

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 a formatted and unedited transcript of the meeting of June 24, 2011. The official record of each meeting, the meeting minutes, are usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts Website at <http://www.courts.ca.gov>.

>> Good morning.

>> Good morning. Good morning again. This is the business meeting of the judicial council of California for June 24th, 2011. I'd like to remind all of you here and to let the new members know, we already know this, as to ensure public access to our sessions and to increase understanding of the work of the judicial branch and judicial council, we are - - our business misses are audiocast live with real time captioning on the California courts website. Portions of our business meeting are also routinely videotaped as you know for later broadcast on our California court news or CNN, also easily accessed on the court's website. So for these meetings, I ask that we address each other by name so that listeners can follow the discussion. And you should note that we've had several online visitors in the past listening to our meetings. And even greater numbers listen to our archived broadcasts when issues arise in the branch. We also this morning have -- we're honored to have distinguished colleagues and presenters who will be introduced as the presentations are occurred on our agenda. And before we get into our business, I want to extend a special welcome to two of the four incoming members of the council who are with us here this morning. Judge David -- [Inaudible]

>> Superior court of Sacramento, county, welcome, Judge Daval.

>> Thank you, chief.

>> And David Yamasaka of Santa Clarita, county. Welcome, David.

>> Thank you very much.

>> We also have two other members that is judge Davis Ruben of the superior court of San Diego county and Justice Judith Myzeil Ashman Gerst of the Court of Appeals district 2. Earlier this month judge Ruben was elected president of the judges association to succeed our beloved judge Davis when his term expires in September. And judge Ruben joined the counseling at its planning sessions in the last two days and officially begins his term on September 15th.

>> Justice Ashman's term begins June and the terms for Judge Dalaa and Mr. Yamasaka are September 15th. We are pleased that you are animal to be here to observe a meeting as part of your orientation. As you know, our early part of our meeting is for public

comment. And we've no request for public comment at this meeting and we'll proceed of the approval of the minutes of our April 29 meeting. Chief justice, I'll move approval of those minutes.

>> Thank you, justice Huffman. Do I hear a second. I hear Judge O'Malley and Judge Enright?

>> Yes

>> All in favor of the approval of the judicial council meeting of April 29.

>> Aye.

>> Any opposed? Motion passes, thank you. Next on our agenda, is the chief justice's report, and I wanted to make several comments. First, it's very gratifying to know that notwithstanding our well intentioned agenda for Wednesday and Thursday, that judicial council engaged rather in a lively, lengthy and productive discussion on judicial council governance procedures. And from the nature and length of our meetings to providing additional expanded public participation, we addressed this early on in our meeting and it was a long discussion. We could have gone on even longer. It was quite participatory. I think that that has been at least in my experience on council some of the best discussions we've ever had. Everyone participated. We then put together a list of recommendations, and we'll be following up on those recommendations. I'll be putting together hopefully a group of folks take a look at putting those -- those recommendations into short term, midterm and long-term recommendations that council will be able to vote on and we'll be moving forward on that. In terms of that list that we all participated in making yesterday, is there a motion to process that, appoint an internal working group to make sure that we stay on task with those recommendations and bring it up at the next council meeting.

>> Chief I have --

>> And that's part -- reflective of our discussion that we had yesterday. [Laughing]

>> So those please moved please state your name on the record.

>> Judge Kleins.

>> Judge O'Malley.

>> Judge waters.

>> Do I hear a second? [Laughing]

>> Everyone else second. [Laughing]

>> And so all in favor --

>> Aye.

>> Any opposed? We will follow through on that. So thank you very much. We also addressed our planning session which was the part of the -- the meeting was reserved for that in particular. And I'm happy to hear the planning meetings went well. And it's important to have our planning meetings, as you know, because by clearly stating our goals and defining our objectives, the council brings a level of transparency and accountability that the court demands and the public deserves. It's also our roadmap, as you know, for our state court system. It's responsible for our rapid progress in the last 15 years. And it's also evidence of avenue initiative that's approved by council and assigned by the AOC has its roots in our strategic plan and our goals. So these -- this is a very important planning period and we've kicked off yesterday with that and our thanks to judge Steven Jar, retired, who helped lead us through the process. I also want to address something else that was off our agenda that shows council is again demonstrating its leadership and taking control of the issues facing the branch, and that is we discussed the judicial branch budget crisis. And by that, I mean, and it needs little explanation, really, part of the legislative branch budget included a \$150 million reduction on top of the \$200 million reduction. And I'm proud to say that the branch leaders came together in time of crisis to really present a unified voice of opposition to the cuts. And despite any of our differences on philosophy or conflict on policy, all 58 presiding judges, all 6 appellate presiding justices came forward with other stakeholders, with the bar, with other bar associations to oppose this cut, this reduction to justice. Letters were sent. But we also had, I think, a very important critical discussion about what this means to the branch and we had that also on Wednesday. And it was very productive as well. So I'm proud of and grateful for the leadership shown by the entire branch and by council and taking that matter on where we could talk about the issues freely have information and by the AOC about what our status is financially. The last thing I want to talk about in my report is AB1208 but I'm going to flip that to justice Baxter, when the time comes, to further describe the process of that. But again, I just want to say at this point that I'm gratified by the leadership shown and the fact that AB1208 never left the assembly. The other thing I want to end with are my appearances in terms of sort of a listening tour getting to learn about the bench and bar and other stakeholders and I'll give you just a quick recap and as I read it, I exhausted myself but I'm going to summarize it by telling you that since our last meeting, I've met with three benches, members from the Sacramento superior court, the San Francisco superior court, and the Riverside superior court. I also had the opportunity to chair my first state federal judicial council meeting with Judge Arthur Aldercon of the ninth circuit, things that affect the federal and state bench. Also I attended the CJA meeting during their meetings in Sacramento. I observed the San Francisco juvenile collaborative reentry court, the first of its kind in the nation where it involved juvenile delinquent, delinquency si calendar, and integrating those kids back in the community with wrap-around services. This is a program run by Judge Kathleen Kelly of the San Francisco superior court. She has a marvelous team of folks who care. And I observed that program along with Curt child and Tracy Kenny. We were all impressed with the value of that program to juveniles. I also had the opportunity to attend and participate with the California peace officers annual memorial ceremony.

Also addressed the consumer attorneys of California conference, law day in Riverside, the pro bono Alameda dinner, the state bar board of governors dinner, addressed the American law institute, had an opportunity to meet with three bar associations. Twice in Orange County. Also that was with the women lawyers of Orange County and public law center. Also, with my fellow justices, we attended the Beverly Hills bar association and provided a Q & A. And also the south Asian bar association. And then gave three commencement addresses at three law schools. I will say that at every single one of these appearances, judicial council members and judges turn out. And I am gratified by your support and by your leadership in the community and it is a way that we are ambassadors of the branch. I thank you for being there. It's also heartwarming to see in the sea of a thousand faces, a few familiar ones, especially since we are joined in our effort to improve the public access to justice. I believe before I end my report, I want to make a special note to those who are retiring, and that, of course, would be our tremendous gratitude and respect for Sheila CALABRO, Steven Nash, Kim KAHN and Jim Vesper. We had an honor to honor you last night. It was all too brief. I wish it could go on because of the great work you have done for us, and in the AOC. Your leadership will not be forgotten. I also want to, lastly, mention that justice Huffman concludes his service as a council member. But he's not going far because we needed expertise in time of challenge, so he will be, gratefully, thank you, Justice Huffman, chairing the A & E accountability and efficiency committee where we will rely on you and your expertise and your voice. We can continue to expect to see a great deal of him and so thank you. I want you all to please join me in saying so long to our beloved AOC leaders and see you soon, Justice Huffman. [Laughing] [Applause]

>> I now turn it over to bill for the administrative director's report.

>> Well, good morning, and I just want to add my thanks to all the council members for a long evening in celebrating the careers of four extraordinary executives of the administrative office of the courts last night over 100 years of experience with our judicial system here in California. And across the country it will be a tremendous loss both in terms of expertise of those individuals who have been so dedicated over the years. Thank you, and Justice Huffman, who was -- we sat side-by-side, I think, for 13 years during his service on the council, and he has extended himself in so many ways not just in the formal meetings of the council and the executive and planning committee but frequently coming to San Francisco to meet with the staff on everything from reports, initiatives and projects to try to see that he is well prepared. That the executive committee is well prepared and that the council gets the information it needs to be able to deliberate and make final judgments on the issues, and so your contributions are extraordinary, but you're going to continue to make and in so many other leadership roles with the foster care leadership that you will be leading and the accountability and efficiency committee. You all have a copy of my report before you, so I won't go through it. I would call to your attention the discussion on the summary section at the bottom on legislation dealing with AB109. And you've had discussions on that before and briefings from Judge Wesley and the work of Judge Wesley and the other judges on the working group that have worked with June Clark and then the governor's office on the legislation. Have made substantial progress. And as you'll see in the proposal if this

moves forward, that the implementation date of July 1 for the offenders going to local facilities will be extended to October, but most importantly, there will be a two-year delay as it relates to handling any revocation hearings for those coming out of the state prison. And that means that during that two-year period where the heaviest workload will be, that will continue to be handled by the executive branch until that levels out, and that will reduce substantially the actual ongoing workload the courts would be responsible for under this provision. And so it is as a result of the work of the working group and while this is something that the council did not support and the presiding judges do not support and the -- I think the judges across the state don't support, but the work that they have all engaged in have resulted in continuing changes in the evolution of the legislation and the department of finance and the department's representatives have been very open to those discussions and listening to things and trying to make amendments to meet the concerns of the judicial branch. So there's been great progress there. And then finally I wanted to not represent it in here but just wanted to publicly note and have the council extend its congratulations to Judge Baker on his election to the board of directors for the national center for state courts which is the organization that supports all of the state court systems across the United States through education and research programs, advocacy in Congress and then the support of the conference of chief justices and the state court administrators and national association of court managers, the American judges association which is the national counterpart in many ways to the California judges association as well as the appellate judges association. So they are the support organization for trying to bring us all together to be able to share experiences and knowledge in an effective way on behalf of the public. So Judge Baker, it's terrific to have California represented on that board and to have continuing representing succeeding Justice Roby who served for six years and represented California very well and I know you will as well. [Applause]

>> Thank you very much. If I could just comment briefly. You mentioned Justice Roby sat on that board for at least six years so I think I've got big shoes to fill going there. I appreciate your comments and I'll look forward to reporting back to the council about issues from the national center for state courts. And if there's anything I can bring to that group from the council, please don't hesitate to let me know.

>> Thank you.

>> Thank you, Bill. Any questions? Jim?

>> I'd just like to acknowledge on AB109, Bill, the tremendous work that was put in by June Clark and also by Judge Wesley as far as getting us where we are now as opposed to where that project started out. That was an extreme effort in a very compressed time period, and I just wanted to acknowledge that effort, so --

>> Thank you. Next we'll hear then from Justice Baxter.

>> Thank you, chief. The policy committee has been quite busy. We've met five times since the last council meeting, twice in May and three times in June. And at the May

11th meeting, the committee received status updates on AB109, AB1208, and also an update on the court security realignment proposal and the budget. On May 19th, the committee met to review the council on permission on AB1208 as the bill was amended on May 18th. Amended substantially I might add. Committee voted on behalf of the council to continue the opposition to the measure. On June 3rd, the policy committee received an update on the latest activity surrounding AB1208. The committee also voted to approve the proposed trailer bill language developed by the branch's AB109 working group, which I as well would like to commend for their outstanding work, Judge Wesley and Jim Clark. I think as things developed, the wisdom of the advice received from the office of governmental affairs proved to be very fruitful. The language narrows the court's role in some of the justice realignment from that in hearing final petitions to revoke parole or post-release community supervision. Such petitions would only be filed with the court after a parole agent or county supervising agency makes a determination intermittent sanctions not requiring a court appearance are not appropriate. The governor has accepted that language, and it is expected to be amended into AB117. In additional developments, the earliest date that realignment can become operative has been moved from July 1, 2011, to October 1, 2011. And the court role in hearing petitions to revoke by state probation agents has been extended to July 1, 2013. This two-year delay does not apply to petitions filed by county post-release community supervision agencies. And funding is still required to trigger the operation of the act. The department of finance has proposed a \$17.7 million augmentation to the branch budget for this increased caseload based on assumptions and estimates and judgeship costs provided by the AOC, but taking into account the delayed implementation. The AOC finance division will work with the trial court budget working group to develop allocation recommendations. On June 8th, the policy committee acted to remove the council's opposition on Senate Bill 326 by Senator Yeah which involves public access to court filings. Neutral position was adopted based on the May 10 amendments to the bill that requires the judicial council to adopt a rule of court that requires courts that have fully implemented CCMS to provide to the extent possible and practicable same-day access to specified civil and criminal case initiating documents. The committee also took a support position on Senate Bill 384 by senator Evans related to partial summary judgment, summary adjudication and a clarification of filing fees in complex civil matters. The committee also voted to support a proposal that was being evaluated for inclusion as a budget trailer bill item. The proposal would direct 25% of any unpaid, unclaimed or abandoned class member funds to be transmitted to the state treasury for deposit in the trial court improvement fund. The policy committee also voted to support the trailer bill language proposed by the ad hoc court security realignment working group to advance the needs of the branch. And at its June 15th meeting, the committee received an update on the status of the budget. And that completes my report.

>> Thank you, Justice Baxter. Any questions for Justice Baxter or comment? Justice Huffman.

>> Thank you, chief justice. The executive and planning committee has also been busy as I suspect all of the committees of the council have been in this time period. We've met seven times since the April 29th judicial council meeting. We've had two deliberations

by email and two in-person and the rest by conference call to summarize the things that have been covered by the committee on May 4th, we met by conference call to review judicial council nominations which ultimately have led to the appointment of the new council members except for the CJ president that are here as well as appellate justice Judith Ashman from the second district in Los Angeles was appointed as a result of the nomination process our committee went through. We also finished up part of a process that both executive committee and the rules committee do each year and that is reviewing the work plans of the advisory committees that are assigned to either E & P or RUPRO and we reviewed the final action items for those committees under our oversight for this upcoming year. We approved the conversion of two Los Angeles SJO positions to judgeships effective the beginning of fiscal year '11, '12 or as soon as the legislation authorizing that conversion takes place. The Riverside superior court, based upon its caseload and current needs requested, and after reviewing it with the AOC staff, the executive committee on behalf of the council approved an exemption for Riverside from averting one of its open commissioner positions to a superior court position. The system and the flexibility they believed they need. We did so after reviewing the likelihood of their ability to make all of the allotted SJO conversions by the statute and we're confident they will make all of those conversions. On May 17th, we met in person. There was a request submitted to the AOC and then ultimately to the executive committee on behalf of an individual in Northern California who wanted a letter distributed to the judicial council members. And the letter had to do with a series of complaints this individual was making regarding an unlawful detainer action in Contra Costa County. And in reviewing it we noticed there had been complaints made to the supervising judge to the presiding judge, to the appellate courts and elsewhere. And after reviewing it, the committee reached a conclusion that there was nothing in this letter that was within the purview of the judicial council and we declined to distribute the letter and make it part of the record, and I so communicated with the citizen who wasn't happy with the results but we took that action essentially on behalf of the council. We had some briefing on the planning committee, the planning meeting that just occurred in the last two days. And also reviewed the nominations for vacancies on the financial accountability and efficiency committee for the judicial branch advisory committee. That committee was totally restructured from its prior existence so it was necessary to review, to seek out applications, review those applications and make recommendations to the chief justice which we have done and as you're aware she has made the appointments to that committee. We also acted on a request on June 1st by the State Bar occurred in by the judicial council access and fairness advisory committee to participate with the State Bar at the 2011 summit on judicial diversity in San Francisco at the Milton March conference center. This summit falls a 2006 judicial diversity summit and is consistent with the goals and objectives of the council's strategic and operational plans. And given the times we directed the AOC to make sure to the greatest extent possible that all of our costs are covered by the State Bar or to the extent they can be so that the costs to the branch is fairly minimal in participating in this important process. We placed -- we had some significant debate about the item that's now on your agenda having to do with the money from the 2010, '11 modernization fund that has been already allocated by the council to certain trial courts mediation and settlement programs through December 31st, 2011, in order to allow those courts to continue to plan at least for the balance of this year with

those funds. As you will see, when we get to that item, again, these are funds, modernization fund from this year that would not necessarily be available for this work or for any work for that matter after July 1st. We continued with the agenda-setting for this business meeting, and also we reviewed a request and perhaps for the benefit of those who listen in, the executive committee is certainly aware of existing differences of opinion on the California case management system. But what we had to do recently illustrates part of the branch wide problem and that is the case management system utilized by Nevada County collapsed. It is an ancient system. I don't know whether they used clay tablets and stylus but it's about that level. [Laughing]

>> And because there is nothing available at this moment that could be transferred to them from the case management system, we authorized the expenditure of \$674,000 from the improvement fund to deploy an interim case management system with the assistance of the AOC, I think they selected the best possible choice with the least financial burden. But it simply illustrates perhaps what's ahead of you with other courts. You may also recall that in connection with a round of judicial council nominations, there was some controversy about perhaps too much enthusiasm on the part of a member of the AOC staff in supporting or seeking support for the nomination of one of the candidates at that time. And in order to make sure that we have the correct role for AOC staff in dealing with nominations, at the same time, allowing both the executive committee and the chief justice access to any information from AOC staff that will be beneficial, we adopted a set of guidelines regarding the nomination and appointment process to the judicial council and its advisory committees adding that essentially their role is supportive and certainly if the executive committee or the chief justice needs permission they will provide it but they will not take an advocacy role on behalf of any applicant for either of those positions. As we finish up, on June 3rd, Los Angeles requested conversion of yet another two SJO positions which we have approved as they become vacant on July 31st of this year or the enactment of the 2011 authorization, whichever comes later. We've approved the judicial council resolutions that were submitted on behalf of the outstanding AOC members who have retired, and that was one of the happier things we probably do during that period of time. We drafted -- we are starting the process of also drafting guidelines for use by the executive committee and the AOC in how we deal with nonrural proposals and for the benefit of council members some time back, we had an item on the agenda for an update of the code of ethical conduct for the AOC staff. There were some constituents that complained bitterly that we were required to seek public comment for that. We took the matter off the agenda. Sent it out for public comment and, of course, we received not a single comment. But it did point out that we should, as a council, have some guidelines for when nonrural items ought to be presumptively sent out for public comments which of those perhaps should not or at least set some standards. That is a work in progress. E & P is going to have to continue to work on it and bring it back to council. I think it would be salutary to also put that out for public comment so that we have an open standard for how we get some of these things on the agenda and so you can have as much public input as possible. Lastly, we met yesterday to deal with the request by assembly member Bell to distribute a letter that he submitted to the branch in March, together with a letter from Ms. Roberta Fitzpatrick having to do with issues surrounding a family law matter in Santa Clarita County and with setting forth some recommendations for systemic



changes. That had been responded to by AOC staff several months ago. And assembly member Bell ask that we distribute that letter and Ms. Fitzpatrick letter to the council which we will do. But in addition, we're going to inform the assembly member wished some feedback on the council's activity. And what we have done is referred these issues to two places, the Elkins task force because this particular event was one of the matters testified to in front of the Elkins task force and to the juvenile family advisory committee because it raises possible issues of systemic concerns in the processing of child custody family law matters with the direction to those entities to return to the judicial council with any response or recommendations. And we will so inform assembly member Bell. So as this is my last before as the chair of the NPI, I just want to say thank you to the chief justice and to her predecessor for infinite patience and allowing me to participate to the extent I have. I can't think of any more rewarding part of the judicial service than to have, in the brief 15 years objects what I remember now, was a two-year term.  
[Laughing]

>> So, Judge Wesley being the expert on parole suggested that finally it might be appropriate to let me out. [Laughing]

>> But I want to say it's been -- it's been an extraordinary pleasure to work with the talented men and women on the judicial council and the AOC. I've made a lot of friends. They are friends for life. And I have to say on the way out, we have certainly an outstanding chief justice who followed an outstanding chief justice. We have in Bill Vickrey and Ronald Overholt, the two best court executives in the United States, without any question. And it is the great benefit of the judges in California and to the public we have their help. That's all for me, chief justice.

>> Thank you, chief Huffman. I beg to differ, that's not all from you. Thank you very much. [Laughing]

>> Justice Miller?

>> The rules and project committee has met twice by telephone and once in person since the April 29th council meeting. On May 17th, RUPRO met by telephone to review proposed changes to the civil jury instructions RUPRO approves which is on item 2 of the consent agenda. RUPRO allowed a change to the jury instructions considered at that meeting. On June 13th, RUPRO met by telephone to amend the rules of court to provide for statewide, uniformed fees for telephone appearances. This is item 9 on the discussion agenda for today. RUPRO approved the rule changes for this proposal. The remainder forfeit approval is for council approval. It consists of apportionment of fiscal 2009/2010 revenue amounts among vendors that are parties to a master agreement for the provision of telephone appearance services. And the method and the amount of the allocation of fiscal year 2009/2010 revenue amounts to eligible superior courts. RUPRO met in person yet to begin a process of discussing issues and concerns regarding the RUPRO process. In addition, RUPRO communicated by email on two matters. On May 9th RUPRO approved public circulation of the legislatively mandated proposal to revise a form by use by defendants in unlawful detainer actions. This form is currently circulating for

comment. Following public circulation and further review by the advisory committees and RUPRO, the proposal's is expected to come before the judicial council at the October 2011 business meeting. And lastly, May 31st RUPRO considered the amounts to the uniformed bail and penalty schedules. RUPRO recommends approval of this approval which is item 4 on the consent agenda. And that's our report. Thank you, chief.

>> Thank you Justice Miller. Any questions or comments? Next we'll hear from Judge Herman.

>> Thank you, chief Chief Justice. The CCMS internal committee as the council knows was appointed this just before our April meeting. And since the April meeting, we have focused on developing our statement of purpose. We have met telephonically and by email in regard to that statement of purpose as well as our structure in terms of how we interface with our governance committees including the CCMS executive advisory committee chaired by Justice Bruiniers. We had our in-person meeting this week on Tuesday. It was an all-afternoon meeting. And I want to thank the members of the committee. It's made a long week for the members of the committee. You've been up here for four days. But it was a robust meeting, vigorous discussion over the challenges that face us regarding CCMS. Our first substantive item of business was to adopt that statement of purpose. The focus of the meeting was really three-fold. One, to educate those members of the committee who are new to CCMS. We're very fortunate in that we have representatives on our internal committee from all of the governance advisory committee so we do have a level of -- a baseline level of knowledge and expertise and the agile ability to interface with those committees. And for the new members of the committee, it's provided an educational background, an opportunity to meet with the key players that are involved in the CCMS project and to get an in-depth understanding of CCMS and its current budgetary challenges. There was a presentation by Kevin McCarter who represents Deloitte consulting, and there was a staff presentation on reporting and recent testing developments to evaluate the system's performance. Judge Kim Dunning from Orange County is a member of the CCMS general advisory committee, which I chair, and she made a budget presentation on the current status of what's been expended during this fiscal year as well as a budget based upon a \$200 million budget reduction for the coming fiscal year. So if there are further cuts and budget adjustments, we'll have to revisit that budget project. Katherine Brady representing ebber shank consulting presented the IBB independent validation and verification conducted by a project consults and AOC's internal audit services. There's been a broad panel discussion of CCMS' challenges, imperatives and policy implications. Mark Moore moderated the panel about the judicial council's long-term vision for a statewide case management system and the media policy questions that we as a council to have face regarding the project, the discussion encompassed, justice partner interests in CCMS. There is interest from our justice partners, certainly in this project. Justice partners including the state bar, the and the importance of having support of these stakeholders in addition to the trial courts to advance CCMS as a statewide enterprise. The panel addressed the uncertainty of the impact of further budget cuts to the judicial branch regarding funding to carry out CCMS deployment, especially, in an era of declining court revenues at a time when CCMS funding allocations are at a level of life

support as we know from over the last several years. The panel discussed the potential of failed legacy systems as previously discussed, we had to deal with that both that in Sonoma County. Those are the issues that face us and what do we do in other court's legacy and how do we address those courts in the system regarding their case management systems? The panel also discussed the need to raise the legislature's awareness of the costs and tradeoffs regarding the CCMS funding. Oh, thank you. The committee requested a cost analysis for equipping courts that are in immediate need of an interim case management system along with a comprehensive analysis of the funding that has been diverted from our CCMS deployment to support these failing case management systems. AOC staff provided the committee with an overview of several sources of CCMS-related project monitoring and management updates for the committee's information and use. Finally, Judge Glen riser provided a live demonstration of CCMS highlighting features for judges, attorneys, justice partners and the public. I think any of us who have seen the presentation are impressed by this really wonderful system that we have developed. This particular demonstration focused on criminal screens as opposed to some of the previous demonstrations that are focused on other aspect and features of CCMS. And with that, I would like to defer to Justice Bruiniers and Ron Overholt and Mark Moore to give us an update on CCMS.

>> Good morning chief justice, members of the council. Just to give you an update where we are on our schedule at the moment. As you'll recall from the last meeting, we announced that we had successfully completed the product acceptance testing on the core product on April 29th. The executive committee concurred that Deloitte had met the contractual exit criteria from the -- for the performance testing for the core product. And we've sent a letter of acknowledgment of that to Deloitte. As we began with the second phase of dealing with the external components, and the external component as we mentioned are things like the document management system, our public portal, our justice partner data exchanges, exchanges with the statewide data warehouse, e-filing, things of that sort, Deloitte's internal testing ran a little longer than we had plan. And Mark Moore's office, the project management office for CCMS, recommended that we give Deloitte an additional four weeks to test and repair any defects that they found before we began our own product acceptance testing. We believe it ran as well as it did because we made sure that Deloitte was as close to production ready as it could be before we began our own product acceptance testing. Given the fact that this would not impact either our overall schedule or our budget for the project, the project management office recommended we give them the additional time. We did that. The external product exceptional testing started on Monday of this week, June 20th. I had a conference call this morning with Deloitte and they say the initial testing regarding the quality of the application, the rate at which the testing is being completed, the pass rates have been quite good. Giving Deloitte that additional four weeks was certainly the correct decision. As of this morning, about a quarter of the total of the test scripts -- I think there's over 11,000 of them that have to be run -- about a quarter of those have been run so far with about a 95% pass rate which for the first pass through these things is actually quite good. The external product acceptance testing is scheduled to end the last week in August, which should also coincide with the completion of the independent third-party review required by both the council and by the legislature. You may recall at the last meeting I

mentioned that some of the judicial officers were part of our court-based testing teams had expressed some concerns with the performance levels that they found in the core product testing. The transition from the screens for the judicial officer portion of the screens, and we immediately asked Deloitte to focus on this. Again, we relied very heavily on our court-based testers, both court staff and judicial officers. We're trying to make sure that we're immediately responsive to any concerns or questions that they raised as we go through this process. The application was tuned further in April. The issues identified by the judicial officers were repaired. Judge Jeff Barton who was one of the officers from San Diego, who's one of the judicial officers who had expressed some issues about this came back, retested the functionality. He's given us is very detailed report which we think is quite positive. He did identify a few more areas that we need to work on but the performance issues have been successfully addressed. Else noted that the V4 application performance exceeds that of the D3 system, the civil system, that is currently in place in his court. Onsite testing is also occurring -- it occurred in Ventura County last week. The onsite testing is designed to try to simulate a test environment, a load environment that would be consistent with the maximum number of users for all courts statewide to see how it would perform in that environment. The test was conducted using a combination of Ventura court employees and simulated users. The environment simulates approximately 4,000 concurrent users on the system. A level we would expect with 55 courts on board. The employees conducted a series of real life tests and several other courts went to Ventura to observe the tests for themselves, both Ventura and other courts observing the tests reported very positive results. As with all tests we identified areas that would benefit from some minor tuning and that's now underway. Contracts have since been executed with two firms, both of which this is for the independent quality assurance testing with two firms who had been approved by the bureau state audits and by the state technology agency. Integrated systems diagnostics will complete what's called the scampy review. That stands for standard CCMI appraisal method for process improvement. This is a standard promulgated by the software engineering institute. Fortunately, our costs on that came in below what we had originally anticipated. The bid for that portion of the work will be \$74,000, not to exceed \$90,000. This review will examine the methodology used by Deloitte in developing CCMS. It will determine if Deloitte developed the application using processes that are in line with an industry standard measurement known as capability and maturity model integration level 3. That's CMMI. The network is to be completed by the end of August. A second company approved by the VSAK3 operations they will determine the quality of the underlying code. Again our costs came in below what we had originally anticipated. The cost for that work will be about \$80,000. Their work is also scheduled to be completed by the end of August. We expect we'll have some work to do in September to develop and implement a plan to address any findings and recommendations resulting from those reviews, but again, by the end of August, we anticipated certainly based on the optimistic results we have seen so far, that we will have a complete and finally developed product ready for delivery, that we will have met the requirements for the independent third-party review. That we will be ready to deploy that system in an operating court environment at that time. Our predeployment planning activities have continued. The project management office and the deployment teams have been fine-tuning plans for San Diego, Ventura and San Luis Obispo. Obviously, we're working

with certain budget uncertainties as Judge Herman mentioned but we are planning on going forward on the budget and schedule we have in place at the moment. San Diego's implementation schedule will be extended in any event to conserve funds. The immediate focus there will be on implementation of e-filing. Official doc and management functionality that will position them to completely implement CCMS. In San Luis Obispo, their justice members are eager to participate. They identified 23 data exchanges that are important to them and they will conform to accept our data systems. And there was a detailed deployment plan for both Ventura and San Luis Obispo. They developed a project planning tool that manages and forecasts schedules, human resources and budgetary requirements for these implementations. Those tools will not only track the progress but dynamically budget and schedule impacts should any of the project assumptions change. I should mention that the project management office has implemented a number of project planning tools that provide detailed and real time analysis of where each phase of the project is. Those planning and reporting tools are available online and are available to -- and are used by not only the project management office but all of the chairs of the governance committees. We have direct unfiltered access to that reporting data and certain other members of the governance committees and the internal committee have expressed some interest in to having access to those as well. We did -- I just might mention we had as part of our meeting on Tuesday introduce our committee members to those resources and added a training session on how to access those resources. So the internal committee will have direct access to the raw data in terms of systems performance and other materials. We're also continuing outreach activities. We've conducted demonstrations not only for locations within the branch. Judge Baker and his court hosted a demand nation a couple of weeks ago. They demonstrated it for legislators and those in Santa Barbara. The feedback we've obtained was consistently positive wherever the application has been demonstrated. We're continuing to work with our justice partner outreach team both state and local. And the outreach teams -- the justice partner outreach team is to foster and foster benefits and the schedules. The governance committees have held in person and telephonic meetings on several occasions throughout the reporting period. We've been working to finalize the work plans which we expect will be finalized shortly again, they may be impacted to some degree by any budget changes we may face. The general administrative committee, subcommittee chaired by Judge Herman and the operations committee, have both established subcommittees to focus on areas of program budgets and reporting, project risk and remediation and finance standards. The executive committee and the general administrative committee have been called into session twice at the request of the PMO to review and approve the additional forward looking development time, review and approve what was a 90-day pause in some of our predeployment activities. Again, we're continuing to monitor all of the activities here. As I mentioned, we're doing -- as part of the process of the product acceptance testing, we're making sure that we capture and respond to any concerns from our court-based testing teams. The chairs of our CCMS governance committees will be traveling to the Deloitte testing center in Santa Ana. I think an update, not next week, but the week after, to meet with our deployment -- development operations and deployment teams and to direct the feedback from our court-based testing teams. Overall, I think the government's committee structure is taking root and we expect we will continue to develop that. Hopefully, have some recommendations

back to the council perhaps at the end of the year to see whether we can fine-tune those operations as well. Finally I would like to compliment Mark Moore and his project management team. I think they've done an outstanding and exceptional job and to keeping this project on track and within budget under some exceptionally difficult circumstances. And I think the development news is positive, and I think that we will continue to have positive reports back to the council and hopefully be able to tell you at the end of August that we have met all of our milestones and goals.

>> I would just add, Justice, you and Mark and the project team members have a weekly telephonic with Deloitte to identify any issues relating to the project. I apologize for missing that meeting this morning. I was otherwise engaged, so --

>> I'd just like to recognize and thank justice BRUINIERS and Justice Herman and all the members of the committee as you can hear have a clear understanding and appreciation for CCMS, what it does, what goes into it, what's behind it and the details of it. It's no mystery they are on top of it and with Mark's leadership, are doing a tremendous job with it. It's an incredible product. I would just note in addition to -- we were in Shasta, in Redding a couple of weeks ago and did three demonstrations of the product with Judge Reeser and for the morning demonstration for court staff. Judge Reeser brought his clerk to demo the product and she got up and demo'd the product and she said I don't do demos. I'm not a CCMS person. I'm a clerk in a courtroom and this is what I do. And she showed what she did and Judge Reeser said, I didn't know you did that. [Laughing]

>> It was remarkable. She said I use it every day. It's wonderful. What can I say? Last week or the week before when we were in beautiful valley for the Santa Barbara county judges, Judge Reeser got up and demo'd the product and the judges said why don't we have this already? Why is Ventura and San Luis Obispo getting it and we're not.

>> And then Ron left and I had to answer the questions. [Laughing]

>> I take no questions. And that's the reaction we get wherever we go. And I would just note Judge Reeser indicated -- I know you've heard some concerns about the performance and it's too slow and blah, blah, blah. And he said, I'm in Buellton on a laptop and I'm connected to my courtroom. This is my calendar through the tech center in Tempe, Arizona, and you can see the performance. It's real time right now. And he says I use it at home using my son's router that's up in the attic, and he said the performance is spectacular and you're seeing it for yourselves. And so -- and Judge Reeser has done that a number of times. He went to San Luis Obispo and did a demonstration for their judges. Judge moss has been a road warrior and saying this is my computer in Santa Ana and this is how it works. And so we're very proud where the project is at the moment. As Justice Bruiniers said -- I think Justice Huffman said it. We need to get it out and get it going because Nevada could have used it, Sonoma could have used it. King's county could have used it. There's a number of others that are just going by the day. And so the sooner we can get that out, the better.

>> Thank you, Ron. Mark? Mark, do you have anything you want to add?

>> No, I think Justice Bruiniers covered it.

>> I want to thank Mark and his team. They are fabulous. We have a product and we are ready to roll and we all know what the challenges are, but our focus really is to get this out, get it operating and strategize on how we're able to deal with the courts whose legacy systems are failing as well as the early adopt a court. So thank you, chief justice.

>> Thank you. [Applause]

>> Thank you, Judge Herman, thank you Justice Bruiniers, thank you Marc Moore and thank you, Ron. It's clear the judges have control of this. It's clear we're getting these reports and it's helpful to all of us. Before we move to the agenda item regarding consent, I thought because we've had some discussion about the court facilities oversight working group recently in our last two days of meetings, I'd like to have Ron indicate the current status of our court facility oversight working group.

>> Thank you, chief justice. So the chief has appointed a court facilities working group to oversee the court facilities program, which I can tell you is a remarkable program as well. We have 52 -- and this is in your report from Bill on Page 8. We have 52 projects moving forward, 29 new courthouses are in site selection and acquisition. 19 projects are in design phase. The state public works board has approved site acquisition for King, Santa Clarita, Monday at that way and Plasser and others. The levels of review that occur for these projects is thorough through the department of finance at the state, through the public works board, through the joint legislative budget committee, through local project committees and so there's lots and lots of eyes on these individual projects and now with this court facilities working group there will be a set of eyes looking at the whole program. And to be able to deal with issues such as naming courthouses and appropriate use of courtrooms and courthouses by local groups and that kind of thing. As well as, the overall costs of the projects and other issues relating to the courthouse program. The chief has appointed justice chief Brad Hill, the facilities working group and he has accepted that. Judge Pat Lucas from Santa Clarita will be the vice chair. And most of the members -- and I won't go over all the members here, but there are active justices, judges, retired -- retired superior court judge, retired justice. There are three court executives, two members of those State Bar. Representatives from local government that are involved in it as well industry leaders. And then, of course, the AOC staff who will be working with these members. Bob Emerson, our assistant director of OCCM indicated to me this morning -- he gave me an updated list of almost everyone has accepted, and he said, I've never heard the term "I would be honored" so many times when I said, Bob, you call these folks and you say the chief justice would like to you to and the response is, "I would be honored". And so this is a very willing and ready group to join in that task, chief justice, thank you.

>> Thank you, we look forward to hearing from them and their recommendations to council. I appreciate that, Ron. Thank you. On our consent agenda we have items 1 through 5 and it is my understanding there have been no requests Tehama anything off of consent to put on discussion. And so at this time the consent agenda items 1 through 5 are adopted. We move then to our first discussion agenda item 6, the budget allocation of 17.862 million in 2010 budget act funding for trial court employee benefits. It's an action item. We have Stephen Nash, who needs no introduction. [Laughing]

>> Good morning, chief.

>> Good morning.

>> Members of the council. We have a quick item for you this morning. While we're getting set up, this is my last presentation to the council as finance director. And I just want to say what an honor it has been to report to you all. It's -- we've had some good news, some less than good news that we've discussed over time today, actually, a little bit of good news. But it's really been a pleasure. And it's with certainly mixed feelings that I'm moving on to a new stage with my career with the judicial branch. And I was -- I was remembering this week a couple of things. First off, I think later he's going to be introduced but we will have the new finance director, LATGO. [Applause]

>> And I know there will be more to say about him a little bit later. But what I remembered actually just last night was both Marsha Carlton, the assistant finance director, to his right, and myself -- we have worked with him for a couple of decades. We're all colleagues at the department of finance. And it was just last night I remembered that when I got my first job outside of finance, I became the deputy director over at the youth authority. The first thing I was asked was, who would you recommend Tehama your place, and it was LATGO. And when I announced that I accepted a job with San Bernardino court, the first question I was asked is, who would you recommend? And believe it or not it was LATGO. That's how we are. The second --

>> By the way, we're delighted to have LATGO and Bill is going to say more about it later. The only thing I've said is that I pray I never have to introduce LATGO and the chief justice in the same sentence. [Laughing]

>> Things could get really ugly. [Laughing]

>> We're delighted to have LATGO. He's such a great talent. And I just heard this morning you're retiring. That may come as a surprise to the San Bernardino court. [Laughing]

>> With Stephen leaving and we have a great opportunity to say farewells to Stephen last night. And the day before yesterday with our staff and recognizing all of his contributions and his great talent and we're very proud of him and look forward with working with him in San Bernardino.



>> Thank you very much.

>> I only want to add one thing to say that Stephen is also now named on the court facilities oversight working group.

>> That's true. [Laughing]

>> But I think it illustrates, one, you never get away from this group. [Laughing]

>> And the other thing is, if I were remaining on the council, as much as I like my friends in San Bernardino, I would enter a motion of sense you're or something from the San Bernardino from stealing from one of the AOC's great employees and it's to their benefit and I guess -- they are good people. We probably shouldn't do bad things to them but it did occur to me. [Laughing]

>> Well, if I may have just a moment, chief justice, I feel compelled to defend the county in which I sit. [Laughing]

>> Because I have been the only holdout or the only representative from that county in the last couple days. I want to, in all seriousness, state that we know just how remarkable a finance director, how capable a leader and how an astonishing Mr. Nash is to take the most complicated budget matters and explain them to us who are not so knowledgeable in plain simple English so that we understand them. And we are absolutely delighted to have him joining our court. And I will continue to suffer all the slings and arrows of those comments along as Mr. Nash continues to abide by his promise to come join us. But we will make him as available to this August body and any group that madam chief justice, or anyone else on the council, wishes to have him involved with. We recognize his capabilities and this body will not be deprived of them. We just have our own desires and intentions to put those talents to good use for our court. And with that madam, chief justice, thank you so much. Justice Huffman, thank you so much, sir.

>> Thank you.

>> Thank you, very much, Judge Davis, that leaves my city and the free comment of this before we get to the meat of this. I recall so many times my mom, as I was growing up, she gave me a lot of important advice. And for times like this she said, you know, it was people that you respect and you consider friends, you know, when there's separation, people tend to exaggerate your virtues. Don't let it get to your head. [Laughing]

>> And so having steeled myself to that, one of our attorneys at AOC ran into me the other day and gave me a big hug and then said, Mr. Nash, we're going to miss you so much in OGC. And I said, really? [Laughing]

>> And she said, yes. Your name is so much easier to pronounce than the fellow who's following you. [Laughing]

>> Okay. Now to the good stuff. So the -- this funding that we're going to be asking you to allocate today, to the courts, is for retirement -- employee retirement, employee health benefits and retiree health benefits for trial courts. And just a little history, we've gone back and forth over the years since state trial court funding. These are costs -- cost increases that you are for every organization, certainly every public entity, as well as private, over the last decade, we've experienced and the courts increases just like every other organization have. Up until 2005/2006, those adjustments had to be submitted and to get funding through the department of finance, to the governor's office and then to the legislature through budget change proposals. And that's not an ideal situation. These are baseline costs. And they tend to get picked off when you do that in the process. Everybody reviews it and everybody makes adjustments. And you don't get your baseline costs funded. And so it was kind of a hit and miss process for courts up until then. That was one of the issues. So all the compensation was being funded on an ad hoc basis through BCPs and when the legislature, the governor and the branch, this judicial branch, came together and came up with a new plan, which was formula-based funding based upon the state appropriations limit, that provided funds that would be available to address again retirement, health benefits -- the biggest items, salary compensation, but other costs as well. It provided an annual amount to do that. As we got into the teeth of this fiscal crisis, however, not only, as you know, we've been facing multiple years of budget reductions, but the state appropriations limit was suspended. And that left us really in a lurch because again these costs don't go away. And courts have continued, like other organizations continued to face these costs. Now, the executive branch agencies typically are funded baseline. It's an automatic cost. They don't have to submit proposals. They are just added -- or adjusted to the baseline as appropriate. Based upon that, with the suspension of Sal we sat down with our colleagues of department of finance and others, we've got to have a way to get baseline funding increases for the courts. It's not fair for one thing. We've got to be able to get those funding adjustments and not have to do special proposals to get that done. Ultimately, department of finance and the governor agreed. And so that's how we ended up with a new process. Next slide. The original estimates and the process was started when we submitted the information to the department of finance in the fall of 2009. That cost information that we provided was based on two things: Two sets of surveys to the courts, cost surveys, that were done in the spring and summer of 2009 and then also we were looking at historical growth data for these costs. And so based upon that information in the fall of 2009, we submitted a funding request for this fiscal year that we're just about to close 2010/2011, as you can see. And so those estimates at the time were 6.6 million, 327,000 for retiree health, health benefits, almost 10.9 million, so the total request at that time to the department of finance -- well, through the department of finance, the legislature was 17.9 million. So the department of finance approved it. The governor incorporated that proposal in the governor's budget so January of 2010 proposed increase of \$17.8 million was included. That went to the legislature. They reviewed the legislative information, the court information, the staff looked at it and the legislature couldn't -- or disagreed that it made sense and consequently appropriated that money. Also with money, there was a process enacted 'cause again we didn't just want an adjustment. A couple of things happened. One of the problems with the budget change proposal process is the length of time. So as I described to you, we were doing surveys of courts in -- in the spring and summer of

2009 to address whatever cost increases they would be incurring in 2010/2011. Well, unfortunately, that doesn't work because health plans, retirement plans and so forth don't give you what your costs are going to be. They haven't even calculated them in a lot of cases. So knowing that, also, part of the proposal of what was approved by the legislature was language in the budget, which provides a process so that as these updated -- the information is provided to the courts from the counties and the retirement and health plans, they could send that to us on a periodic basis centrally and then we could submit and request adjustments in the budget. So again the legislature approved \$17.9 million -- yeah, approximately 17.9 million and that provisional language that allows for current-year adjustments. There's a 30-day notification which we think is totally appropriate, which is if the department of finance is going to make an adjustment based upon these additional -- the additional information that's provided, the legislature needs to be notified and we think that's totally appropriate. Now, now let's move to this year. The budget act, the legislature approved all of that. Now we got into actual 2010/2011, so we surveyed the courts and in the summer and fall of 2010, so as we're getting into this fiscal year, at which time the courts were being told what their actual updated costs were going to be. They were higher than the \$17.8 million and you can see what the adjusted numbers were. So retirement, 26.7 million, retiree health almost 2.3 million. Health benefits, \$13.8 million. So the total need in the current year was \$42.8 million. Below that 42.8, you can see again, that's that 17.9 that was originally appropriated by the legislature for this year so that left us short, about almost \$25 million short in the current year of what we needed. There's two components before you go to the next slide. Two components, though, the way you do health benefits and compensation, you always look at the current year costs and what you need but you always project one year ahead. So as this information came in and as we sat down with our colleagues at department of finance, we let them know that not only did we need a total of \$43 million this year, for those items, but next year that on the natural gross goes to \$33 million so there was two things. So this year's governor's budget -- okay, we're ready to proceed. This year's governor's budget proposed not only the additional adjustment that we needed, the \$24 million in the current fiscal year but a \$35 million adjustment for next fiscal year and ongoing. So with that governor's proposal you have two things. You have the current year adjustment and department of finance honored -- they calculated and they reviewed the information. They said, yes, that's appropriate. Yes, there's a process in the current year. And so the governor proposed an adjustment at \$25 million in the current year for the courts. Again, we were in the really -- in the depth as we all know of the fiscal crisis and the state so that all occurred this spring with the -- in the period where the governor is pushing on the legislature to make appropriate cuts in the budget. And so the legislature ultimately did not approve in our program they included the letter but they did not approve that adjustment for \$25 million and it's not they had any dispute with the fact that those increases are real, but a couple of items were cited in that letter from the joint legislative budget committee. One is that courts have reserves and they had 312 million on unobligated reserves and that's based on our June 30 last year state-wide report and, obviously, we have some other thoughts about the appropriateness in of that. But then also there was this item -- they said unclear if courts have renegotiated labor contracts to reduce increases in costs. Well, courts throughout the state have been working with labor unions and addressing, you know, the current cost situation, the future costs, I'm not sure

exactly what the -- what all was involved in that comment. And as a result, the legislature did not approve that additional adjustment this year but I want to be clear, the legislature did approve the ongoing money beginning in '11, '12 so the full 52 to \$53 million that's needed beginning in fiscal year '11, '12 and ongoing was funded. It was just a current-year adjustment that they did not approve. So once we received that letter from the joint legislative budget committee, we kind of huddled up and tried to figure out where we were because we needed those funds and there are some courts that are so short of money that every dollar is really critical and we worked with the department of finance and discussed is there any options for appealing this and getting additional consideration for that request? And as it turned out, it got really late in the spring. We did submit it but by that time, the department of finance wasn't able to recommend it. They said the money was just too short and they had to concur with no adjustment. So the problem we have -- so we have this money. It has not been allocated to courts. I'm back to that original 17.862 million. That was appropriated. It's in the budget. Courts need those funds. It's about 41% of the total need that was identified this year, but it's real money. They need it. So what we did is we sat down. We identified our options and we sat down with our trial court budget working group and went through those options. And the options that we identified were, one, going back to that original 2009 request where people were just doing their best estimate they could. We used the historic numbers. Do we just allocate it based upon that? It didn't seem to make a lot of sense because again those were just estimates, and there were substantial changes from what one court thought they were going to face and what they actually faced versus another. The second one, which is really the traditional way the budget working group and staff have recommended dealing with these items, not exclusively, but typically, was do it pro rata and this approach says we know what the total need was and the \$43 million. We know which courts need it. What their percentage are and just prorate the 17.8 million, which is about 41%, as I said, to all those courts so that everybody equally gets some money based on their relative need. And finally, the third option, which is a little bit different and that is we have one court that is -- has no reserves. The reserves are gone. They're depleted and they're facing some really extreme circumstances. And so the notion here -- and we've considered this with other allocations from time to time is do we give that one court a larger slice of the pot, to not reduce them down to 41% because they are so cash-short, but then provide the remaining pro rata to all of the rest of the courts based upon that need? So that discussion was had. All of the representatives and the budget working group discussed this but ultimately, the staff recommendation which was option 2 just apply pro rata to all courts. The budget working group concurred with that and also makes that same recommendation. So the recommendation to you all, both of AOC staff and the trial court budget working group is to allocate the 17.862 million that was appropriated in the budget act of 2010 for 2010/2011 trial court employee retirement retiree health and health benefit increases based on a straight pro rata methodology to courts and that's the end of the presentation.

Now

>> But then everybody else would get just a smaller pro rata share of the pie.

>> So if we go with option 2 which is being recommended, then the court to which you refer is getting some help, but still not enough help.

>> So in either option, I'm going to focus on that one court. In either option, this is not going to be sufficient for that court. Certainly every dollar they get now will be helpful to them, but it's not -- either way.

>> Thank you, Mr. Natch. Thank you, chief.

>> Any additional questions?

>> I guess I just have one question. It appears for that one court and the 1.3 million dollar difference between options 2 and 3, have there been any discussions with the court?

>> How would they deal with that 1.3 million dollar difference?

>> Let me go back a little bit. I gave short SHRIFT with the discussion. Once we got the legislative notification that one of their concerns was that we have all these reserves state wide, \$300 some million, conceptually I could understand why somebody in the legislature, you know, would make that analysis, but the difficulty as we all know, courts have used and deployed their resources differently. Some courts have a bigger pot of money to go into these rainy days than others do.

>> And so what we had looked at was identifying those courts with relative ly minimal reserves and then circled back in and trying to get that funding, their funding needs, and the court indicated that essentially that funds would be tremendously helpful for them in the current fiscal year.

>> But again, as I indicated by that time, Department of finance now and the governor's office was no longer going to propose an adjustment. So it didn't really go anywhere. The court clearly, every dollar they could get would happen. That's true of a lot of courts. Again, this court is on the edge where they're really facing layoffs. In fact, they've publicly announced layoffs in on other things. I'm not here to tell you it wouldn't help them. It would help them a lot but it's not going to solve their problem. They have a much bigger problem than that.

>> Stephen, the trial budget working group recommended option 2, correct?

>> That's right.

>> The vote on that was, if you recall?

>> I believe it was unanimous.

>> And they considered the same issues that this body is considering, is that correct?

>> That's correct.

>> I take it that one court does not sit on the trial court? They do sit on it, and so they voted in favor of option 2?

>> Okay.

>> He did vote in favor of it?

>> So that one court is okay with option 2?

>> Again, I can't speak for the court. My understanding from the court is every dollar they can get would help. I am fine -- I mean, as the finance director I would be fine with either 2 or 3. I recommended 2 because that's typically how, you know, we've dealt with things and believed that was the most fair. But I would understand if the court got a slightly bigger share as the finance director. Again, either one as the finance director, there's arguments pro and con. Again, I'm not here to represent the court but I believe every penny they get would be helpful to them.

>> Judge, do you have your hand up?

>> It's more a matter of process. I support the recommendation but I want to express my appreciation for your outlining these alternatives as part of the staff report and allowing us full consideration of the alternatives that were previously considered and debated. That's always helpful to have this kind of information, so I just wanted to thank you for that. Otherwise, a good presentation, a good report.

>> Thank you.

>> Thank you, judge.

>> Thank you, chief. As a member of the trial court working group, I want to assure the council that we considered all the options very, very thoughtfully and the concern is that while one court is in, you know, very, very dire financial straits, many other courts are very precariously funded at this point. So to take even a few dollars away from those courts that are right at the bleeding edge in terms of their reserves or their ability to go into the new year with any fund balance whatsoever, seems like an idea that was not going to be, you know, helpful I think to the greater good of the trial courts. So we certainly appreciate the very difficult position this one court is in, but having, you know, considered all the options, we had a very, very long and thoughtful discussion about it. That court was on the conference call where we considered these options. I think we ended up in the place that all the members felt most comfortable.

>> Judge O'Malley?

>> I would move to adopt the recommendation by Mr. Nash and that is for recommendation No. 2.

>> Second it.

>> Second by judge Wesley. I heard another second by Jim penrod. All in favor. AYE. Any opposed? The matter passes.

>> I just want to in addition to all the accolades you've seen justifiably, I just want to indicate that while we went through both seriously and somewhat HUMOROUSLY Stephen has been a superb talent in bringing people into the organization and mentoring them and bringing them along. While he leaves a big hole, he leaves a great management team and a great middle management team in our Department of finance. Marcia who I think is sitting back there, pat hagerty who were two of his top leaders in the department, but so many other great staff and John Judnick, Steven Chang, many others. Just a rich pool of talent of people at the beginning of their careers, and many in the middle of their careers that will contribute much to the branch. So Stephen, you really leave us in a good position, a much stronger than when you arrived in the process. I want to formally welcome you and thank you for coming. He comes with so much experience and talent. He's been with the department for 14 years, started as an analyst, became a principal analyst. Now is the assistant program manager. He has a Bachelor's degree and a Master's degree in public administration. His experience in working with the state budgets includes the Department of Corrections, the Department of Justice, the management agency -- the emergency management agency, state public defender, other areas of ghost care about such as the governor -- of government that we care about such as the governor's office, the gambling control commission as well as the judicial branch. Where Ron and I and chief justice George during his tenure, the opportunity to work with and our meetings with the Department of finance executive office and our meetings with the governor where he was present. He was always tremendous in both providing his independent advice to the governor whom he was working but also pointing out the issues and the challenges and options and facilitating constructive solutions. He's done that throughout his tenure with us. I think many of the attributes that Stephen brings, he will also bring in terms of strong leadership and integrity and knowledge and fabulous interpersonal skills. I hope all of you will have the lunch break at the conclusion of the meeting take an opportunity to visit with him briefly. I know in August you'll have a more for mall opportunity to interact with him I think our finance department will miss and not replace Stephen certainly in the process, but we will continue to see it, I think, progress and develop and grow stronger and stronger and improve the quality of services that it provides to the trial and the appellate courts and the state in that area. Congratulations. We look forward to working with you. We've pleased you've made the decision in your career. [applause]

>> You cannot get away with one more standing ovation. Also, for educating all of us, not just mentoring great team leaders, but really teaching us all about the interesting world of finance.

>> Thank you.

>> Thank you so much. [applause].

>> Item No. 7 on the agenda is the alternative dispute resolution. Use remaining funds for fiscal year 2010 and 11. Allocation for ADR projects. It's an action item.

>> I just want to interrupt for a second and provide council just one snippet of background on this program. This is a program that was initiated under governor Davis and with the direct help of then the judicial appointment secretary, Burt Pines, when the governor raised a couple of ideas and issues that he was interested in and the judiciary was interested in, and with judge Pines help at the time, and the work of our staff, there were a couple proposals put together in a very brief period of time. One was complex litigation courts and the second was alternative dispute resolution programs. The governor felt that both of those programs would help the courts be more efficient and create savings, not producing new money. If done well, it would reduce in the out years the need for judges and the number of judges and most importantly, that it would hopefully contribute to the quality of the administration of justice in the state. I think both of these, quote, pilot programs that were intended if they proved out to become part of the core activities of the branch, but of course, on the road to that destination, we had the energy crisis and the dot com collapse and a variety of other things nobody could have predicted. So it never has been incorporated as part of the base budget, but the council agreed after receiving the initial reports on the impact of these programs that it ought to be continued to be funded out of the modernization funds, so both programs continue to be funded in that area. Next year we've got challenges that you'll hear about later when the budget is ultimately addressed by the state. But meanwhile, they've both been funded out of that program, and in the case of the ADR program, the decision was made to fund it on a calendar year basis. So this is an issue for the current fiscal year budget. It is the only area of the trial court's budget where we're stepping into the middle of a current year program to make a decision about funding, so I support the distribution of the funds. I think it's certainly appropriate to look at it and discuss it, but the courts have operated under the assumption that there was a distribution of funds. I think we should consider that as we move forward on this. You're going to have difficult decisions when you deal with next year's budgets because you have to make reductions in those areas, and we've had court leaders and court executives, judges and court executives looking at those issues for next year, but this is a current year issue the way it is.

>> I opposed it and hold my remarks unless the speakers have finished. For you to preface the remarks by saying you support it, I would like to be heard but I was going to wait until after the speaker spoke. I take umbrage at the fact that you before the speakers begin already state your position.

>> Thank you, judge Wesley. My intent was to try to give the background and where I stood on this because I was part of the setting the of the board for the executive committee.



>> Judge Wesley, did you want to address the council now?

>> Out of courtesy, I'll let the speaker speak first. Thank you very much.

>> We'll start.

>> Thank you, chief justice. Good morning, members of the council, directors.

>> Staff is recommending as the report indicates about \$300,000 of the fiscal year 2010-2011 judicial administration efficiency modernization fund be allocated or be approved for use to -- for two purposes. The first is to sustain ten trial court civil mediation and settlement programs through the end of the fiscal year, and the second is to use a small portion, approximately \$25,000, to produce a video to support trial court mediation programs for civil harassment cases. Staff recognizes that the council and branch leaders are facing very difficult decisions in addressing the budget short falls, and that the council and others working very hard to try and figure out how to address the anticipated reductions in the 2011-2012 budget. Staff has been working with a staff committee of the trial court budget working group to discuss the potential for funding of this program in fiscal year 2011-12, the upcoming year are from the 11-12 budget. To underscore what justice Huffman said earlier, this request here in this agenda item concerns fiscal year 2010-2011 funds that the judicial council has already allocated to support the trial court ADR programs. It's staff's view and recommendation that doing as suggested, sustaining these court programs through the end of the calendar year and also to a lesser extent producing the civil harassment mediation video is very important in terms of carrying out judicial council objectives that have been set forth in the standards of judicial administration and in the strategic and operational plans for the branch. This program really goes back to a legislatively mandated early mediation pilot program that the judicial council conducted in five trial courts from 2000 to 2004, and that study which, by the way, won some national awards from the center for public dispute resolution, found that the mediation programs reduced judicial work loads, reduced the time, the number of hearings, the number of cases going to trial, and reduced litigant costs all while increasing public satisfaction with the courts. Based on that study and other positive reports on mediation and settlement programs, the judicial council took a number of actions including adopting a standard of judicial administration by encouraging all trial courts to implement mediation programs for civil cases as part of their core operations. The council directed staff to work with the courts to help them to plan programs and to obtain the resources that are necessary to establish and maintain those programs. The 2006 to 2012 strategic plan approved by the judicial council includes a policy of supporting and expanding the use of successful dispute resolution programs, and on a number of occasions I've stood before the council and recommended the adoption of resolutions recognizing mediation week, and the council has strongly supported mediation week and that use of that occasion as an opportunity to commend the courts that have established mediation programs and the staff and community partners who work with them in making those programs successful. Most pertinently in the current context, the judicial council has allocated 1.74 million dollars on an ongoing annual basis to support mediation and settlement and other ADR programs for civil cases. The

funding from 2010 and 2011 that's the subject of the two recommendations today. So turning first to the recommendation regarding the civil mediation and settlement program award extension funding, the awards, first of all, the recommendations as set forth in the last four pages of the report which indicates that general description of the ten programs currently funded by the fund indicates the amount of current funding, the amount of funding courts have requested to extend those programs until December 31st, and indicates the staff recommendation concerning those. The reason that staff is recommending or really two reasons staff is recommending extension of the programs, the existing programs to fiscal year -- until the end of the calendar year with the fiscal year 10-11 funding, the first is the uncertainty of the fiscal year 11-12 budget. Ordinarily in the past spring, staff would have solicited applications from courts for funding from the 11-12 modernization fund, and brought recommendations to the executive and planning committee to approve those funds beginning for use beginning July 1st of this year. This year instead of pursuing that avenue, staff recommended invited courts to use the remaining amount of the 10-11 fund reserved for state wide ADR projects to allow courts to extend their 10-11 projects until the end of the calendar year. Again, that was partly to address the uncertainty about funding in fiscal year 11-12. The other reason was to try and move these -- the funding thieves programs from a fiscal year basis to a calendar year basis through the 7-year history of the program. One of the challenges has always been the delay in the adoption and enactment of the state budget followed by the delay in the council's allocation of the modernization fund for specific projects followed by the delay in soliciting court applications and obtaining approval of those applications. It has taken us almost to last month, in some cases to the last month to see if the funding will be made available. Funding has historically been used in the year after it was appropriate rather than in the year in which it was appropriated. What we're trying to do here in part is to get six months so that we know whether the budget is available, whether funds have been made available for the ADR programs, and so the courts can be prepared to hit the ground running on the first of the calendar year and so that's the second reason for the recommendation to go to December 31st. Some of the programs, some of the ten programs that are listed on the table are virtually hanging on a thread right now. They have funding that was intended to go through June 30th, some of the courts will likely fully utilize that funding, and need to stop their successful ADR programs next week or very soon thereafter if the funding is not approved. Again, staff urges that it's important to sustain those programs if possible to continue to receive the valuable benefits that they're producing. The civil harassment mediation video that's proposed at a cost of about \$25,000 is not as urgent as the recommended use of the funds to sustain the court mediation programs, but staff does think it is important to produce that video at this time if at all possible. This proposed project is an outgrowth of two previous collaborations between court diswriemlegths four courts were a funding for grants projects to develop videos to help self represented litigants participate in small claims cases and unlawful detainer cases. Those videos were recently completed. They're on the judicial branch and some court web sites and have been viewed as many as 5,000 times in just the short period of time that they've been up there which is less than a year. The videos that were produced for small claims and unlawful detainer cases present a model that can be used for other types of cases, and it's proposed be used for the civil harassment case types. The judicial council also approved civil mediation and

settlement program awards to help a number of courts develop mediation programs for civil harassment cases, and those programs have recently been launched. They're producing remarkable results in resolving a type of case that is increasing on the court's calendars, and that is complicated to resolve, and the proposal is to leverage the time and money that has been spent on the prior videos and on developing the civil harassment mediation programs by spending the roughly \$25,000 to develop the civil harassment mediation video to help and encourage self represented litigants to participate in those mediation programs. I'm happy to answer any questions.

>> Thank you, alan. Any questions?

>> I have a question.

>> I just want some clarification. I understand this to be 2010-11 money from the modernization fund. I know if the council disagrees with these recommendations and does not approve it, what happens to that money?

>> I can answer that generally, and I can also defer to Mr. Simpson, but in the basic terms as set forth I think on page 10 of the report to the council, these funds need to be encumbered by the end of the fiscal year, so by June 30th. Until June 30th the judicial council or the administrative director under authority that's been delegated by the council could reallocate the money for other projects that are suitable for funding under the modernization fund. The funds would need to be encumbered, though, by the 30th, and that generally means having a contract in place as I understand it.

>> That's correct. These funds would revert back to the Fod Monday if not utilized. -- to the mod fund if not utilized. They would not be utilized in the 11-12 but they would remain in the mod fund.

>> The key word is revert. They would revert back.

>> They're still within the funds of the judicial council. They don't go back to the general funds.

>> That's correct.

>> So they're still available for other purposes.

>> They are still available but are limited by the appropriation authority. To the extent we're allowed to expend those funds, that would be the only limitation.

>> I understand, but that's not a situation where they will revert back to the general fund. They're still there.

>> But in order to spend them, the legislature would have to approve increasing our appropriation limit. Short of the legislature giving us appropriation authority, you wouldn't have it to spend.

>> Thank you, chief. The question that I have, Mr. Weiner, wI doesn't go as much to the merits of this particular proposal as it does perhaps in anticipating the difficult decisions we may have that Mr. Vickery referred to next year N going to these premiums, I notice and also I want to say I don't sound like I'm picking on any particular appropriate or meddling in any ADR programs. There is, for instance, one which is a collaborative program that lists a project that includes compensating an ADR coordinator, an ADR administrative assistant, an on site mediation supervisor and trainer, an on site mediation assistant, a trainer consultant, and of course, mediators. One of the other counties mentions the projects including compensating a court ADR program coordinator and training neutrals, case managers, and code enforcement partners, and finally one of the larger counties includes contracting and screening cases in which mediation will be most effective, developing an educational video and purchasing equipment to display the video. My question is again anticipating next year, is there any audit oversight review of the manner in which these programs are being -- are being run, if you will, to see if the money that is allocated to them is being used efficiently?

>> Let me first step back and clarify one thing about the descriptions of the programs in the tables. those are the descriptions of the programs that were as they were approved and submitted and approved last April. So they were really looking prospectively at that point in time what the court was intending to do from July 1, 2010 through June 30th of 2011. Some of those items have been completed such as the videos that were going to be developed have been developed, and so the recommendations now pertain only to the ongoing expenses, not to new development. In terms of oversight, the applications are reviewed by an AOC staff committee comprised of usually two attorneys from the office of general counsel and usually court services analyst from the executive office programs division. The applications when they're initially submitted are reviewed through a number of different lenses and scored on a variety of scales including the need that's demonstrated by the court for the program, the likelihood that the program is going to succeed in achieving specifically articulated goals and objectives, the appropriateness of the funding amount. After that initial screening of the application takes place, the staff committee contacts the courts to clarify any questions about the application and to resolve any concerns that the committee has about whether the funding is -- would be appropriately utilized, whether there are issues with the program design, that may be inconsistent with council policies or best ADR program practices. Frequently as a result of those communications, the courts will revise their applications. The next step is that recommendations are developed by the office of the general council which reviews these programs. They go through the OGC management level and have gone to the judicial council executive and planning committee for approval. So that's all up to the approval state. As the projects are ongoing, the courts submit interim reports. First of all, they develop a project plan that itemizes exactly how they're going to proceed with their project except for time lines and milestones and as a specific budget, what's going to be spent on what. The courts then periodically provide interim reports indicating the

progress on the project, any challenges that have been encountered, any suggested variations in the project plan, and as those reports are reviewed, disbursements are made as appropriate adjustments to the plan. Project judgments are made as property and the court submits a final project report.

>> Thank you, chief.

>> Judge Wesley, and then after judge Wesley, judge Brian.

>> The trial court budget group took up the ADR programs in their discussions. Were you present for those discussions?

>> I was not, judge Wesley.

>> All right. Thank you. Mr. .

>> Just so I understand, we're dealing with money for this year to commit to service for next year for one program in the courts, is that correct?

>> Tell us what's happening here.

>> The courts are currently receiving fiscal year 10-11 money, and this proposal would extend that funding or increase that funding to extend halfway into the next fiscal year. If I can --

>> The courts operate many different programs. All together our budget is over \$3 billion. I don't see any alternatives here or other uses that this money could be spent for on all of the programs. Why you decided if this is what we have in the pot we're going to allocate it for these programs out of all the other programs have, some of which I think have a higher priority. I should mention as part of my duties, I regularly have a civil harassment calendar where we use mediators and I deal with civil harassment cases. I really appreciate the value of mediators, and I can see some value to this film, but to pick out this program out of all of the programs the courts have including keeping the courthouse doors open makes me question whether this is the thing we should -- the one program we should fund for next year out of all the money we have, and why in the alternative we don't have other possible uses of this money. If we have to encumber it now, why are these programs other than anything else that might benefit from the money?

>> The reason that these programs are being suggested for funding with these particular funds is because of the judicial council previously allocated these funds for the ADR program and that the council has also approved these particular ADR programs, these programs in these courts. In terms of blg and why fund going forward, historically when these programs were funded in arrears, if you will, beginning in the last month of the fiscal year, the funding carried on for a period of 18 to 30 months, so when there was a change made with the 2010-11 project, we tried to shift to a one-year term of the funding.

We actually reduced the duration of the project, but it was -- this is really the first time it's ever been funded on a 12-month or one-year basis. Because of the extraordinary delay in the budget last year which wasn't adopted until October, a number of courts didn't even have the opportunity to use the program for the full 12 months. I would also like to go back, if I can, and respond to further to judge Wesley's question. While I wasn't presently at the budget working group subcommittee, my managing attorneys and the general counsel were there, and we're certainly aware of the budget working group subcommittee's recommendations with regard to the alternative dispute resolution program funding for 2011-2012.

>> What was that?

>> Yeah.

>> I was informed -- I hate to interrupt, but I got an email from somebody on the budget working group saying this is not what they approved. I was just talking to Turner who was there, and I'm getting conflicting stories. Do you know what happened because I was told -- I talked to Mary before the meeting, so maybe we can get some explanation.

>> Hopefully I can clarify this. The issue before the subcommittee of the trial court budget working group with regard to the use of the mod fund was for next fiscal year, and my understanding of the recommendation of that subcommittee with regard to the ADR program funding is not to fund any more implementation grants from the trial courts but instead to recommend that only planning grants at a much lesser dollar amount be approved for next fiscal year. What we're talking about now is the money that the council already approved, essentially, as part of its annual 1.74 million dollars dedicated to ADR. So it's this year part of that 1.7 million dollar which remains available for this year. That's what the recommendation was.

>> The subgroup of the budget working group was talking about next year.

>> That's correct.

>> They didn't make a recommendation on the money you're asking the council to approve today.

>> That's correct. The issue of what to do with current year money never came before that subcommittee because they were focused on next fiscal year. This is this fiscal year, money that's already allocated by the council for this purpose which I think goes to -- I can't remember who asked about why this program and none other.

>> This is funding until December of this year, so it goes into the next fiscal year.

>> Correct. The use will go into next fiscal year, but the money is this year money that will otherwise not be available absent legislative action, so that's why we're focusing on

this program because we're talking about money that is dedicated for this program but not yet specifically allocated.

>> So Kim Turner had something to do and then justice Miller.

>> I want to say a -- a member of a trial subcommittee that's looking at funding for next fiscal year, I think what Mary told us is accurate. In fact, we are planning to come to the council and make some recommendations that would not fund implementation grants going forward, yet would still fund some planning grants for courts who are trying to break into the business of doing these ADR programs.

>> When you say planning grants, what do you mean by that?

>> They're small start up grants to actually go through the process of potentially training folks to do the ADR programs, to do whatever outreach, to attorneys and others who would participate in those programs. These are small dollar amounts, like \$7500 per planning grant. Am I right about that?

>> That's correct.

>> So it's a little bit of seed money, if you want to call it that, to try to get courts to encourage courts to get into this practice, because it's proven to be a cost effective and I think widely respected way to resolve cases at the lowest possible level. So for those courts that have not yet started and launched and implemented an ADR program, it would be grants available to those courts who were still, you know, waiting to get into this kind of a program.

>> And can I just ask you again since you were at that committee and I wasn't?

>> Yes.

>> Was it assumed there would even be money to do the planning grants? Was there a potential that there wouldn't even be this little fund of money?

>> So the charge that the trial court budget working group subcommittee had was to get together and discuss the \$20 million reduction in the mod fund that the legislature has, in fact, already directed the courts of the AOC to take. As you may recall, there's \$38 million in the mod fund. \$20 million will disappear next year. What we did was to go through each and every program that's funded from the mod fund. We had presentations from each and every director, the education folks, Mary came, technology people to talk about the programs that are presently funded out of that mod fund and our charge was to try to go through the exercise of learning about these programs and make really painful and difficult decisions about where the reductions would occur. So in the area of ADR, 1.74 million I think Mary said.

>> That's correct.

>> Was typically funded from that program. We looked at that very, very hard, and we determined that it was probably not possible in a budget year like the one we're going to be facing to fund implementation or ongoing implementation of these programs that are already, you know, out of the chute. So the idea was to try to keep the concept, keep the enthusiasm alive by funding those pilot programs that are just trying to now get their sea legs under them, but to say to those courts that already have existing programs you will have to figure out how to fund these on your own going forward. So the recommendation would be for a very, very much reduced amount of money going to the ADR program out of the mod fund next year. I don't recall how many dollars that was. Mar Mary. Do you know off the top of your head.

>> Our sense is that given that there would not be money to implement any plans, we would not expect that money courts would be interested in \$7500 to plan for something for which there would be no more funding.

>> Right.

>> We think if that were the approach, nobody would be spent for ADR out of the money.

>> That's the answer to my question.

>> Is it?

>> More than likely, if the budget year is as we think it may be, there will be no money going out of that fund for planning.

>> That is likely. That is likely. We wanted to leave that door ajar for those courts that may, in fact, have already gone through some, you know, beginning planning exercises with their local bars or whoever it may be, that if they were planning to apply for that money, we wanted to not, you know, shut down that opportunity all together. So for a very very nominal \$7500, it would be available.

>> From reading the report about this year's money, it appears there was 390,000 that was set aside for state wide unspecified programs and it appears that what we're allocating now or being asked to allocate is \$370 knife that was not -- \$375,000 that was not spent out of that holdover money. So I want to go back to Ron one more time and have you just clarify again. This is June 23rd, I believe. Am I right about that? Fiscal year -- it's the 24th.

>> The fiscal year ends next week.

>> It's the 24th. Thank you. Laugh.



>> Shorter than I thought. If we do not spend or encumber this money by June 30th, we lose the opportunity to spend it, is that right, Ron? It's not that we lose the money, but we lose the opportunity absent legislative authority to spend it.

>> Regardless of how much money is in the bank, the legislature authorizes us to only spend a certain amount. While it wouldn't revert to the general fund, it would not be available to spend unless they raised our appropriation limit which in this environment they have not been willing to do in almost any of our programs, even if there's money in the accounts. It would essentially limit your ability to have it. You could have it in the bank, but you couldn't spend it.

>> One final comment just as the trial court administrator.

>> Is that not clear?

>> No. I'm sorry. So it's not use or lose it. It doesn't revert to the general fund. We have it. It stays in the mod fund. But why wouldn't it -- if the mod fund is going to be cut by almost 50%, so wouldn't this be money that could be used in other mod fund purposes or are you saying we would actually need legislative authority to be able to spend it on mod fund activities?

>> There's a cap. Just as in our facilities fund, for instance, where there is cash, there is a cap placed on what we can appropriate, what we can spend, and so we have gone and said we would like to raise that cap so that we can do more facility mods and improve facility maintenance and the legislature said no. This is the same thing. Regardless of how much money is in your bank, you can't spend it above what you're told you're able to do.

>> So wait. Let me try to help. Are you finished with yours?

>> Well, no. I had a different question. I think it would be better to get this issue resolved.

>> Yeah. So I think the order is --

>> Why wouldn't the legislature say to us when we say if we would we're not going to spend this money. You made a very wise decision. You didn't spend it for a program that you're probably not going to be able to do next year anyway, and you reserved that money and we really appreciate that. Now we're going to authorize you to use it for some other purpose like San Francisco or king or some other court that's in dire straits? It seems they would say the opposite, you would think. [ Laughter ]

>> I know you wanted to comment.

>> Let me just offer my thought on this. It is, of course, 2010-11 money. The judicial council has already allocated this money for this purpose. It is not requesting you to

allocate new money. What is really the root of this is allowing them to continue to use it into December because they were trying to get the program into a calendar year basis rather than a fiscal year basis. The requests are not the brainchild of the AOC. These are requests from courts. The courts have these programs up and running, and at least for the rest of the year would benefit from helping reduce their case loads through this money. We're talking \$282,000. Its impact on the rest of the courts if you're going to throw it in the pot and take care of some really big things and prevent court closures, you'll prevent the closing of one door in one building for a couple of hours. I simply suggest to you that the courts have staff, they're relying on this money for the balance of the year. If you send that money back to the mod fund, yes, you would think you could make the rational argument to a legislative body well, gee whiz, we didn't spend the money for this, why don't we spend it for that? The answer is that's not a logical process. They put caps on, and if there's money available, you know, who knows what they will do with it? But for us to simply terminate these courts' programs right now, bang, you're done, you're done next week, get out of here because maybe perhaps there might be a possibility some day in the future that we might, might be able to use this money for something else, I think council made a prudent judgment that these were important programs and answered court requests, the amount of money is miniscule in the issues before us, and I think it's the wrong thing to do to just tell these courts to take a hike because maybe some day we'll find some opportunity, perhaps, to spend this whopping \$282,634. That's my thought.

>> Alan?

>> My concern is with the value of the program. If it's as valuable as we say it is, they're not going to take a hike. They'll find a way to fund the program because it's worth it to them. If we tell them we're not going to give them this money as of next week and they say fine, then we're going to kill the program, that validates the decision not to give them the money, in my opinion. If it wasn't that worth while, they would fund it themselves, why are we funding it? I think we've reached a point where we have to say does this program really work? Is it worth spending the money? To me, this is a classic example. If this is all what valuable, and I think it is, our court pays for it without the grant. Then let the courts make that decision. That's what they're supposed to be doing.

>> Thank you. Judge Wesley?

>> Thank you. In contemplating the drastic cut of \$20 million from the trial court modernization fund, the trial court budget working group met to undertake the difficult task that this council is going to be asked to make in the near future of determining what we're going to do if we're hit with another \$150 million cut. What programs are going to go forward, what programs are not. What courts are going to go forward and what courts are not going to go forward. When the trial court budget working group took this up, they were trying to determine which programs to give priority to out of all the valuable programs that we do. Nobody's saying that this ADR program is not a good program or not a worth while program. That is not what this discussion really is about. Because the trial court budget working group recognized it's a group program, but they also recognized there are other programs and things they have to do that would take priority.

When they made the determination that they're probably not going to fund ADR because they have other priorities, one of which is being cut 52 or 51%. You would know better than I. They thought it was absolutely essential that judges get education. They have lengthy discussions and they heard, I think, from -- Mary, I think you were there.

>> At the subcommittee?

>> Yes.

>> Certainly.

>> And I'm aware that this \$390,000 can be carried over. In fact, on December 14th of 2010 at our business meeting after lengthy discussions and recommendations from staff, the recommendation was to roll over \$72,000 in mod funds to this fiscal year, and we did. We rolled over \$72,000 in mod funds, and all that's happening here is that instead of spending \$390,000 that may be used for another purpose, and I'm still not clear about this legislative requirement because I know that as I read this that the mod fund expenditures can be approved by you, bill Vickery, and the council as I read this if I'm not incorrect.

>> I don't think you're incorrect, judge, but it's just not complete. By the way, I don't disagree with any of comments, al, and I think on your comment when you get together to deal with next year's budget, you could provide that answer to a lot of things. I mean, not to, judge Wesley, not to prejudge my view on something, but for instance, you'll wrestle with complex litigation, something I think has been an amazing success and something that we ought to protect as a core part of the operations, and so they're going to have to be other adjustments made if that's going to be fully protected next year. Even though courts like it, I don't think they can do it if they don't have the support for it, I suspect. So it's the same with the ADR issue. So I have authority to allocate money. We've historically brought the issues to the executive committee and to the council to approve those allegations or allocations. What the impediment is, is the appropriation of the annual of -- the annual appropriation authority. We've run into this problem in past years. In one year we had the money swept out of the mod he werization fund because we hadn't -- modernization fund because we hadn't allocated it, encumbered it, and as a result, we didn't have the appropriation authority for several million dollars in that fund. So that's the problem we have. I can't allocate it without appropriation authority. If we have \$12, this isn't like your budget where you have continuous appropriation authority at the trial court level and can roll over money and then can spend it. This fund has a specific ceiling, and so if it grows to, and it's not growing now. When it would grow, if you didn't have spending authority for 40 million but only had spending authority for 35 million, then you can't spend \$5 million in that fund. The legislature can leave it there, give you authority to spend it later, they can take it if they want and move it to other areas of government, so we're limited on that fund by the spending authority. The greatest limitation would be things like the Supreme Court and the court of appeals where if you don't spend the money, back to the comment, if you don't use it, you lose it immediately in the process. So at least in this case it stays in the mod fund and you live to fight

another day over making a request for increased appropriation authority in the next year in the process.

>> Judge O'Malley?

>> Are you finished?

>> Well, as judge Wesley had stated, these programs help resolve cases, especially when we have more self-represented litigants in all of our daily calendars. It's really important that we use every resource we can in our courts to help resolve those cases before they have to come before a judge. We just don't have the time on a calendars to handle all the cases that are before us, so any program that we can assist the court to develop or maintain, these are ten courts that have asked for our help to be able to finish off their programs or develop programs so they can be self-sustaining until December. They probably know, and I'm sure that come next January, they're going to have to figure out what they're going to be able to do to either go back through their list of attorneys, go from a mediator and an assistant to a trainer to an all in one encompassing person to ask their attorneys who might get some small pay now to do it pro bono. They'll go through their own changes to keep that program as best they can. This would allow them time to be able to do that. I fear that if you cut this off right now, those programs will shut down. They'll have to start over from scratch when right now we would allow at least these ten courts and these programs to be able to work through the transition of being able to keep a successful program, and it is a successful program. It is very helpful to many calendars that you have. Unlawful detainers, civil restraining orders. I mean, heavy massive calendars with a large portion of those calendars represented by people themselves as opposed to attorneys. Anything you can do or we can do to assist those courts but that video that might be produced for \$25,000, I'd love to put that on my website of my court to be able to help, you know. I've got a program. I don't have a video. That would be very nice to be able to play that video so that I can shuffle more people into that program with knowledge of the program, know the procedures of the program and what the steps are that they're going to go through. Again, it's helpful in the long run. Just money, I understand, you know, might be able sometime in the future to be able to be used for something else. This is a useful program now. It's helpful now. It's needed now, and it will be useful in the future to help these courts sustain these programs.

>> Judge Wesley, had you finished?

>> You know, what we're doing is spending \$390,000 on programs that are not going to be funded in the next fiscal year, and this money that -- we've got to stop spending money at some point. What I'm saying is now is the time to stop spending money. We know now what our budget is. We know that at the best, we're going to have \$20 million cut from the mod fund. That's the best scenario. That doesn't even include the potential \$150 million that the bench is going to get hit with. We've got to stop spending money. This is where we stop. If the programs end, they're going to end. We're going to end a lot of things without sufficient funding. That's all I V thank you, chief.

>> Judge waters?

>> I was going to take judge O'Malley's comments. I agree with her. I also agree with judge Wesley that these programs may well end. I see an opportunity here for those courts to evaluate the value of that service over the next six months, to perhaps talk to their bar associations for assistance in maintaining a program in their court that has been successful. I think the six months using this year's money may allow those courts to find a way to keep it running even in these bad budget times. Again, without any desire to close off discussion, I will make the motion that we adopt the recommendation.

>> I'll second.

>> Judge waters moves, justice Huffman seconds. Just one final comment. When I read this report and proposal, as a trial court administrator, the thing that struck me was this is transition funding. We're signaling to the courts and soon that signal will be more public when recommendations come back to the full council that funding for this program, grant funding, and that's what this is for this program, will not really be available to the courts in the future. But for those courts that have programs that are up and running, this buys them a little bit of transition time to figure out how on their own, if possible, they can keep these programs afloat. I think it's very difficult as a trial court administrator to turn on and turn off programs on a dime. I mean, that's not -- these programs have staff associated with them. They have other personnel costs. They have agreements with, you know, providers in the community, and so to say as of close of business six days from now, the funding is over, the programs are dead, the windows go dark, I believe that that is -- if we have this money and if this money must be spent or encumbered in this fiscal year, then I think we really, really should strongly consider funding these programs to the tune of whatever it was, \$282,000 to keep them afloat.

>> Justice Miller?

>> I agree there's a value to these programs. I mean. I was a civil attorney. I sat in a civil department. I think when in six months there's not going to be any funding available for these funds -- for these programs that we're just sending the wrong message. We're looking at huge, huge other deficits that we're going to have to incur, and I just think we have to look at each individual program as the budget working group did and we need to make some very difficult and tough decisions. When we're talking about courts that can't have computer programs or that are laying off 200 employees, I just think it sends the wrong message to say that we're going to expend money. Even though I agree in the pot of \$3 billion it's an insignificant amount. I think to the trial courts, every penny counts. I think that's in essence what we have to do, is to look at it like that.

>> Judge Pines?

>> I actually earlier did have a different question, alan, for you. As I understand it, I know that there are family law and dependency mediation programs. It didn't appear to me as though these programs are those programs, but I just wanted to know whether that

was an accurate assumption or not, and then after that answer I did have one thought I wanted to throw out.

>> That is correct. These are for general civil cases, unlimited and limited civil cases, not for family law cases. Unlimited and limited civil cases, small claims, unlawful detainer.

>> I wanted to be sure as I was thinking through this that I understood those facts. I think this is not an easy issue, but it's probably the first of many very difficult and painful decisions we'll be making over the next few months. What we know now is different from what we knew when we originally allocated this money, and I think it was the right decision then to make the allocation we did. I really struggle with now as phenomenal as these programs are, given all of the other painful cuts that we're making and the individuals who are going to be denied access to our courts by virtue of those cuts, I have a tough time despite the fact that we're not giving them a bridge and we're flipping the off switch now as opposed to a couple months from now with going forward with this. Again, given the dire straits that we're facing, what I'm wondering, because part of what influences me more than anything is the fact that the recommendation is going to be to turn the off switch in just a couple of months and not to be funding implementation, so we're kind of putting more money now into something that we've already heard a recommendation that we're going to be closing down. It's kind of continuing construction on a home that we're going to be stopping in six months. That's what's bothering me as well. So I understand the desire to give some bridge transition time. What I'm wondering is if -- if there's a view and a recommendation that we've heard that there would be \$7500 available for planning purposes whether it makes sense, and I don't know, maybe this is a dumb idea, but I just wanted to throw something out. Whether it makes sense to think about making a far more modest allocation that would allow that planning to start happening, not six months from now, but sooner. So look to put the planning 7500 maximum, you know, in place sooner. I guess I'm looking at you, Kim, pause you were there for that discussion -- because you were there for that discussion. Maybe that was silly, but I don't know. If there were planning that could be done and if some of these courts would step up and want to seize that planning opportunity, I don't want to strip them of that by turning the off switch now.

>> You know, thanks for that suggestion. I really have to defer I think to Mary again because I believe there are criteria for these planning grants. I don't know that any courts that are in an implementation mode and receiving implementation money today could then turn around and say well, now we're applying for a planning grant to figure out how to not need money any longer. I don't know what the parameters are. The thing that troubles me is that what Ron has told us, what Bill has confirmed that even if we don't spend this money, we can't spend it on anything else if it is not, you know, available to us, if it becomes part of really just a leftover balance that's sitting in the mod fund until such time as it's either swept or the legislature reallocates it or takes some other action. I don't know what all thifer options are. The thing that concerns me, the thing that troubles me is we may be just squandering the opportunity to give money to these programs, to give the courts figure out how to make them fly on their own. I understand the concern

about building the house and stopping before you put the roof on or whatever your analogy was, but at the end of the day, courts can be very innovative and ingenious. If they have a little bit of time to get out in front of the crisis, they may be able to get together with their local bar associations and others and figure out a way to sustain, even if it's at a diminished level, sustain some level ADR program in the court.

>> So one last question. So if we want to give them a breather to be creative, do they really need six months? Can we give them two months? Again, I'm just trying to find a way to, and I understand the issue of the money may get swept. I'm willing to hope and trust that sane minds in some fashion are going to prevail and that this money isn't going to disappear. I have to look at it as real money as opposed, you know, to ILLUSORY money.

>> Just one more comment. It -- it has to be encumbered by June 30th. When it was brought to the executive and planning committee several weeks ago and the decision was made to bring it to the council, staff was directed to get in place the necessary MOUs so we could get the money encumbered by June 30th. By way of saying if we try to change the purpose now, I frankly don't think there's enough time to do that. As reserves referenced in the report, to echo what judge O'Malley said, that's why this is looked at as transitional money so the courts can use the time to figure out what they're going to do and whether they have the resources to continue the program. Like many other programs that are funded through the mod fund, the complex litigation program by way of example, the money goes directly to the courts and is used by the courts to then hire staff. That's what we're talking about, money here that is supporting the mediation program director and other ancillary staff. I hope that provides, you know, a fuller picture of what we're dealing with.

>> I want to say. Throwing the switch was the perfect example. What we're doing, what the council will do by passing this will allow the trial courts to throw the switch and make the decision Alan said they need to make. Otherwise, the council is throwing the switch on the trial court. A very uncharacteristic action and one that generally isn't appreciated by the trial courts.

>> I just have a different view. Right now, the trial courts are hanging out there wondering what the budget is going to be next year for all kinds of programsth is the one program we're really funding in advance of all the other programs in some sense because we're allocating now for the next fiscal year. I have trouble with that concept. I have trouble with the fact that we didn't have other alternatives for which this money could be spent if it has to be encumbered this year. Look. As I said earlier, I'm a trial judge in a civil courthouse. We have civil harassment calendars. I appreciate the value of mediators. They save us time. We're one of the courts for which the money could be directed, and yet I have trouble with this motion because I don't think this is as high a priority as a lot of other programs in our court including keeping the courthouse doors open. And I think we have to be prudent with the money now as Mr. Nash said. We're at the point of counting pennies, not just nickels and dimes. This is not an inconsequential amount. I think we should be conscious of the message we're spending if

we're spending money on something that's not a high priority and will likely be terminated. I think we should leave it to the trial courts to deal with like all the other programs they have to deal with until July 1 when they have a budget. That's why I have trouble with the motion.

>> I have long been a huge supporter of the ADR programs, and I believe in their effectiveness, and I believe that they, in fact, save the courts money. I also believe in a great number of other programs, and it breaks my heart to see what's going to be done to this branch by what's happening to our budget. And we simply -- I don't think there's a person around in room that if we weren't in today's budget problems would not approve these programs happily. They're good programs. Our system is going to lose good programs. I don't think anybody likes that, but it's the reality, and I think that we need a - - I'm very troubled about the idea of approving one program, even though it's, quote, this year's money when we're going to have to make such horrible choices about what the court is going to be able to do and what the court is not going to be able to do. And to the extent that it does create problems, folks, we're going to have to create a lot of problems that we're not going to like creating at all. And for me, we've kind of come to the tipping point where we can no longer do what we want to do because we're not being funded as we should be funded.

>> If there's no further discussion, I'm going to ask that we do a hand count of the voting members.

>> If we have a second.

>> Roll call.

>> Any further discussion before I ask for a roll call?

>> Judge Wesley. No.

>> Waters. AYE.

>> Judge? AYE.

>> Judge Smith. AYE. Judge Pines. No. Mr. Pen rod. AYE.

>> Judge O'Malley.

>> AYE.

>> Justice Miller.

>> No.

>> No.



>> judge Hoffman.

>> No.

>> Justice hall.

>> Yes.

>> justice Huffman.

>> Yes.

>> Judge Herman.

>> Yes.

>> Justice Baxter.

>> No.

>> Judge Baker.

>> Yes.

>> Ten AYES, seven nos.

>> The matter passes.

>> Thank everyone for the discussion. This was important for us too. It was very well done. I appreciate all of the comments. We're going to stand in recess for 15 minutes until 11:30.

>> We'll get started for our business meeting. I'd ask everyone to please take a seat.

>> Chief justice, if I might clarify for the record, I apologize for not doing this. I counted up the numbers, but I did not record your vote and announce it, and so -- so just our record is complete, that you voted aye and the vote is actually 11-7, instead of 10-7. It doesn't change the outcome, but I didn't --

>> That's correct.

>> Not to overlook the chief justice.

>> That's correct. Thank you, Bill. [Laughing]

>> So we are on now item 8, judicial branch administration presentation of audit reports for judicial council acceptance, it's an action item. And we welcome Justice McGuinness, thank you for being here and taking over on the advisory -- as chair of the A & E and we also have Mr. Michael Yuen and John Judnick. Please proceed.

>> As they're coming up, as you start, chief justice, an issue has been brought up there's been press inquiry about an item on your agenda, a tentative item, so that there's no secrets, the executive committee placed an item, time item, there because we were told there may be an issue presented to us with regard to a naming question regarding the courthouse. That did not materialize, and so there is no other item for the benefit of the -- anyone listening.

>> Thank you for clearing that up, Justice Huffman.

>> I'm pleased to have the opportunity to appear before the council this morning on behalf of the advisory committee on financial accountability and efficiency and judicial branch. The A & E committee if you will was committed in June, 2010. One of the committee's primary duties is to review draft audit reports for the judicial branch and to recommend whether the council should accept them. The committee is also charged of making recommendations to the council on individual and systemic issues identified during the course of its audit reviews. Once the council approves an audit report, it is deemed final and placed on the court's website to facilitate public access. The committee met recently on May 13th and May 25th to review 10 draft audit reports. By way of summary of the report and review process, and this will not correspond precisely at this point with what is reflected on the slides, the committee focused on several factors, including the number of issues identified in the given report and the level of risk associated with these issues in terms of potential loss, increased costs or diminishment of public confidence in the court's ability to manage public funds. The committee also weighed the number of recurring issues from past audit reports and the corrective measures taken by court management. Finally, the committee considered a practical limitations on the court's ability to address a particular issue given resource constraints such as budget and personnel. Following its review, the committee recommended eight audit reports for acceptance on today's consent agenda, several of these reports including the audit reports of the Lassen and chaplain superior courts were noteworthy for their higher risk issues and their lack of recurring issues. The committee also recommended two reports, the audit reports of the Tehama and San Francisco superior courts for acceptance on today's discussion agenda. I now ask John Judnick, senior audit manager of the administrative office of the Court's internal audit services to brief the council on the specifics of these two audits.

>> Thank you, Justice. Good morning, chief, good morning, council members. The two audit reports that are being presented for the discussion agenda today are San Francisco and Tehama. I'd like to point out that audit reports review a period of time and then that point in time at the end where we close is where we stop our audit process and we receive recommendations. In order to evaluate the report properly, you have to review the further actions being taken on those audit reports. And we do follow-ups on those. My

presentation will cover those two audit reports. There'll be a short statement by Mr. YUEN in San Francisco that the further action the court has taken subsequent to our closeout on that report on San Francisco. I will also talk about systemic and individual issues that were identified during the committee meetings that will have further attention at subsequent meetings. Going forward, the committee recommended a report to the A & E committee at its next meeting to talk about the systemic issues that were commission and to talk about corrective measures and to identify other actions to correct those measures and to identify corrective measures for other courts. The two reports that I identified on San Francisco and Tehama, both clearly out stand out of the 10 that were reviewed by A & E committee in July, but for different reasons. Tehama superior court has similar issues -- most of the other court issues that were on the consent agenda. Similar issues including cash collections, access controls to DMV and travel reimbursement concerns. The issue that brought it to discussion agenda was a material noncompliance with financial reporting objectives. Tehama superior court had approximately 1.8 million of court funds held by the county. Those funds had not been reported in the court's quarterly financial statements or general ledger. And their fund balanced at close of the review in June 30th, 2009 but also June 30th, 2010 was roughly the same. So it was approximately equal to its fund balance as reported on its financial statements. The court proactively notified interaudit services subsequent to the audit close but prior to the finalization of the audit report through presentation to the judicial council. That finalization is where we finally put it on to the court website. The court has currently recorded balances in its general ledger and it's negotiating transferring funds to its bank account. We produced a letter that is attached to the audit report because we did not change the numbers in the audit report to reflect the changes that were identified by the court subsequently to the audit close. The report -- the cover letter is basically there to ensure that the balances reflect in the report as audited are actually correctly representative in the audit report and are not misleading any reader of the audit report. With that, at least for Tehama superior court, I'll open it up to the committee so that the judicial council accept it on the superior court.

>> I just wonder on the slide we have before us just in passing we have -- the court is negotiating transfer of funds to the court's bank account. What is there to negotiate here?

>> We are working with our office of general council. The county has the money and there are certain questions about those monies that the county wants to present to the board of supervisors before the transfer.

>> Is there any dispute, though, between the county and the court as to where these funds belong?

>> On the initial 1 million, because there are \$2 million parcels I'll call them. The first million I don't think there's any question. It's just a matter of timing with the MOU to agree to that. On the second million dollar amount, there are certain issues that need to be clarified in the office of general council is working with the court to get that straightened out.

>> All right. Thank you. Thank you, chief.

>> Thank you. Justice Huffman.

>> As I understand the source of that money is the money that goes back the county provided to the court? Is that right? It's not money that the court collected and then stashed somewhere else? This is money that came from the county. It came out the criminal justice construction money that came out of the county; is that right?

>> The monies were out of an MOU agreement in 1997. And those monies were two roughly half million dollar accounts that covered with the county and the half of the money is general fund and the other half came from the criminal justice criminal courthouse fund.

>> And those funds have always been held by the county as actually I gather from the balance?

>> That is correct with only one million expenditure.

>> So the court hasn't used any of that money.

>> The court has not used any of the money. The money has grown through interest. The county pooled rate over the last 20 years from a million dollars to almost \$2 million at the current moment.

>> So the issue is not how the court acquired the money but rather the reporting process. In your view that they should have, at the outset been reporting that as a fund balance even though the county is holding the money and it's the money the county provided for - at an earlier time?

>> Yes, under the agreement, the only party that authorize expenditure is the presiding judge of that court.

>> All right. Thank you.

>> Do you want a separate motion?

>> I just wanted to make a comment. I'm waiting for the chief to -- chief?

>> I'm sorry. Excuse me.

>> This is Kim Turner. I just wanted to comment as a member of the A & E committee, I think the thing that was of concern to the committee is, you know, we're now 14 years into trial court funding. We're certainly many, many years, I don't know how many into our trial court financial policies and procedures manual. And so that the concern that there may still be some small sums of money, you know, that really inure to the benefits

of the trial courts but are not identified or not known by the branch particularly in these difficult times when trial court budget working group, for example, often looks at the health of a court by looking how much -- how much their budgets are. How much they have in reserves. I mean, this really is a reserve -- the budget working group, for example, should have known about it. Not necessarily that it would have made a difference to an allocation in prior years but, you know, we have looked at these things as part of our sort of snapshot to see how the court's doing, the overall health of the courts and to ensure that we have a really clear picture of the status of each and every court as we get into these very difficult times of looking at budgets, declining budgets and how we're going to allocate the funds of, you know, the funds that are provided to us. So I think that was the main concern is that, you know, we don't know if this is the only court in which there are monies held outside of the trial court -- out of the treasury, but if so, we would certainly like to make an effort to identify them, do the due diligence to find out where they are and get them appropriately transferred into funds that are recognized.

>> Thank you, thank you. Justice Miller do you have --

>> I would make a motion to approve but if there's further discussion, I would wait.

>> Have a quick question and I don't know if somebody -- Steven Stephen or somebody from finance here or Kim you may know. Was Tehama viewed by any chance as an underfunded court or an overfunded court? Would having known about this amount made any difference or were there any adjustments made to their budget based on the size of their --

>> I think it's hard -- I don't know the answer --

>> I know the answer. The answer's no. Quite honestly, the money -- in a lot of the small courts, the money held in various different ways by counties. Some of the money was going to be used to fund new courthouse construction, some was going to go to furniture and I think there's a very serious question whether the court had to report. John and I can argue about that at a later date. The bottom line, it comes before trial funding. There's no money missing. The court never used the money. They never called the courts saying I need deficiency funding. They funded it in their own courts in their own budget. As John has indicated to us, there is some concern or some contention about the other half, who has that money. And the question is, if they have reported that in their budget they may have been reporting it incorrectly because it really was the county money.

>> Okay.

>> I would ask that we proceed.

>> Okay. If it's okay I'll go ahead and make a motion that we accept the audit report for Tehama

>> I'll second it.

>> Judge pine second. Need more discussion? All in favor of accepting the audit of Tehama superior court.

>> Aye.

>> Any opposed?

>> The motion passes. Thank you.

>> The second court audit report that is being presented for discussion purposes today is San Francisco superior court. I won't go into the extreme details and the nuances of the issues in that audit report. All the details are there. It's 160 pages long. There are numerous issues. Numerous reportable issues and high risk and exposure areas of operations. There are numerous repeat issues with significant financial impact that deal with significant programs where the court has not sought to receive reimbursement. Some of the areas that I'm talking about here are cash collections where there are issues concerning the lack of supervisor review and approval of cash counts of the cashiers on daily balancing. The appropriate void transaction approval by supervisory personnel of the Court, the control and reporting of mail payments that are being received and the security over that unprocessed mail payment coming in. There's an issue in terms of collection on court-ordered debt where the court has underachieved over the last number of years, significantly, under the benchmark collection performance ratios that have been established for courts of that size. Additionally, there are areas of payroll processing that are weak in terms of the internal controls association with the court in terms of control and reporting on payroll. The court is on the county's payroll system. That payroll system has deficiencies where the court is working through it. Those deficiencies have the court to have a lack of timely analysis and reporting for reimbursement of funds. So it's affected the court's cash flow. Because that payroll processing and reporting there are also issues concerning payment of local judicial benefits. In the two-year period that we reviewed, the recording problem resulted in approximately \$241,000 of local judicial benefits absorbed by the court and not billed to the county which is responsible for those. There are areas of procurement where there's a sole source documentation. There's issues concerning controls over the finance office of billings and documentation of those billings. Contracts were noted to lack competitive bids in many cases. There's missing and incomplete and incorrect documentation associated with those contracts. There are also concerns in the high risk area concerning DMV access and that's the access where court personnel accessed the DMV to determine priors and record transactions from traffic infractions and mis. There are also issues in accounts payable on travel claim reimbursement and the documentations associated with that. Many of these are repeat issues from the prior audit. The last serious and probably the most significant in terms of the audit report and that concerns cost reimbursement issues between the court and the county. Many of these programs have existed for a very long time when the court was part of the county and have just continued forward. The issue's is not with the programs themselves but how the court seeks reimbursements and get those programs paid for by

the county which primarily is responsible for that funding. In the civil grand jury for the two-year period we reviewed there's 200 and some thousand dollars where the court did not have reimbursement of civil grand jury amounts. That is not really allowable so that has to be reimbursed by the county. The indigent defense fund is a program the court administers and that's roughly \$180,000 a year or for the five years we reviewed, \$800,000 where it does not appear that the court received reimbursement for that program. There's also a uniqueness to San Francisco superior court where it has a 24/7 bail and bond payment collection unit at the hall of justice. Those personnel at that location on the 24/7 basis performed some other work but basically that is usually a county responsibility of the sheriff's department. Those dollar amounts associated with that are roughly \$730,000 a year. There are also concerns about -- for that particular program about the operations in terms of segregation of duties and the appropriateness in of some of the funds that are collected. As I said earlier, the audit covers a period of time and then ends and closes at a point in time and we seek responses and recommendations as to what the court is doing. Today we have Michael Yuen, the court executive officer of San Francisco, who was appointed as court executive officer in September of last year. Mr. YUEN will provide a short statement and the focus is really what the court is doing now and from an audit standpoint, the audit believes the court has taken proactive measures and they are addressing issues that have been brought by the audit and there's issues on the bench what it can do going forward and looking backward in terms of collecting monies. Michael?

>> Good morning, chief, and members of the council, thank you for allowing me to be here today to share some remarks with you about our audit report. I would also like to thank Justice McGuinness and the A & E committee for the work they have done in reviewing our audit report and obviously John Judnick and DOC's internal audit services team for their extensive work in our court. Being an auditor is a very tiger job and no one knows exactly what the auditor will find but the benefit of what the auditor will find is invaluable in identifying issues and bringing positive organizational change. And John and his team certainly identified plenty of issues for my court to work on and change. As John mentioned, I've been the CEO in San Francisco for only 10 months. And prior to being CEO, I was the CFO from June of 2008 until I was appointed CEO last September but I'm sure all of you will agree that the court is an institution that transcends the staff and the judges who work for it. No matter who the PJ and the CEO will the court will exist and outlast any leadership who may come and go. And it is precisely for this reason that although the base time period that was audited of 2005 through 2008 precedes my time at the court, I take pride in the changes that we have already made and I look forward to using this comprehensive audit to continue making our court more efficient, more responsible and a model of best practices in all regards. While the audit identify 26 conditions as John mentioned including 8 that were mentioned in a previous audit from 2005, I can assure you that during my 10 months as CEO, we have already corrected or are close to fully correcting 92% of the issues that were presented to me. Also, what is significant to note that I proactively raised with the audit team the two significant changes that I was seeking to accomplish when I first identified them when I got to the court. And those are related to the civil grand jury and the indigent defense fund. I raised these items to the internal audit services team because I needed a critical

eye and assistance franchise audit report to basically go to the county and either transition these functions back to the county and away from the court or seek proper reimbursement from the county if the court were to continue to manage these programs on an annual basis. And, frankly, with support from the draft audit report, that is before you, we have been very successful on this front. Specifically, in the past 10 months, the court has received \$73,241 for the current fiscal year that ends in six days. We have also received \$193,805 for the county to cover the court's costs of managing indigent defense for the current fiscal year. In the past two fiscal years when I served as CFO and then subsequently CEO, the court has made progress in other major findings as well, and I'll go through these at this point. We have eliminated the night shift at the hall of justice, and that night shift was basically responsible for, among other duties as John mentioned, collecting bail. Now, I do have a slight agreement with the number identified in the report. This change has actually saved the court only \$67,856 and this is basically in a night shift premium pay. And the reason why that is different -- let me clarify for the council that the night shift employees were basically responsible for many more duties than simply collecting bail. These other duties are court operations duties as defined in rule 10 of the California rules of court and they included preparing calendars for the following day, reconciling bench warrant data with our case management system, pulling records to fulfill public records requests and general filing. In February of 2010, however, the court transitioned overnight and weekend and holiday bail collection to the sheriff. And I continue to have discussions with the sheriff on when I can transition all bail collection to him so not just the off-hours bail but bail during regular court hours as well. I hope to have this completed within the next six months. We collected cash items where supervisors approve all closeout balances. We've enhanced collection of court ordered debt. In March of 2010, the court hired two collection agencies to collect this debt and we've been actively working with AOC experts to implement all the other audit recommendations to improve court ordered debt collection. We've addressed payroll issues given the court's reliance on an antiquated payroll system. We are in the backyard of the Silicon Valley, the county's payroll has not caught up to that and say several decades old. We have addressed payroll issues identified the audit -- excuse me that's what we went through we have tighten procurement processes to ensure documentation is complete and that competitive bidding processes and requirements are met. The county pays entirely now for all local judicial benefits. We've resolved the DMV-related issues to the extent possible given the obstacles of preprogramming a 30-year traffic case management system that we have. And we're trying to improve our interface with the DMV. And finally we've also corrected accounts payable issues by requiring that all general and travel expense claim payments have complete documentation and all necessary approvals. In summary, I want to assure the council again that progress is being made in all the areas that have been identified in our report. And we do so to the extent that our budget allows us to make these improvements. As I said internal audit services has done an excellent job bringing forth all of these issues and I'm committed to continuing on my watch to professionalize and bring forth positive change to our court. I hope to be given the opportunity to come back again in the future, to provide an update of our continued progress. And while I'm pleased to report that we've already corrected 92% of the issues, I recognize that we can do better. And we will. Thank you and I'm happy to answer any questions that you may have.



>> Thank you. Questions? Yes, Justice Huffman.

>> I think this is an example that our process working as we had hoped that it would when the original A & E committee was created, one of its tasks is to review audits and, of course, there were 10 audits reviewed, 8 of which came to you on the consent calendar because they're fairly routine. I think what you see happening it really creates a dialog between the audit team, the A & E committee and the trial court where a new CEO can come in, find these things, make these corrections and to the great benefit of the Court system. So I'm curious about that and I think by having -- where there are problems, giving an invitation to the trial court for their executive or PJ or both to come in and address issues with the council is the way I would hope that this would happen in the future.

>> Thank you, Justice Huffman. Judge pine?

>> I'm a member of -- I have been a member of this committee. I wanted to just, first of all, say how much I appreciated the work in these audits. They're very comprehensive, very professional. Very helpful to the reader. And some of these audit reports were prepared by IOC staff and some were by an outside consultant but the work was just superb. I want to commend you for that. I can understand why these take a lot of time because of the thoroughness of the analysis. Let me just ask you, Mr. YUEN, you've gotten reimbursement from the county. I had the impression it was just recent periods. Did you get reimbursement from recent years.

>> That's correct, Justice pines. We received reimbursements for the current fiscal years that will end in six days and what do we rectify the prior 14 years since trial court funding. So that's a discussion we continue to have.

>> If it could help you with your budget if you could get reimbursement now.

>> It would definitely help us with our budget given the magnitude of the problem it would only result in an extra million dollars so it would be 10-minute of our budget problem.

>> I guess -- I don't know how we're going to proceed, Mr. Judnick, do you have a response? What's your evaluation of what's happened?

>> We have worked with Mr. YUEN and his court in the last 10 months. Based upon this audit report, his presentation, the activities, this is an item as we present it to A & E where we will do a follow-up review. It's right next door so it makes it easy, but we will check on these measures and work with the court to ensure that we agree that all these issues have been corrected. And assist them however we can to ensure that they do get corrected and on an ongoing basis are kept steady.

>> Justice hall and then Judge Kauffman.

>> Thank you, chief. Thank you for your information. It did occur me, though, of the remaining 8% of the audit deficiencies, if I can call them that that you refer to, some of what Mr. Judd nick being more serious than others. My first question of that 8%, are there any that you with your expertise still consider to be fairly serious issues that need to be addressed.

>> Thank you, Justice Hall. We take the position everything identified in the report are certainly items that need to be corrected. So frankly put, everything is serious. If it's serious enough to be brought to my attention and put in an audit report from the internal audit services team, then that's definitely an indicator that something needs to happen. I can say that of the remaining 8% these are also changes that will be more difficult to make. For instance, they are security-related changes. That's one of them. Security of our court facilities and while it's very easy for, let's say, the courthouse across the street, where my office is in, because it's a 100% court-occupied building, it's very easy to make security changes. Not so much of the hall of justice where the court is only about a 23% occupant and the county occupies the rest of that building. Trying to, for instance, improve the porous perimeter of that building has been a very difficult task and it's go back to 10 years ago when the court started having discussions with the county. It's not easy to try to change a building that has 60 years old and has deficiencies. Another example is another facilities-related item, which is the court-expended funds for facility improvements and such facility improvements are an HVAC system for our servers which are at the hall of justice but also that room is unsprinklered and the whole building is unsprinklered and it would be difficult if not impossible to bring a dedicated sprinkler line and, frankly, when the court expended the funds on trying to make sure our I. T. server equipment was properly protected, it was in a time where the county pointed their finger to the court to do it. It was before the AOC had responsibility for court facilities, and the court, frankly, was stuck to make a decision, do we continue to have a he said/she said type of dispute with the county over who should pay this? And meanwhile, allow that risk for our computer server equipment to shut down or should we simply pay the \$9,000 a year to get some type of protection in there and keep maintaining that system. Those are some of the things of what we're working on, things that require more than just the court and other outside entities and, of course, we'll continue to have discussions with those outside entities. But because it's not all completely in the control of the Court, it's a little bit more difficult to try to bring forth of change.

>> I appreciate that. And I thank you for the answer but it does sound to me because it's not only your court who is involved, that it may take some time to address these remaining 8% of these -- or at least all of them of the deficiencies; is that right?

>> That is right. But I can tell you -- my presiding judge isn't here but I'm sure she's listening I gave the commitment I would be on the job for a long so, hopefully, it will be on my career. [Laughing]

>> The only last thing and, of course, it's up to the chief and up to the council, but your offer to return at some point and give an update on these I hope is that offer is accepted.

>> Thank you.

>> Thank you, chief.

>> What I would also comment on is Mr. YUEN will be a member of the A & E committee starting July 1st so he will be before the committee with his audit report and I concur with some of his comments that it is the court and county of San Francisco are very closely tied and it takes a while and internal audit services does agree to work through those issues between the two on an amicable basis yet as Mr. YUEN has indicated there's a lot of dollars on.

>> Just because -- I'm on the committee, you saw 8 consent agenda audits but not all of them were -- just went through smoothly. Some went back and forth. Some went back for more information and criticisms. And eventually were put on the agenda. Which brings me what Justice Hall and Mr. Judnick. Especially you do an audit every four years; is that correct?

>> Yes.

>> I'm concerned about San Francisco and you say you're going to bring it back. Should we set a timetable? Should we say -- obviously, you're not going to wait four years, okay?

>> No.

>> So the question is should the council say to you, what is your recommendation in terms of bringing San Francisco back? Or should San Francisco go to the new A & E committee and have them make recommendations? How should we proceed when we have not so much on picking on San Francisco but you have a court that has some issues that needs to be reconsidered at a future date?

>> I would recommend and work with Mr. YUEN to determine what his action plan is. It makes no sense to come to the council next month when there's corrective measures span six months. He will be -- and we will have A & E committee meetings and so with Mr. YUEN working together I think we can go back to A & E committee and next month, which a meeting is scheduled and then through A & E come back to the council with recommendation how much do we follow up and what should we do?

>> Thank you. Justice Miller.

>> I make a motion that we approve the audit report for San Francisco.

>> Second.

>> Second. Thank you. Any further discussion?

>> I just want to clarify, Mr. Judnick, do you think you'll be able to come in 2012 in terms of the update on the San Francisco audit?

>> Yes.

>> Thank you.

>> All in favor of accepting the San Francisco audit.

>> Aye.

>> Any opposed?

>> Motion passes. Thank you.

>> The last two areas of discussion are from the committee meeting that we had. They are individual and systemic issues brought to the council for discussion and review. Those items cover funds held by and under the control of the Court in individual issues such as we saw in Tehama. An issue also was for old trust funds that are held by spirit courts, held as a fiduciary that needs to be expeditiously researched and appropriately accounted for. Also, as you heard through the San Francisco audit and some of the others as Judge Kauffman referred to, there are issues in the other courts again systemic issues, on cash collections with high exposure, manual receipt controls which have led to defaultations in the state. And monitoring nonmonetary in cash collections. You've heard in San Francisco, contract management but that also exists on the number of other 10 audit reports that were reviewed. As in the area of accounts payable, where there are difficulties and concerns from audit on travel and expense claims and the documentation associated with those. A high exposure area and something that needs to be addressed is distributions on collections of court-ordered debt. That is a concern because of the penalty associated when those are improperly done, the state controller audits usually span a seven-year period so if the errors are done at the start of that period, the penalty a large. And we also comment on timely and accurate distributions. The other area as noted in San Francisco also and a number of other court audits was the compliance with access and reporting to DMV records on annual certification and the supervision and monitoring of access to those records. Going forward, the committee somewhat punted to the next committee effective July 1st in that it recommended that a report be presented to the committee for review and discussion at the next committee meeting concerning enhancing financial operational and compliance policy and procedures. And as appropriate and providing focused education and training to courts on systemic issues to ensure correction on a going-forward basis. Additionally, the report was recommended to discuss programs to increase the court's awareness of the issues and assist them in minimizing risk and exposure associated with those issues. The additional consideration was that we have focused audits on specific state-wide systemic issues and high risk areas. Additionally, to ensure increased follow-up reviews on those areas to ensure correction. Based on that, I thank you for your attention and I appreciate that all

members on the A & E committee and members of the council who may have read all 1600 pages of those audit reports. [Laughing]

>> If you put them under your pillow, you probably slept very well. [Laughing]

>> With that, I'm opening it to any questions that you may have.

>> I simply want to join in thanking A & E for taking on what was a Herculean effort in taking 10 audits in the time frame given and to Justice McGuinness who readily accepted the appointment to chair A & E during this interim time and who new his plate would be full of audits and to the individual members of A & E who sit on this committee. I would say tremendous work on getting through those audits and presenting it to us so that we can have it at this hearing, at this meeting. Thank you. [Applause]

>> Item No. 9, the presentation of telephone appearances, fees and revenues amending California rules of court rules 3. 670 and 5. 324, to approve apportionment and allocation of if you will skier '2009-10 revenue amounts. This is an action item. We have Mr. O'Donnell and Mr. Simpson.

>> Thank you, chief. Good afternoon, I guess it is, to you and the members. What I'll be discussing today is some implementation matters. The office of general counsel and the office of attorney general are making recommendations to implement provisions of the last year's budget trailer bill SB5857 that relate to telephone appearances and specifically telephone appearance fees. Let me just say at the outset in developing our recommendations we also worked with a group of plaintiff and defense attorneys with his court executives. We had various solicitations for input in a variety of ways and on the rule proposal we circulated the proposed rules not once but twice. So when we come here, we come here with hopefully a lot of input and I should mention we had an RFI with two potential vendors responding and we met with them and got further information that led ultimately to reaching an agreement on a master agreement so let me provide the overall context here in a second. SB857 went into effect last September and as a budget trailer bill it went into effect. For every telephone appearance by a vendor, the sum of \$20 was then to go in immediately into the trial court trust fund. We had now seen the results of that, which in the last quarter, the January/February/March quarter of this fiscal year resulted in over 82,000, almost 83,000 paid telephone appearances. And the transmission to the trial court trust fund of over \$1. 6 million. So annualize it we're talking about a sum of 6 million. Clearly, this is not going to put big holes in the budget but what it does is make the very important telephone process appearances that the attorneys have strongly supported and the courts to make telephone appearances more efficient and cost-effective also one there's revenue for. In addition to the revenue I just described, SB857 had a number of other implementing requirements, and that's what we're going to be talking about today. First it indicated by July 1, there would be master agreements in place that would replace the local agreements. Second, it provided that the judicial council shall establish uniform statewide fees. And third, there will also be revenues received under the master agreements from the vendors which will be the equivalent of a total amount in preexisting revenue-sharing agreements with the courts

for the '09, '10 fiscal year. That amount of revenue needs to be apportioned among the vendors and also allocated to the courts. So that's the overall agenda for today's proposals. Let me provide a quick picture of background so this is how the proposal will be clear. Currently, all 58 trial courts have contracts with one or more vendors for telephone appearances services. In fact, 57 out of 58 courts have telephone appearance contracts with court call and one has one with telecourt. Under 857, these individual contracts will be replaced by July 1 by -- with a master agreement. And each court will be entering into participation agreements under the master agreement and that process is well underway. Currently, under the rules of court and their individual contracts, the 58 courts have set up telephone appearance fees that are to be in a reasonable amount. Those amounts currently vary from 70 to \$85. Under SB857, the judicial council is to set by July 1st, and that's what we're recommending, a specific set of telephone appearance fees. Third, under the existing local agreements, many of the courts, in fact, 38 out of 58 currently have some kind of revenue-sharing with one of or the other of the existing telephone appearance vendors. Under SB857, this will be replaced by an amount that is received from the vendors equal to the amount that was received from all the -- by all the courts in the '09, '10 period and that amount needs to be allocated to the courts. The courts that are eligible are those courts that under the statute had received money in the '09, '10 period. So there's basically two things we're going to be looking at, fees and appropriation and allocation of '09, '10 money. In terms of the fees, the code of civil procedure section 366.6A requires a judicial council by July 1 to establish three fees. A telephone appearance fee, a late fee and a cancellation fee. The current telephone appearance fees, as I mentioned, are in the range of anywhere from 70 to \$85. After extensive discussions and collection of information, we are recommending that the fee be set in the amount of \$78. This will mean that the amount that will be paid by people appearing by telephone will be lower in 43 counties and higher in 15. So, obviously, somewhere -- if you pick a number between 70 and 85, it's going to be higher for some and lower for others. We think that the amount that we're recommending is reasonable and appropriate and will basically maintain the current revenue stream for the vendors at the current level and their services will be maintained at the current level. Our underlined goal to maintain a continuity of services. Second regarding the late fee, the late fees currently vary from some courts who charge nothing to those who charge 35. We are recommending a late fee in the amount of \$30. This again is -- works out to sort of like the weighted average, 44 out of the 58 courts currently have late fees. So we think that the amount of 30 is a reasonable amount there. The final fee is by statute a cancellation fee. This turned out to be the only fee that had sort of controversy around it. Neither the vendors nor the attorneys seem to want a late fee but the statute required it. There was some discussion about could one have a late fee of zero but that seemed to be inconsistent with the statute. So there was recommendation that the late fee be an a nominal -- excuse me, the cancellation fee. We're recommending in the amount of \$5. And I think there's some discussion about perhaps it can go away at some point in the not too distant future. I should say all of the legislation is subject to change in two years. The \$20 fees, unless there's further action will go away in July of 2013. The revenue-sharing portions I've just described will maintain it, maintained in effect. So finally one other footnote to this, most of the fees we're talking about are for fees to appear in civil proceedings. There is under rule 3.24 in child support hearings some applicability of the existing rule and

provisions to those types of proceedings. But because the courts cannot recover money in those types of proceedings under federal law, we're recommending a slight variant, in terms of fees there would be no fee charged by the courts, no cost and recovery because of the federal law. The vendors, however, would be allowed to collect a fee but no \$20 additional fee would be charged so the fee in Title IV-D it would be \$50. In all these matters fee waivers would be applicable to any eligible person. Those are the fee recommendations. In terms of the allocations, as I mentioned one of the issues is how is the '2009/'10 money going to be allocated among the vendors? As practical matter, one vendor is so dominant will be paying the main amount another vendor will have another percentage. We think it's important to develop a formula in the future if a new vendor came along or developed a third or half a business it would be a way to allocate among the vendors the amount of the '09, '10 money. So we're recommending the '09, '10 money essentially be allocated or portioned among the vendors based on their relative shares of the income they bring each quarter in terms of the \$20 fees as a measure. That's the apportionment process. The final recommendation concerns the allocation to the courts of the '09, '10 money. As I indicated, the statute indicates that only those courts that receive money in '09, '10 would be eligible rather -- that had such preexisting agreements would be eligible to receive the money. Our recommendation is that courts will continue to receive the same amount that they did in '09, '10. It will be done on a quarterly basis so that each court that received a certain amount of '09, '10 -- each quarter from now on going forward will receive one quarter of that amount each quarter, at the end of the quarter. If, for example, if you look at Page 22 which has a chart they received about \$40,000 in '09, '10, they will now be getting a little over 10,000 every quarter and that's the formula that we're proposing going forward. The statute, as I said limits who get the money to eligible courts so there's some restriction, there was some discussions about could we do it on some sort of pro rata basis? There are as I say some limitations there. The statute also indicates money is to avoid disruption. We're recommending that the '09, '10 amount received would probably be a good measure and should be used for now but the language is flexible at some future time if this council decides it wants to modify the formula for distribution, that would be within -- what it could do under the existing statutory scheme. So that's basically the proposals. And you'll see on Page 22 the specific distribution that is proposed here. I think overall this is a very positive thing. We both are able to go forward here as a branch with the telephone appearance process. The courts are picking up some additional revenues. The courts that have received money will be kept whole. And as I said, the one thing we need to keep doing is monitoring the progress of this because there are some statutory changes. The process of telephone appearances has been going on, expanding and growing since the early 1980s. This is not the end. It's just another step in the process but I think in these hard fiscal times of the success we have had and having some revenue flow to keep this all going is very positive. Hopefully, it should work out well and we'll have to keep pursuing this. So are there any questions?

>> Do these vendors have to make competitive bids every year to get the business of these counties?

>> The way it will work -- well, in the past, there have been a variety of different contracts at different lengths. What will now happen is there's a state-wide master agreement. And each county can enter into the contract. The contracts are -- if a new vendor was to enter into the statewide master agreement then any court that wanted to switch to the new vendor could do so. So that would be the process. The new vendor would need to be part of the state-wide agreement, the master agreement, and then the courts at their own election should see to be part of that. Right now we have two vendors who have executed the new statewide master agreement and it's up to the courts to decide who they want to go with. Going forward, that could change if additional vendors were interested in entering in the statewide master agreement.

>> Thank you. Any additional questions? So the recommendation of council of Page 2 of tab 9. Recommendation is through 1 through 4.

>> I would so move the adoption of the 1 through 4.

>> So moved.

>> Any further discussion? All in favor?

>> Aye.

>> Any opposed? The motion carries. Thank you. [Applause]

>> Item No. 10, judicial council resolution recognizing the service of African-American justices in the California courts. This is an action item. We have Bill Vickrey. We have the justice Martin Jenkins Court of Appeals first appellate district, division 3.

>> Thank you, chief. Council members, this historical event is directly related to your first and primary goal and that is improving access, fairness and diversity for the public of California. And so this celebrates a significant part of our history in California and a significant part of the history of our judicial branch. And to help us with that celebration, we have two specific guests with us as indicated associate justice Martin Jenkins who currently serves on the first district Court of Appeals. He previously served on the U. S. first district court and prior to that, he began his judicial career in employment to the municipal court in 1989 by governor George Magin and then in 1992 from Governor Pete Wilson for the superior court and he will be visiting with you in just a moment and compensating on both the history and presenting a resolution. We also have with us Dia pool from the office of governmental affairs and Dia, as you all know is a great superstar in our office who serves as a communication liaison for the office of governmental affairs and many of you who have participated in the benchmark coalition know her well because she's the energizer bunny that organize both the bar members and the judicial members and the court executives and others that participate in that effort to educate and advocate on behalf of the branch so effectively. Dia is a member of the AOC's black history month committee. And at the invitation of the chair and vice chair of the California legislative black caucus, Dia worked with legislative staff, the state capital



museum curators, justices, judges and their families and several sponsoring organizations to call attention to the 50th anniversary of African-American justices in California. And as part of that, they produced a photographic exhibit entitled "and justice for all" and you will see some background on that in a moment, and it was quite a momentous event I thought at the state capital to both open the celebration to that and to see the exhibits in the Rotunda of our California capital where it stayed for a period of time. As I indicated earlier, Justice Jenkins will present a resolution for the council to adopt marking 2011 as the 50th anniversary of the appointment of California's first African-American justice. And the 70th anniversary of the appointment of California's first African-American judge. Justice Edwin Jefferson was appointed as a justice in 1961 by governor Edmond G. Brown. And he served on the California Court of Appeals, second appellate district division 4 from 1971 to 1975. 20 years earlier, in 1941, he was appointed a judge, a milestone as he is reported to be, the first African-American judge west of the Mississippi and in our country. Judge Edwin Jefferson was succeeded to the bench by an individual that several of you know personally or knew personally, and that was his brother Justice Bernard Jefferson. Justice Jefferson is the author of the California evidence bench book and more directly, many of the judges and justices know him because of his effort involved in the founding and the perpetuation and development of the California's judicial education programs. When I arrived in California and we went to the opening of the judicial college, everybody celebrated the burning of the north and the burning of the south. Since 1961, we've had 14 African-American justices who have served on the appellate courts. In addition, there have been two others that served on the Court of Appeals and then went on to serve on the Supreme Court. And then we've had one justice who has served both on the Supreme Court and the Court of Appeals. That's Justice Janice Rogers brown. We currently have 6 African-American justices, 5 men, 1 woman, Justice Carol Coterman of the fourth district court of appeal serving today. It's also noteworthy, I think, that one of the African-American justices served as a member of this body, but not as a judge from 1974 to 1978. At the time that individual was serving in the California state assembly on the judiciary committee. And that's the late Justice John J. Miller of the California Court of Appeals, first appellate district division 2 who served on the Court of Appeals from 1978 to 1985. The names of the courts, the justices and the dates of services of all the honor justices can be found in your brochure in your binder as you go through it. The brochure accompanies a photographic exhibit that's down in the great hall of this building. And you saw earlier last month hanging in the anteroom in the capital replicas of the photographs that were hanging in the state capital. The exhibit details the judicial branch's efforts to promote diversity within the branch and I hope you'll read through all those materials. And now, Dia, if you would please take a moment and briefly recap the legislative activities, recognizing the 50th anniversary and the exhibit in the state capital and here in this building.

>> Thank you, Mr. Vickrey, chief justice and members of the council, thank you for this opportunity to speak with you. When the black caucus learned of this 50th anniversary and of the connection to the judicial council and the grant of Justice Miller, they fully developed the 50th anniversary photographic exhibit in its entirety. The executive member of the Court staff working and collaborating with partners were only asked to provide the photographs -- only asked to provide the photographs and biographical

information about the justices and consult with the designers. That was the extent to which we were asked to provide resources. Other than that, the caucus completely funded and installed in the windows under the dome of the state capital. The exhibit entitled "and justice for all". On Monday April 25th offered a -- and Mike Davis from Los Angeles introduced assembly concurrent resolution number 47 memorializing the occasion and calling on the leadership of the executive the judicial and the legislative branches to participate in educational activities to inform the public and to highlight the work of these justices on the Supreme Court and Court of Appeals. On that day the five of the justices and family members of three additional deceased justices were introduced on the floor of the legislature and they included presiding justices Vance, Ray and Candice Cooper retired. Associate justice Jeffery Johnson, William Murray and associate Justice Carol Cotterington. And also present was the daughter of Justice Edwin Jefferson and also the children have the late justices Allen Broussard and Leon Thompson. And we invite you to watch a very brief video that was produced for California court news that further highlighted the occasion.

>> This day at the capital was a day to celebrate the important anniversaries for the state of California. Both the senate and the assembly unanimously passed resolution Hong 50 years of service of African-Americans in the Court of Appeals.

>> And so today our madam speaker and members I raise with our pride on the diversity that we have accomplished and joined with the officers of the Court of California in this awesome -- [Inaudible]

>> Since the appellate court was created in 1905 there have been only 15 African-American justices throughout the entire state.

>> On one hand it's a mesh of the progress that we've come as a state and the involvement of African-Americans in the judiciary. And on the other hand, it could be said the measure of the difficulty that we had in swearing in African-Americans in the judicial process. [Inaudible]

>> Were sponsored about the California legislative black caucus and the administrative offices of the courts. Family and friends of the honorees gathered to preview the display which features the honorable Edwin L. Jefferson. He is said to be the first African-American judge west of the Mississippi, appointed in Los Angeles in 1941. Then he became the first African-American justice in California in 1961. His daughter remembers him as a modest unassuming man devoted to his profession.

>> My father loved the law. He loved being a judge. So wherever that led him, that's where he wanted to be.

>> It's quite touching for us. Quite touching. And emotionally touching.

>> Justice Williams -- [Inaudible]

>> Is one of the members of the appellate court. He says he is deeply indebted to those who came before him. [Inaudible]

>> It's about those trailblazers who exposed themselves to all the discrimination that occurred in the past and overcame that and blazed the trail for people like myself.

>> As looking into the future -- [Inaudible] [Laughing]

>> There's even greater diversity on the branch. [Inaudible]

>> That's great.

>> Thank you. And indeed, that was the purpose behind the exhibit was so that the thousands of California school children who visit the Rotunda each year would be able to see those pictures and so I'd like to thank Mr. Bill Vickrey and Mr. Ron Overholt who attended those April 25th ceremonies at the state capital. Thank you.

>> Dia, thank you for initiating that fine partnership with the legislature on doing this and commemorating the history and let us know the accomplishments -- [Inaudible]

>> Where we aspire to go. Thank you.

>> Thank you.

>> Thank you for being with us here today.

>> Well, thank you, Bill. And to the chief -- chief justice, and the members of the judicial council. -in many of you by reputation although I have never met most of you. I was so very inspired of the teacher speaking of three branches of government and intimating that the judicial branch is a stepchild of the three. I thank you for the resolution today and the photographic exhibit that accompanies will go at great length toward educating our citizenry and most importantly young adults as to the illustrious history. It's a pleasure to be here with you this morning to make just a few remarks. I promise they will be brief but the brevity of the remarks should not be any occasion of that the resolution before you is anything but significant because it is. The resolution marks the 70th anniversary of the integration of the California and the 50th anniversary of the appointment of the first African-American justice to the Court of Appeals. It's interesting to note that the integration of the California judiciary occurred 13 years before the Supreme Court's landmark decision in Brown and 20 years before the first federal district court judge of African-American descent was confirmed by the American senate. It seems in this resolution is axiomatic that we in the judicial branch should acknowledge, recognize, and celebrate our history and the history of the participation of African-Americans as judicial officers. When you look at the photographic exhibit, at least for me, and those trailblazers who are depicted in that exhibit, it's really interesting and clear to me that men like Justice Edwin Jefferson heeded the call to public service. But we also know that given the times in which they lived and given the race relations in this

country, that that success was achieved at a great personal cost. And so we do well here today to consider and adopt this resolution in honor to these men and women, to their families and this resolution will stand as a lasting testament to the legacy of their outstanding service, both to the branch and to the citizens of this great state. And finally I'd note that the resolution you take up here today is completely consonant with our judicial branch goal to ensure that the makeup of California's judiciary reflects the rich diversity of this state's residents. With your adoption of the resolution you will ambiguously -- unambiguously, rather, say to generations of young black men and women, in fact, to all who view the resolution and the exhibit that public service in California's judiciary is an attainable goal, attainable if they are willing to make the kind of commitment to excellence that is so manifested in the careers of the men and women we do honor here today. So with that I wholeheartedly request your unanimous adoption of the resolution. If you have any questions, I'd be more than happy to answer them.

>> Thank you, Justice Jenkins. Thank you Ms. Pool. Tremendous presentation. Any comments or questions at this time?

>> I move the adoption.

>> Second.

>> Second.

>> I think we have, again, a majority of seconds. [Laughing]

>> To Judge pine's motion. And I know that based on our enthusiasm, it's emblematic of the pride that we have in our branch and our commitment to complex and diversity. All in favor say aye.

>> Aye.

>> The motion carries. Thank you very much. [Inaudible]

>> Don't we want Dia --

>> Yes, we do.

>> Come on, Dia.

>> That's all right. [Applause]

>> Chief, if I might, for the public that may be listening, the photographic exhibit that we've been talking about will be on the display in the great hall of this building, the Hiram R. Johnson building from June 20th to July 14th and it's open to the public. There will be a brief ceremony on Thursday. And the public is invited to view the African-Americans in the California courts exhibit that it was created by the California judicial

center library, which is currently on display in the after could I have room which is immediately outside of the clerk's office and it is open to the public. So we would encourage people to take the time to see the exhibit as I say a significant part of our history. Thank you.

>> Thank you, thank you, Bill. Before we close in memoriam and I have a few closing remarks any discussion or comments? I do want to recap our last 2 1/2 days together only to say that it's been an incredibly rich time for council to discuss matters facing the branch. We've had the kind of conversation and discussion that to me is symbolic of why all of you are here on council because we really had tremendous input, give-and-take, back and forth, rigorous, exciting conversation that I know will move the branch forward. And then at night, of course, we had our bittersweet moments with saying goodbye to our AOC family, saying so long to Justice Huffman on this council and to Steve Nash but also knowing that west side them differently, in different iterations still helping with branch governance and still serving the public so I thank all of you for your energy and commitment that we've had here. It's been tremendous. I think we've had unprecedented meetings and discussions. I look forward to the rest of the judicial council year and here on out. And when we conclude today's meeting, I want to mention judicial colleagues who have recently deceased. All are retired. And they are three judges who served on the municipal court of Los Angeles, as well as, Judge Robert A. Hearn, superior court of Santa Clarita County. Judge Leighton hatch, superior court of Sacramento County. Judge Benjamin Travis superior court of Alameda county and Judge frank Peterson superior court. I apologize. I misspoke there are not three on the municipal court of L. A. County and we honor these four men for their service to their courts and for the cause of justice. I would also indicate in closing that our next scheduled business meeting is August 26th but as many of you know, depending on the status of the budget we will be convening shortly after that assigned by the governor. And we will try to give you as much notice as humanly possible. But all of you know how fluid that is but we will try to get that information out to you. Thank you again for your time, attention and thank you to your families.

>> Thank you, Chief.