JUDICIAL COUNCIL BUDGET AND PLANNING MEETING

MINUTES

Wednesday, August 23 & Thursday, August 24, 2006 Large Conference Room (W-19A) Matheson Courthouse 450 South State Street Salt Lake City, Utah

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham

Justice Ronald Nehring

Hon. James Davis

Hon. Michael Lyon

Hon. J. Mark Andrus

Hon. Jerald Jensen

Hon. Jody Petry

Hon. Robert Hilder

Hon. William Barrett

Hon. Gary Stott

Hon. Rand Beacham

Hon. Kevin Nelson

Hon. Hans Chamberlain

Hon. David Bird, esq.

STAFF PRESENT:

Daniel J. Becker

Myron K. March

Richard Schwermer

Mark Jones

Ray Wahl

Matty Branch

Tim Shea

Fred Jayne

Kim Allard

Gordon Bissegger

Holly Frischknecht

Rob Parkes

Jessica VanBuren

Mary Boudreau

Kristin Brewer

Brian Ross

GUESTS PRESENT:

John Nixon, GOPB

Dave Walsh, CCJJ

Derek Byrne, Legislative Fiscal Analyst

Judge David Mower

Judge Mary Noonan

Judge William Thorne

Judge Beth Lindsley

Judge Gordon Low

Debra Moore

Judge Lynn Davis

Judge John Baxter

Wednesday August 23, 2006

1. WELCOME AND OVERVIEW: (Chief Justice Christine Durham, Daniel J. Becker)

Chief Justice Durham welcomed everyone to the Budget and Planning Meeting. She reviewed the process the Council will go through in order to determine the courts budget for FY 2008. The Chief welcomed guests from the Legislative and Governor's office.

Mr. Becker thanked everyone for devoting time into this process, he then introduced John Nixon, Director of GOPB, Dave Walsh, Fiscal Analyst for CCJJ, and Derek Byrne the Legislative Fiscal Analyst who handles the courts budget. Mr. Becker reviewed how the TCE's work with each district to determine their needs and then advance them on to the court level boards to review and prioritize. The Board of District, Juvenile, Justice and all other Standing Committees have also met and prioritized their needs. The purpose of this meeting is for the Council to analyze each request and prioritize the request from a system-wide point of view.

Navigating the Budget and the Court Administrator's Recommendations were also provided to the Council members to put each request in context. Mr. Becker reviewed the agenda and reported that as each Board presents their request, Council members should ask questions and learn more about their needs. Debating the merits of these requests should be done after all the requests have been presented. Thursday will be spent reviewing each request and voting to prioritize them.

2. REMARKS - GOVERNOR'S OFFICE: (John Nixon, Office of Planning and Budget)

John Nixon thanked the Council for the opportunity to present the Governor's budget. During the Governor's recent retreat, the cabinet determined how to move forward with the demands being placed upon the government with the surplus available throughout the state. The Governor is implementing a balanced scorecard effort that each department will participate in by 2007. The Governor is encouraging each agency to collaborate with one another more efficiently and work with GOPB. Mr. Nixon reported on the challenges GOPB will face during the upcoming fiscal year. The appropriation limitation allows the increase to match the growth and population the state experiences. Before 2004, personal income was also included in appropriations. At this point it is unclear if personal income will be included back into the appropriations limit.

During the retreat each agency prioritized their requests. The top three priorities reached \$750 million in General/Education funds. Mr. Nixon reviewed the reduced federal funding that effects the state. The Legislature has formed a committee to determine how the state can absorb the federal loss. Tax reform was also discussed. Last session \$70 million in tax relief was provided. The current system has a top rate of 7%. A flat tax would provide a 5.3% rate with no deductions. This will be discussed further at the special session in September. Mr. Nixon answered questions about the tax cut that was provided last year.

Mr. Nixon reviewed the increase in the school age population. For FY 2007 there was an enrollment growth of 2.9%. The costs associated with this growth is near \$61.5 million. The Governor's priorities are education, economic development, quality of life and governance.

Mr. Nixon reported that although compensation is a priority, it will be difficult to know the amount that could go towards this issue because of the cost of other priorities. The tax structure was further discussed. (Power point will be included)

3. PLACING BUDGET PROPOSALS IN CONTEXT: WORKLOAD AND DEMOGRAPHIC TRENDS; FISCAL TRENDS AND BUDGET PROCESS; FY 2006

PROPOSALS IN SUMMARY: (Daniel J. Becker, Kim Allard, Fred Jayne, Myron K. March)

-Workload/Demographic Trends: (Kim Allard)

Mr. Braden reported he will be reviewing the case filing trends, the case category detail, the judicial weighted caseload and the CourTools performance trends. Mr. Braden reviewed the break down of each case type filing in the Supreme, Appellate, District, Juvenile and Justice Courts. Overall, the filings have decreased, largely due to a decrease in debt collection civil cases. The breakdown of each case type is attached.

In District Court, the judicial weighted caseload is effected by the reduction in filings only slightly. Although there is a 21% decrease in case filing over the last five years, there is only a 5% weighted caseload decrease. The increase in filings have been in criminal cases. The judicial weighted caseload was broken into case type.

Mr. Braden reviewed the Juvenile Court filings and judicial weighted caseload. The Justice Court case filings were also reviewed. Data indicates that small claims have dramatically decreased.

Ms. Allard provided a CourtTools update on time to disposition, age of active pending cases, and the clearance rate for the 4th quarter. (Power Point Included)

- Fiscal Trends and Budget Process: (Myron K. March, Fred Jayne)

Mr. March reported on the courts budget summary. Mr. March highlighted specific accounts that currently needed attention or would need additional help in the foreseeable future.

-The first was the Children's Legal Defense Fund (CLDF). This money comes from a \$2 filing fee and \$10 marriage license fee. Additional revenue comes from Divorce Education Videos. This fund covers the mandatory divorce education, a mediation program, the use of GAL's and the expedited parent-time enforcement pilot program.

This program's revenue has been going down. Recommendations for FY08 is to increase this fund by \$2 from filing fees to \$4 in order to increase the fund by \$200,000. This increase would cover the expenses being generated in the programs covered by this fund. Legislation is required for this filing fee increase which will be discussed further.

- -The Alternative Dispute Resolution fund is collected by the filing fee and sale of the ADR video. The yearly revenue has been dropping. The spending has exceeded the income and there will not be enough to cover the deficit by next July. To make this program whole, the filing fee must be increased by \$.50. The Juvenile Court has requested two child welfare mediators, by increasing this fund by \$2, the child welfare mediators could also be covered in addition to the program costs.
- -The Court Reporter Technology Fund has remained healthy. After the change of making court reporter's state employees, this fund was created with the transcript fees. This fund goes toward part of salaries, training and computer software. In FY 04 and FY 05 an increase of \$100,000 was used to upgrade equipment. At this point additional monies are not needed.
- -The Court Complex Fund has suffered some loss in recent years in large part due to the legislature

using fund surplus to build new courthouses or fund operations and maintenance costs. The revenue has decreased since 2001. FY 09 and beyond are projected to be in deficit. A request by FY 09 is expected. To make the fund whole requires one, or a combination of the following:

- -an increase in fees to off-set the deficit
- -an appropriation from the general fund to the general fund restricted account to replace the funds used for other purposes
- -a decrease in the appropriation from the restricted account and off-setting increase from the General Fund to cover the annual decrease from the restricted account
- -The Judicial Council controls the Law Library non-lapsing fund. Revenue should continue at \$9,000 \$10,000. The estimated balance for FY 2007 is \$125,500.
- -The Security Fee, currently funded by HB 371 covers bailiff services. The fund is currently healthy. Last year the Legislature increased the fund by \$170,000. The appropriation for FY 2007 is \$4,170,000. The recommendation is to increase the appropriations by \$500,000. Based off the perimeter security report that was presented to the Judicial Council last month, the option of having an independent court security officer was discussed. A request of an additional \$86,500 to increase the appropriations out of this fund could be used for a court security officer.
- -The Justice Court Technology and Training account from SB 196 which provides the technology, security, and training grant program is healthy and collecting the anticipated amount of \$1,050,000.

- FY 2007 Proposals in Summary: (Daniel J. Becker)

Mr. Becker indicated that the summary of the building blocks is described on page 21 of the budget and planning binder and that they will each be reviewed throughout the remainder of the day.

1. DISTRICT BOARD REPORT: (Hon. David Mower, Mark Jones)

Chief Justice Durham welcomed Judge Mower and Mr. Jones to the Budget and Planning Meeting. Judge Mower explained how the Board reached their priorities and indicated the importance those requests have on the district judges.

The Board of District Court Judges determined the following priorities:

- 1. 3rd District Commissioner
- 2. Law Clerks (7)

Judge Mower indicated that the Board of District Court Judges felt strongly that the Council make compensation for staff a priority. Judge Mower reviewed the members on the District Court Board. Mr. Jones reported that this is the first time in many years that the Board of District Court Judges have not requested a judge and these items represent very disciplined requests.

2. JUVENILE BOARD REPORT: (Hon. Mary Noonan, Ray Wahl)

Judge Noonan thanked the Council for their consideration of the Juvenile Board's request. Judge Noonan reviewed the members of the Board of Juvenile Judges and introduced Judge Beth

Lindsley, Associate Presiding Judge of the 3rd District. Judge Noonan reported that, similar to the District Court Judges, the Juvenile Board also felt that clerk compensation was a priority. During the past year, this item has been an overall priority of the board. The reason this item was not included in top three priorities is because the funding for compensation comes from a separate budget.

The Board of Juvenile Judges made the following requests:

- 1. Judicial resources for 3rd District
- 2. Child Welfare Mediator
- 3. Clerical Resources

Judge Lindsley indicated that the growth in the south of the valley have necessitated additional judicial resources. Two child welfare mediators were lost in the budget cuts a few years ago, the board's second request is to restore that loss. Judge Noonan explained how crucial child welfare mediator's are to the juvenile court's success. Clerical resources are necessary to accommodate additional courthouses built throughout the state. These top three requests were prioritized out of 17 original requests.

3. INFORMATION TECHNOLOGY STANDING COMMITTEE REPORT: (Hon. William Thorne, Kim Allard, Gordon Bissegger)

Judge Thorne reviewed the committee members on the Technology Committee. Judge Thorne explained the need for the committee's requests. Judge Thorne, Mr. Bissegger, and Ms. Allard answered questions about equipment.

The Technology Standing Committee made the following requests:

- 1. Document Scanning
- 2. Digital Audio Visual Equipment
- 3. Content Manager/Licensing
- 4. DP replacement schedule

4. FACILITIES COMMITTEE REPORT: (Hon. Sheila McCleve, Gordon Bissegger)

Judge McCleve reported that the St. George Courthouse is the Facilities Committee top priority. Judge McCleve and Mr. Bissegger provided pictures of the area where the proposed Courthouse would be built. The Building Board has indicated this could be in the top three of their priorities this year. If everything goes as planned, and design and construction is approved during this legislative session, construction should begin November of 2007.

The second priority of the Facilities Committee is the Ogden Courthouse. The property originally chosen for this building could not be purchased. Mr. Bissegger provided the alternative locations in downtown Ogden. The current juvenile building would be retained for probation offices. The plan is to acquire the land this legislative session and move forward next legislative session with the construction.

The Sanpete County Courthouse and Spanish Fork Courthouse needs lease increases. The Sanpete County Courthouse should be done October of 2007 at the site originally approved during the last Budget and Planning Meeting. The Spanish Fork Courthouse being used now would become city offices and the new courthouse would be similar in size to the Sanpete Courthouse.

Mr. Bissegger reviewed the general fund increase request, the dedicated credits and the GFR Restricted Account for a total budget increase of \$778,900.

5. EDUCATION STANDING COMMITTEE REPORT: (Hon. Gordon Low, Dr. Diane Cowdrey)

Judge Lowe presented a power point that outlined the mission statement of the Education Committee, the committee membership, and the requests the Committee prioritized.

The Education Standing Committee requested the following:

- 1. PO Safety Training
- 2. Executive Leadership Development
- 3. Pro Tem Judge Training
- 4. Local Discretionary Funds

6. GUARDIAN AD LITEM: (Debra Moore, Kristin Brewer)

Debra Moore reported that the request for \$2.2 million is a reprise of last year's GAL request. During the last legislative session, the GAL office was unable to receive any additional funding. The Legislative Audit that was performed in 2005 suggested that 22 additional attorneys were needed to meet the ABA staffing standards. Instead, the recommendation of the GAL Oversight Committee for attorneys would allow one GAL assigned to each Juvenile Judge and Commissioner's courtroom.

The GAL Oversight Committee requested the following increase:

1. Personnel & Equipment

The breakdown of this request would include the ongoing money to fund:

- -CASA volunteer, recruitment, training and education
- -Retain experienced attorney's and increase productivity

Salary Increase

Provide Support Staff

-Increase number of GALs to reduce caseload

One time funding would also assist in the following items:

- -scanning equipment
- -equipment for support staff
- -equipment for GAL attorneys

Discussion took place about the prioritization of CASA volunteers over GAL attorneys. Some members of the Judicial Council felt it was better to proceed with the same request as last year in order to communicate the great need for attorney's and continue to allow the legislative audit support the GAL request. Ms. Moore indicated she will take those concerns back to the Committee and they will further discuss strategic options. Mr. Jayne reported that if the Children's Defense Fund does not receive an additional \$2 increase, there will also be an additional loss of \$95,000 in the GAL program.

7. OTHER REQUESTS:

-Self-Represented Litigant Committee: (Judge John Baxter, Mary Boudreau)

Judge Baxter thanked the Council for their consideration of the needs of the Self-Represented Litigant Committee. Last month at the Judicial Council Meeting the committee proposed the creation for a pilot project creating a self-help support center that will provide resources and service to self-represented parties in the second and eighth districts. This request would fund a full-time staff attorney and the equipment and work space for that position. The Committee will also work to create an assessment tool to evaluate if this position would be helpful to self-represented litigants. Judge Baxter reported that the Committee is in the process of meeting with Bar representatives and AOC staff to further determine the guidelines of providing assistance to the public. Judge Baxter indicated that the Committee has moved as far forward as they can by establishing their strategic plan without taking action. This program is a pilot program that would be reevaluated as it continues.

-Security: (Myron K. March, Daniel J. Becker)

Mr. Becker reported that, as had already been discussed, the courts must plan for their own security needs by having a specialized court security position. Mr. March had introduced the option of using the security fund to create a contracted position by utilizing the \$86,500.

-Law Library: (Jessica VanBuren)

Ms. VanBuren reported that the Lexis Nexis account is partially funded by the general fund and the justice court technology, security and training account, although it has been continually underfunded. Ms. VanBuren is requesting ongoing money to cover the deficit. This fund was transferred from the IT Department to the Library and has not ever been fully funded. The courts are under contract with Lexis Nexis until 2009.

- Interpreters: (Judge Lynn Davis, Mary Boudreau)

Judge Davis reported that there is a great need to increase the compensation rate for court interpreters. The court interpreters work on a contractual basis and receive no health insurance or retirement. The Interpreter Committee is requesting that the court interpreters receive a 3.5% increase similar to what court employees received this past year and that their salary be reconsidered each year the employees receive an increase. The total of this request would be \$19,900. Discussion took place about conducting a market comparability on some years instead of automatically providing an increase every time state employees receive an increase. Judge Davis also encouraged Council members to openly thank the interpreters who assist in their courtroom.

- Employee Assistance: (Rob Parkes)

Mr. Parkes reported that although the employee assistance is not a program that can be measured openly, there are reports that 6% - 7% of the 1200 court employees are utilizing this service monthly. Mr. Parkes also indicated that this program is a valuable tool to offer employees in times of crises or as a way of providing additional services during difficult job situations. The \$32,000 request is the cap of the amount the court would spend.

- Juror/Witness/Interpreter: (Fred Jayne)

Mr. Jayne reported that by statute the juror/witness/interpreter budget can go into deficit and is continually under-funded. For this past year, the deficit is \$82,800.

Thursday, August 24, 2006

8. LEGISLATION: (Richard Schwermer, Mark Jones, Tim Shea)

Rick Schwermer and Tim Shea provided an updated draft of the legislation the Liaison Committee has reviewed. The first bill addressed listing the judges phone numbers and personal contact information in voter information. Up to this point the information has not been used in the voter information material and the Lt. Governor's office has indicated it won't be used in the future, so legislation will not be advanced.

The second item of legislation establishes perjury for filing a false affidavit as a criminal offense. This item will be referred to Paul Boyden at SWAP.

The Judicial Council has discussed at length ways to strengthen the role of the presiding judge. Draft legislation was presented that would allow PJ's compensation to be increased to \$2,000 and Associate PJ's increased to \$1,500. Although the money is not a large amount, this bill would also send the message of the importance the judiciary places on the role of a presiding judge.

Mr. Schwermer reported that additional legislation is also prepared that proposes a case management position to be created in both 3rd District and 3rd Juvenile Court. These positions would monitor case management principles and assist the TCE.

Motion: David Bird motioned to allow AOC staff to move forward with the legislation increasing the payment of the presiding judges and the creation of the caseload management position. Judge Barrett seconded the motion, the motion was voted on and passed with Judge Beacham and Judge Nelson voting against the motion and Judge Hilder abstaining from voting.

9. ANALYSIS DISCUSSION AND PRIORITIZATION: (Daniel J. Becker)

Mr. Becker reported that based on yesterday's presentations, it is evident that the boards and committees have worked hard to limit their requests to include only the greatest needs, making the Council's prioritization process easier. The Executive Budget Committee met at the beginning of this month and looked at each request from a systemic view. Based on those recommendations, Mr. Becker created a list of items that should be funded. To reach this list, the GOPB guidelines were considered, which have become less strict over the past year. The Council's principles and strategic agenda and the courts workload trends were also considered. Mr. Becker reported that the Citizen's Committee will meet shortly and discuss the judicial compensation issue. This year they will also discuss how law professor's and law schools general counsel's compare to judicial salaries throughout the state. Mr. Parkes will be presenting more information on clerical compensation later in the meeting.

Mr. Becker reported that the deputy clerk request from the juvenile court should be addressed through shifting resources once the Provo Justice Court opens. Alternative funding through grants can address the PO safety training and the executive leadership program that the Education Department requested. Mr. Becker suggested considering the following requests in the Council's April budget meeting: pro-tem judge training; executive leadership programs; employee assistance program; Lexis Nexus; and the digital audio requests. The requests not addressed included the local discretionary funding and the documentation scanning.

Mr. Becker reported that the following requests should be advanced: 3rd District Juvenile Court Judge; district court Law clerks; self-represented litigant pilot project (one time); imaging

system licensing (one time); and data processing equipment (one time). Many of these requests are one time costs, which often have a better chance for funding approval from the Legislature.

Mr. Becker reported that the following could possibly be funded through alternative ways. The 3rd District Commissioner request could be addressed through savings from HB 213. The Legislature has asked for a study to determine the savings from HB 213 and could possibly take that surplus from the courts. The child welfare mediators request could be handled by raising the ADR Fund by \$2 which would allow for a solvent fund and also create two child welfare mediators. The court security officer could come out of the court security fund that was discussed yesterday.

The mandates recommended include leases and contracts, the juror, witness, interpreter fund, and the GAL request. Mr. Becker also suggested advancing the interpreter pay on a one time basis until a more comprehensive approach can be developed and considered next year. Debra Moore was apparently receptive to the Council's suggestions about advancing a more similar request that they did last year. Mr. Becker suggested the Council advance that request based on the conversations had yesterday.

Mr. Parkes provided more information on the market comparability survey that was done last year. Mr. Parkes reported that these comparability studies do not address all court positions. The courts are about three years behind the market in entry level pay. The market comparison benchmarked clerical positions to deputy court clerks. The data was collected from city and county justice courts in both rural and urban areas. The large city comparison showed the courts were 9.1% behind at entry level, and 8.4% behind at working level. The statewide comparison was 8.4% behind at entry and 6.2% behind at working level. To increase the entry pay at each of the career track positions for deputy court clerks, a 8.25% increase would be required, or three steps. The new range would move the rate from \$10.68 to \$11.58. The total cost for this increase would be \$640,655. Although this increase effects only entry level, it also increases the entire pay range of many positions. The lead deputy clerks would be increased by two steps, or 5.5%. The cost for this increase would be \$111,266. To increase the entry range of chief deputy clerks of court and the clerks of court, a 5.5% increase and total cost of \$38,288 would be needed.

The total cost of this increase would be \$790,000 and 65% of the 564 people in clerical positions would be effected. This proposal deals with compression and entry ranges, but does not address all the needs for court employees. DHRM could propose a market comparability study to the Legislature, which would be done by October 15th. The Governor doesn't propose his priorities until later in the year. If the market comparability is not advanced, the courts could take this request to the appropriations committee. At this point the request will be submitted to DHRM. If this is not advanced through DHRM, the Council could further discuss progressing this request as a building block.

The Council reviewed each request and categorized them based on mandate, building block, alternative funding, deferral and fiscal note.

<u>AMOUNT</u>	<u>CATEGORY</u>
232,800	Mandate Obligation
150,000	Mandate Obligation
32,000	Deferred
106,600	Building Block
	232,800 150,000 32,000

Interpreter Contracts	19,900	Alternative Funding
Lexis Nexis	39,000	Deferred
3 rd District Commissioner	139,000	Building Block
Law Clerks	569,100	Building Block
3 rd Juvenile Judge	266,700	Fiscal Note
Child Welfare Mediator	136,700	Alternative Funding
Clerical Resources	255,200	Alternative Funding
Document Scanning	26,100	Alternative Funding
Digital Audio Visual	32,000	Deferred
Content Manager/Licensing	110,000	Building Block
DP Replacement Schedule	240,000	Building Block
PO Safety training	37,400	Alternative Funding
Pro Tem Judge Training	2,000	Deferred
Local Discretionary Funds	9,200	Eliminate
Exec. Leadership Development	40,400	Alternative Funding
GAL Personnel & Equipment	2,131,500	Mandates (100,00) in alternate
Lease	778,900	Mandates
Court Security Officer	86, 700	Building Block
Bailiff	500,000	Building Block
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ADR Filing Fee Fiscal Note CLDF Filing Fee Fiscal Note

Judge Lyon reported he understood the reasoning for six instead of seven law clerks based on Mr. Becker's recommendations that the 7th District didn't yet need a law clerk. However, he reported that as those additional resources are available, all the judges should have meaningful access to a law clerk, including the 7th District. Discussion took place to clarify that the 7th law clerk wouldn't automatically be assigned to a district, but that those assignments would be made based on need.

<u>Motion:</u> Judge Hilder motioned to keep the law clerk request at seven, instead of six, Judge Stott seconded the motion. The motion passed unanimously.

Mr. Schwermer explained that the increase in the ADR and CLDF filing fees does not increase the filing fee to the public, it just requires more money moved to the courts budget from the general fund.

Judge Jensen reported that the security officer and the bailiff fund are two different items and should be considered separately for prioritization purposes. The division should be articulated so that the money can be used for separate security needs. The content manager item was discussed and explained as an imaging system and licensing fee.

The Judicial Council members then voted privately on the building block requests.

The first round of voting came out as follows:

- 1. Law Clerks
- 2. 3rd Juvenile Judge
- 3. 3rd District Commissioner
- 4. DP replacement schedule
- 5. Content Manager
- 6. Self-represented parties

The law clerks would be the only building block request forwarded as the 3rd District Commissioner could be addressed through excess HB 213 funds, the 3rd District Juvenile Judge would be a fiscal note.

Motion: Judge Stott motioned that the priorities represented on the first ballot be adopted as the Council's recommendations, Judge Barrett seconded the motion, the motion passed unanimously.

<u>Motion:</u> Judge Hilder motioned to accept the categorization of the list with the understanding that the specific amount of GAL request would be set at the September meeting, Judge Jensen seconded the motion, the motion passed unanimously.

Motion: David Bird motioned to adopt items left off yesterdays proposed legislation be adopted, including the increase in ADR and CLDF fees, the motion was seconded and passed unanimously.

The understanding is that with the 3rd District Commissioner be funded by the excess in HB 213, if that money is not available, the request will be converted to a building block

Chief Justice Durham thanked everyone for their hard work during the budget and planning meeting.

Motion: A motion was made to adjourn the meeting, the motion was seconded and passed unanimously.