantil-Sakauye: Thank you.

>> Hon. Robert Dondero: Any questions?

>> I have one.

>> Chair Cantil-Sakauye: Judge Mary Ann O'Malley?

>> HON. MARY ANN O'MALLEY: I wanted to comment as an instructor with CJE R, since the year 2000 I believe and as a member of the criminal curriculum committee, having been changed from the prior committee, I personally witnessed the transformation that Dr. Diane Cowdrey and the staff at CJER have gone through in changing the way that education has been brought to not only judges but to staff of courts, staff of the AOC, et cetera, this is a part of our organization that consistently reassesses itself to see how better can we do this. And clearly facing the obstacles of the budget plus other obstacles that it has faced over the ten years that I have been witnessing and participating in it.

I just commend you for innovative, thinking outside the box, better ways to do this. And we do provide the best education, you know, I believe in the country, probably the world with regard to legal education. There's just no question about it. And so I commend you and I commend the governing committee for, you know, asking -- I was also on the work group with regard to reassessing, are we really providing the education in a best way accessible and at the most economically way that we can deliver it? And we were amazed at the changes that CJER has made throughout the course of at least the ten years that I've been there to make those sorts of changes and commitments. And I know this is part of the AOC that is really committed to making those changes and providing great education for everyone. And so thank you.

>> Hon. Robert Dondero: Thank you. Appreciate that.

>> Chair Cantil-Sakauye: Judge O'Malley?

>> DR. DIANE COWDREY: We really appreciate your comments and we couldn't do what we have without the faculty that we have. And the faculty over a course of a year we may have 700 different folks within the branch, court staff and leaders and judges and justices teaching for CJER. And we wouldn't be able to do anything without that. I appreciate your time as a faculty

member as well as being on the curriculum committee and on a work group.

>> Chair Cantil-Sakauye: I also want to say as a student and -- I think patron of CJER, and being chief, I hear so many compliments about CJER throughout the state and nationally. And I know that many of our programs are emulated and we are -- our expertise or your expertise is sought nationally. I'm also aware that through the years of your contact with the appellate courts, of the effort to be flexible and to try to provide this type of education, meeting with us personally, and trying to find and deliver this education to us. And I can only commend how the caliber has been excellent and nothing about what's happened in the past few years really has affected the quality at all of the education. And I'm grateful for all of the efforts you have made, Judge Robert Dondero, you have made and the staff has made to keep this one of our best programs in the branch.

>> Hon. Robert Dondero: That's why we're here and that's why we want to continue the dialogue. If there's think matters we need to address, from the council that we are willing to listen and go further in assessing our programs.

>> Chair Cantil-Sakauye: I also want to say one last thing about appellate education. Last year with the budget and the surprise in terms of the last minute, we really had to find a way to deal with those mandatory appellate education. And I thank you for your efforts. And moving things around and making it possible that we could provide education, the mandatory education, to appellate staff and to the appellate attorneys. Thank you.

>> DR. DIANE COWDREY: I think that's one of the benefits of having this plan and this structure is when we had to cancel conferences for the staff and for the justices, we were able to take pieces of it and deliver it in a different way. You can see that on this -- the plan. That's -- this sort of shows the accountability of what was delivered, and what was not. And if it wasn't, what happened. And some of it was delivered in a different way, in another venue. Sometimes less expensively. Often less expensively. Regionally or through distance education. So it really helps us to be more flexible when those last minute changes happen, which are becoming more common place. So it's been a great tool for us.

>> Chair Cantil-Sakauye: Appreciate all your work.
Thank you.

>> Hon. Robert Dondero: Anything else? Okay. Good. Thank you very much.

>> Chair Cantil-Sakauye: Thank you.

(Applause)

>> Chair Cantil-Sakauye: Before we move to our next item and hear public comment, I'd like to recognize that there are -- there's a group, I understand, of about 20 visitors who are present, and they are mentor and mentee participants in a pilot mentoring program for court staff. This is a project of the access and fairness advisory committee assisted by the AOC human resources office and the office of education, CJER, from whom you've just heard. Can you raise

your hands those who are here for that mentor-mentee project? Thank you. I want to point out that the goal of this pilot goal program is to facilitate communication of judicial branch goals through one on one mentoring, supporting professional development and enhancing leadership can competencies of Court staff. I understand and applaud that this program furthers goal 5 of the branch's strategic plan. That is high quality education and professional development will be provided to enhance the ability of all individuals serving in the branch to achieve high standards of professionalism, ethics and performance. And so all of you have had an opportunity now to see presentation of our CJER plan.

I understand and I see in the audience two members of the access and fairness advisory committee who are attending with the mentors and mentees. Give us a wave, Judge Maria Riviera, as well as presiding Judge Diana Beckham, from Contra Costa. Thank you for being here, all of you. Turning now to item G, court facilities. The indefinite delay of seven SB1407 projects. We have someone here to make public comment on that, Mr. John Huerta, mayor of the city of Greenfield. If you would please come forward, sir. You have five minutes. Thank you.

>> John Huerta: Madam chair, my name is John Huerta, Jr, I come from the community of Greenfield, elected mayor. Thank you for this opportunity to talk about the courthouse and the new south county, south Monterey courthouse -- to protect our community assets, the city has invested more than \$5 million in this project and completed critical off site street improvements at the site. The courthouse land was purchased by the city and donated to the state of California with the expectation for courthouse would be built. And that was through the assistance of the -- of our Greenfield redevelopment agency which we no longer have, and I know governor Brown was in Salinas yesterday talking about redevelopment agency. That was a way that we purchase and acquired that site and that property.

The city of Greenfield has tentative agreements with the district attorney and public defenders offices for construction of facilities abutting the proposed courthouse in the city of Greenfield. And -- excuse me -- in anticipation of the site being a hub of government and civic service this is future, the city of Greenfield completed a modern \$8 million civic center and police department which abuts the courthouse site. Existing south Monterey facilities are unsafe and inadequate and time consuming trips to the county seat to complete routine court business. As a project furthers along the schedule, being designated for reassessment, the state, the Monterey County and city of Greenfield has spent a significant amount of time, energy and financial resources in order to meet the needs of this project and going through the process since 2008 with the State courts, the office of State courts. We thank you for that opportunity.

In the recommendations in your recommendations in your packet, in your council agenda, from the Court facilities working group, states a total of seven SB1407 projects are to be indefinitely delayed. And the following work will not continue. Number one, no site selection, number two, no site acquisition, actually six out of the seven projects that you're looking at are in the site acquisition process. And in three, no design work. In contrast, the South Monterey County courthouse project has completed all three identified phases and is currently awaiting funding for working drawings. That being said, we fully support the courthouse cost reduction subcommittee of the court facilities working group, and their efforts to mandate project cost

reductions for all capital outlay projects and design. Including preliminary plans and working drawings. So I thank you for this opportunity to have in front of your council today madam chair, and I also have a letter from former assembly member, Simone Salinas, our third district supervisor for county board of supervisors, I would like to enter this for the record. Okay. Thank you very much.

>> Chair Cantil-Sakauye: Thank you. Thank you, Mayor John Huerta.

We welcome now presiding Justice Brad Hill, court facilities working group. Judge Patricia Lucas, vice chair of the court facilities working group and Justice Jeffrey Johnson, chair of the cost reduction subcommittee.

>> Hon. Brad Hill: Good morning. Morning, Chief, members of the Council. It's very nice to be with you. Although I hope that one time, just once, I can come bearing good news of some type.

I've been here about three times over the past year, each and every time delivering news that none of us wanted to deliver. News that really was crippling to the court construction program, and news that was dismaying to all courts around the state who have crumbling facilities, facilities that are unsafe, not secure, not ADA compliant, and seismically, very, very dangerous. The fiscal realities are such that we have to deliver this news. And to deliver it -- I heard the mayor's comments. And we know exactly what they mean. They have spent years they have expended money. And that story was repeated again and again at our public hearings. We've had courts who have worked on these projects for five to ten years, given a lot of themselves and their court's time and effort, the community's time and effort. And yet we had to tell them and are now telling them and other courts that we simply cant proceed. Given the new fiscal realities. With me today is Justice Jeffrey Johnson, and Judge Patricia Lucas, who will also be presenting on separate topics but related to our overall court facilities projects. Jeff will be talking about the courthouse cost reduction subcommittee that is working to curtail costs for all projects. And Judge Lucas will be talking about the Pegasus audit that we commissioned earlier last year, this past year. And is now ready to be presented to you.

First I will address the recommendations related to moving forward with the construction program, given the significant ongoing redirection of the construction funds. Now, in terms of the amounts of money -- and we told you before -- but since 2009 court operations or the -- the money that has been redirected or swept has totaled 1.5 billion dollars from the program. And that's 1.5 billion dollars of court projects that had been planned and had been proceeding. The budget then for fiscal year 12-13 dealt us an additional significant blow. Because over time that \$50 million that was to and is to be redirected in essence equates to about a billion three over the next 20 to 30 years. Necessitating that we curtail and suspend an additional \$400 million in projects.

Now, given these draconian budget cuts that have really continually beset the construction program, today we are recommending that seven projects for the current Los Angeles, Monterey, Placer and Plumas courts be indefinitely delayed. It was not an easy decision or an easy process. It was, however, a completely open process. Briefly I'd like to tell you exactly how that process unfolded and what we did over the months leading up to the actual decision.

The working group first established draft criteria for making the decisions, and it was posted in the public and court comment -- for public and court comment for a period of five weeks. Before the meeting itself, the court sent the working group volumes -- and I mean volumes -- of key information as to why their projects should proceed. All of this information was posted to the judicial branch public website for total transparency and public access. We invited all of the courts to come to San Francisco to present in their own words why their project should proceed in this environment of limited funds. I want to thank all of the judges and court staff of each of those 24 courts who spent valuable time and resources to prepare the written materials, the working group received, and also to travel to San Francisco and present directly to us on why their construction projects should continue on.

We had over 22 hours of public hearings; running the first night until about eight o'clock, the next night until about seven o'clock. And if you had been there, you would have seen all of the reasons why 1732 and 1407 were enacted. The courts described in great detail all of the problems they're having with their existing facilities. We saw pictures, we heard testimony. And it was quite compelling as to each and every one of those projects. They do have serious security problems, safety problems. And as I've indicated, the ADA, the seismic problems, and just buildings that were designed to last oftentimes until the '60s, or '70s, and here we are in 2012 with buildings that are just limping along. And costing a lot of money in the process. Because what some people don't understand in the aggregate is when you have buildings that have outlived their useful life, they are inordinately expensive to maintain.

So it's not as though somehow it's a free lunch, that we can just maintain these buildings. They become exponentially more expensive year by year until finally you can't maintain those buildings any longer. Now, as I've indicated, the process was a completely open process. And we thought that that was an extremely important thing to do at the outset. The press was there, the public was there. And each court was there invited not only to present to the working group, but to be at the table when the deliberations were taking place as to what the vote was going to be. They were there for every step of the process. There were no back room deals or discussions. It was all open and transparent. Not comfortable, not something we wanted to do -- and people in this room, some of whom were there, will attest to that. But it was, we thought, an important part of the process that each and every step be open and transparent. We did not want at the end of the day for people to wonder how those decisions were reached.

I want to point out that in this process -- or during this process several courts offered significant cuts to their ongoing projects. Specifically Mendocino, Fresno, Santa Barbara, offered tens of millions of dollars in rescoping of their projects which probably saved at least two other courts along the way. We appreciate that they came to the table rescoping their projects and saving other projects in the process. Without those we simply would have been cutting at least one or two more. Based on the current financial situation, 23 projects in addition to the eight projects scheduled to start construction this year can move forward. And we will be keeping you apprised over this coming year as to their progress. Every step of the way. We have certainly during this process, Justice Johnson in his cost reduction subcommittee were reviewing plans and we're working certainly with all of those court toss make sure that we have safe, efficient, and cost effective courts that we can report to you are being built and hopefully

being built sooner than later. We appreciate your time and I'd like to turn it over at this point to Justice Johnson to tell you a little bit about his efforts and our committee's efforts with respect to cost reduction. Jeff?

>> Hon. Jeffrey Johnson: Good morning, everyone.

The courthouse cost reduction subcommittee working group is composed of judges and court administrators as well as experts in the field of design and construction. We've met several times, and in a moment I will give you a brief report on the outcome of our September meeting. Report before you has specific recommendation. No. 6. That clarifies the authority of this subcommittee. In April the council approved a recommendation that gave the courthouse cost reduction subcommittee direct implementation authority with regard to overseeing cost reductions.

By reference this authority applied to SB1407 projects. The intention of the court facilities working group, however, was to have the courthouse cost reduction subcommittee oversee and have direct implementation authority to mandate cost reductions for all capital outlay projects and designed that are managed by the judicial branch, not just projects funded by SB1407. Overseeing projects in the design phase includes preliminary plan, the first step, and working drawings. The second and final step in the design process. With your adoption of recommendation No. 6 today the subcommittee will continue its work to continue on all judicial branch projects in design, reviewing projects in design, the court, the architect and AOC staff can work effectively to shape cost effective projects that maintain safety, security, building performance, and functionality for court operations.

We recognize that the people of the state of California and the legislature does not distinguish between the judicial branch's management of 1407 and any other category projects. We want to show we can be efficient and accountable in all categories. Subcommittee met in mid September to review the first three projects for Butte, Solano, and Yolo courts. These projects were anticipated in the fall bond sale and we look forward to the groundbreaking events for these projects. I want to thank the judges and the staff of these courts, Judge Rosenberg, Judge Kaufman, who were available to travel to Sacramento for this meeting for the presentations made along with the architect and the AOC and cost reductions. Thee three projects provide impressive results. The -- \$14.1 million based on judicial counsel ace mandated minimum reductions of December 2011 and April 2012. On top of that these three projects offered additional savings to the subcommittee of 2.1 million. After hearing the presentations and considering the type reductions proposed, the subcommittee mandated another 1.2 million in reductions.

These budge yet reductions total \$17.4 million for just three projects. We expect to be able to report additional budget reductions for the next set of projects to be reviewed next week. To conclude my remarks I want to emphasize what I reported to you in April. In these times of ongoing budget cuts the subcommittee's goals are to maximize savings so we can stand before you and the people of California and say that the judicial branch's construction program is being delivered cost effectively but intelligently.

>> Hon. Brad Hill: Thank you Jeff. As I reported to you about a year ago, we wanted to retain an outside firm to do a top to bottom audit of the OCCM program. We thought it was necessary given the amount of money that we were proceeding with in order to assure ourselves, all of you, and the public that their money was being spent well. And to report on the results of that outside audit, we have Judge Lucas. Pat?

>> Hon. Patricia Lucas: Thank you, Justice Hill. Good morning and thank you for this opportunity to address you. I'll be speaking to recommendation 7 which I guess is the one small bit of good news coming out of the efforts of our working group. About a year ago at our first meeting our working group formed a subcommittee which was tasked with retaining and working with our outside consultant. We had the good fortune to locate and retain Pegasus holding, which is a world class outfit with extensive experience conducting audits of construction mega programs and mega projects, apparently a term of art into which category we fit.

Pegasus worked very closely with our subcommittee and also with OCCM, and as you know, the Pegasus report was made public a couple months ago. The Pegasus report makes a number of recommendations, primarily in the categories of a document creation and retention and formulation and maintenance policies and procedures. The subcommittee and the working group recommend that the council consider adoption of all of Pegasus' findings and recommendations, with two small caveats. The first relates to the timeline for implementation of the recommendations, which we propose be extended from January to July, as there are quite a number of recommendations which are of real importance and that seem like a reasonable time frame.

And then secondly, to ensure that policies are formulated and maintained consistently across the organization to have that function centralized. The report that Pegasus published acknowledged that the work of OCCM was very fine and proceeded in some very difficult circumstances. Specifically there was really no ramp-up period, which is normally seen in mega programs of this type. And the recommendations relate primarily to important but deferred issues, which it's now time to address primarily in the area of documentation and policies and procedures. So it's our recommendation that the council adopt the Pegasus recommendations with those two caveats.

>> Hon. Brad Hill: Thank you. And we stand open for any questions.

>> Chair Cantil-Sakauye: Judge Rosenberg?

>> Hon. David Rosenberg: First of all, the three of you and the members of your committees and subcommittees have put in just hundreds of hours of work. And it is really very much appreciated. Even though you worked us over pretty badly --

(Chuckling)

>> Hon. David Rosenberg: But that's your job. So that's appreciated. Two quick things: First of all, of the seven projects, when you say indefinite delay of those projects, you're not saying the projects are dead, you're saying that they are delayed until funding is secured

sometime in the future, correct?

>> Hon. Brad Hill: That is absolutely correct. Hope springs eternal. And we do hope that it will be able to either obtain the funding or find enough in terms of cost savings to be able to move those court projects forward.

>> Hon. David Rosenberg: Secondly, and it may be that Curt Child or Curt Soderlund, have made reference to this. You referred to the \$1.5 billion redirected from the 1407 funds much that's a huge number. But my recollection is that a large chunk of that, 300 or 400 million, something along those lines, was borrowed. What's the status of that borrowing? I mean most of the money was redirected and taken into the State's general fund, but a chunk of it was borrowed. What was the commitment toward repaying or where does that all stand?

>> Curt?

>> Curt: We have the current numbers -- there were two loans that were taken from SB1407. There was, as you recall, when the sale of the State buildings was on the table and fell through, they needed some additional revenue, so they looked to 1407 for 90 million dollars. And then the second loan was 350. Yeah. That both of those are pending and due payable I believe in 14. 2014.

>> Hon. David Rosenberg: Judge Arp, perhaps you could send an invoice on that.

(Laughter)

>> I think there's some level of opt mission that we will see these and particularly in the 1732 loan, that was taken, the 350. That's actually dollars that we'll need for debt service in out years. The 90 million -- they had borrowed in the past from -- from the funds and it has been repaid. So we're hopeful that, again, we will -- that we will see that.

>> Hon. David Rosenberg: Thank you very much, Curt.

>> Chair Cantil-Sakauye: Judge Ellsworth?

>> Hon. Sherrill Ellsworth: My understanding is -- I know a second one was would you tell us interest. Was the first loan without interest?

>> We believe it was with.

>> Hon. Sherrill Ellsworth: The first loan was without interest, the second not, thank you.

>> Chair Cantil-Sakauye: Justice Miller?

>> Hon. Douglas Miller: I guess I couldn't go without commending you again from the council's perspective and especially from executive and planning for stepping up to take this responsibility and then taking it on. It's just such a great level of involvement. It's appreciated

by the council, it's recognized by the council. And you're doing a difficult but great job and again, as was indicated, a great service to the Courts and to the public. So I want to make sure that even though I'm -- I know at times it must be difficult and somewhat daunting and depressing to deal with what you have to deal with, it's appreciated and it's recognized. So thank you.

>> Hon. Brad Hill: Thank you. And we appreciate your support.

>> Chair Cantil-Sakauye: I want to join in that. I know that this was a very, very difficult task and it was changing. I will remember when you held the hearings that the Supreme Court was in oral arguments. Nevertheless, as much laser focused as we are during oral argument, we couldn't help but hear about the hearings and how they were going. And I appreciate and all of us appreciate the judicial oversight of such an important project. As justice Johnson indicated, this is -- means more really globally and optically than just how the branch handles our important construction program. It is about branch management and branch overview and -- and the prudent use of public funds, frankly.

And so this was a hard, hard task. And I know Judge Lucas, how the Pegasus report was put on line, transparently, immediately. How you as a group decided to seek outside expert opinion as soon as you were assigned to the difficult task. Again showing the need for self assessment and making sure that we're in the right place before we move forward. This was a very difficult process, I know, having to see eye to eye to your peers and question them about their projects, desperately needed projects, all of them. And then having to make the hard, difficult decision of reduction and prioritizing these needy projects.

So I thank you for taking on what I know has been a challenging public, difficult, awkward amongst peers -- I knew it was emotional, I knew it was dramatic. I knew all of it. We heard it. And you handled it very well. And the result, reasonable minds might differ in terms of these seven projects, but nevertheless no one can fault the process and your bringing objectivity to this. And that this is indefinitely delayed but it does mean we will go forward when the opportunity and funds are available, because the need is still great. Thank you for all that you do and continue to do. You have our support and our gratitude.

>> Hon. Brad Hill: Thank you very much, Chief.

>> Chair Cantil-Sakauye: Commissioner Alexander?

>> Commissioner Alexander: Of the seven projects delayed, are they -- when money would become available, and you will make that decision at that time?

>> Hon. Brad Hill: We'll review it at that time. But it could be that some of those projects might be rescoped in terms of the amount that we would be looking to fund. But we -- we hope that will be ultimately able to fund at least some, if not all of those projects.

>> Chair Cantil-Sakauye: Thank you. Do I hear -- Mary Beth Todd.

>> Ms. Mary Beth Todd: Can't be disputed this had to be one of the most difficult tasks you had to undertake before. And we do appreciate that it's difficult and that, you know, there's going to be people who are going to be happy and courts and communities that are going to be disappointed. My concern when I read the report is that there are pieces that are missing and -- and I think Judge Alexander -- or Commissioner Alexander just asked a question that kind of went to that point. We had a priority methodology priority authorization methodology for this process. I'm not sure how the -- mapped to that methodology. What was good about the methodology was it had a -- it has a measure way of measuring which projects were most critical need. Seemed to me that this process required that we filter those projects once again. And I didn't quite see how that mapped.

So in the end when I see these seven courthouses, it's not real clear to me what happened and how did they fall below the radar. Was there new criteria that was added? What was it about those projects that caused them to fall off? So if you could provide any information on that. My -- I have a project in my own court and will be coming before Justice Johnson's subcommittee on Monday. And from my experience going through that cost reduction process, one of the things that we're struggling with is we are making our own -- our -- we are making decisions with respect to our individual project. And I'm wondering what's happening to the program and the standards and how all of those are being addressed?

You know, when he woo all get done, are we all going to have -- have -- will we have all chosen different ways of making these cuts, such that we no longer have really standardization between projects as far as what's in, what's out and how they were built? And I think that's very important. The other thing that the report didn't address -- and I hope it's just because that was not the focus of this report -- but what are we doing from a statewide perspective to look at the program and see where we can find ways to be more efficient and more cost effective? So far all I've seen in this report addressed was coming down to the individual court project level and trying to achieve costs. Where I think there are probably opportunities to look at this from a statewide perspective of volume purchasing. I think even the Pegasus report addressed some of these issues.

And I hope that we can hear, if not today, if you could touch on kind of what the plan is to go in that direction. Because I -- I'm hoping that if we really take a look at this and step back from a programmatic standpoint maybe key with find money to get some of these other projects going.

I've heard that there are some issues to be dealt with. And I agree these issues need to be dealt with. When it's a branch court versus the main courthouse. When it's, you know, how many branch courts does anybody need? Those sorts of things. I think we do need to start really getting our arms around it. You know, who knows when we're going to have another chance to -- to do this? And yesterday we had some discussions about how we're not supposed to use facilities monies -- operating monies for facilities costs and vice versa.

But I know, having worked in three really poorly -- poorly suited facilities for courthouses in my career, that your facilities have as much to do with your ability to deliver core services as -- as your operating funding. And so in some instances this really is critical to delivery of justice. Right now if somebody -- you know, the economy turned around and I could hire a bunch of

staff, I still can only serve two people at a time at my little tiny filing counter. I can't get beyond that. Obviously I'd love more money for more staff, but you know -- (Chuckling)

>> Ms. Mary Beth Todd: I'm interested in how these issues are being addressed. I just feel like it's hard to say yes, we got it right. I think it's hard to -- to tell people we've done our due diligence when we can't see how did we end up with these seven. And I was looking for some objective -- I like numbers and measures. So that's kind of what I was looking for.

>> Hon. Brad Hill: And so do we. And -- and part of it is some of it is objective and some of it is subjective and some of it is dealing with numbers that may have changed and standards that may have changed from the last time that we had those priorities that were set. And that was something that we had faced when we looked at priority lists. Sometimes lists grow a bit stale. And you have to revisit them. And you have to revisit them with new numbers that have been generated in terms of Judgeship needs and caseloads and the like. And sometimes you have to revisit them with respect to any of the other standards that are out there that are affects those things much and so although we've dealt extensively and really looked very closely at the standards that we initially utilized, we expanded those a bit. We didn't eliminate any of the other criteria, we just expanded them. Put them on the public website, got information and input from all the courts during that five-week process and told them that we're certainly not discarding the previous process, we're just building on that.

The courts I think for the most part were receptive. Because they knew and understood that we couldn't necessarily justify to the legislature and to others the need to move forward if we didn't look at all of the standards, all of the new numbers and make an assessment. So that's what we tried to do. We did not -- the one change that we didn't actually do this time is we didn't assign numerical rankings to all of those courts. And we in essence thought that it was better to just start afresh with those standards, with the criteria that we had before and look closely at it and talk with the courts at the table as to what their needs were, what justification they saw for moving forward, and then making that judgment.

It -- it was difficult. And to come up with those seven courts was inordinately difficult. But I think that anyone who listened to those 22 hours heard that we were dealing not only with that original criteria but all of the information that was out there that they could justify their ongoing project. And so -- and I want to stress one other thing. With respect to those seven projects, we did not say nor will we ever say that they're not necessary. They are necessary. Just in the scheme of things right now, when we have to cut \$400 million and reprioritize, they had to be set aside until we have the money. You talk about also kind of macro issues as to, you know, let's look at the whole system and change some things in terms of standards.

And that's what we're trying to do a little bit where obviously one of the difficulties that we have is we're -- we kind of parachuted into the middle of the process. Some courts were almost ready to proceed with construction, some were in the middle of design, some hadn't started. And so we're having -- because of that, it's not as though we're starting the project afresh with all 40 courts. We have to take courts individually and cut where we can at what particular point in the process they are. Some courts are more -- shall we say -- able to cut because they're not ready to go right into construction. They're in design plans.

In terms of standards -- and this is something that's very important, you raise that -- the standards that we have for construction, we felt perhaps were a bit difficult for courts to comply with. Because they were the -- for the perfect court. And some courts were saying we don't need X, Y, and Z, but we need this. And yet the design standards would basically put the courts in a position of having to have certain facilities and certain size rooms and certain numbers of conference rooms when they didn't need them. And they could save a lot of money if they didn't. So we are in essence changing court to court some of those design standards. We're not going to affect at any point in time, safety, security or anything to -- dealing with the public safety or security. But we are changing those design standards such that we can save money in the long run. If Jeff has something to add with respect to the cost cutting -- have I addressed some of those questions?

>> Mary Todd: I totally understand your needing to do that on a project by project basis. That's wholly appropriate. I don't want to lose sight of to the extent possible that we identify some of these things that we either redraft our standards, we loosen them. But it's documented. Here's where I'm kind of concerned, parity we have found causes a lot of discontent within the branch. And my concern is that after we are done with all of these projects, that we will -- for 50 years we will be trying to catch up with this court didn't get this and so they're going to be, you know, crying out for that because another court chose to take their cuts somewhere else. But that court will be crying out for whatever it is they gave.

I think to the extent that we can try to standardize, maybe we have to loosen what the current standards are. They were great for the economic times when those standards were developed but perhaps not for today. But that perhaps we have some sort of parity or equity going forward as to what -- does everybody get in their courthouse. We are making decisions today it say we don't need this. Maybe one of our contemporaries in their project they're saying they have to have that. It's nice to have that flexibility but we're making the decisions today. Ten years today when we're not here, do we -- do we remember that, or are we setting the branch up for this -- this just -- you know, snowballing effect of people coming forward and saying, well, I need this, every other courthouse has this. And so I'm just trying to get my arms around how we move forward to try to minimize that.

>> Hon. Brad Hill: That is a good point. It is a fine line between telling courts you have to do it this way. This is what -- you know, you've come up with some ways to save money. But we're not going to allow that because this is what we have to do. So we don't want to hamstring courts such that they can't save money and make some cost savings that will be able to allow their projects to move forward. By the same token, we want that parity because we don't want courts saying, well, you know, the court 50 miles north got X, Y, and Z and we didn't, and why didn't we?

That's part of the problem of dealing with 58 court systems out there and courts that have, you know, their desire to have the perfect court. We're trying our very best to walk that fine line. In terms of standardization, there are some ways that we can standardize approaches and save some money with architectural fees and others. And I know Judge Steven Jahr talked about that before and others. And it's important to do that and we're going to try to do that to the extent

possible with the projects in the architectural phase right now because we can affect those. The ones that are beyond that we can't. And so we're trying to somewhat stage our various changes that we have implemented.

Jeff, any thoughts?

>> Hon. Jeffrey Johnson: Yes. I would add that one of our guidelines is to acknowledge that the individual communities that have these projects have individual desires. And it is not our objective to create a series of courthouses throughout the state of California that are identical.

>> Hon. Brad Hill: Right. Good.

>> Hon. Jeffrey Johnson: Certainly aren't looking for cookie cutter courthouses. And mandating cuts, we try to -- greatest extent possible, to leave discretion with the local project committee in terms of where they will make cuts so that they can maintain those elements they think are essential. We do have circumstances, though, sometimes where we will tell a particular project that we think that a cost cutting measure that you've -- you're proposing to undertake will not be cost effective in the long run and so we're not going to let you do it.

For instance, in our last courthouse cost reduction subcommittee meeting one of the courts warranted to have plaster walls in a publicly accessible area. And we had hours of testimony about how that just doesn't work and how the walls wear out quickly and the cost of repairing them is prohibitive. And so we advised the -- that particular court that we thought they should look for a different material for the -- for those publicly accessible areas. So that's the kind of thing where we would -- would intervene.

>> Ms. Mary Beth Todd: I'm interested in how these issues are being addressed. I just feel like it's hard to say yes, we got it right. I think it's hard to tell people we've done our due diligence when we can't see how did we end up with these seven. And I was looking for some objective -- I like numbers and measures. So that's kind of what I was looking for. I appreciate that because we found that in our project and took care of it.

>> Hon. Jeffrey Johnson: One of the other things we're looking at going forward but not mandating at this point in time is the possibility of modularization of courtroom design. So there would be a few options that potential project could consider. It wouldn't be just one, but a few limited, and because there would be, you know, three or four, the materials and the design specifications would be more readily implementable. That's something that we're trying to work toward. We're not there yet. But we clearly have that on our radar.

>> Chair Cantil-Sakauye: Thank you. Justice Miller?

>> Hon. Douglas Miller: So I'd like to go ahead and make a motion at this time. I think it may entail three different motions. But the first motion I would like to make is that we indefinitely delay the seven projects referred to in the report.

>> I would second.

>> Chair Cantil-Sakauye: Second by Morris Jacobson.
All in favor of the motion on the table say aye?

(Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

(None.)

>> I abstain, your Honor.

>> Chair Cantil-Sakauye: Thank you. Judge Ira Kaufman abstains. Matter carries.

>> Hon. Douglas Miller: The other that we move forward, again assuming no reduction of the SB1407 funds.

>> Chair Cantil-Sakauye: Second by Judge Sherrill Ellsworth. All in favor?

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

>> Abstain.

>> Chair Cantil-Sakauye: Who is abstaining?

Thank you. Judge Herman abstained. Matter carries.

>> Hon. Douglas Miller: The last is that we adopt the findings and recommendations of the Pegasus audit report with the two caveats that being the timeline of the implementation of the reports' recommendations be extended six months until July 16th, 2013. And the task of creating and maintaining policies be centralized to ensure they are consistent and current throughout all parts of the AOC's judicial branch capital program office.

>> Second that.

>> Chair Cantil-Sakauye: Second by Judge Morris Jacobson.

>> Does this last motion encompass all the recommendations contained in the report? There were seven total recommendations.

>> Chair Cantil-Sakauye: Page 2 of this item.

>> No.

>> Hon. Douglas Miller: I believe so, correct, Justice Hill?

>> Hon. Brad Hill: There may be a few that are not encompassed in those. Because we had seven total. The seven -- the Pegasus and the -- redirection of the money. But then --

>> Would you accept a friendly amendment to include the remainder of the recommendations?

>> Hon. Douglas Miller: Yes.

>> Chair Cantil-Sakauye: The motion is then to incorporate on your Tab item 2, Page 2, numbers 3, 4, 5, and 6 and 7. And 7 was for the main proposal the motion. The motion's been amended. Second by Judge Morris Jacobson. All in favor?

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

(None.)

>> Could I just make one final comment?

I just want to reinforce what Justice Johnson said. Speaking on behalf of trial courts, it's very, very, very important that trial court judges be given flexibility on these projects. Every single project has a project advisory group, and obviously the judges are intimately involved in the project and the design. And as is the local community. And so to give them the flexibility so we don't have a number of MEC courthouses in California. That each courthouse is unique is very important.

>> Chair Cantil-Sakauye: Thank you. And the matter carries. Thank you for your presentation today and your hard work.

>> Hon. Brad Hill: Thank you very much.

>> Chair Cantil-Sakauye: Next on our schedule is a break, which -- but we are ahead of schedule. We're going to take item H. And I believe there are no speakers or people who wish to have public comment on item H. This is the trial court special funds allocation for fiscal year 2012-2013. I invite David Yamasaki, as well as Zlatko Theodorovic. And Steven Chang.

>> 2 percent reserves, is this the issue here?

Is this the right --

>> That comes later.

>> I'm sorry, whoops.

>> H. The trial court's special funds. There we go. Here it is.

>> Chair Cantil-Sakauye: Good morning.

>> Good morning, Chief, I was back there looking for Zlatko Theodorovic and never found him. Fortunately he's here. I'm appearing on behalf of Judge Laurie Earl who unfortunately had another obligation and asked me to sit in for her. I'll try to deliver the message. Certainly not at the same level of eloquence as she would have but I will do my best. I want to give you a little bit of background for the information that you're going to hear today. Last month there was a convening of the committee to review the expenditures that draw from the trial court trust fund in the improvement and modernization fund. And in that endeavor we met for two days in Sacramento, 27th and 28th. And had an opportunity to listen to very, very informative information. The members of our committee consisted of Judge Laurie Earl, Judge Clay from Alameda, Judge DeVore, Judge Lee Admin, and Judge Richard office, as well as court executives, Geenie Powell, Steven Nash, Jack Clark and myself.

And I will tell you that the information we received was extremely well presented. Judge Jahr, by your staff, they did a fantastic job of advocacy, as well as providing us with very, very detailed information that helped our subcommittee formulate conclusions and ultimately make recommendations to the trial court budget working group relative to the funding levels that were ultimately addressed. Some of the recommendations were preservation of the funding levels that we had previously, but also the recommendations included reductions. And fortunately the information that we had helped us make those decisions. But unfortunately, some of the decisions that we had to make were very, very difficult. And at this time I'm going to ask Zlatko to go through the information that we reviewed.

>> Zlatko Theodorovic: Good morning, Chief, members of the Council. Yes, we're here to discuss the trial court trust fund allocations as well as the state trial court improvement and modernization fund allocations. The council has the statutory authority to allocate these funds for the needs of the trial courts and the programs and projects that support the trial courts. The recommendations that we'll be walking through represent the work of the trial court budget working group as David has described as well as the work of the expenditure subcommittee and the work that it did on two different occasion, both looking at trial court trust fund expenditures as well as the improvement and modernization fund.

So the first recommendation based on this work is to allocate to each trial court a share of \$58.8 million of funds that we have found to offset reductions that were taken in the budget act. Of which we have \$25.3 million that we can distribute within our existing budget authority. Meaning the level of funding that we have appropriated in the budget act, we still have an opportunity to spend 25 million dollars of revenues that we -- we found as part of the trial court trust fund. However, there is a balance of that 33.7 million dollars that we do not have authority to spend, and we have to ask the department of finance and the legislature to spend that money. There's a provision 4 in the budget Act that allows for us to request those funds and that we can then spend it based on their authority and approval.

Just to recap how we generated this money, we have 41 million dollars in ending as they say, unrestricted fund balance. As a result of year-end expenditures being reconciled as well as revenues there's additional revenues in the trust fund as compared to what was anticipated this spring. We have 12 and a half million dollars in jury reimbursement that we were able to redirect, 4.3 million dollars in savings related to V2 and V3. And one time \$1 million funding related to replacement of screening stations. So that sort of comprises the funds. If you recall back in July we had some concern expressed by the department of finance about whether or not our numbers were solid. Well, we've provided them that information and the revenues are there from the prior year, and the expenditures are clear. So we feel like those numbers are good, valid numbers.

I would note that it does not include any restricted funds either by statute or by council including -- it does not include any funds for court interpreter costs as was previously discussed at the council meetings. So recommendation 1 with the \$58 million is that it be allocated based on each court's share of the beginning 12-13 allocation. This is a methodology that we've done for the 2 percent reserve when we did that back in August. Clearly as I mentioned before we do have to ask the department of finance for allocation of a share of that funding, the \$33 million. So we would ask then as part of the recommendation that you authorize us to request of the department of finance that additional authority for expenditures.

I don't know if it's a pleasure of the council that you want to discuss each of the recommendations, would you rather have me go through each of them and we can vote on them as we go or after I've completed the presentation?

>> Chair Cantil-Sakauye: I suggest you go through them.

>> Zlatko Theodorovic: Very good. The next issue relates to statutory change in which it authorizes courts to charge a \$30 fee for civil proceedings, for court reporters in civil proceedings that last less than one hour. The statute provides that these funds are restricted and can only be used for the services for official court reporters in civil proceedings. The recommendation of the trial court budget working group is that those funds be allocated based on the courts that collect the revenues. So their one option that it be distributed pro rata to all the courts regardless whether they generate any revenues or return it back to the court that generated the fees. That is the issue. That again is subject to approval by the department of finance, because this is new revenues that are not within our expenditure authority. So this again we'd also request that you authorize us to request of the department of finance authority to spend those additional revenues.

And any questions at this point before I go on?

I don't want to get through them --

>> Do you have any sense about the position of the department of finance or the legislature about going back and asking for these authorities?

>> Zlatko Theodorovic: I think that may be where the discussion was to get through the whole process and then we can answer that question. In terms of technical questions about the

numbers, it's just --

>> Chair Cantil-Sakauye: Judge Kaufman?

>> Hon. Ira Kaufman: The recommendation of the trial court budget working group was a \$30 fee be returned to the trial court that collected it.

>> Zlatko Theodorovic: Correct.

>> Hon. Ira Kaufman: As opposed to being put into the pool and distributed pro rata.

>> Zlatko Theodorovic: Correct.

>> Hon. Ira Kaufman: What was the rationalization for that? The question I'm asking is a different one. Is that there seems to be no bright line as to what fees get put into the pool and what fees stay locally. I thought we -- I thought we -- most fees are -- are brought up to the pool and distributed pro rata. What was their rationalization? Why did they want to do it with this particular fee?

>> Zlatko Theodorovic: It is restricted funds, and therefore those courts that do the work to generate the revenues, we thought it should offset their costs. And courts that aren't collecting the revenues may not have the costs to offset.

>> Chair Cantil-Sakauye: I'm on that committee and this I thought would be a hotly contested issue. It was not. It was favored by folks that don't collect the money as well, Los Angeles and some of the others. The idea is there are courts that have court reporters in their civil departments and the only way that they continue to fund those civil court reporters in those departments is by hoping that this fee will cover them. The others are not collecting them because they frankly have already gotten rid of their court reporters in their civil departments. So I -- I thought this would be controversy and, gentleman, you can speak differently. But it was unanimously and rather rapidly looked at as purely a local fee in terms of the ideology that it is collected by those courts that are using court reporters and the ones that aren't collecting, frankly, do not have civil court reporters in those departments.

>> Hon. Ira Kaufman: We're setting a precedent. In the past all fees have gone to the pool, haven't they? And what fees will stay locally and what fees are going to basically be put into pool and then distributed pro rata? I mean, is it a rule, or -- that's what I'm asking.

>> Right now there are a number of fees that are required to be returned to the court for dollar for dollar. They're -- it's a very limited number and they're none by council poly directed back to the courts. And this \$30 fee is not directed back to the court, is that correct?

>> Zlatko Theodorovic: Correct. It's merely restricted and can only be spent on that. To the extent there aren't court reporter costs at a court, this money would be distributed to them and would not be able to be spent on anything but court reporters. So it's sort of -- seems odds that

you would provide them the funds and they couldn't spend it on court reporters or anything else.

>> Chair Cantil-Sakauye: Judge Rosenberg.

>> Hon. David Rosenberg: It's a matter of equity. The courts that collect it should get it because they need it and they spend money on it. The courts that don't collect it don't have a dog in the fight at all. They don't need it.

>> Chair Cantil-Sakauye: Okay.

>> Zlatko Theodorovic: So those are all the issues related to the trial court trust fund. That's why I took a pause because we're going to move into the improvement and modernization fund. That has different issues. The trust fund is the fund we were looking to to help offset trial court costs and reductions whereas only a small part of the improvement and modernization work that we're doing would benefit the trial courts offsets. To summarize, recommendation 3 would then to be to request of the department of finance a \$37.7 million of authority made up of the balance of the trial court trust funds that we've identified and this additional \$4 million of estimated revenues from the court reporter revenues. Now let's talk about the improvement and modernization fund.

The -- this is a newly merged fund of our old improvement fund and modernization fund was intended to provide greater clarity in budgeting of the branch so everybody could see all those funds all expended out of one fund to provide greater transparency and budgeting and accountability. Similar to what was done with the trial court trust fund, the budget working group created a subcommittee that reviewed all of the expenditures as David had mentioned. And one of the goals of that group was to look and address Phoenix financial services costs as to where they should be budgeted. One of the E and P recommendations adopted by the council regarding Phoenix was to look at the funding mechanism for Phoenix and whether or not there's some alternatives to having it be funded as a charge-back to the trial courts. So with that they met -- as David said -- for two days and went over line by line all of those expenditures.

There's a fundamental issue that I'd like to raise to the council at this point regarding the long term funding viability of the improvement and modernization fund. It currently has expenditures greater than its revenues, but because it has a fund balance, money in the bank, it can pay for all of its expenses over the next several fiscal years. We will, though, have to eventually review the -- all of the expenditures out of the improvement and modernization fund because it will eventually be broke and we will need to reduce expenditures. To that point we will be reconvening our subcommittee that looked at all of the expenditures to develop some strategies in dealing with this long term shortfall and see what options we have to deal with that. So we'll be coming back to you in the future looking at how to stabilize the expend touches out of the improvement and modernization fund.

What we're bringing before you is a recommendation to allocate a one time basis \$79.1 million from the improvement and modernization fund. That reflects a movement of the Phoenix financial expenditures from the trial court trust fund into the improvement and modernization fund. This in effect would have a benefit to the trial courts as they would no longer have to pay

out of their trial court trust fund allocation these -- benefit trial courts 57 courts, \$6.8 million of reduced costs from their trust fund allocation.

>> So I understand it, this would be effective July 1st, 2012.

>> We would work through accounting to adjust our expenditures so it would be charged against the IMF instead of the TTF.

>> Let's assume a court owed let's say 10, 20,000 dollars for Phoenix for this year, they would not have to pay that.

>> Zlatko Theodorovic: Correct.

>> We would have whatever the number is back into your budget and this money paid by a fund, correct?

>> Zlatko Theodorovic: Correct.

>> That point we close the books on the old way we do Phoenix.

>> Zlatko Theodorovic: For the intervening period we can afford that for a couple years. It creates -- it contributes to the problem that I discussed in terms of the upside down nature of the IMF.

>> You said 57 courts. There is -- is there a court or courts that have not paid their assessment?

>> Zlatko Theodorovic: There is a court that hasn't paid --

>> What's the proposal for dealing with that issue?
Whatever they owe, that would go back into the pot?

>> Zlatko Theodorovic: If they were to make that payment, it would be -- I think it's refer to Curt Soderlund as to how he might deal with any repayment.

>> Mr. Curt Soderlund: Yes, there's one court that for three years has not made any reimbursements for the Phoenix financial part of the program. I think to address your question, there would be several ways of doing it from an accounting perspective. We could do something in the current year or we could re -- if the monies were paid for the 11-12 year as an example, we could rebate those monies back to 57 courts or -- so there would be a gain or an offset, if you will, to those expenses.

>> What's your recommendation?

Let's close the books on the old way we do business and move forward. I think is a much better way of doing business.

>> Mr. Curt Soderlund: It's an accounting technical issue in terms of which way you want to go. In terms of addressing the nonpayment for the 11-12 year or the two other prior fiscal years.

>> Yeah, seems to me that's kind of a staff issue. That -- without identifying the court, is it a very small court or is it a very large court?

(Laughter)

>> I think you know the answer.

>> Mr. Curt Soderlund: It's a court in southern California.

>> Gee, I wish San Diego would --

>> It's Los Angeles.

>> Chair Cantil-Sakauye: And that was a decision that was made with full knowledge by the trial court budget working group, correct?

>> Mr. Curt Soderlund: Correct.

>> Chair Cantil-Sakauye: Thank you.

>> If I could just add also, going back to the Phoenix expenditure, it specifically addresses the accounting component that all of the courts participate in. There are some courts who don't have the technical expertise or systems to accommodate other elements which are not part of this redirection but rather still will follow that mechanism of contributing towards that particular expenditure.

>> And for clarification, what we're talking about is the HR payroll component of it, which \$7 courts are on, would still be on the charge-back methodology.

>> Chair Cantil-Sakauye: Okay. Thank you.

>> So just want to make some highlights with respect to the \$71.9 million. Again, it does reflect including \$6.7 million of Phoenix costs. But that -- those were offset by \$1.6 million reductions to other programs that we saw and were able to take a reduction. So on net we have about a \$5.1 million increase to the overall allocation as compared to last year's allocation. But again, that's driven by the Phoenix increase partly offset by other smaller reductions.

One thing we also wanted to note was the budget working group did recognize that there were some uncertainty in one particular program, the litigation management program. So to the extent that there were any needs for additional resources, rather than having to go back through the budget working group, it was recommended that could come back to the council to ask any increases for that program.

So just to remind you of what the IMF does pay for, it pays half of the funding goes for IT costs there again the financial -- financial services. Civil litigation, education programs, so there's a lot of programs, important programs to the trial courts that are provided out of the IMF. Can see there's additional issues there. And this is the break down dollar-wise I think I want to point out that almost half of the expenditures in the IMF are for information and technology services. And so when we look at the long term costs, and expenditures out of the IMF, from a terms of just where all the dollars are, shows dollars in the information technology services office are substantial and will have direct service impacts to the trial court. So what we've committed is the budget working group is to work with the tech committee to make sure that we're not just doing this as a budget exercise but that we're working with all the impacted areas, it's -- to really evaluate what opportunities we have within that fund to make any sorts of budget adjustments.

So with respect to the management of this -- of this fund, we discussed a number of issues in terms of how to properly administer the fund. I mentioned that council had the authority to allocate the funds. Given that there were some reductions taken in the various budget areas there was a sense that here there should be some flexibility provided to the programs so they can address any of the programs. For example, there were cuts to the information technology area. There were some reductions to education. And while we discussed those in specifics works, we concluded there should be some level of flexibility. But then we also were concerned that we would be coming back to the council on a regular basis asking for minor adjustments. So the recommendation is that the council consider delegating to the appropriate entity the authority to make adjustments between programs and projects so that you could consider that as an opportunity to help more effectively manage the fund. We just didn't think that it made sense that on small adjustments that we should be coming back to the council on a regular basis. And we thought that that would just be a sort of more efficient management of the program.

>> Where?

Where should it be delegated, if that were done?

>> Zlatko Theodorovic: Statute does authorize the council to dell great to the administrative director. But we did not as a budget working group want to identify that. We wanted just to raise that as an issue for the council. And let the council deliberate on the appropriate -- if it chose to make such a delegation. And if there are any questions about the issues of delegation, we've discussed it with Mary Roberts, if there's anything that -- that they can ask. So to the extent that the council does decide to delegate authority to another entity, we have some recommendations that we'd like you to consider. With respect to transparency and management of that.

First we'd like to put some limits on the amount that could be adjusted. So that it's not just, you know, complete elimination and funding of programs through this delegation.

We -- in the past -- I'm sorry?

No, that's fine.

We think that it's important that you understand that the authority -- and -- talks about delegating with appropriate guidelines, one of the recommendations will be -- as it stands now we do not have new guidelines for this merged fund. We had individual -- we had guidelines for

the improvement fund when it existed on its own and the mod fund as it existed on its own but we did not have -- did not have newly created delegation and guidelines for the new fund. So we should work with providing you some options in terms of delegation and the guidelines for that delegation.

Next we had -- you asked us to report back on any adjustments to the allocations so you're aware as a council as to what was changed. Again, that's helpful in terms of ability to understand what programs should be changed in the budget so that it's, again, a matter of transparency for everybody to see. So that you know how you start from the initial allocation to the end of the allocation based on adjustments done by the designee. And finally we do need to have more formalized internalized guidelines for the administration of the IMF to the extent that you decide to delegate to some other entity for its management. So those are all the recommendations that we have.

>> Open it up for questions or comments?

>> Can I first respond to the question that commissioner Alexander raised? This deals with first three recommendations. Not those after that. I did have a meeting with Anna Matasantos, and her staff. She called with reference to the first three recommendations.

>> She wanted to explain what her concerns were and governor concerns about those first three trial court budget group recommendations. She started out by telling me that in essence she didn't have anything new to explain to me that in essence it was the same things she had said when she was here in August. So I am somewhat just repeating what she told us then. Her concerns and the governor concerns were three fold. First, primarily she stressed that she wasn't in any way indicating we didn't have the discretion on one of those funds to make that appropriation. But that she didn't feel that this was the appropriate time to do this. And she was recommending that we would hold that off until our January Judicial Council meeting, when she felt and her office felt based on their analysis that we would all have a better and more complete picture as to what the actual revenues were and what the actual expenditures were. They had reviewed the report, they had analyzed the report. They weren't convinced based upon their evaluation of those figures that what we had come up with were exactly correct and that those would be what they would be in November, December, or January.

And so her recommendation as -- that we wait to consider to make any discretionary appropriation or to request them to make any further appropriation under their authority until January when we had a more complete picture of what those funds actually were. Again, she said I'm not in any way indicating that you shouldn't at some time make a discretionary call, but that really that discretion shouldn't be exercised at this time, and that we should do that in January. She also repeated again exactly what she had indicated when she was here in August. And that was that the redirection was being proposed while trial courts still had a significant reserve maintained in their individual courts, a number of them, that the redirection was being proposed without being based upon individual trial court needs and that again the purpose of the governor's budget and what was agreed to by the legislature was that the focus should be on the local courts and their efforts to plan and budget within the ongoing cuts.

With regards to the \$30 court reporter fee she felt that that was something that should be decided in conjunction with the new working group that will evaluate that and consistency with the trial court funding act on a statewide basis. So I really believe, based upon her concerns and what she expressed for the governor's concerns and the important relationship that we have with the governor and the department of finance and the relationship that we want to continue with them during this changing fiscal time and our partnership with them, that we should consider postponing those decisions on the first three recommendations until January.

>>> That would include 7.697 item in No. 4.

>> Tani Cantil-Sakauye: That would be for the first three items, yes. . So that changes. Just for clarification, not the -- so we would take the 6.7 from the 71.923 because the balance of that does not concern or indicate the concerns raised by the dependent of [audio cut out]

>> Judge Ellsworth.

>> So I have a couple concerns about the delay. The first concern I have is that we have a trial court budget working group that not only has worked and grappled and suffered through these issues but they also did a subcommittee that went line by line and came up with well-reasoned ideas that to present to us. And delaying this may create some real problems with operations in some of the courts as well. One -- they want local corporations to indicate -- on the \$2 fee, I'm not talking on the behalf of Riverside, but clearly it has civil court reporters and we have money we received and we based a decision to continue with court reporter on the prospect of that fee, for example.

So if, in fact, we delay on that, there will be many courts, and I'm not speaking on behalf of Riverside, I'm talking of all the courts who collect that diligently. They'll discontinue that. It will end up like Los Angeles. They collected \$30 because they don't have court reporters in the civil for an hour or close less. With this slice of the pie, it's a little bit strange if they want us to change. Local money stays local, local, and that fee is attributed to that. I think the trial court budget working group considered and we're very -- Zlatko presented very well the fine line we had to walk with the trial court budget working group. And I'm going to Dave Wesley this [Chuckling] and say that I think the delay could cause some problems and I think we should trust and take the recommendations.

>> Tani Cantil-Sakauye: Judge Rosenberg then Judge O'Malley.

>> I think the new information that was obtained through the director of the Department of Finance is something to consider. A delay to January I don't think will negatively affect any court and as a matter of economy we should consider that. I would ask that any motion should be considered. I really review the \$30 fee as a separate item. I don't know that that should be delayed. I think that's matter of equity. The courts are extending the money for the reporters. And I'm concerned that the courts that are doing that if they don't get the \$30 revenue returned to them will have some significant impacts on the court operations. So I ask that the \$30 fee issue be separated. I understand delaying the issue with regard to the millions in No. 1 and No. 3.

>> I have a question and a point to make. The question is the \$30 fee is not now going to the individual courts, correct?

>> I am sorry. I didn't hear.

>> The \$30 fee.

>> Tani Cantil-Sakauye: [Inaudible] .

>> It's just being collected in the trial court trust fund. Not being distributed at this point.

>> Yes. For Judge Ellsworth and other court hoping to keep court reporters in your civil departments to -- until January, I mean, you haven't been getting it up until now. Does this mean that you will cease court reporters in civil or can you ...

>> Can I ask one further? We we're just asking. They need to approve.

>> Question need to ask as to spend the money, and the...

>> They need to give us the permission.

>> Correct.

>> We're darned if we do and darned if we don't. So the question is, it's not a long period to wait. If we allocate the money now, you know, they can just cut us more and then we have to give it back in some sense. I mean, so my feeling is it's not that long to wait. We all need to see where we're going to be after November and what the budget is going to be. I just think it would be prudent for us to have the money, hold the money that we have now and not spend it.

>> I agree with Judge O'Malley. And Judge Ellsworth, you convinced me that the \$30 fee should be a local fee. The bigger issue is that I don't want to win the battle and lose the war. With the Department of Finance, we're starting down a new road with them, with the working group. The working group you're on and Judge Rosenberg, etc., [Inaudible] I wouldn't want to walk into the meeting that we're snubbing our noses at the first chance we had to. We're working to come up with a global solution as opposed to a simple solution over a \$30 fee.

If we can get past that barrier, the \$30 fee, we can deal with January. We're talking about two months really. For 60 days to go for the meeting with good fate means a lot more sense than thumbing our nose and say we're going to take \$30.

>> Tani Cantil-Sakauye: Justice Miller.

>> I have recommendation for 1 through 3 and the court reporter meeting that we delay that for January.

>> Tani Cantil-Sakauye: I heard a second. I believe that the matter has been discussed thoroughly. Commissioner Alexander?

>> Does that apply to everything in No. 1 or just the \$33 million?

>> It applies to everything.

>> Tani Cantil-Sakauye: All in favor say AYE.

>> Any opposed? ?

>> NAY.

>> One opposed.

>> Tani Cantil-Sakauye: Recommendation No. 5, and depending on that, then 6, 7 and 8. --

>> If I may --

>> Who called? Zlatko?

>> It was not to approve any of the improvement fund. The discussion of delegation at this point doesn't seem worthy.

>> Tani Cantil-Sakauye: That's fine. I wanted to ask whether or not the committee considered a combination of people it has in the plural someone like the Administrative Director of the Court, and the chair of E&P. Was there specific discussion?

>> No. It started with the directors of the offices. And we thought there should be discussion about the procedure and the governing procedure have some in-put. And with the case of the IT, it's the offices and the committee. And it started to fall apart. We initially have oversight over everybody. When we got to the end, it was then we talk about the ADOC, and then it was just like the council discuss it. And we didn't want to give a firm recommendation. That was evolution of that.

>> Thank you, Judge Baxter.

>> I think the delegation ought to go to the ADOC and the chair of the E&P working together and they would be consulting with the appropriate revisions.

>> Tani Cantil-Sakauye: Thank you. Judge Ellsworth.

>> I think that would satisfy. Had the concern in all of these, the SEC report, and many different things folded into, this that really our group really wanted to have the council to be a part of the holder of those keys. I think that solution, having that kind of co-delegation would really speak to some of the concerns. I think that's a great way to do it.

>> What I'm hearing is that you're saying without -- Zlatko, without activity in the IMF, it's not necessarily imminent before us?

>> Correct.

>> Not dried --

>> The only issue, and you've voted, is that -- the motion could have been to separate the Phoenix charge since it's part of that issue and still authorize the allocation of the \$65 million that is for normal operations. That's not within any of the concerns of the Department of Finance. That's our normal cost, normal program, not identified for redirection and offset. It's just a normal expenditure.

One decision could be to peel the Phoenix movement out of a recommendation four and then how would you want to delegate any authority over the IMF expenditures.

>> I think it makes sense in light of the comments that were received by Justice Miller by the Department of Finance that the entirety of this issue be deferred to January.

>> Tani Cantil-Sakauye: That's a motion.

>> That's a motion.

>> Tani Cantil-Sakauye: Second by Judge Rosenberg. Mark Robinson as well. All in favor of deferring this to January when the other matters will be considered say AYE? Any opposed? Thank you. Matter is deferred.

Thank you for the presentation. I know much, much work, and, for example, we appreciate this and look forward to revisiting this in January. We're going to take a 15-minute recess now. It's now 10:15 and we'll recess until 10:30.

[recess]

>> Tani Cantil-Sakauye: ...to our business meeting on record, this is Item I. The Trial Court trust fund allocations two percent reserve. I believe there is public comment and written comment as well. Before we get there, I understand that Judge So wishes to be heard.

[Feedback Noise]

>> Thank you, Judge, for those remarks.

[Laughter]

>> Second.

>> Oh, my friends ...

I hate to revisit item 4 again, but it's come to our attention that it's important that some of this money be allocated. So I'm going to move to reconsider item 4. And Jody, could you please join -- play some of this.

>> Tani Cantil-Sakauye: One moment. For the record. This is item G. No. 4. The recommendation, and Judge So makes the motion, seconded by Judge Rosenberg --

>> Item H.

>>-- Item H--and Judge Jackson. Judge Ellsworth. The question is put to you. Go ahead, Zlatko Theodorovic.

>> The motion is to reconsider. I think we have to vote on the motion to reconsider. And then the floor is open.

>>Jody, could you please speak to the motion to reconsider?

>> Yes. We believe that the \$6.769 million to be transferred for a Phoenix Financial System, for that funding to transition from the Trial Court trust fund to [Inaudible] Modification fund should be deferred because that's consistent with the concerns expressed by the Department of Finance. However, the balance of that \$71.923 million, which equates to \$65 million, Zlatko?

>> \$154,000.

>> The council can and should act on that as we are currently already expending those funds, and there are some time sensitivities with regards to the expenditure of those funds. And how those funds -- the \$65 million, is broken down is in your attachment F. If you need to have some of that detail.

>> It was all the programs on the slides.

>> Absolutely.

>> And even further detail is in F?

>> Yeah.

>> Okay. And some of the sensitivities are, and I will give you a quick example. The CJP Insurance. We have a contract for that. We have been able to extend that contract for a month, but which need to -- but we need to. -- yeah, pay for that experience in the very near future and cannot wait until January.

>> Tani Cantil-Sakauye: Thank you. That's the basis for the motion to reconsider and was there --

>> Just for the record, I had that explained to me. I was the one who made the original motion. Had it explained during the break. I agree, and I am in support of that.

>> Tani Cantil-Sakauye: All in favor of the motion to reconsider.

>> [Aye.]

>> And I abstain.

>> Now I make the motion.

>> Tani Cantil-Sakauye: Judge So, you may move on that motion.

>> I move that the council allocate \$65.14 million in one-time funding from the state trial court movement and modernization fund. And direct the AOC to request the council for augmentations to the \$4.5 million litigation program allocation management 23 needed.

>> All in favor? [Aye].

>> And Chief, if I can, with that motion, the council may wish to act on recommendation 5 for the delegation now since you are moving to expend \$65 million from the improvement modification fund tournament well the motion carries. And that sounds like another consideration to consider No. 5.

Let's be clear. The 65.154 is allocated on a one time fund -- one time basis for funding from the IMF. And the \$6.769 million is deferred until January to be considered with items one, two, and three previously voted on.

>> That's correct.

>> Tani Cantil-Sakauye: Now there's a basis stated that we need a motion to reconsider. A recommendation No. 5 regarding appropriate designee.

>> I make the motion.

>> I will second.

>> Tani Cantil-Sakauye: Judge Jacobson makes the motion for reconsideration of No. 5 and seconded by Judge Baxter. All in favor? [Aye] no opposes. And the appropriate designee for the particular item in No. 5.

>> I move that it's delegated to the Administrative Director as well as the chair of E&P.

>> Second.

>> That won't work, sorry.

>> Oh, okay.

>> I have consulted with Mary Roberts. To be consistent with the statute, the delegation should be to the Administrative Director subject to guidelines established by the Judicial Council. And I would include in that motion of delegation that one of the guide lines be in consultation with the chair of E&P.

>> And I'll second that.

>> Do you withdraw your motion?

>> I withdraw my second from -- Judge O'Malleys motion.

>> Tani Cantil-Sakauye: Thank you. That's what I want to verify. Justice Baxter makes the motion that the appropriate designee be the Administrative Director of the courts subject to guidelines that are created in consultation with the Judicial Council.

>> And the guidelines would include consultation.

>> Tani Cantil-Sakauye: With the chair of E&P.

>> I'll second that.

>> Tani Cantil-Sakauye: Judge Jackson.

>> Question, does that include six seven and eight that is some of the guide lines.

>> 7% of the fact and formalizing to all of the guidelines to the Council.

>> Tani Cantil-Sakauye: Would this be separately considered or something that is the AD considers subject to guidelines and in consultation to recommendation --

>> We could still work that. I mean, I think that the AO okay can take these as consultative to him and his management of the fund.

>> Agreed.

>> Tani Cantil-Sakauye: Okay. That doesn't mean that we don't have to address that those were deferred to January. But at this time, it doesn't sound like there's a need to revisit recommendation 6, 7, and 8 in order to accomplish their -- if that's the recommendation of the ADOC. In consultation with the chair and the E&P? Question?

>> Judge O'Malley.

>> Can I understand the rationale why it can't be a co-delegation? Why it should only go with the [Inaudible] With the chair of the E&P?

>> I think I can --
[Overlapping Speakers]

>> Government code section 77209 expressly says money is deposited in the state trial court improvement and modernization fund shall be administered by the Judicial Council. The Judicial Council may, with appropriate guidelines, delegate to the Administrative Director of the Courts this administration of the fund. So, as one of the guidelines, we can include the condition of consultation with the E&P. As a limitation in a sense to the delegation

>> Justice Baxter, if I may, the guidelines that can be adopted by the council now if they're so inclined are reflected in page three of the report, items 6, 7, and 8, these are guidelines that would limit, if you will, the authority of the ADOC in making whatever actions he wants to make in terms of further pursuit to -- pursuant to the statute.

If he's delegated the authority, the guidelines could be adopted to the council, 6, 7, and 8, and add to that the additional implement of the consultation of the chair to the E&P committee. That would take care of it now so the guidelines would be in place.

>> Tani Cantil-Sakauye: [Inaudible]

>> That is correct. But the action today would already have taken care of the language requiring appropriate guidelines. They could always be added to or changed in the future.

>> Tani Cantil-Sakauye: We have several options. [Inaudible] Recommendation No. 5. As stated on the record, or [Inaudible] Move 6, 7, 8, for a motion. And use those as state line guidelines for the implementation of transferred money from the IMF. [Inaudible]

So I suggest we take No. 5 now with the motion as stated and seconded by Judge Jacobson. Any more questions?

All in favor say aye.
[Aye].

Any opposed? None. That carries. Now we consider a motion to reconsider the deferral of 6, 7, and 8 -- the deferral of those. So we can consider those as baseline guidelines as stated in recommendation No. 5. A motion to reconsider?

>> I move to reconsider item, 6, 7, and 8.

>> I'll second.

>> Tani Cantil-Sakauye: Seconded by Judge Jacobson and Mr. Robinson.
All in favor? [Aye]. Any opposed?

[Quiet]. And I'll hear the question on 6, 7, 8.

>> I move that we adopt 6, 7, and 8, as guidelines for the ADOC and add an additional guideline that the ADOC perform the function in consultation with E&P. The chair of E&P who will then consult with E&P.

>> I would send that and add that it speaks to the spirit of oversight that we're seeking transparency, and I think it would be very satisfactory not only with the Trial Court Working Group but also in the spirit of the SEC report as well. I urge us to vote yes on that.

>> Tani Cantil-Sakauye: Judge Ellsworth seconds that. Any further questions?

>> What is [Inaudible] In terms of a mechanism for keeping the council [Inaudible] .

>> Tani Cantil-Sakauye: I was going to address that if there's a report regularly, if there's activity out of the IMF fund, within the IMF fund pursuant to the delegated authority. Any further discussion? It not all in favor? [Aye].

Opposed? [quiet].

We'll hear a report fact from within the IMF from program to program by the Administrative Director from the consultation of the chair of the E&P.

>> Yeah. Definitely, we'll make sure that's done.

>> Tani Cantil-Sakauye: Thank you. Now we move to item I.

And before we hear the substantive presentation, I will ask Justice Miller to call up those who have come to speak publicly on this issue and also remind council and the public that we have received written communication on this posted on the website. And you have access to materials as well.

>> Thank you, Chief Justice. Six members are here to comment on item I. We have allocated them a total of 15 minutes to be allocated two and a half minutes for each. And the first is Konradt Bartlam, City Manager of the city of Lodi. Welcome.

>> Thank you. Madam Chief Justice, members of the Council, my name is Konradt Bartlam, the city manager for the city of Lodi. I have submitted written comments prior to is this meeting as well. Thank you for allowing me to address you and speak about the San Joaquin court resident request before you this morning. It's been made clear to me that funding are request is needed to keep all the branch courts within San Joaquin open. Unlike other city, Lodi has a bit of a unique situation in that we operate a type one city jail. There are no other municipalities in the county that do so. Closing the court, which is adjacent to the jail, would have a significant impact on the Lodi community and the city of Lodi as well. Having the jail as part of the court complex allows us to remand offenders prior to their arraignments and, therefore, not require us to send them to the county jail prior to their appearance. Changing that not only midstream in our budget cycle

but generally will be a very significant strain to the city. As a result, we believe that having the court and our jail operate in conjunction as it has for many decades is an appropriate level of public service and one that we don't want to see change.

If the court does close, we will incur an enormous additional cost. Cost of travel, cost of additional staff for transport, cost of overtime for police officers to make appearances.

Many defendants won't find their way for transportation. We know there's a higher likelihood of failures to appear if that were the case. More bench warrants will be a result. That then rises the level of crime within not only the city of Lodi but the entire north county of San Joaquin as it's the most proximate court available. We are able to hold control in our jail our prisoners. They don't then find themselves released because of overcrowding in the county jail, and it is an arrangement that works quite well.

>> 20 -- 30 seconds.

>> Those are my comments for you this morning. I did, as I said, submit written comments as well. Thank you very much for your time.

>> Next is Ms. Karen McLaughlin, City Manager, city of Manteca.

>> Some of you have seen the commercials I'm sure. Good morning. I am the city manager for the city of Manteca. I am here in support of the resident for San Joaquin for our supplementary funding for the courts. You hear several speakers address issues specific to San Joaquin Superior Court, and I would like to specifically decrease as one city? San Joaquin County. Concerns related to the cut backs already experienced in San Joaquin and the impact other cuts could have.

We're a community of 68,000 people and we're proud to house the courts for the south county. The south county comprised 34% of the entire county of San Joaquin. The city of Tracy has seen the effect of the closure of its effects and the city of Lodi faces the same fate. Manteca with a be the next city affected and would have significant impact on the fine people who need and deserve fine access to their judicial system.

In addition to the potential closer of the Manteca court, another crisis -- without the funding, the San Joaquin will no longer be able to process civil hang cases. It may be inconsequently, please keep in mind that San Joaquin has one of the highest home foreclosure rates in the State of California. Manteca along with other cities in the county has a close working relationship with banks and other lenders to. 30% of homes in foreclosure in Manteca involve banks that utilize the civil process. Abandoned, foreclosed homes will continue to be vandalized occupied by squatter who know now no longer a legal way to republic move them from the property and further destabilize our communities. The civil process is an important tool. Thereby reduce the likelihood of increased crime in these areas. We all recognize funded are limbed but I urge you to recognize the urgent needs today in San Joaquin county and approve the regulation for supplemental funding as proposed.

>> -- will.

>> Tani Cantil-Sakauye: Thank you.

>> Leon Churchill, City manager, City of Tracy.

>> Too many, Chief Justice, and judicial court. I'm Leon Churchill, City manager for the City of Tracy. I would lightning to add my comments and your consideration for the funding request by the Superior Court. It was a year ago that I wrote the court about the closure and the potential closure which has occurred of the Tracy branch of the court system. And at that time, I wrote about how that defied the logic and I want to present that logic to you. The closure of the Tracy Court disenfranchised approximate 110,000 people. 83,000 people in Tracy, 73,000 in mountain house, and 10,000 in incorporated areas. Tax contributing individuals and residents are to state and county treasuries. A reasonable expectation, I believe, is due for the access to courts.

In addition, San Joaquin's population will trip over the next decade based on finance projections. In some, any complemented a fund in reduction is directed to the least resourced county court system that happened to be the fastest growing in California. This is counterintuitive and defies logic. The impacts based on a closure one branch, which I will get to, whether be exacerbated with additional closes in the county system. As a result of that closure, we know that in order to make adjustments there are losses of officer hours and back fill costs increase with overtime and the like equating to 1600 hours on an annual basis.

A budgetary impact of over \$100,000 which would only be exacerbated with more branch closures. We can't believe, could the believe that's the intent of the judicial court to effect local jurisdictions -- to safeguard with any decision you make. I believe there are unintended consequences if done so. Thank you for your consideration, I look forward to a positive jut come.

>> Tani Cantil-Sakauye: Thank you, Mr. Churchill.

>> Next, man we will Lopez, county administrator, county of San Joaquin. Welcome.

>> Thank you. Good morning, Madam Chair. I am the county administrator for San Joaquin County. I was asked by San Joaquin county court officials recently to speak on their behalf because any cut to the courts not only does it affect the courts, it affects San Joaquin as an entity and I'm pleased to be here on their behalf. Revenue for the counties primary sources have plunged over 25% since the great recession started. Some of you may be aware, we were the first to seat impacts of the recession and it's now beginning to see some recovery from that. In our use, Beth the district attorney and the public defenders office has been reduced by over 30% since it began.

In spite of decreases revenues, efforts are continuing to be made -- to work collaboratively with the courts and find creative solutions to continued services to both the courts and as well for other public safety areas in this county. Although occasionally it's necessary and has been necessary to eliminate services because of a lack of funds, I never forget that that is a public agency. We are the in business of providing services to over 700,000 residents in San Joaquin

County. We believe those residents deserve high quality services and a reduction of additional funds to this court as well as a county will affect most of those individuals. Thus far, the justice partner system of San Joaquin County has been able to manage, but barely, to work collaboratively through court closures, staffing reductions and other cost saving measures but the community is not being well served.

The court's decision to stop processing small claims filed since September 1 of this year have affected both the courts and the county services. In fiscal year 2011-12, 130 small claim filings will have a fall of \$1.3 million a year. We received revenue to process those collections and clearly when that revenue goes away, services must be reduced. Should the courts suspend civil services as indicated, we will not receive reimbursement for processing services associated with those civil cases and we will have to re-evaluate the continuation of those duties by our sheriff's department.

I would hope that many of you are aware of what's going on in the city of Stockton. We believe that the presence of patrol officers in their vehicles has an effect on the community --

>> 20 seconds.

>> And the materials provide all the background and all the justification supporting the funding request including the likely impact of the oval court system should the request be denied. Further reductions to the court system will have long lasting implications to the region. I urge you to support the request, and thank you for your consideration.

>> Tani Cantil-Sakauye: Thank you, Mr. Lopez.

>> Next is Mr. John Luebberke, City attorney, City of Stockton.

>> Good morning, your honor, members of the Council. City attorney, City of Stockton. We support the emergency funding request and I wanted to briefly discuss four distinct impacts that the closure of small claims, the civil branch, and the travel court would have on the city of Stockton in particular. The City of Stockton has a financial situation that is not a secret. We're struggling financially at a level that is somewhat unprecedented. The small claims function in San Joaquin County provides an opportunity for the city to collect various revenue, whether it be from utilities, taxes, licensing charges, and that's a very significant resource for us.

We filed over 200 cases in the last two years. Having that revenue be unavailable for us is a significant impact. Secondly, the city has a significant revenue source as well in traffic fines running between \$750,000, and \$850,000 a year. The closure of the traffic court may jeopardize the collection of those revenues. Those revenues have been planned upon and used in our budget, and frankly, a loss of some increment of those is, again, a very large impact.

The third impact affects my office in particular. That is if there is an encroachment of the civil branch, litigation will still need to be resolved. Cases are filed against the City of Stockton as they are for most cities, on a regular basis in the similar court. Those cases will have to be dealt with some time in Superior Court. I have the ability to mete out on a fiscal year by fiscal year

basis because they come in at a steady rate that we can manage. If we have one or two years of cases backing up and then when the court reopens, all presented to us for being addressed at one time, I'm frankly not certain how we're going to deal with that.

>> 30 seconds.

>> That's continuing to be an issue for my office in particular, and could result in us having to send cases outside that we would normal keep inside. Third is, I hope that you would consider the services in Stockton and understand that that may have a significant impact on the psyche of our citizens who already feel underserved and demoralized of other -- just say a lack of service due to funding in our county. Thank you for the opportunity to speak to you.

>> Tani Cantil-Sakauye: Thank you, Mr. Luebberke.

>> Thank you. Mr. Steven L Brown, attorney of the law office of Brown and Castle.

>> Steven L. Brown: Thank you, Judge Miller. It's Castle. Madam chair, Council, it's a great opportunity to address you today. I'm the past president of the San Joaquin Bar Association. I'm here on the behalf of the attorneys of San Joaquin County. I have an interesting perspective. I've an eight year transplant from the Bay Area having practice in the Bay Area for a number of years. I have had an opportunity to try cases throughout various counties. Not to downplay the hardship on the county, but I don't think I have seen the state under-funded as badly as San Joaquin County.

I am asking that the council approved urgent needs from the two press reserve. Just a couple quick points of how it affects us in the trenches. The civil decision has 100 civil filings per month, complaints in the county. A year -- well, actually prior to a year ago, we had 27 clerks working in the clerk's office doing civil filing and civil work. It was slashed to 22. Then to 17. And now it's at 9. Without the funding, we're going to be slashed to more -- less clerks than we have which are 9 at this time.

We're having troubles with forming judgment, writs of abstract. If we have a situation where we have a judgment we want to enforce it, 12 months down the road it play not be worth anything. It's crucial to get the funding to take care of that. Small claims court has been impacted. The Tracy branch has been closed but small claims as a whole are accepting filings but not accepting trial dates. That's in essence as if it's closed. Business also be impacted and citizens who want recourse will be impacted and citizenship stalled as much as 12 months, and those are the most needy, the elderly, and that's something we just can't allow to happen.

As a whole, just a final closing point, I know it's not that crucial, but having been the past bar president it's nigh incumbent responsibility to lure in good legal minds into the area of San Joaquin County and we're already faced with a lot of challenges that have been addressed to the council. Luring in legal minds where our sort finding is so drastically slashed so we can't file cases timely is put us behind the eight ball even more. It's important to have that good legal group and camaraderie and we need those finds into the community. I want to thank you, and hope you approve the funding.

>> Tani Cantil-Sakauye: Thank you.

>> That concludes the public section.

>> Tani Cantil-Sakauye: Thank you, Justice Miller. We have presenting, Zlatko Theodorovic, Steven Chang, and we have additional speakers, jurists and we'll call them up as they present. You may proceed.

>> Thank you, Chief. What I suggest is that I will give an overview of the process as I proved by the council recently so to remind you of the context of these proposals, and I'll give a brief overview. And when I conclude, that comfort would be able to make the presentation and ask questions so we can keep it court specific if that's okay.

>> Tani Cantil-Sakauye: Thank you.

>> All right. Yes. Nod is here. The existing code that provides for the process of providing urgent needs funding. It required the council to set aside 2% of the trial court trust fund appropriation to meet urgent needs. The budget working group was given the task of providing council options as to how to allocate the 2 percent. Four judges and four CEOs and we had many meetings and that resulted in a process approved by the council. An amendment to the process as we proved by the Council last October.

At the end of the August meeting, there was a specific process delineated which go through in a moment. The process that we have for funding unfortunate needs was unanimously approved as mentioned there. Fundamentally we create the 2% allocation based on a negative fund balance criteria. That was a carryover of the prior process in so much as it was difficult to determine how would you determine what would be an allocation methodology when you don't have fiscal dire straits and the negative fund was the method determined to be the most he can which will to determine that -- equitable. And the funds are only available for multi-years if there's a clear and convincing showing of need for the funds. We do somewhere the court is asking for funds as it was received last year. The request for urgent needs are defined as unavoidable, un-foreseen, and unintended expenses for existing programs.

The process that the courts request the first piece of the funding must submit by October 1 and the council must make decisions by the end of the month which we are doing at this meeting. The way in which the Council proposed the process, you could only get your maximum share, at this effort, this point in time -- the amount this you could receive would be a contribution to the two percent. It was limited to this first effort as the maximum that the Council could approve was your share of the two percent. I would note there are some questions because the Council can only allocate 75% of the funds in this process and whether or not they to only receive 75% of the contribution. We as staff interpreted that as you can receive the full amount to the extent that the 75% funding amount was not overprescribed.

Just to be clear, if it was \$20 million as part of the 75% and there were more courts than requesting the \$20 million, then you prorate it. If we don't have requests above the amount set

aside for this effort, then we allocate that full share to that. If that makes sense. So, again, then there's a second process after the 75% is considered. And the council can allocate for urgent needs for un-foreseen emergencies unanticipated expenses between October 31 and March 15. And anything that's not allocated as of March 15 is then pro rata allocated totality of the courts that contributed to the total. All requests have to be submitted 25 days before Council meeting so we have time as staff to review all the fiscal information. So, again, we are looking at how to allocate these funds. The share that was contributed to the toll was based on your portion of the Trial Court trust fund and general fund allocation everyone was treated equally in terms of contribution and they would receive distribution in the same fashion.

Now we have Kings County residents. They are requesting 2.9 -- they have estimated negative fund balance of \$2.9 million. That's based on them having an expenditure for a case management system of approximately \$2.15 million. In our analysis, we identified they have a base funding shortfall of \$143,000. So this is just a snapshot of their overall revenues and expenditures. We've gone through the request and looking at it and safe verified the numbers. \$8.9 million of revenues. When you include the expenditure of the CMS, they have 11.9, showing the short fall of \$2.52 million. Between the 2.152 for the CMS cost and the remain something the funding shortfall. They did include all of the information except 30 a plan to address ongoing shortfalls. If you recall, the Council required as part of the application to provide a plan as to how they would avoid the shortfall going forward.

The intention was that they would not just be -- we wouldn't be approving and expecting they will to come back next year with funding requests but rather demonstrate a plan to bring their budget into alignment. Again, we have looked at the total, all the numbers as reported in the financial systems. Their HR systems, and we do concur with their funding need. When you account for fact that they added \$2.2 million of CMS cost to their request which they can describe at how they arrived at those numbers. So when recommendations for you to consider as part of this process. No. 1 is we do recognize that based on their expenditures as proposed, they will have a \$2.29 million negative fund balance the options are to deny the request and the court can address the implications for that.

Secondly, based on the criteria established by the Council, we could recommend an option of funding their contribution which is \$94,000 to the two percent pot.

>> Tani Cantil-Sakauye: Question before we hear from the specific courts. How many requests did the committee receive for urgent funding?

>> Can I answer that?

>> Sure.

>> You're certainly free to answer it, but maybe I can short circuit that. They received three other requests. Those went through executive and planning. Staffed have reviewed those and determined and check and planning determined that they didn't meet the criteria. Those three other courts not placed on the agenda. I as chair was delegated the responsibility to call each of them and explain to them why they weren't on the agenda. So we made the decision if they didn't

meet the criteria then they wouldn't be placed on the agenda for the discussion.

>> Right. I would add, Chief, that the request that we received. Three of five that we got related to Case Management Systems. Clearly there's a change in terms of how the branch funds Case Management Systems be it locally or through state-wide funds. I would say that's an issue that we have to address.

>> Tani Cantil-Sakauye: Thank you, Judge Kaufman.

>> Justice Miller. The decision not to go forward, those requests, it was made by E&P?

>> Correct.

>> No other organization?

>> No. E&P.

>> Tani Cantil-Sakauye: Thank you. Good morning.

>> Good morning, chair, members of the council. I'm James LaPorte, the judge of Kings County Superior Court. Accompanying me is Steve barns, the company expert and about be to the incoming presenting judge in January. The reason we have two trial judges here is because when I did the layoffs and the various problems with reference to job shares and furloughs, in July I didn't anticipate we would be present before your body, and I happened to have the financial people either laid off or they are on sharing or furloughed today.

Maybe in December, if the matter comes up again, you'll have an opportunity to her from them. I can tell you that we have a budget shortfall. We had about \$550,000 of our reserves taken through the 234 -- I'm ever I'm sorry, \$235 million reductions. The \$94,000 will allow us to make up a piece of that particular arrangement. We've already furloughed all of our employees 27 days of the year. Closed a courthouse in la more which was one of our four. We have a job share for our top CEO and a assistant CEO of 48 days a year.

We have other solutions to be able to take care of our financial problems. Essentially, we're down to 104 mod thousand dollars so \$94,000 would go a long way to filling that particular gap. We also anticipated, though I know it's deferred to January, getting a share of the \$43,000 from the Phoenix system that would be our share if it was sent back to us, and also we were anticipated getting \$40,000 from the court reporters fees. But I understand that's a deferred issue until January. In any event, option two is the option we favor. We're hoping that the Council would be willing to grant us up that particular proposal. And we can discuss the CNS problem we have. We've been working on that for a decade with the various members of the administrative office staff. We, like many other courts according to are rely on a solution.

We met with Judge Herman and others over the years and now we're at the point in which the county has told us that they're going to close our options of running any CMS system unless we want to pay them a great amount of money. Specifically, they've told us they're migrating off the

mainframe by either the first part of 2014 or the end part of 2014, and we would be relegated to a situation in which we'll be running the mainframe ourselves. Unfortunately, the system is run through a cobalt system and the people who ran that program for the county retired and finding Cobalt programmers is not an easy situation.

So what we really did was went out for a request for proposal for three vendors to possibly run our own system. We have proposals. We can award those contracts with the vendors, but we are not going to sign the contracts unless we have we have the money to do that. That's the status we're in. The amount of money we're proposing is the amount of money that we believe is necessary to funded CMS system. I'm also aware that there are various other options that are being proposed, sort of a statewide solution, we don't have a whole lot of time. Thank you.

>> Tani Cantil-Sakauye: Thank you, Judge La Porte. David Yamasaki.

>> Good morning. I can certainly emphasize the struggles that your court is going through right now. In fact, it's similar to what a lot of courts are going through right now in the fact that the branches are just simply underfunded. I was privy to a document that was assembled when it related to the fiscal condition, cash condition, that many courts are in this year.

In reviewing that information, it reflected 14 courts that are going to be running out of money to basically meet their obligations this year. And that in turn had required many of them to change their spending patterns in order to balance out. So the question is really a two-part question. And I think the amount, if you set aside the Case Management System, identifies \$143,000.

>> That's correct.

>> Difference. Because part of that is going to be addressed with Phoenix if, in fact, that moves forward as we hope. But it's about \$100,000 that is left. Would making some cost saving decisions today to finish out the year -- is that something that's being contemplated, and if so, would that in turn put your court in a position of being balanced going into next year?

>> Certainly. What we already did the items we described, we closed the courthouse. We furloughed our employees 27 days. Year. We started in July. The CEO, and assistant CEO are essentially on a layoff status 40 days a year. They're receiving unemployment insurance benefits. And layoffs proposed. We have done one frank in August, one scheduled no November, another one scheduled next spring. That's how we attempt to make sure that we end in the black. The \$94,000 would be going a long way toward assisting us so we wouldn't have to lay off so many people.

>> Tani Cantil-Sakauye: Judge Jacobson and Judge Herman.

>> I have a motion to approve the [Inaudible] \$94,000.

>> Second.

>> Tani Cantil-Sakauye: Second Judge Baxter. Judge Herman.

>> Further discussion.

>> Tani Cantil-Sakauye: Judge Bran Lynne and Judge Baker.

>> There are a lot of factors that the Judicial Council needs to look at in evaluating these requests. I suspect that we have two courts before us. There are 56 other courts watching to see what happened today not only with regards to what happened before October 1, but those that ask for funds in addition to the two percent contribution level.

What I suggest is that for additional courts that look to the Judicial Council for additional funding need to be able to show they've done what they can to operationalize some of the reductions that they're faced with. And I think this is probably the hardest thing that we as a council are going to be faced with is to decide how to prioritize these requests, particularly when we have so many meritorious requests and limited amount of funds. It's just a comment. I think option No. 2 is probably the appropriate option here. But I think in the future we'll be faced with even more difficult decision.

>> Tani Cantil-Sakauye: I'm sorry, Judge Herman and then Judge Baker.

>> I'm acutely aware, as you know, Image La Porte, of your issue with the Case Management System. This is a poster child for what we'll be facing in broader policy terms that is. Keeping the electronic courthouse doors open. You really can't operate with a Case Management System. They're in a critical mode as far as that Case Management System is. And Jody Patel knows that very well. She has worked with the court for a significant period of time trying to resolve this. I would like to detail on the cost of the Case Management System and whether if the Council ray proved the \$94,000 if that gets you to the position where you can at least get in contract with the -- that's my question.

>> It would not. It excludes the Case Management System. We're just talking about staying in the black this year. It's well in excess of our ability to pay in any event.

We have three options. We have options to take over the county system, increasing our costs of \$500,000 a year. Another option is to essentially going back to older systems that existed in 1970s.

We do things by pen, paper, and use the modern system of, I guess, scanning some of the documents in and have a record. Those are the options we have thought about.

The \$94,000 would not go to any availability of contracting with any entity. When we had the money in our research funds last year, we anticipated being able to enter into contracts, but that was limited this year.

>> Hon. Stephen Baker: Thank you, Chief, I support the motion -- I would suggest, however, rah friendly amendment to include two conditions that are discussed elsewhere in the report. Namely that a written report be submitted on the use of the funding received no later than

August 1, 2013 and also that the funding be used for the purposes addressed in the application.

>> That sounds friendly to me.

>> Chair Cantil-Sakauye: You accept those?

Those are on recommendation No. 3 on Page 2 of the item. Judge McCabe.

>> Judge McCabe. Thank you, chief. The distinction I want to make is that the negative fund balance is created not by an intentional spending but the result of the superiority core being uninvited on the County's system and quite frankly, it's -- boggles the mind that you would go to an older system than cobalt.

(Laughter)

>> Judge McCabe: It sounds like in reviewing all the paperwork that Kings County has in good faith gone through the steps, they've structured as much as they can in reorganization. They're there by -- by necessity, they're here today asking for additional funding and part of it is out of their control. The County for a variety of reasons has disinvented them to the party and they now need to incur substantial sums to take over a new system. The case management system. So for those various reasons I would urge this council to support the motion.

>> Chair Cantil-Sakauye: Judge Hardcastle.

>> Hon. Allan Hardcastle: Chief, I want to make an observation that I noted six days ago, on their website, they had a garage sale of their surplus furniture. A pretty sad state of affairs that they're having a garage sale to try and fund the courts.

>> Chair Cantil-Sakauye: Judge Elias?

>> Hon. Emilie Elias: Looking at the guidelines, there was one time unavoidable and a comment was made here that there really is -- they didn't see a plan as to what was going to happen like next year. And how is this not going to be a reoccurring thing which was in the guidelines that this would not be a reoccurring -- and it really hasn't been addressed.

>> Sure. The terms of our budget without the -- problem, we would anticipate we were going to be doing more layoffs --

>> Judge LaPorte, are you on the cough button by any chance? There's a mute button.

>> In any event, what we would be doing is doing more layoffs. Our CMS problem is a separate problem that's existed for more than a decade.

>> Hon. Emilie Elias: I'm talking about it being a one time unavoidable shortfall. A plan as to how -- we're not going to see you back again next year.

>> And the solution we have, as I noted, we're going to do a series of layoffs. And of course the other situation is we could -- we have two more courts that we can close and that's an option. I suspect that starting next July if there's no change in fiscal situation, we'll be about a \$900,000 in debt. But almost every other court in the state will be exactly the same circumstance. What we're talking about for the \$94,000 is making sure we would be able to get through this fiscal year. The other issue we are also addressing, CMS system, which has been a long-term problem, and we think that if we're able to pay -- if we're actually able to contract with a vendor, we would solve that particular problem for our court. Wouldn't be back on that issue.

>> Chair Cantil-Sakauye: All in favor of option 2 as amended by Judge Baker say aye.

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

(No response)

>> Chair Cantil-Sakauye: Thank you, Judge LaPorte, Judge Barnes. Sorry to hear this devastating news, and we wish you the very best. And please stay in contact with us. Thank you.

>> I would just point out, chief -- this is a dilemma that we need to do some thinking about and not just on the technical front, but on other fronts where courts are at risk in terms of being able to conduct their core functions because they can't make capital improvements because they're operating on a cash flow and a -- a very limited reserve. This is going to be catastrophic in some situations. And this I think a poster child for that.

>> Chair Cantil-Sakauye: There hasn't been, but thank you for reminding me. We'll take --

>> Can I also make a quick comment, Chief?

>> Chair Cantil-Sakauye: Yes.

>> The situation is very dire, but will be worse next year. The trial courts have been able to manage to get to this point through the use of fund balances. You can see there are only two courts at this point that have negative fund balances. I suspect that after the fund balances are exhausted, it's going to be much worse next year. And this is just the tip of the iceberg.

>> Chair Cantil-Sakauye: Thank you. Judge Emilie Elias?

>> Hon. Emilie Elias: I agree with you. In compliance with the guidelines that we set last time, have them actually come in with a written plan as to what they're going to do to remediate it so it will not be back next year. Or else we will have -- it will be ongoing with everybody. And some plan as to how we're going to address that. As opposed to doing it piece by piece as we move along.

>> Chair Cantil-Sakauye: I think this is a critical piece that is significant to the trial court funding work group. And the discussions to be had about the range of problems that the courts are facing. And I know you, Judge Emilie Elias, and you, Judge David Rosenberg, serve with Judge Mary Ann O'Malley on that committee. We will assist you with making that part known about the trial court.

>> And the point that Judge Herman made is not to be lost either. Ultimately it's the legislature and the governor that have to provide for the capital needs for the judiciary, like they have to provide for the capital needs of the executive and legislative branch. And there are some significant capital needs as Kings superior court has pointed out. When their system, case management system fails, they've got to have a case management system. Otherwise they close down.

So those are issues we have to address as well in these discussions.

>> Chair Cantil-Sakauye: Thank you. Next we look to presentation I believe from San Joaquin superior court.

>> Yes, chief. The San Joaquin court has requested a \$2.1 million to address a negative fund balance they project by the end of the 12-13 fiscal year. If you recall last year, the council did approve a 2 million dollars increase to the court. \$1.084 million was provided it address urgent need and 916,000 was provided as a loan to help them through the fiscal year.

The \$2.1 million negative fund balance is comprised of two components. First is a planned expenditure of 436,000 to rehire 13 positions and 70,000 to end furloughs. The balance is basically a structural budget shortfall of \$1.7 million. In a snapshot we can see the total resources are 31 and a half million dollars. Based on current expenditure plans there are \$33.7 million leading to this 2.2 million dollars shortfall. Again, about a half a million dollars is associated with rehiring and ending furloughs. And the remainder is a structural budget shortfall of \$1.7 million.

>> Chair Cantil-Sakauye: Thank you.

>> Similar to Kings County court they did provide all the information except for this plan to address the ongoing budget shortfalls. I would note that in approving last year's request the -- was a court assistance and review team appointed to go and help the court address their ongoing shortfall budgetarily and operationally. In terms of the options that we have before you and consistent with the guidelines, the procedures approved by the council, you may deny the request or you may approve the funding level at the amount that they contributed to the 2 percent pot of \$442,000. I would note that the court did offer two additional recommendations as part of their comments to the report. One was to allocate the 442, but immediately post this October 31st period as required by law allocate them the balance of the request, the \$1.77 million in November. Or they -- were to ask that you make an exception to the process and allocate the full amount now, again, that is not consistent with the approved council guidelines on this process.

>> Chair Cantil-Sakauye: Thank you. Good morning, Judge Warner.

>> Hon. David Warner: Good morning. Chief Justice, members of the Council, we're here seeking your assistance relative to our funding requests. And what we are requesting is that you approve the \$2.2 million request which is obviously is over and above the 2 percent reserve that's been withheld from our budget. We're here because the council has been either unable or unwilling to fix what we view as a structural problem in funding trial courts as they relate to each other. Last year we were here, we received a temporary fix and that's exactly what it was, a temporary fix. And we appreciate that, because without it we would have had to cut off certain case types last year. With that fix, we were able to keep cases up and running. Small claims wasn't running exactly on time, but close enough that the system was basically operating.

We're back here again for a temporary fix. Because that structural funding problem has not been addressed and has not been fixed.

We -- we received this funding request, we're not made whole. We're not operating the way a court should operate, because I believe there's not probably a single court in the state at this point that is operating the way that it should operate. But it would at least allow us to do all of the case types that we have in our county. At this point one of the questions that comes up is, so what are you going to do to fix this problem? It needs to have the structural funding problem addressed by the council and repaired, some type of a case-based system. So that one court that does a certain number of cases receives the same funding as another court that's doing the same number of cases, rather than one of those receiving millions and millions and millions -- and I'm not exaggerating there -- of dollars more to do the same caseload. That's not appropriate.

We hope at this point that the new trial court funding working group that the governor's created may help solve that problem. Or push that issue along. We've done what the council has asked us to do. We went through the cart process a year ago and it was a valuable process. We came back in June and discussed that process at length. We have found some inefficiencies that we can make better, we found some areas where we can increase revenues through civil assessments. But understand, when we look at that model of civil assessments, our civil assessment collections have been going down, not up. Not because we haven't imposed them, but because of the economic conditions that exist in our county. Civil assessments are going down. And what we're really trying to do is catch back up to where we were.

But we've done what the council has asked us to do. In the cart report the one thing that stuck out to me was there was no silver bullet. There was nothing said that will -- if you'll just do this you'll pick up a million or two million or whatever you need to do to bring yourself above the water line and be in the black. It simply wasn't there. A year ago we laid off 44 staff and then got emergency funding in December. So we were able to bring two of those back. And we were able to keep small claims up and running. The present status for our court is this: In August in light of the cuts, we laid off 13 more staff. Not counting grant staff we have about a dozen grant staff, we went down to 237 regular staff. And what we realized immediately was we can't operate. We're no longer able to do all the case types. Beginning September 1st in our County, if you file a small claims action, it's literally stuck in a box. And I get letters and calls from people saying, "Are you kidding me? Is this a joke? Are you doing some grandstanding here?" And I tell them I have to have staff to process these cases. And there is a critical level. And I've come to the conclusion for our court, given our caseload, that's 250. When we dropped below it, we had to start cutting off case types. And we stopped small claims.

Here's the worst problem. That's not enough. Even where we're at right now, we're not getting the cases done. We're going to have to start to cut into other civil cases in order to balance that workload and the caseload that we have. So that's the status of where we're at right now. If the council approves the 442,000, the amount that was withheld from our budget as was with the 2 percent that everybody had withheld, at that point we will have to lay off an additional -- if we don't get the 2.2 million, only get the 442,000 -- we'll lay off an additional 22 staff. And we'll close up LODI. We've already closed Tracy completely, LODI is down to one court. We'll close it up and that will leave us with Manteca as a branch. At that point we will not only stop doing small claims, woo he will stop doing civil. There will be no civil cases in San Joaquin County. You can file it, we'll stick it in a box, and good luck with that. That's where it will sit. I have to have the staff to move those cases along.

In addition to that, we'll be stopping a good part of probate. We've decided that there are some probate conservatorships that are life and death situations that you have to have, and some family law relative to children. And that will be it. Here's what's worse. At that point we'll start to cut in into traffic. Because we will not have enough staff. We only have nine civil staff as it is, and I said we have to lay off another 22. If we do that, not only do we start to stop traffic, we start to stop the civil assessment generator that the cart program -- or CART said let's get this in place and help you try to boost your revenues. We'll be shooting ourselves in the foot. If you don't have the staff, you can't do the cases. And we've dropped below that critical level. I believe our county is a special situation brought about by historical, chronic, significant underfunding and a funding mechanism that this council controls, which has not been fixed, and that's led to the situation that we're in.

The money is available to approve that \$2.2 million request. The 75 percent is about 20 -- roughly \$21 million that's available. And I realize that there will be a lot of demands on that. But this council has the authority, and I believe this council has the responsibility to fund our county enough to a minimum level so we can get the cases done. And that is our request this morning. That you fund the request beyond the 442,000 that was withheld. To the 2.2 million dollars being requested. Like to end with one comment. Because I end up in discussions with this and I heard this a little today. Every court is going through the significant financial impacts. We're all dealing with that. And so you'll hear about, well, layoffs are being made, furlough days are being imposed. And one of our requests says to eliminate furloughs that we now have in place, and to bring back those 13 people who were laid off. You say, well, if we're all laying people off, why are you bringing them back?

Because we're no longer gets the cases done. When we laid off those 13 people and imposed on the represent -- unrepresented staff the furloughs, that to me was a critical point where we were no longer able to service the cases and again, I get comment, I've gotten letters. And I won't go into the details of what they say. They can't actually be repeated here -- that criticize us for doing that and think that this is some kind of a grandstand to come in to you or -- most of them refer to us running to the State to get more money. It's not. At 250 we can't get our cases done. And we need the 250 employees and staff to get the work done. So I'm urging you in the strongest terms that I can to approve that \$2.2 million request. And I'll be happy to answer any

questions that you have.

>> Chair Cantil-Sakauye: Thank you.
Judge Mary Ann O'Malley?

>> Hon. Mary Ann O'Malley: Judge Warner, good morning. You mentioned you were doing the civil assessments and the revenues coming in from that had dropped. I'm thinking of the return to court program where if somebody doesn't appear on a traffic ticket then they're assessed by the court. Is that the type of program that you're instituting? I know that's tried and true for a lot of courts. And that's -- that's helping many, many courts with similar populations as your court. I'm wondering if that's the same program you're talking about.

>> Hon. David Warner: Let me plain one thing and I'll let Rosa address that as well. Since there's been a civil program we've had that in place. Part of what the cart process brought out was there are some areas that you're not using civil assessment, then you can. If you use that, it could help increase your revenue. Exclusive of that I'm saying we've had a revenue stream from civil assessments. That revenue stream is decreasing dramatically. Not because we're not imposing it, the people -- the economic conditions of the county are that it's just not getting paid. Now, we're hoping that the new civil assessment that we will be putting in place after going over the current assessment, will maybe bring that up to where it was. But the hope -- what cart was there -- was that we would be at a level of income -- or revenue, I should say -- and that we would increase that. Now we're hoping it can just bring us back up to where we were.

>> Hon. Mary Ann O'Malley: I thought I read, maybe it was in the August kind of report when you were going through each of the cart recommendations, where I thought I read that there -- you didn't have judicial buy-in with regard to that assessment, that the judges didn't want to impose it and that was kind of my last understanding of what was going on with that part of that recommendation.

>> If I can respond to that, Judge Mary Ann O'Malley. There were two separate recommendations in the cart summary report. One recommendation was to implement the civil assessment program on failure to pay. That is something that we are working on. It is in progress. We have a very similar case management system that zincs is using today. Co bolt. Takes a lot of programming. We're not even sure we're going to be able to implement that kind of a program automatically with the case management system. Forget trying to do a manual process. We're stuck. If we can't get the programming completed. The second part of -- in answer to your question -- is about a return to court policy.

>> Hon. Mary Ann O'Malley: Right.

>> That is a separate recommendation. We are also in the process of working on a return to court policy. Recently there was a -- my colleague CEOs will remember this too -- there was an inquiry among the CEOs about a return to court policy. Who has a policy in place? And there wasn't a lot of activity. There's a lot -- that is something that we all can work on. And it is one that we will kin to work on. It is one of the items in the CART report that we continue to work

on is in progress.

>> Hon. Mary Ann O'Malley: Is that the one where you had problems with the buy-in?

>> Hon. David Warner: No, let me address that question, Judge Mary Ann O'Malley. One of the things that we did as soon as CART was completed -- even before it was completed after discussions, we started taking about so what are we doing in looking at it and what fees are being imposed? It is a sensitive subject, and I think rightly so with the bench, of -- and this is an accurate statement -- many times in traffic court you're no longer dispensing justice, you're checking your budget. That's what you're doing. And there's been a rather heated discussion amongst our bench as how far do you go in that regard? When do you say to the person handling the traffic calendar, you will impose X? And/or, if you -- if you decide it's really -- needs to be \$100, then maybe you need to make it \$100 civil assessment rather than something else.

And there are bench officers who say that's not right, and that quite frankly, that's down right unethical. And so you have to be careful in how you discuss that, how you bring people along in that effort. And quite frankly, in who's assigned to traffic court. That's not the way it should be. But I would say that's not got the resistance -- it's one of those things that you have to put it out there.

>> These are folks that blow off their ticket, they don't come to court. So we have to expend court services to get them to court. Not the same person in court who wants a break on their fee.

>> Hon. David Warner: I don't think that's an issue. The issue becomes if you look at a particular case and say I've decided in this case -- I'm just picking this -- \$100 is the right amount to fine, how do I allocate that? Because it has a lot of difference in how it impacts us. But there -- judicial buy-in is coming, and -- but I think there's a legit plat discussion and concern over are you dispensing justice or balancing your budget? And that's a -- been a difficult discussion that we've had in our branch.

>> Chair Cantil-Sakauye: Judge Kaufman?

>> Hon. Ira Kaufman: Many people at this table who weren't here when we started. Correct me if I'm wrong, is CART stood -- what did CART stand for?

>> Ms. Jody Patel: Court assessment review team.

>> Hon. Ira Kaufman: Basically four or five CAOs went to San Joaquin, spent a day or two and did a report.

>> Ms. Jody Patel: It was more than that.

>> Hon. David Warner: Much more than that. It was a big effort.

>> Hon. Ira Kaufman: Alan was there, David Yamasaki.

>> Kim Turner, and Mike Planet, and me.

>> Hon. David Warner: And each of them brought a number of their staff in a particular area.

>> Hon. Ira Kaufman: We as a council saw -- I think was that -- we -- the regional director then?

>> Ms. Jody Patel: Yes. It was -- the effort was led by the regional office in Sacramento.

>> Hon. Ira Kaufman: We did a full court press so to speak in San Joaquin, we said what is the problem, identify the problem and come up with solutions.
And I believe you came up with like 90 --

>> 59. Excuse me, your Honor. There were -- there were 59 recommendations.

>> Hon. David Warner: We know the number.

>> I know.

>> Hon. Ira Kaufman: I thought there were more. So whatever the number is. And then I know some of us revisit -- I know Judge So, myself and Judge David Rosenberg met with you and we came in and talked. So of the 59 recommendations that -- and you didn't dig that deep. We used just kind of --

>> Two to three days.

>> Hon. Ira Kaufman: Of the 59 recommendations that they made, how many of you -- where are you in terms of those 59?

>> Hon. David Warner: About 50 percent.

>> Hon. Ira Kaufman: That started when, about six months ago?

>> No. June. The report came to the council in June, on June 22nd I believe of this year.

>> Hon. David Warner: We got the report -- and it was a typical process for the council. It came, we made comments. Went back and forth a few times. But it was completed in June.

>> Hon. Ira Kaufman: One other question is you have -- you have, what, 30, 32 judges?

>> Hon. David Warner: 31 bench officers.

>> Hon. Ira Kaufman: How much staff?

>> Hon. David Warner: 250.

>> Hon. Ira Kaufman: That's about eight staff per judge.

>> We got to exclude grant staff.

>> Hon. David Warner: That's correct. 237 staff.

>> We have 33 judicial officers, one vacant commissioner position.

>> Hon. David Warner: That question came up before. If you go to the judicial needs study and see how many judges should be there and plug in the number, it changes it dramatically. We should have like 47 and I don't think this is new around the -- the system, but we have got 31 instead --

>> Hon. Ira Kaufman: If you implemented half of the recommendations, have you noticed a change, a change in income, a change in revenue? Is -- has it been a positive or negative -- where are you and also if you implement the other 20 or 30, what will that do to your revenue stream, your income? And how long will it take you to get there?

>> Your Honor, we took -- and I had staff spend considerable time on this. All the 59 recommendations -- and I asked if this had -- report had been done by the court assistance and review team, and the response I got was no. So I asked my staff to come in and do this. They looked at every single recommendation. I would categorize the recommendations in three parts. One, cost savings. Change the way you do your business in a certain area, the way you process the case type. You'll eye chief some cost savings there. Two, additional revenues. Impose these new fees. Civil assessment being one of those on failure to pays. And you'll gain additional revenues.

And three, expense. Literally there were several recommendations that required us to spend money. So when we assess all of those components, all of those recommendations, we came out with a net savings of -- excuse me, a net cost of \$317,000. Now, when we look at what we have done to date in implementing 49 percent of the recommendations, we're coming up with about an \$83,000 savings. We have done everything we possibly can to this point given the limited resources that we have. We will continue. We have several items that are in progress and we expect to complete about 22 percent of the remaining items within the next six months.

>> Hon. Ira Kaufman: What will that do to your revenue stream, increase your revenue?

>> I believe it will increase the revenue, but I can't -- I don't have an exact amount because some of those are dependent on programming, some fee, some new fees, and when we actually will begin to start seeing those revenues come in. You know when you begin to implement a new program it's going to take several months before you actually see the benefits of those new programs and new fees.

>> Hon. David Warner: Judge Kaufman, I think we will see increases, I think in the overall scope will be hard to pick out exactly where they're at. I had much higher hopes for civil

assessments than so far has panned out. But I didn't realize at the time the CART process was going on, how dramatically the revenue from them were already dropping off. And I didn't realize it at that point. Some of them may be a matter of they'll keep us from sinking further. But we're struggling to try to quantify those things much but I think there will be an increase. I don't think there's any question about that.

>> So I just want to -- civil assessment -- we did identify this in our request, our supplemental funding request. In 2009-2010, our civil assessment revenues were \$817,000. In 11-12, they were only 267,000. They have decreased over half a million dollars.

>> Judge Ira Kaufman: I think that's an economic matter, not a -- a county economic matter, not a failure to impose the civil assessment.

>> One of the biggest differences from my County was that return to court program. We saw revenues within the year. It really does make a difference. I just -- I can't stress enough how much that's going to change the outlook of your court.

>> Hon. David Warner: That one we are working on as we speak.

>> As fast as you can. You will see those revenues in a year.

>> Chair Cantil-Sakauye: Alan Carlson then Judge DeAlba.

>> We talked about the 405 -- on subsequent things. The survey says you're not collecting that at all on the subsequent --

>> We are collecting it on the first one. On the A. We are collecting it on the subsection A, but we're not able --

>> Hon. David DeAlba: You reported 0 on the --

>> There's two subsections. We're collecting it on the one.

>> Hon. David DeAlba: This says you're not.

>> No, we are collecting it on one.

>> Hon. David DeAlba: Other courts -- that's a quarter or a half million a year on the table if you're not collecting it.

>> We're collecting it on the B, not the A. We are collecting it on one of them. And again, in order for us to collect it on the other, would require a change in the case management system to the programming. And of course we're talking a system that was written in cobalt once again.

>> Hon. David DeAlba: Stanislaus is collecting 500,000 a year, Ventura is collecting 270,000 a year. I got to think it's not costing you that much to change the case management

system to pick up a quarter to a half million a year.

>> We're talking about a system that was written in cobalt 30 years ago.

>> Hon. David Warner: It is something that has to be corrected but one of the problems we run into -- this is where -- we can go to the County to get some of these changes made -- I remember when this -- this wasn't an issue of increase of income. It was a matter of redistribution of some of the funds. We waited it was a good six months to get programming changes back from the County so we could implement that. And in some cases, we're told we may not be able to make that change that you're seeking. So we are did -- we -- we will do that, there's no reason not to do that. But we -- we don't have in house the ability to change and get those fees put in place.

>> So didn't the County people just testify on behalf -- hopefully they heard that maybe this could be expedited to pick up half of what you need maybe?

>> Hon. David Warner: I think it will -- no, no. We're not going to pick up a million dollars.

>> A million --

>> Half of 2.2 I'm looking for is 1.1. But whether it's a nickel or \$5 million, we need to go after it. No question. What I have had quite an eye opener for is that economic conditions of the County causing some of those revenue streams to shrink already. So my thought that they're going to equal a Ventura -- Stanislaus out to be pretty close, they might not want me putting San Joaquin into their boat, but Ventura and some other, I don't think you will see the same even Salanos --

>> Same area, population?

>> Hon. David Warner: It doesn't matter to me whether it generates a nickel or a million, you go after it either way. But it's a process to get any kind of change made to the system that we're on. Difficult process. And I agree, County's here listening to it. And if we don't end up with traffic, it's even bigger problem.

>> You already brought this up. I was going to raise this. If you look at the judgeship needs -- and we had a matter earlier on our agenda, you're at 77 percent of what you should have.

>> Hon. David Warner: Right.

>> Not a great number. In the middle of the pack, though, statewide. Stanislaus is only 72 percent, Ventura is 71 percent. The good ones, Riverside's only 60 percent of what they need. San Bernardino is 58 percent of what they need. None of them are closing down. Small claims or other case types. And they're -- and you're higher than they are. On Judgeships according to what you need. Relative to what you need.

>> Hon. David Warner: The problem in closing small claims is not a matter of insufficient judges. I don't have the staff to get the piece of paper into a file and down to the court. And if we cut further there won't be a civil staff period. I've got enough judicial officers. My point was if -- if you're comparing and saying you got 8 or 8.1 staff per judicial officer, we need to make sure we're comparing it the same. Because somebody that's saying that -- and I'm not suggesting you are -- if somebody is 100 percent funded, those numbers are going to change. I'm saying that we're -- the 30 -- I think I said 31, it's 32 officers. It should be much higher. If another court is this the same point, the comparison would be the same.

>> None of these other ones are here asking for money. Stanislaus for example.

>> Hon. David Warner: I can't speak to their budget. Last year the comment was made we continued down the road we would stop small claims much we had judicial officers telling us, get them in, we'll hear them. It's not a problem of not enough judges, I've got to be able to get the paperwork down there for you to hear. At some point we don't have that. That stayed that in December because we got that funding. So it didn't happen. But this year there was just no question. And I -- I don't think I realized 'til we laid the people off that you keep thinking somehow you'll pull a rabbit out of the hat.

It does not work. And I walk around and look -- this isn't people sitting around talking and looking for something to do. In fact, I would say our clerks are the opposite. We're burning them up and burning them out. There's bad morale every day -- and this may be in every court, it's like do we have a job, not have a job? As we have shrunk the staff down and the workload can't be done, we got people calling in sick and it makes a bad situation worse, not better.

>> Chair Cantil-Sakauye:

>> Hon. David DeAlba: And then back to -- point of information, Zlatko, I think my comment or question would be directed to you. And I find this in the source of my question in the staff analysis on Page 12. In the first paragraph. And it relates to the last application that was made by San Joaquin when we gave San Joaquin and San Francisco some assistance. Those funds as noted here in the report came from the trial court improvement emergency needs reserve. And what I remember was at the time, December of last year, whatever it be, there was a summary of that fund provided to us of how many applications over the last decade, for example, how many expenditures annually, et cetera. And I had an impression -- maybe it was just that -- that that fund rolled over, so to speak. And is that true? And do we still have this trial court improvement reserve? I realize this application is to the 2 percent under the trial court trust fund. Can you speak to the trial court improvement fund?

>> Hon. David Warner: The trial court improvement fund was merged with the mod fund and that authority to make allocations for urgent needs was removed from that code section. And it was placed with this process in which you collect this 2 percent from the allocations, create this pot, and then make urgent needs allocations. So the statute changed from the time that we did this in October where we had this fund and this process, and we could have used this -- this -- the improvement fund fund balance. Now the process is statutorily changed so that we're working out of the trust fund and this 2 percent amount that the law provides for. So it's --

the circumstances have changed since we were doing this last year.

>> Chair Cantil-Sakauye: David Yamasaki, then David Rosenberg.

>> Mr. David Yamasaki: Thank you. I wanted to go back to a point that Judge David DeAlba mentioned about last year's allocation. In reading the information it appeared that there was still approximately \$900,000 that is available and the purpose of which was to assist in implementing some of the programming changes that were needed. And it's not identified as part of the fund balance here. So question is, is it in fact there?

>> Hon. David Warner: Yes. What happened with that is there were really two parts to the request, or at least two parts to the -- what was decided a year ago. Part was about a million dollars went into the operating fund to actually operate. The other 916,000rd was to create a reserve, which at the time we were having reserves. Until the State changed that. And so it was done as a loan. So it is still there. But it's a loan that we pay back. So it -- it sits there. And of course some people suggest, well, you ought to just spend that. It's an emergency time. That may be, but we've had situations -- for example we had a credible threat made on a judge's life, and we got a bill of about a half a million dollars for security costs. We came to the AOC and were told, you have a balance you need to pay that. And so we paid it. Not from the 916. This was the year prior. So our view is that that's a reserve fund that sits there and that we have to pay back. It was made as a loan.

>> It remains on our budget as a liability. Because it's technically a loan.

>> Hon. David Warner: It is there, to answer your question.

>> Mr. David Yamasaki: I understand that loan, if that's the appropriate representation, is something that's not expected to be paid back right away. Perhaps --

>> Five years.

>> Mr. David Yamasaki: Five years is the timeline we had discussed.

>> No interest.

>> Mr. David Yamasaki: No interest. So obviously the whole purpose of that in my view was to assist in the implementation of some of these programming change, which would require one-time monies. So hopefully that is -- continue to be at least a consideration. The other thing is -- as was mentioned, there were almost 60 recommendations that were made by the CART team. I would tell you that the participants in the CART team came from small, medium and large courts, from throughout the state. And their recommendations -- there's recommendations that were actually implemented in our respective courts. Implemented successfully, that have created efficiencies, that have generated local revenues. And collectively it amounts to quite a bit of money.

And while we can look at one or two of them, I think you have to take a look at all of them to determine if they would address some of the big gaps in funding that you're suggesting ago possible solutions, if not now, certainly in the near term. But I just hope you -- I guess -- appreciate that these were not hypothetical suggestions. These are things that you'll find in operation in all of our courts, every single day. And if we didn't implement them --

>> Hon. David Warner: Attached to our request is the CART kind of an update on CART where we are in the process. Let me just say, there's none of them that we've said, you know what, they just didn't know what they were doing. We're looking at all of them. We're about 50 percent through them. Since June. And some of them we gave short term implementation, some were medium, and some were longer term. But we're looking at all of them. And implementing them as fast as we can. And relative to the 916, 916,000, if council says, look, use that money, it's no longer a loan, use it, that reduces what our request is.

Our belief is that because that's money that we need to pay back at some point, we need to pay it back at some point. The concept back in December of a year ago, before we heard the budget news from the governor was, you need to have a reserve. There is your reserve. And then the governor changed how we look at reserves these day days. But that's how it was created and why it was created, and was made as a loan. We still view it as something we have to pay back if that becomes necessary.

>> Chair Cantil-Sakauye: Judge David Rosenberg, and justice.

>> Hon. Douglas Miller: Mill.

>> Hon. David Rosenberg: I was about to make a motion, but before I do that, let me just say thank you, Judge Warner, for your presentation. I don't think we are in a position here at the Judicial Council to micromanage or give you suggestions or tell you how to run your court. The CART team gave you a whole range of options from a very experienced group of folks. And you know, you are well served to follow up and implement and deal with those. But I do want to say two things. One, frankly, to address some of the public speakers. There is a requirement in California that we have a superior court in each and every County. But there is no requirement that we have a superior court in each and every city.

I know that my court, about a decade ago, when we were in economic good times, decided to close a number of courts in communities. And brought all superior court functions back to the County Seat. And sure, it's inconvenient in many ways for people to drive 10 miles or 20 miles. But it was a significant cost saving measure. That has served us well over the years. So that's just the way it is. You know, in California today. And secondly, do we have a structural funding problem in California? Yes, we do. We certainly do. And that will need to be addressed and has to be addressed.

But I don't think a court can constitutionally or -- well, let's just say constitutionally say, you know, we're just going to close small claims or we're just going to close down probate or we're going to close civil or traffic. I don't think a court can do that. Will processing be a lot slower because of funding problems or staff problems? Yes, I'm sure it will be. But I think we are

obligated to perform all the functions the law requires us to perform.

>> Hon. David Warner: I couldn't agree more.

>> I'd like to make a motion unless you --

>> Chair Cantil-Sakauye: Go ahead.

>> Looking at the total picture, I think option 2 at this time is the appropriate one. Other funding can be looked at later in the fiscal year. But I would move that we implement option 2 for San Joaquin.

>> Second.

>> Chair Cantil-Sakauye: Second by Judge So. I believe there's further discussion and I'll ask the judges and attorneys who have asked to speak --

>> In essence, Justice David Rosenberg summarized what I wanted to say. But I want today take it one step further. I also believe as Edith Matthai said earlier that there is a constitutional and moral obligation to have all the different disciplines that exist within the superior court, and that if the intent is to close those, then I think as a council, as a governing body, then we need to decide what that next step is that we would have to take and that maybe as part of that motion or maybe it doesn't need to be part of it, that we ask administrative director to provide us with some legal opinion in that regard. So that we know how to prepare for that. And I agree, we can dance around the funding all we want -- and I'm hoping the working group will be able to come up with a resolution in that regard.

But I think our criteria are what our criteria are. And at least for today's purposes that's what we're limited to. So I am in support of option No. 2. But I was here when the past request was made. And my recollection was is the loan was in essence to kind of be a stimulus to try to look at ways that you have could expend that money and in the next five years come up with a method to repay that. So I -- I am encouraging you to take that \$916,000 and use it. And defer a significant point of that 2.1 and adopt the CART and other methods. And come up with a method that allows for that repayment. Or someday come back to us and continue to explain why you can't repay that fund so we can deal with it.

>> Chair Cantil-Sakauye: Judge Herman than Judge Kenneth K. So and Edith Matthai.

>> I want to clarify with what you were saying, in the legislative context we are not in the position we were in last year where we can say we can meet your need by writing a check for the whole amount you request. We're really restricted at this point are we to essentially option 2 or option 1?

>> Option 2 is based on the Council-adopted procedure and how the 2 percent is to be distributed. That's our council approach. In terms of the pot of money, there's \$27 million, 75 percent of which is available for allocation during the month of October. And the balance is

available for distribution up until March 15th. But in terms of the last year's money and that 916, that's -- that's money that is at the court and was provided to them as justice Miller has described. So they can spend the money, but it begs the question, what does that mean for the loan four years from now? Because we approved that loan with the five-year pay-back.

>> Chair Cantil-Sakauye: Judge So?

>> Hon. Kenneth So: I have two questions. Are your filings down?

>> Yes.

>> Hon. Kenneth So: How much?

>> Overall 44 percent.

>> Hon. Kenneth So: So you have fewer cases. Do you move post civil assessments on failures to pay traffic fines?

>> No. That is the program that we're currently working on along with the program that Judge Mary Ann O'Malley suggested as the return to court policy.

>> Hon. Kenneth So: Because I would suggest most of the courts in this state do that. And their revenues are significantly increased. And I mean, one of the reasons -- one of the questions is going to be continually asked is why isn't that implemented?

>> Chair Cantil-Sakauye: Ms. Edith Maitthai.

>> Ms. Edith Matthai: I had a couple of questions as well. As I understand the request, there is a desire to rehire staff that has been laid off.

>> Hon. David Warner: That's correct.

>> Ms. Edith Matthai: Every court in this state -- I shouldn't say that -- I know there are numerous courts in this state that have been forced to lay off and have been forced to handle their caseload at a reduced ratio of staff to bench officers.

>> Hon. David Warner: That's correct.

>> Ms. Edith Matthai: Counting, I ran it several times in the difference of how many bench officers but I still come out over 7.4 staff to bench officer ratio at the 237 staff number that you have now. It is my understanding that that is a number that is not below what many courts are now having to operate at. And so I wonder if -- I'm at a loss as to whether there's a particular problem unique to your county that requires a higher staff ratio.

>> Hon. David Warner: I don't know if I could -- I'm not aware of anything that would justify that. But let me explain one thing on the staff ratio. The RAS model was developed to

know how many people you needed to process the cases that you had. And the RAS model, which we no longer want to touch because it's too old and the new one is not yet around, but that said, we were the most under-resourced court in the state. So there's a model there beyond our numbers that says you're the worst that there is. You get the worst funding of every trial court out there. And when we came in in July of 2011, there was a discussion about that. Because that's the last time that I'm aware of that that RAS model was used.

Four courts were under 30 percent under-resourced. We were 37 percent under-resourced as compared to others. So I'm not sure how to square that with the Judge to staff ratio or whether it's again, this other need for increased judges. I'm not sure I can answer that. But the RAS model which doesn't single out a court but simply applies a formula of your caseload and the kinds of cases you have, says you're the worst. And we've been waiting for months for the new one. I hear it's going to come out in December. But in meetings I've been at that model has been questioned and it hasn't gotten to the floor yet. So it takes away our ability to say, see, it's not -- we don't have the proper funds to operate the court.

>> I don't know if there was a second to the motion, but I'll second.

>> Chair Cantil-Sakauye: Yes. Edith Maitthai, Mary Ann O'Malley --

>> With the use of 916,000, I mean if that portion of that can be used to help integrate into your system as quickly as possible to help you with this return to court as well as the civil assessment, again, I mean, as so many courts, not only around this table, but otherwise have seen revenues from that, I think that rather than absorb all that with 13 positions of clerks to help with files, that some of that money can be used to make you money in the future that's going to sustain you on a longer basis. So I would encourage if you need the money for tech to be able to get that program for you to use that civil assessment, I would encourage you to do so.

>> Hon. David Warner: If we get the 442 and use the loan money, even with that we would still have to close and lay off 11 staff from where we're at now.

>> Ms. Edith Matthai: I get that, but --

>> Hon. David Warner: I'm indicating what it is.

>> Chair Cantil-Sakauye: Judge Kaufman?

>> Judge Ira Kaufman: You have \$900,000 in reserve that we gave you last year?

>> Hon. David Warner: Correct.

>> Hon. Ira Kaufman: Now you want another 442. And you're going to use that -- basically a million 3. What are you going to do with that money? What are you going to use it for? I'm missing --

>> Hon. David Warner: We have a deficit -- without bringing the 13 people, we've got a deficit of 1. --

>> HON. IRA KAUFMAN: ' Bringing --

>> Hon. David Warner: 1.7 million.

>> Hon. Ira Kaufman: You're bringing 13 people back. Now you have 250 staff and you're over the statewide --

>> Hon. David Warner: No, no. Well -- my encouragement would be let's get an RAS model out and then we can compare. We'll look at it and see.

>> Hon. Ira Kaufman: I'm just missing -- you tell me you need more staff but you're higher than the statewide level.

>> Hon. David Warner: I don't know -- who's made the conclusion that we're higher than the statewide level?

I'm not sure.

>> Judge Ira Kaufman: Informal survey, I can tell you where I am. Most courts around the state are operating at below seven people per staff, per judge.

>> About 7, 8.

>> Judge Ira Kaufman: I'm missing the point. And I'm trying to help you. I'm not trying to be -- I'm missing the mathematics that we give you more money, you hire more staff and we still haven't solved the problem.

>> Hon. Emilie Elias: Maybe I misunderstood, your filings mean the number of cases are down 44 percent?

>> Across all types.

>> Hon. Mary Ann O'Malley: Doesn't that mean you need less staff?

>> Hon. David Warner: Yes. Absolutely. The original RAS model said we should have 450. We don't need that because the case filings have gone down in the meantime. Even with where we were and the filings we had which were lower last year, we were still 37 percent under --

>> Hon. Mary Ann O'Malley: You are down 44 percent from last year?
From when?

>> In the last four years.

>> Hon. David Warner: Four years. I believe since --

>> Hon. Mary Ann O'Malley: How about from last year to this year? You want to add back people, and if the filings go down, doesn't that mean the staffing level goes down?

>> Hon. David Warner: Sure.

>> But I think an important distinction is we've not had the kinds of staff resources that other courts have had because of our long standing history of not having enough funds to have the kind of staff that we've needed to process the very serious case types that we have in our county.

>> Hon. David Warner: She's talking about the numbers.

>> So it's not as simple as comparing doing a staff-to-judge ratio. Because a court that doesn't have the kind of felony case types that our court processes doesn't need as many staff resources as our court does. So you're not really comparing apples to apples. You have to get down and look at the level of cases that your court is having to deal with on a daily basis. The multi co-defendant, gang-related, interpreter kinds of cases that are special circumstance. And that is what our court has every single day.

>> She's -- Chief, can I call for the question?

>> Chair Cantil-Sakauye: Thank you. The question will be called after Baker and Elsworth, who's indicated --

>> Hon. Stephen Baker: Thank you, Chief, I agree with all the comments and support the motion. I would offer again these accountability conditions that are important to include here. The same thing we did with Kings County. This would be in the form of a friendly amendment, to require submission of a written report on the use of the funds by August 1, 2013, and two, condition the use of the funds for the purposes addressed in the application.

>> I would accept the friendly amendment.

>> Chair Cantil-Sakauye: Justice Miller, you second that?

>> Hon. Douglas Miller: Yes.

>> Chair Cantil-Sakauye: Judge Ellsworth and then the question by Judge De Alba.

>> HON. SHERRILL ELLSWORTH: I would favor option 2, but I favor a third option. That would be having found out about the \$900,000, it seems Provident or prudent to me that anyone who receives a loan for the purposes of looking at and putting in and augmenting their current way of doing business, essentially, it seems like that option 3 would be to delay this to go ahead and let you put into place these -- the 900,000 and do what the loan was for initially. And then come back and look at whether additional monies are needed. It just doesn't seem to me

that -- to sit on a loan of \$900,000, what good is the loan if in fact it wasn't used other than to house it for five years to pay it back?

And it's not a criticism. I know these are difficult times. And certainly you know, many counties are very stressed. But I'm not really sure that there's not an option 3. And that being that you use the money that you've received in a loan, that's now kind of in a safe deposit box just sitting there, not doing anything, and you use it to put into place programs and protocols that will not only help you to gain access to monies, but efficiencies and other items. And then rather than denying your request, we've done these following thing, we've used these monies and now we would like option 2 addressed. I don't know if there is an option 3. But I see that we're sitting on money and not using it to put into place protocols that will really benefit your County. I mean I understand this under-resource thing. I got it a little bit.

And –

(Chuckling)

>> And I really empathize with the situation. But you're sitting on monies, and I'm -- that need to be used to do some things. Thank you.

>> Chair Cantil-Sakauye: So you stated that. Are you making a substitute motion?

>> I would make that substitute motion at this time.

>> I would second.

>> Chair Cantil-Sakauye: Option 3, substitute motion.

>> Can we call it option 5 to avoid confusion because we have seen an option 3 and 4 provided. Show the slide again.

>> Full amount.

>> I would say it would be option a 5.

>> Chair Cantil-Sakauye: Option 5 seconded by Judge Morris Jacobson and Ms. Edith Maitthai. As the substitute motion it takes precedent over the first motion if it passes. Add to the substitute motion --

>> I have a question. Is there a problem if it's not approved by October 31st?

>> Chair Cantil-Sakauye: No, it's until March --

>> Come back and --

>> Chair Cantil-Sakauye: Zlatko?

>> I thought we were supposed to decide -- I thought there was something in the procedure --

>> And you make the decision. There still is a process post October to review and approve additional allocations.

>> Okay.

>> So there's no problem.

>> No. As they described in option 3, that you could come back -- you know --

>> Isn't it just option 1?

>> Exactly right. The substitute motion is actually implementing option 1.

>> I read option 5 as deferring the decision with a report back on the use of the \$916,000 loan. That's how I read it.

>> It is. That's correct.

>> That's what I seconded.

>> You also --

>> Chair Cantil-Sakauye: By implication, it's also denied.

>> Deferring the 442.

>> Correct.

>> Chair Cantil-Sakauye: We're going to call it option 5 for ease of understanding and report back. All in favor of option No. 5 say aye.

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

>> Opposed. No.

>> Opposed, no.

>> Chair Cantil-Sakauye: So four opposed. Matter carries. The four opposes are -- did you get the four opposes?

>> Could I ask for a show of hands on the opposed, please?

Judge David DeAlba, Stephen Baker, David Rosenberg, and Douglas Miller.

>> A really fine group of distinguished jurists.

(Chuckling)

>> Chair Cantil-Sakauye: So we will -- Judge Horner, Ms. Guquero, we will be expecting a report back as soon as you're able to report back to us the spending of the loan to implement the CART recommendations and other improvements to this court and any amendment that may be necessary to the request originally made in -- before this month for urgent needs.

>> Would be considered -- would that -- then that information would be considered the next public meeting?

>> Chair Cantil-Sakauye: Yes. If at all possible. December.

>> Yes.

>> Chair Cantil-Sakauye: I believe this concludes our agenda. And we conclude today's meeting with a brief remembrance of our judicial colleagues recently deceased. I'll name them. The Honorable John Alex, Superior Court of Trinity County, the Honorable Ronald Brown, Superior Court of Mendocino County, the Honorable Ollie Marie-Victoire, Superior Court of San Francisco County, the Honorable Donald McCartin, Superior Court of Orange County and the Honorable John Merrick, Superior Court of Los Angeles County. All were retired from the bench and we honor them for their service to the courts and to the cause of justice.

The next regularly scheduled Judicial Council business meeting is December 13th. Meeting is adjourned. Lawn lunch in the back room and transportation requests directed to Nancy Spero.

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