

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 website. What follows is a formatted and unedited transcript of the last meeting. The official record of each meeting, the meeting minutes, are usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts website at www.courts.ca.gov.

The meeting will begin shortly.

>> Good afternoon and welcome. This is the public meeting of the Judicial Council of California for Thursday, August 25, 2016. This meeting is now in session.

>> The Chief Justice is tending to a very important family matter and she has asked me to chair this meeting. I know everyone in this room, but for those of you who do not know me, I am Justice Ming Chin, vice chair of the council. I have been asked to assume the chief's roles and responsibilities for this session. This is the start of a two-day session. We will resume this afternoon at approximately 3:15 PM for our service awards and Access to Justice Awards ceremony and reconvene tomorrow morning in this chamber at 8:50 AM for the second part of our public meeting agenda. This afternoon's session will have educational agenda items and one discussion agenda item. The educational agenda items are designed to provide councilmembers with additional context and background on issues and topics that might inform our decision-making recommendations that may come before the council at future meetings. Today we will have presentations on three critical areas of interest to all of us: the state's economic forecast; the updates on our technology plan relating to the appellate courts and e-filing; and an overview of two important physical planning allocation tools: the resource assessments study model and the workload-based allocation and funding methodology. Our discussion agenda item also relates to another important topic: innovation. Many of us still recall the annual Ralph N. Kleps Award for court innovations that began in 1991. Today we will hear about the new Court Innovations Grant Program that came about as the result of ongoing collaborations and discussions with our sister branches of government and the administration and the Legislature. It is another exciting opportunity for the courts to recognize and funded for their efforts in innovating and improving services and efficiency and increasing access to justice for all Californians. The first item on our educational agenda is a Department of Finance presentation on the economic forecast for the State of California. I cannot wait to hear this. This is not an action item. There are no presentation materials for the council. We are very pleased to welcome Ms. Irena Asmundson, Chief Economist at the California Department of Finance, to share information on the economic forecast of our state. Since joining the Department of Finance in 2013, she has become familiar with the judicial branch's projects and funds. We have had a positive working relationship with her department, the current director, Michael Cohen, and the previous director -- they have both come to Judicial Council meetings to share their budget perspectives and respond to questions from the councilmembers. She directs the department's periodic economic revenue and population projections, reviews economic impact analysis of California's major regulations, and provides advice on economic policy issues. Prior to joining the State of California, she was a

senior economist with the International Monetary Fund, covering global, macro, economic and financial imbalances, the international monetary system and trade, and the forecast and policy advice on countries including Afghanistan and the United Kingdom. She served as a staff economist on the President's Council of Economic Advisers. She received her bachelor's degree in economics and mathematics from the Massachusetts Institute of Technology and her Ph.D. in economics from Stanford University. She is a second-generation Californian, so please join me in giving a warm welcome to Ms. Asmundson.

>> [Applause]

>> Members of the council, thank you so much for inviting me. I hope that we have a good discussion today. I will be going through a number of charts, which I think may have been passed out in grayscale but I hope that we are getting color copies soon. Or you can look at the screen. It is my preference that you interrupt me with questions as they come up rather than waiting until the end, although I reserve the right to defer questions if I'm going to get to it later. Let's jump right in. The first chart -- well, let me give you an overview of what I'm going to talk about. The first point that I wanted to make is that recessions happen. It is just inevitable, a fact of life. We would like to put them off as long as possible, but it is going to happen and the only question is when. I also wanted to walk you through a number of California's economic and revenue trends so that you have some context for discussions about your own budget, and I also wanted to touch on a number of structural trends that I think that you probably are aware of, but I can tell you a little bit about the economic underpinnings of them. Those are housing -- I do not know how many of you are living in the Bay Area or struggling with cost, but that is definitely an issue. Inequality is another issue -- California has a relatively high poverty rate. And demographics, in terms of the aging of the population. And also climate change issues that the state is going to have to deal with in the future. All right. This may have been the chart from the introduction to the budget. This might have been the chart that prompted your request for me to come and talk to you. So this measures the length of economic expansions, so after the recession ends, this is how long we have in terms of months until the next recession hits. You can see the longest bar right there goes to 120 months, so that corresponds to about 10 years. The average, after World War II, is pretty close to five years. And our current expansion is now a little bit over seven years. So I am not saying that the next recession is going to happen in the next three years, but it would be very unusual to go longer than three years. That would be record-breaking, in a sense. So there are reasons to think that maybe it is going to be a little bit longer than previous expansions, but this chart is supposed to emphasize that, yes, recessions are going to happen, eventually. This is what happens to California and the U.S. in terms of the unemployment rate. If you are looking at this in grayscale, I'm very sorry. The top line, with a higher unemployment rate, is for California. The lower rate is for the U.S. as a whole. The shaded vertical areas -- those are recessions themselves. So as you can see, unemployment tends to go up during recessions, and for California itself, unemployment keeps going up even after the recession is over. I should also note that recessions are only dated for the U.S. as a whole. There is no such thing as a California-specific recession, so when we have the shading that is for the U.S. you can see California unemployment goes up and it comes down. Right now we are pretty close to where it usually hits bottom. In the past couple of months, in June and July, we saw a rising

unemployment rate, which I regard as somewhat positive, in the sense that it was due to people coming back into the labor force. For the last couple of years, because economic times have been kind of tough, teenagers have not been going out to look for summer jobs and it looks as though this is the year that teenagers can actually go and find summer jobs -- I had a summer job when I was a teenager. Everyone should do that, you know? For all sorts of reasons -- and the other reason that is somewhat reassuring, in the sense that it tells you how good economic times are -- is that California has been raising the minimum wage for the past few years. It went up to \$10 an hour at the beginning of 2016, and one of the worries was that the lower-skilled workers, the people who were just breaking into the labor force -- it would mean that they would not be able to find any summer jobs, so it looks like that is not true. So really, the take-away from this chart is it goes up and it comes down.

>> Can I ask a quick question?

>> Yeah.

>> Is there any explanation for why California's unemployment rate consistently stays higher than the national norm?

>> That is a great question. I'm glad you brought that up. California tends to have a higher unemployment rate for structural reasons. So if you think of the unemployment rate -- it is almost never zero because someone is always between jobs, always just entering the labor force, and the unemployment rate sort of depends on how long those people have to go between jobs or how often they are out of a job and are looking for a new one. California has a number of industries where they are a little bit more dynamic, so we don't have a lot of jobs where you start working for a firm and then you stay working for that firm for 30 years. It is much more common to have a job for a year, two years, maybe have a couple of weeks off, and then find another job. It does not mean that our economy is stronger or weaker. It just means the experience of unemployment is a little bit different for people in California than it is in the U.S. Any other questions? Okay. This is, in terms of jobs, so as you can see there is sort of an upward trend, just because in California and the U.S., both have increasing populations. So you would expect employment to go up over time. California is the top line, and it is associated with the right-hand axis. The lower line is for the U.S., and it is associated with the left-hand axis. So you can see that they both following the same pattern. You can also see that in the last recession, which lasted a little bit longer, because that vertical gray bar is wider, the number of jobs that were lost was also much larger. That is really tough. It took California a little bit longer to come back and, more recently, California has been growing faster. That is why we are now the sixth largest economy in the world. So just a slightly different take on the ups and downs in the California and U.S. economies. Okay. This is one where it is going to be really, really hard to see unless you have color. I am sorry. This is California personal income broken down by type of income. So the bottom-most component of that is wages and salaries. The biggest driver of personal income in California, as a whole, is wages and salaries, which is a product of average wages and how many people are employed. So wages and salaries can be going of both because average wages are rising or because more people are becoming employed. For a long time, wages, especially for a large swathes of middle income or lower income people, were pretty flat, the average wages

were, but the number of people employed was going up, so we got growth that way. Now because the unemployment rate is so low and there is a relatively small proportion of people that can be added into the labor force, then average wages are starting to go up. That means that the people are better off -- very positive for the economy. The other components are supplements to wages and salaries, which captures benefits -- both health benefits and pension benefits. I'm sure that is a topic that you discuss regularly. The other components are proprietors' incomes, so for businesses -- property income, which includes rents if you are a landlord; and then transfer receipts, which is at the very top. Transfer receipts includes both unemployment insurance benefits, and that was a key stabilizer during the last recession. You can see that, unlike the other charts that I showed you, which were very much up and down, personal income very, very rarely drops that much. That is partly because of that stabilizing factor of unemployment insurance and partly because personal income is mostly driven by the very top component, and rich people rarely lose that much money. So, over time, what we expect to see is, even though the unemployment rate is coming down and unemployment insurance payments are coming down, with an aging population, Social Security payments and those transfer receipts are going to get much larger. This is another one that is going to be difficult to see. I am sorry. This is California state revenue by source. This goes back all the way to 1950 because I wanted to offer a historical perspective. All the way to the left is 1950-1951, for that fiscal year. You can see that bottom bar, which is retail sales and use taxes. That was close to 60%. And then, over time, that has come down markedly, and that middle component -- which is personal income taxes -- has grown to be a much larger share, because we tend to have a very progressive tax system, that also means that our budget revenues are much more dependent on those top earners. So that has been a long historical trend where people have made policy choices not to, for example, tax services, so only goods are taxed, or to have exemptions. The other components, also not included here, by the way, are property taxes. But you can overall see this very strong structural trend. Yes.

>> Is there a reason that retail sales and use tax have declined?

>> Yes. That is a great question. So the base for retail sales and use tax is really goods. And with productivity increases, you can get much cheaper goods now than you used to. And people are spending much more on services. So if I have \$100 in disposable income, whereas 50 years ago I might have had to spend 75% of that on buying food or furniture or clothing, now those are so much cheaper as a proportion of my income, and now I can also buy all sorts of services -- healthcare, educational services, yoga classes -- which the Governor has said he does not want to tax yoga classes, but that is a service. As people get richer, they tend to spend more money on services than they do on goods, so it is just an overall, long-term structural trend. As we get better at making stuff, it employs less people, and also we spend a smaller proportion of our income on it.

>> Question.

>> Yes.

>> I just cannot see on the chart -- there is on maybe the sixth item, six rows in, it says 5.0 and then 1.2 and it looks like one of the categories disappears as you move to the right. Which category is that?

>> That is the estate tax. No more estate tax. There was a change in policy to the exemption limits. We get almost no revenue from that. I'm not entirely sure when that happened.

>> The big chunk in the green is the personal income tax?

>> Yes. The bottom one is retail and sales and use tax, the middle big one is personal income tax, above that is corporation tax. So, corporation tax, even though we have a lot of very rich companies that make extraordinary profits, when it comes time for them to file their taxes, a lot of them declare very little taxable income.

>> Okay. So this shows you relative volatility, both in personal income and major revenues, so this is not just personal income taxes but all of the revenues, including personal -- retail and sales. Personal income is the relatively less volatile line, which is dotted, and the very spiky one is our major revenue. So that is the year-over-year growth and you can see that it is relatively volatile. I am sorry. I should have mentioned something in personal income -- so when I showed you that personal income chart that had very few dips even during the recession, I should point out that that personal income series does not include capital gains. You will hear a lot about how volatile capital gains are, but they do not actually count as personal income, and the reason for that is because it is a change in wealth concept. It is not something that you get every year. So even though we tax it and we get a lot of revenue from it, and we are very heavily dependent on it, it does not go along with that series. It is just something about the economic data. So this is just to point out how volatile our revenue growth can be year-over-year. Okay. So these are capital gains. Capital gains are highly correlated with the stock market. This is the S&P 500 index -- I think I have it going back all the way to 1950. 1990. So this goes back to 1990. It still has the recession shading, so you can see the three recessions, and you can see it goes up and it comes right back down. It goes up and it comes down. We are now up, and we look like we are sort of trending along, but, based on past history, this is one of those ones that goes down eventually. I don't know when it is going to happen. If I could time the stock market I probably would not have this job.

>> [Laughter]

>> It is what it is. Okay. I wanted to put this chart in because this shows you the relative proportions of income that go to the top 1% of Californians and then the proportion of personal income taxes paid by that same 1%. So the bottom line is the share of income. So it went from about 14% in 1993 and then 2014 is the most recent data point that we have. It is about 10 percentage points higher. So the top 1% is generally doing better than they used to be. We have also become more heavily reliant on revenue through them, but you can also see that there is a lot of spiking in the amount of taxes that they pay. So right now, about 50% of our taxes come from that 1%. That makes our job as forecasters very, very difficult, because we are not looking at broad trends. We are trying to figure out: When are the rich people going to sell the stocks that

they have gains on? And, unless we could read their minds or read the minds of the financial advisors, that is almost impossible.

>> Question.

>> Yes.

>> Does this include capital gains?

>> This one does include capital gains. Personal income in taxes include capital gains but it is the economic series, the total, that does not include it. Thank you. All right. I think you all have color now.

>> Can we start over?

>> [Laughter]

>> We can. Starting from the top.

>> [Laughter]

>> That one was in grayscale anyway. Let me flip through these and, as you see them in color, if anyone has any additional questions, let me know or, if you want to go back, we can do that.

>> I was kidding.

>> Okay.

>> [Laughter]

>> This is the personal income by the way, now that you can see it a little bit better, and you can see in particular, the end, that transfer receipts that gets bigger over time. There is that state revenue by source. All right. Moving to the structural trends, one of the ones that I wanted to highlight is housing costs. So I realize that this might seem a little bit far removed from your day-to-day jobs, but housing costs in California really drive a great deal of people's behavior, and it is people's behavior that drives the economy. So you can see that this chart goes all the way back to 2000. The red color of the bars are single-family homes and the blue bars are multi-family units. So these are units are not building so each unit basically houses a household. You can see that it used to be much more common to build lots of single-family housing, and to build relatively little multi-family housing. You can also see that the multifamily housing has remained relatively stable over time. Multifamily tends to be located in denser, more urban areas. It can maybe face more opposition because you generally have to take away something before you can introduce new stuff. So people become a little unhappy about this. But the other thing that you can see is that, even if you assume that during 2005, when that big wave of building was happening, even if that is too much housing, we have really not built very much housing over the recovery. Whether this is because of inequality and people cannot afford to buy new homes, whether this is people do not want long commutes anymore and it is difficult to build this infill, it is just a structural change and that really drives inflation. California has higher inflation than the U.S. as a whole, mostly because of housing. And it also means that people are spending a far

higher proportion of their incomes on housing. That means that they have less disposable income for other things. This is poverty rates. So there are two poverty rates, and I also put the unemployment rate, sort of for context. The bottom line is unemployment and the middle is the official poverty rate. That is just calculated on a threshold that is set for the entire U.S. It is based on a 1960 measure of how much a family would need to pay for their housing and food at that time. And then it is inflated over time. The top line -- even using the official poverty rate, California is around 16%. That is high -- 16% of Californians live underneath the official poverty rate. That means more than 1 in 10 people.

>> What was the 2014 official poverty rate in dollars?

>> This is a complicated question to answer because poverty thresholds are calculated according to your household circumstances, so the poverty threshold for a single person is different than for a two-person household, and it is different for two people with two kids, or one parent with two kids. So there are tables that I can share with you, but there is no one answer about what that threshold is.

>> Okay.

>> Often times, if we are talking about minimum wage, you will sometimes hear people talking about, well, so, if you pay \$10 an hour, that does not lift a family of four above the poverty line. It might lift a single person but it would not help a family. The answer is, it depends. So the top line is an experimental measure. This is not an official measure, but the Census Bureau has been experimenting with trying to look at poverty, taking into account cost of living. And it is probably no surprise that California's supplemental poverty measure is higher than the official poverty measure because California tends to be a very high-cost state. People pay a lot in rents. People have to pay a lot in educational expenses, healthcare can be a burden, so the supplemental poverty measure is above 20% -- 1 in 5 people have a hard time making a living. The other statistic that I might mention, and this is a U.S.-wide statistic, is that the Federal Reserve now does a survey of people's household finances. They ask a series of questions. One of them is, if you were faced with an unexpected expense of \$400, would you be able to come up with the money? 49% of people said no. That is down somewhat from last year where 51% of people said that they could not afford that, but that is still half of all respondents. And again, that is for the U.S. as a whole, so it might not be entirely reflective of California, but that is a shocking statistic to me, that somebody would not be able to come up with \$400 to repair their car or to pay a health bill or to send their kid to an extracurricular activity or something. So that shows you the range of experiences that people face in terms of making ends meet. Okay. Turning to demographics, I am sure that it is no surprise that California is aging at a relatively fast rate. These are population pyramids -- if you ever want to see the movie of this, you can go to the Department of Finance website and go to the demographics section and you can watch the movie going from 1940 all the way up to 2060, which is when the forecast ends. So the one on the left is the population period for 2000. The blue lines on the left are men and the red lines on the right are women, and the ages go up. I think that there is a cutoff at 100, because we do not really forecast for ages over 100. It sort of goes into a catchall of 100 plus. Eventually with longevity increases, we might have to readjust that but for right now, it stops at 100. So under a normal

population pyramid, you really see a pyramid. As people sort of die off, it gets narrower. On the right-hand side, that population pyramid corresponds to 2020. It is much more cylindrical because people have stopped having as many kids. Fewer young people are moving to California. California overall is experiencing lower population growth from migration and from birth. People are living longer. They are surviving to older ages and you can see that the relative mass has sort of shifted upwards. So good news for everyone, because everyone ages. No one ever gets any younger, but it also means that, in terms of planning purposes, we face a very different world than if you are assuming that there is going to be two workers who are going to support every retiree. Other countries have much worse situations where, in Japan, for example, it is one working person supports one retiree. Same thing in Germany. We are not quite to that level, but the number of working-age population to retirees -- that proportion is going down. Final structural trends. In retrospect, I probably should have added more historical data to this one, because you can really only see that little dip, so the top blue line is vehicle miles traveled per day, and that is on the left-hand axis, and the California population, which basically looks like a straight line, is below that, and that is associated with the axis on the right. Generally speaking, it was a fairly good planning assumption that vehicle miles traveled would grow with population. Maybe it would grow faster than population because, as people had to commute for longer distances or it became cheaper, relatively speaking, to their incomes to have a car, they could drive more. But during the last recession, starting in 2008, not just in 2010, you saw declining vehicle miles traveled -- not just per capita, which you might expect given the clean air goals, but overall. That was the first time that it happened, basically since everyone got cars. I am slightly biased, because I live in Davis, where everyone believes in biking and I do not have a car. I took the train in and it was lovely.

>> [Laughter]

>> It was a very different trend, and it was kind of a shocker in terms of we were not getting as much in gas taxes. It was very strange behavior. This is a projection that goes out until 2030. These assumptions are from the ARB, the Air Resources Board, so they do assume that vehicle miles traveled is going to keep going up, and they are going to meet their clean energy goals by shifting more towards electric vehicles and lower carbon and a different mix of vehicles, while vehicle miles traveled goes up with the population, but, again, it was a complete surprise to us when vehicle miles traveled went down. So something structural could happen, and, in fact, everyone likes to talk about how everyone is going to be able to have Uber and you are never going to have to have a car, and if we ever manage to build multi-family housing, people might stop driving that much. They might have shorter commutes and live in smaller places. These types of structural trends, they sneak up on you. So while everyone does expect vehicle miles to keep going up -- which I think is important for you in terms of traffic violations -- that is something that could change relatively quickly. That is the end of my charts. Did anyone have any questions, overall? Specific questions about the charts?

>> Yes.

>> I did have a question about the length of time between recessions and sort of where the market is now and where it was before. I saw some other discussion and some charts before, just

watching the news programs, that showed after the Great Recession, we did not really come out of it the way that people thought, and that we were sort of behind the trend, going back 50 or 60 years. We were actually behind and so some folks were saying, well, we are not looking for another big dive because we are still behind on the longer term. What do you think about that?

>> Entirely possible. If you look at the unemployment rate chart, that also shows you sort of how slowly we recovered. So unemployment remained much higher for longer than we are used to. That speaks to, yeah, maybe this recovery is just proceeding slower. Typically, what sets off a recession -- it is different every time -- but what happens is people start thinking, okay, growth is going to happen forever. The wages start rising. People have more money. They start bidding up prices and you get higher inflation. So usually the first sign of a recession is inflation. Inflation is still really, really low. It is below 1% for the U.S. as a whole, even though the Federal Reserve is targeting a 2% inflation rate. In California it is about 2%, but we should probably be above the U.S., just because we have higher housing inflation and we also have clean energy goals that mean that energy prices should rise relatively faster than the U.S. So, yes, there is probably still some time to go before the next recession. Again, I cannot tell you when that will be. This could be a record-breaking expansion. But yeah.

>> Question.

>> Yes.

>> In terms of the average recession, do we know what an average recession -- how long it lasts?

>> Well, you can sort of tell from this one.

>> That makes it look like they do not last very long.

>> Yes. So typically, they are maybe two quarters or maybe three and the last one was very unusual in that it lasted six. That is a very long recession, a year and a half, where things keep on dropping. Usually it is a short, sharp drop. We had run just sort of an indicative, I am not predicting a recession next year, but we wanted to run an indicative scenario for the Governor's budget, so we had what would happen if California experienced a typical recession, and we chose that at four quarters, so a full fiscal year and what would happen in that scenario.

>> Referring back to your chart on California, personal income, in millions, I would like to go quickly through some definitions. The first is I get net wages and salaries, but what is included in proprietors' income?

>> That is business income. So if you are a sole practitioner lawyer, an accountant, if you run a business, then that income -- because it is not a wage and salary that you are paying yourself. It is sort of a business income, but it gets reported on your personal income.

>> All right. What is a transfer receipt?

>> The transfer receipts are mostly unemployment insurance and Social Security payments.

>> All right. And what is included in supplements to wages and salaries?

>> Supplements to wages and salaries is any sort of benefit. So health benefits, pension benefits.

>> Vacation?

>> That comes as a wage and salary because that is part of the normal.

>> Property income would be passive income from real estate?

>> Yes. Mostly.

>> Thank you.

>> Yeah. Another question?

>> When recessions hit, does that change the percentage of revenue by source? We are looking at this sort of multi-tiered, colored chart -- does that change in a recessionary period?

>> That is a great question.

>> Does it have any consequence? Even if it does --

>> Do the relative -- yes -- partly for policy reasons. So the prior is kind of that everything kind of drops together, but as a relative proportion, during the last recession, one of the policy changes that they did to try to fill the budget hole was they changed the way in which corporations could take losses. So there was a limit on how much you could take each year in losses. So that you could not declare a massive amount of losses in one year, you had to continue paying some sort of obligation, so you have losses that accrued over time. And after they lifted that restriction, then they had additional losses to write off. So that changed the proportions. Yeah. So it is hard to tell. I am sorry.

>> Given the fact that recessions happen and it is a constant, the last recession that we had, many of us had -- we were able to survive through that recession because we had a fund balance. Being that that is no longer available to us, how should we be -- can we be -- planning for that upcoming recession in the next zero to three years?

>> I am going to leave that for the judgment of the council about how you want to deal with that. Sorry. There was another question.

>> What is the official definition of recession? Are there a certain number of quarters -- I cannot remember the number or the things.

>> Your memory is mostly correct in that the sort of rule of thumb is that it is two quarters of drop in growth, but the reality is a little bit more nuanced. So recession dating is done in a kinda strange way, by a private organization, the National Bureau of Economic Research, and the recession dating council is composed of a number of professors. They look at monthly data and decide we are in a recession based on a whole host of things. So it could be falling production. It could be rising unemployment. It could be falling overall GDP growth. It could be any number of factors. So basically they have discretion.

>> I have been asked to ask each of you to speak directly into the microphone because your questions are not being heard. So I will ask one and hopefully, it might be heard. I was delighted to hear you say that you cannot predict the timing of the next recession. There are a lot of people out there who are, and one of them says it is going to occur on September 30. Are they crackpots?

>> [Laughter]

>> One of the few economics jokes -- economists have predicted seven out of the last five recessions. [Laughter] So, yes, you can predict the next recession if you keep on saying the next recession will happen the next month and eventually you will get it right.

>> [Laughter]

>> Eventually you will get it right.

>> [Laughter]

>> I have a question for you. Some of the charts -- you were showing the poverty rate remaining constant or even increasing. You are also showing the lack of housing being constructed. But what is interesting and what is striking is you are showing that over a period of what is being described as the economic recovery -- post the last recession, which we see from the prior chart -- is steeper, deeper, and longer in duration than what we have seen before and yet we hear about recovery, we hear about recovery, and I'm wondering if you can talk a little bit about the paradox that seems to be occurring of what you would expect when you hear about economic recovery.

>> That is a great question. While it is true that the overall recovery has been proceeding, and because we think that unemployment is relatively low and is sort of at a relatively stable, healthy rate, we might say that we have fully recovered. That does not mean that every person is just as well off as they were before the recession. That is part of the paradox, in that you might be making the same amount of money that you were, even in real terms, in terms of the overall CPI. But in terms of how much you are paying in housing, that might be higher. So you are relatively worse off than you used to be. A lot of the gains to the top are masking the weakness at the bottom. So when you look at these aggregate numbers, you are missing the fact that poverty has remained very stubbornly high. I do not have easy answers. Economists are still grappling with this, trying to figure out what exactly is going on. Some people will say this is technological change in the sense that you just do not have the same kinds of mass employment opportunities in manufacturing and other things. It could be that there is a higher premium on higher education where, to do even basic jobs now, you are expected to have a college degree. That leaves a lot of people out in the cold. As a statistic about being able to pay \$400 -- that sort of illustrates that.

>> Is a reasonable layperson way to characterize this -- we talk a lot about inequality and recovery and we still have a large inequality problem in the midst of a recovery, which is one of those paradoxes that is operating. We usually talk about in layperson's terms about the rich getting richer. But is it fair to say that at least through this recovery, maybe one of the features

that is unique is that the rich have recovered and may not necessarily be getting richer. But it is more maybe a story of the poor getting poorer.

>> Certainly in relative terms, that is true. There were dueling economic studies -- because economists love to disagree with each other -- trying to figure out if it was true that the rich have gotten richer since the recession or not. And the answer is it really depends on when you start that counting. If you start at the bottom, because a lot of relatively wealthy people had a lot of money in the stock market, the stock market crashed and so then they have sort of recovered over time. If you judge from pre-recession, to figure out, where are they relative to the last peak? So one of the facts is that wealthy people are doing relatively well in the economy overall, both because they tend to be relatively more educated, because they tend to have assets, and interest rates are very low so it is very easy for them to borrow. But relatively poor people do not have access to those borrowing opportunities that they might be able to use to lift themselves out of poverty.

>> Okay. I have a follow-up question on the relative poverty rates. According to your chart, we seemed to do pretty well from 2011 until 2013 and then it dropped a couple of percentage points and now it is creeping back up. What changed?

>> So I would hesitate to read too much into that. These measures are relatively squishy. There should be some error bands around there, so I would not necessarily say that is a trend. But the fact remains that, as you have decreasing unemployment, you would expect that the downward trend in poverty would keep going down. So it could be that, as unemployment is decreasing, the people who are in poverty have given up on looking. Because the unemployment rate depends on people identifying themselves as unemployed -- so not having a job, but still looking. If you have given up on looking, then you are not counted as part of that official unemployment rate. And I believe there has been some controversy about how you measure that unemployment rate in the political arena -- but the official unemployment rate does require that you say that you have actively been looking. So the poverty rate could be supported by people who just have given up. Yes. Question.

>> As we are planning for the next year or two and our local trial courts are trying to plan on how much money they are going to be able to depend on, or we are guessing how much money is going to be coming in, can you give us just general advice on what we should be assuming? Is there going to be growth? How much?

>> Our forecast is published along with the Governor's budget and the May revision. The most recent is the May revision and in that we assumed that there is continuing growth over the next three years to four years. That is somewhat by convention in the sense that, if I were not to assume continued growth, I would have to make a call about when there would not be growth. Because I cannot time the recession, that I do sort of assume that we will muddle along. Having said that, because we are mostly recovered, in the sense that unemployment is relatively low, you are not going to get the additional growth from people finding jobs, and it all has to come from average wages or people doing better in their current circumstances. Growth is probably going to

slow a little bit, so the assumption would be continued growth, relatively slower than what we have seen in the past couple of years -- with the big caveat that I could be wrong.

>> [Laughter]

>> It looks like multi-family units are almost where they were before. But single-family are drastically different, and they seem to be kind of constant, so is that where it is going to be? Is there a reason why it is not recovering like the others did?

>> For a couple of years our forecast said, next year for sure we are going to get more growth in single-family housing, and after a couple of years of going in to brief our director with red faces, we finally admitted that this looks like it is a permanent trend. I think there might be a number of factors there. One is that people who were willing to buy single-family homes and have relatively longer commutes when they thought that their house was a good store of value -- after the big housing crash, that was not a great assumption. So you are never going to find someone willing to pay \$400,000 to have a two-hour commute into San Francisco in some of these bedroom communities, and people are just really spooked by that, so that, coupled with the realization that California probably is going to face extended droughts in the future, so it is relatively difficult to continue building these big suburbs with yards and lawns and swimming pools -- I actually think that probably single-family housing might go up over time, but it is never going to get back to where it was. California is now in a different state than it was in 2000. Yes.

>> If you were to extend that graphic past, into the 1990s, would the 1990s look more like what is happening now? Or more like what happened prior to 2008 until 2000?

>> It is closer to what happened in 2000. So the historical trend is very much towards single-family homes. The difficult part about these charts is that this is the number of units, but our population is also much larger, so we have done alternative calculations that sort of look at, how many units would we have to build just to keep up with population growth? And right now, you know, according to all the measures that we can come up with, this is absolutely not keeping up with the population growth. So if California is now adding a couple hundred thousand people every year, and we are adding about 100,000 units, that is not enough. Yeah.

>> Statewide, one of the solutions is the rainy day fund. What is the goal -- what is the amount that is needed in that fund? And for what period of time will it protect us?

>> The rainy day fund has a number of conditions on it that say how much can be set aside in the rainy day fund.

>> Can we count on that, by the way?

>> The rainy day fund?

>> [Laughter]

>> The joke is that when we were trying to figure out the rainy day fund, I said, for California, the "rainy day" fund is not a good way to think of it. We should think of it as a drought fund,

except that we were in a drought then and I think that would have led to the temptation to use it, but it is supposed to be a balancing account. [Laughter] Right now, I think that there is about \$10 billion. I should look this up, I will get back to you on the exact number -- but what we had calculated as part of the recession scenario that we talked about in the Governor's budget was that, over three years, the revenue shortfall would be about \$40 billion. So if you did not want to cut any programs at all and you wanted to give yourself over three years, you would need \$40 billion set aside, which I don't know is ever going to happen.

>> Yes.

>> Is your office -- does it anticipate recommending changes in the way budgeting is done or recommending that to the executive office or the Governor based on these forecasts?

>> I am mostly going to defer that to people at a higher pay grade than me, but I will tell you that the Governor has been very cognizant of the fact that recessions happen. So I think he, temperamentally, as one of those people who has lived through quite a lot in California's cycle of history, he gets the fact that recessions happen. And I think that he has been very clear with the Legislature about, he really wants to build a budget and build in flexibility to account for that when it happens. Yes.

>> You answered an earlier question on this but I would like to probe in a little more deeply because I think it is a major factor that is going to affect our state. What do you theoretically see as the impact of the drought on population growth? On courthouse needs? And on our economy overall?

>> That is a good question. So the drought really is not over yet. Everyone keeps thinking, we had a lot of rain and we had snowpack at Lake Tahoe so that must mean that we are okay.

>> We are in a new normal.

>> Or we are in a new normal and the reality of it is that the drought has surprisingly little impact on the economy, mostly because the economy is generally driven by people doing stuff which is not in the agricultural sector. If this were the 1930s, that would be a very different answer because a larger proportion of the workforce would have been working in agriculture. Right now, there are about 400,000 jobs in agriculture. But there are about 16 million not in agriculture. So while it certainly means that, for example, single-family homes are probably not going to be built on farm land because it is going to be difficult to find water for that, it probably means that it would be a small blip.

>> Interesting.

>> Yeah.

>> And you include in that what our statistics are showing in terms of future courthouse needs.

>> I do not know how the drought would interact with courthouse needs.

>> Yes.

>> I think we have time for one last question.

>> Okay. One last question.

>> [Laughter]

>> You had indicated that the poverty level was coming up. But during the period of the drought, it did not affect the economy that much, but aren't most of the farmworkers under the poverty level, and if there was some damage to the agricultural economy, would that not affect the farmworkers, which would raise -- put more people into the poverty level?

>> That is a good point. So when I say the overall impact is relatively limited of the drought, it has certainly affected the agricultural sector enormously, except for the fact that all of our statistics show that agricultural employment kept growing during the four years of the drought, which, again, was one of those embarrassing things where I kept on predicting that it was going to be lower and then the actual statistics would come out and it was slightly higher. So one of the explanations -- and people at UC Davis did some great work on this, showing that with relatively less water, farmers tend to shift more towards labor-intensive crops that are higher value. So, while it is true that there was displacement in terms of crops -- so if you were a farmworker specializing in a particular crop and that crop was not doing well and if you were not able to shift into the new kinds of labor, if you were specializing in lettuce and now you were specializing in alfalfa, then that shift would be disruptive -- but overall, that is what seemed to be happening. Poverty amongst farmworkers is a real issue. You are correct about that.

>> Dr. Asmundson, I want to thank you for your interesting and outstanding presentation. I was a little disappointed that you could not give us personal advice on what we should be doing [laughter] but I want to thank you for your environmental consciousness and taking the train from Davis. I am familiar with the environmental mindset in Davis. My brother lives there. He built a house in Davis with no air conditioning and no heat.

>> Thank you so much for having me.

>> [Applause]

>> Next on our educational agenda, we have Judicial Branch Technology Update: Appellate Technology. It will be presented by my good friend and committee chair, Justice Marsha Slough, the chair of the Judicial Council Technology Committee, and she is accompanied by Ms. Julie Bagoye, Judicial Council Information Technology.

>> Thank you very much, but I feel like I am at my parents' Thanksgiving table when I was a kid. The chair is a little short. I will try to sit up tall. Thank you for allowing us to present to you this afternoon. I am, as you referenced, joined by Julie Bagoye, a Senior Business Systems Analyst with the Judicial Council Information Technology. We are here to provide an update on technology, on judicial branch technology -- specifically, the statewide and court technology advancements in the area of appellate technology. For just one moment, offline, I will share probably one of the most important things that she taught me -- and I have not told you this -- but when she was at our division, Justice Miller, helping us with the e-filing initiative which you are

-- you are going to hear about in a moment, we had a good long talk. And the thing that she said to me that I think spoke volumes not only as to our needs but as to her, is she said we need to work hard on technology issues not for the sake of technology -- it is not to have the fastest, newest, biggest gadget because it allows us to have the fastest, biggest newest gadget -- we have to do it for the right reason, and that is to make our jobs better and easier for the people that we are here to serve, and I want to thank you for coming to us with that perspective, because I think that is critical to the work of Judicial Branch Technology. So thank you, Julie.

>> You are very welcome.

>> So the Judicial Council Technology Committee has been regularly reporting to you as a group regarding the progress that we have made. Just as a brief reminder, the Chief Justice approves the Technology Planning Task Force back in December 2012. Many of you participated on that task force. It was led by Judge Herman, and it was tasked with developing a governance structure for technology, a funding model, and also a strategic and tactical plan for technology. This was important, not only for us as the judicial branch, but it was also important to our sister branches of government. Rightfully so, they wanted to see that we had a plan going forward so that it would help them feel confident in moving forward with funding future technology initiatives. The task force completed its work in 2014 with the Judicial Council adopting the Court Technology Governance and Strategic Plan in August 2014 and adopting an updated plan in October 2014. As some of you may recall, in December 2015, you heard about the success of our governance structure, which is driven by the work stream methodology. You may recall that Mr. Robert Oyung, the CIO, chief information technology officer for the County of Santa Clara, and also tonight will be a Distinguished Service Award winner, came and reported on the security framework work stream, which was the first work stream to be completed. Later, Jeannette Vannoy, the CIO from Napa, reported on the partnership between Napa, which is a smaller court, in Monterey, a medium court, and Santa Clara, a large court, in working together on the deployment of your case management system. The February meeting, Mr. Snorri Ogata, the CIO from the County of Los Angeles, reported on local innovation. You recall that their avatar -- do you remember Gina talking to us through the screen? She helped to make it easier for the public to access the court on traffic matters. In fact, Gina won a nationwide award at a conference back in Pittsburgh -- No. 2 out of the top 10 in the nation and even some other country innovations -- and Los Angeles should be complemented and Gina should really be very proud of the work that she is doing. I mentioned the work streams and I wanted to show you, if I could, briefly, the number of work streams, the number of people involved, and what is actually being accomplished. You can see that we have work streams on the security framework, which has been completed. There are nine members associated with that work stream. It was published -- a framework documented -- for implementing a strategy as it relates to security and for funding requirements. We have the work stream for CMS data exchange. There are 31 members throughout the state that are involved in the data exchange and helping to establish standards as it relates to exchanging data. We have the e-filing strategy, which there are 19 members in the work stream. They are working to update technical standards, help to develop the statewide EF, e-filing standards. You remember what it stands for from the last time that we were together and we talked about the e-filing work stream. We also have the next-generation

hosting work stream. The video remote interpreting work stream, the self-represented litigants, e-filing work stream. You can see that there are a lot of different people within the trial courts and within JC technology staff that are working diligently on each of these various technologies initiatives. We have already seen the benefits. We will see benefits in the future, and today we are here with Julie, who is going to share with us the similar type of work that is occurring in the courts of review. And it is a theme. It is a theme that runs from the trial court to the Courts of Appeal, to the Supreme Court, and that is allowing the public to access the files, allowing the courts to access their files easier, through e-filing. So with that, what I am going to do is turn it over to JoAnne Feeney so that she can share the work that she has been running around the state completing.

>> Thank you. Good afternoon, and thank you so much for giving me this opportunity to report about the appellate court e-filing project. I would like to start off with telling you a little bit about our process and our vendor. We started this project in 2013. We put out an RFP for bid, and it was to be of no cost for the court as a branch proposal so we thought that we would never get anyone to bid on that, but surprisingly enough we got multiple bidders. We did select one. The recovery model for the vendor is paid through the transaction fees that the filers used for the e-filing. The company that we picked is called ImageSoft. They are a Detroit-based company and they have over 20 years of experience, mostly with the government client base. They have specific appellate court -- state appellate court experience, so we found them to be a good fit. They provide and they maintain and they support the web portal, which is the outside filers place that they go to to submit electronic filing. That is their job and that is what they do for us, and they also have a free call-in the helpdesk that provides support free of charge with actual live customer agents. So after selecting, we started our implementation process. We started with the schedule that you will see on the slide with the Court of Appeal in San Francisco first. We have made quite a bit of progress. We have made of the e-filing project live in six Courts of Appeal, mandatory in all case types, and we have three to go. We are going to complete the Santa Ana division in September, and then we are going to move on to finish up with Los Angeles and next year we are going to start with the Supreme Court. So once we have gotten it into this whole place of getting e-filing going, we have an implementation process. I would like to sort of just briefly tell you what is involved with that. It all starts out with a local rule of court that each Court of Appeal devises so that it gets the go-live start dates and any particular protocols that they have. The local rule gives information to the public and then we move on from there about customizing the systemic each court of appeal, even though they have the same system, needs a few features that will be different. We upload things like justices' electronic signatures, which are different, and we do customized workflows internally, which are different from court to court so the ImageSoft team and the JCC IT team combines efforts to get things ready. The next thing we do is start on the training.

>> ImageSoft, the company, comes out from Detroit to the individual court at no charge to the court and no charge to the community and provides live training for the outside lawyers and anyone, litigants, self-represented litigants that would want to learn how to use that system. They have to live WebEx so if you cannot attend the actual session, you can certainly login and watch. After we have done that sort of training, the team that I work on, primarily does the inside-the-

courthouse training. I was fortunate enough to get to spend time with Justice Slough, Justice Miller, and some of the other justices that have had the e-filing project come to their courts, so we provide that training to the clerk's office, the justices, the research attorneys, and so forth. That pretty much sets us up for going live, and when the day comes, the filings start to come in. We obviously know that this was a great project to work on, but what I would like to briefly talk about are some of the benefits that we have achieved. Starting with the court-appointed counsel program, we have court-appointed project offices all over the state. Of course, doing some of the research, when we were looking at cost and things, we found that for criminal cases, it cost the average panel attorney about \$100 per brief to go to the xeroxing, the copying, the binding of the briefs, going to mail it out to these different groups of people and whatnot, and it was very expensive for that claim for compensation that was coming later. We were paying a lot of money for everyone. And right now, the current charges are \$10.50 per brief for a panel attorney to just upload their brief on the website. And it is not only faster and it saves time and all of that, but it is a huge dollar savings to the state as well, and those fees are still reimbursed to the panel attorney, so instead of them charging us \$100 per brief, we are looking at the neighborhood of \$10. So we know that, over time, we are going to save a lot of money because we do a lot of criminal case work in this state. Moving on to self-represented litigants, we were always sort of crossing our fingers, hoping that we were going to see a warm welcome from them, and it has been way more overwhelming than we had imagined. They really, really like it. They find it so much easier to use. They find it so much cheaper than having to go to Kinko's and FedEx and all of those other places to prepare things. I was in Riverside in the court and while I was working in the clerk's office, a self-represented litigant called in and said, are you really doing e-filing? Can I really, really do it? And the clerk said yes, and I said, I live in this remote county in the Fourth District and it takes me about one hour to come to Riverside so I have got to do that and to file, a two-hour drive, and this is so much better and I do not have to use gas money and I do not have to make all of those copies and I am so excited that I can get to use this. So we did not expect that we were going to get that kind of response, but it has been rather overwhelming, and we are very pleased. If someone cannot or does not want to file electronically, then it can apply to the court for an exemption and opt out, and surprisingly we have only had about 20 statewide in the last couple, three years now. So that is very encouraging. Our justice partners, our Attorney General office, our court-appointed counsel program, our trial court folks. We do see a lot of benefits with that. I will -- I spent a bit of time with the Attorney General's office in that. The way that all of the deputy attorney generals get involved in appellate cases is when the first documents start coming in. They don't assign staff until they have something to start working on. That was always such a huge problem with the paper, because you never knew when you were going to get it and they could not necessarily rely on getting it. Now they are in a better place to assign cases out to those deputy attorney generals faster and more efficiently. The courts of appeal do not have to deliver -- the defendants that are incarcerated -- documents to the Attorney General's office, to get that started. We have saved money there. So that project offices like it, the appointed-counsel folks, the Attorney General office, and everyone seems to be able to do their work faster and they love to get the stuff electronically and at a convenient pace. Internally for the appellate court, the staff, the justices, the research staff, getting everything into the courthouse is great, but the court still has to do its work and they still have to perform the

function that they do for the research and getting the cases out and creating opinions and all of that. That component of it has proven to be quite a big benefit to the staff. There is the ability to word search through large transcripts, and the justices can pass things around between themselves, and they can do things remotely when they are in the courthouse, or not in the courthouse. There are -- the research attorneys like that. I know that it has taken some getting used to, and when Justice Slough talks about these staff testimonials, you'll get a little bit of the flavor of that, but the clerk's office staff has not needed as much file management in the file room so they have freed up labor and they have repurposed that. The benefits have been substantial across a multitude of different places. To sort of give you a little fun part of customer testimonials, we went to the courts of appeal that had some have e-filing and we asked if we could get staff to give us a their opinion so that we could share that with you and we will do that now.

>> Thank you. We received a lot of good responses. In fact, more than we have time to include and we are appreciative of all of the responses that we received. I will not be able to talk as though I am him, but here is what Justice Bruce Smith provided: I was confirmed as an associate justice to the Fifth District Court of Appeal in December 2014. Immediately prior to my elevation, I sat in the Civil Division of the Superior Court and was well acquainted with the volume of documents and files that passed through my chambers on a daily, weekly, and monthly basis. Mistaken delivery of the wrong file or document to my chambers or the need to have an additional file or document delivered to me -- half day delay at a minimum in whatever I was working on. Currently with the e-file documents, I have immediate access to every file that I need. Stories of justices taking files home or leaving them in the trunks of their cars -- we do not do that, do we, Justice Miller? They are now myths of the past, and today multiple people can have access to the same document at the same time, virtually eliminating one of my greatest frustrations at the Superior Court. The ability to save documents and portions of the record in my own files makes working much easier. The flexibility of having access to an entire record without lugging around multiple dog houses or multiple briefcases is a luxury that I am certain that my predecessors would envy, and the ability to perform word searches in a transcript or record is amazing. While I have not perfected the process, I have been able to search transcripts and briefs on my laptop during oral arguments, which has proven beneficial in verifying statements, and made signing documents electronically also incredibly efficient. Being able to sign orders from afar and not having to circulate them physically from justice to justice to justice certainly streamlines the process and allows for orders to be signed and filed in minutes rather than hours or days. I enjoy learning and using new technology. However, that is certainly not a prerequisite to being able to learn, grasp, and quickly take advantage of e-filing and its benefits. Next, Ms. Anne Maas -- I am not sure I am saying her name correctly. She is a supervising deputy clerk for the Court of Appeal, this appellate district is in Sacramento: As the supervising deputy clerk in a very busy court, our office processes 55,000 documents a year. Being able to process large files by simply clicking a few buttons has saved my entire office so much time. Additionally, within the court that I work in, we are able to electronically route documents to one another in seconds. The savings in our time plus supplies and space has been enormous. I really love the program and it has made the work much easier and enjoyable to process. Next is from

Ms. Connie Littrell, the lead appellate court attorney for the Court of Appeal, Third District from Fresno.

>> I think for the record we ought to correct this. Our Third District is in Sacramento.

>> At the Fifth District. Thank you. I apologize. Thank you for that correction. They have got a whole bunch of different work that they did not know that they had to do.

>> [Laughter]

>> We need more judges.

>> Yeah. Lead appellate attorney assigned to the chambers of Justice Jennifer Dudgeon. I have been with the Fifth District Court of Appeal since 1987. Initially I was against the whole idea of e-filing. I don't even own a smartphone. I do not like change, particularly when it impacts the way that I do my job. Now I get grumpy if any of the record in a case assigned to me is not e-filed. I often do complex criminal cases with records that exceed 10,000 pages. To be able to electronically search that record and the parties brief is incredibly helpful and time-saving. It is also helpful to have all justices on the panel have immediate access to the record rather than having to carry a volume of the transcripts back and forth. In addition, any file record can easily be downloaded onto a thumb drive or laptop so that I can work at home should the need arise. This may seem like a small thing but they mean a lot to those of us who are working on these cases. I have experienced some issues with electronic records but not to the extent that I feared. I have been able to alleviate the problems for the most part by changing the font size with which I am reviewing the record and by sometimes using the reader instead of the desktop computer. From my perspective, e-filing is one of those innovations that I wonder how we did without it. I like it. But I still will not buy a smartphone.

>> We hope that you enjoyed those.

>> [Laughter]

>> I would like to finish up with a segment on a document management system. Frequently we hear about document management systems -- our term, DMS -- and they are talked about in conjunction with e-filing systems and why that is it is because they are a critical component for those types of projects. In simple terms, what is DMS? It is a software tool and it helps you to store, retrieve, and share electronic documents once you have them in your system that way. So the court -- getting all of these documents inside -- it is great, but the court still needs to be able to work with them, and we still need to be able to provide access to those documents by the public. So the Courts of Appeal are embarking on a very important time right now to try and acquire document management system to go along with this project, and we are hoping for the three key things that we are going to get out of it. Obviously, we need to deal with our storage. Electronic documents, paper documents, we need storage, and that can be expensive so electronically speaking, we need a storage component that is cost beneficial, so we are looking to DMS for that. As I mentioned, internally, the court needs to do its work to work on the cases and we need that document management system to help move those things around internally and allow justices to collaborate and to edit their opinions and circulate them back and forth and so

forth. That is what a document management system would do internally. The one feature that I think is really important is the part where we can make documents available to the web. So we have a great appellate case information website right now, and all we really need to do is to get all of this documentation that is now electronic out there to the public. I wanted to just share a quick little story if I could from a friend of mine about e-filing and the web access to the public. My friend is a bankruptcy lawyer, and he is a sole practitioner. All he does is bankruptcy work. He has a two-person office, himself and one legal assistant. He knows what kind of job I do and what kind of project I am working on and so forth, and he said, I've got to tell you about what happened. You have got to do something about this. I said, what is it? What happened? He said, well, I have got this client in bankruptcy court and I needed to get these orders out of the person's divorce proceedings in another trial court. The bankruptcy trustee wanted the orders so I had to get them. I figured, no big deal. I will go on to that Superior Court website and get the minute orders that I need and we are good to go, and he says, so I get online, and first of all I cannot tell one from the next. It just says minute order, minute order, and I do not know if it is the property settlement orders or the child support orders, and so I figured, I will just look at them and I will download whatever I need. I could not do that either. So then he figures, well, if I cannot tell, I will just download them all and I will figure it out later. Just get them. I could not do that either. There was no access to any of those documents to view or to download them. And he is somewhat in a quandary. He says, It takes more than one hour for me to go from my office to that superior court, but I have got to get this done and I cannot just leave my office for three hours. So he calls a colleague of his who lives in the other city, and he says, Can you go down to the courthouse and pull this file for me? I need to get these orders for the trustee. And he said, Okay, I will get my legal assistant to go down there. So that person goes down to the superior court, stand in line, gets the file, pulls out all of that stuff. The superior court clerk makes the copies, and that person goes back to the office and finally gets it back to my friend. So he said, The point of the story is that it took two hours of my legal assistant's time and it took at least two hours of my friend's time, and I do not even know how long it took for the superior court clerk to do that part of it and, by the time this got back to me, he said if it had been online, I could have done it in 20 minutes, and now all of this time has been expended. You have got to make sure this does not happen. I know that you are involved with this and don't let this happen. It is a ridiculous waste of everybody's time. So, of course, you know, I was very happy to hear about it. And the point of my story is that we have this great opportunity right now to provide a service that crosses all court jurisdictions. Our trial courts, our appellate courts, our federal court, and we have to really keep in mind that we have a legal community and we have litigants that we have to serve, and this is a prime part of this project and a very focal point of what we have to do. E-filing is wonderful and great and the business community expects it, but we do have a duty to the people that we serve and we really hope that we can be successful at getting this so that we can provide access to the court and to the public in a much better, more modern way. And that concludes my presentation. Thank you very much for letting me have the opportunity to do this today. And I will give it back to Justice Slough.

>> She ended on what I started with. She keeps her focus on the fact that we are here doing this for others, not just for us. And I really want to thank you genuinely for the work that you and your team and your staff has accomplished over the last year and a half or so dealing with the

appellate project at the appellate courts and I want to thank Justice Bruiniers, who has worked very hard on this issue in the appellate court -- in bringing this day to life and to fruition. Technology is truly a key part of our infrastructure. It is not just bricks and mortar, as Martin says -- it is clicks and mortar at times. We have a great opportunity to improve access to the people that we are charged to serve. If we continue to work together, if we continue to realize that it takes a village, and the village starts from the trial courts and goes to the courts of appeal and ultimately Justice Chin, it rests with you at the Supreme Court level. We want to continue to come to you, showing you the work that is being accomplished through the work streams and we also want to say thank you to all of the presiding judges and CEOs who generously have given their time to the work streams and given your staff time to the work streams because working collectively is proving to be a great resource for us in a time when we really have a great need, a great need to move forward, and we can only do it for so long without a stable funding stream. We must continue to advocate for stable funding, not only for the branch, but specifically for technology initiatives. For all of us. So, thank you very much, and we are here to answer any questions that you may have on the work stream, on the JCTC or on the project that she has been working on.

>> Justice Slough, Julie, Jessica, thank you for an outstanding presentation. We have a couple of minutes if anyone has any comments or questions for the panel.

>> Julie, thank you so much for all of the work that you have done to bring us to this remarkable position. It is incredible that it was done without cost to the branch. We need more projects like this.

>> I agree. Thank you, Your Honor.

>> And you are doing a remarkable service to the public in making our appellate courts more responsive to the needs of the people that we serve. That is what all of our courts ought to be doing and we thank you most sincerely.

>> Thank you.

>> [Applause]

>> Our final educational agenda item is Resource Assessment Study, Workload Based Allocation and Funding Methodology in the Trial Courts. Martin is going to introduce the subject matter, and introduce the panel members who are going to participate in the presentation.

>> Thank you, Justice Chin, and as we are transitioning, I wanted to put what we are doing next in a little bit of a context. This is a tough subject for this hour of the day, we are going to talk about what I would call the allocation side of our budgetary process. This is where you have a presentation of the Resource Assessment Study as well as what is called the Workload Allocation Funding Methodology, the two acronyms that we use a lot, called WAFM and RAS -- but these are not everybody's favorite subjects because they can be technical in nature but they go to the heart of what is clearly one of the primary functions of the council and the members here, which is to put the allocations out and distribute them annually and then manage them actively during the course of the year, which is what the councilmembers who have been on this

council have been doing over the last few years. It will indeed be the fate of the new council members as they join this table to make these particular decisions. In terms of context, you heard the presentation earlier from Irena Asmundson and that was setting the stage a little bit about putting things in context. This is about understanding a little bit deeper about the state economy itself and how the overall state budget then fits in and operates inside that economy and how it is affected by it, and likewise how the judicial branch budget operates inside the state budget, and right down to the core issues that show up in your operations. So we are attempting to thread and walk through all of this together to try to integrate how some of these pieces fit together and deepen our collective understanding about it. I would hope that you can see from the presentation from Ms. Asmundson that there are changes or behaviors or things that you might have been able to infer from that presentation which you actually see in our workhouses and our courtrooms in terms of the users and the manners in which they may access things. You know that we are spending a lot of time on the subject of fines, fees, and assessments, and I will talk about that tomorrow. It is an issue that connects, again, with our budget, and how it operates when she cites -- I do not know if she cited the source on this -- but when she gave you the fact about the \$400 being the margin for which 49% of folks in America in our survey say that is the amount of money that, if it came into the household, that it would either force them to sell something or to borrow in order to make that -- it puts it in context when you think about in our world, what a traffic fine is today and what a fee is to be paid and what assessments and additional costs and penalties and legal and financial obligations are imposed on that segment of our population. It may have some explanatory power for what is actually happening in our system collectively. The cite for that particular statistic or survey was actually the Federal Reserve Board, so it turns out that they have a research unit and we have been busy drilling on the economy and its effects likewise, so I reference that to you because I know that you deal regularly and daily with facts and evidence, so I wanted you to know the source related to that. Presenting on this particular subject, getting to the allocation piece, and we understand that some of you have had it before, and maybe do not care to get too deep on it, but this is the job that we have in front of us, so presenting is our director from Finance, who is Zlatko Theodorovic, and to the right is Deana Farole, from the Office of Research, and to the right is Colin Simpson, also from our Finance office.

>> Thank you, Martin. That is a great introduction and you all have the PowerPoint. I think it was in the materials but we have it up on the screen. I want to sort of walk into this. Let's go into it. WAFM impacts you every day that you walk into the courts -- be it as a practitioner or staff or even judges or justices -- because the work that is going on at the trial court level and filtering into the appellate level, so understand that -- that is a key responsibility of this council -- exercising its statutory authority to allocate funds. So WAFM, the workload-based allocation funding methodology, is that method by which we do that core allocation of resources. And so, why do we have WAFM? What is different than what we have done before? Many of you know over the last 15 to 20 years, populations have changed and therefore, the workload that is impacting the trial courts has changed as well. What this recognizes is that there needs to have been some sort of adjustment to that sort of snapshot when trial court funding started, to recognize the change in workload. So you had population centers reduce, workload reduce in the Bay Area, and then you had a workload increases in the Inland Empire as an example. Yet we

were for many years still reflecting allocations to those population centers as they had happened when the trial court funding occurred. We had done some small adjustments throughout the years, but what really brought the impetus for WAFM was a message in the May revision of 2012, brought by the administration looking to create a workgroup to look at the implementation of the Trial Court Funding Act. And in those conversations, this issue of how the allocations should go was raised and Diane Cummins from the Governor's office, the public finance, was asking us, what have you done to bring a greater equity based on workload changes? During that time, the economy was looking to improve, and there was some concern and thought that, if we did not possibly transform the way we as a council allocated resources, the administration might not be as forthcoming with new resources in the budget. So the budget working group, trial court budget working group at the time, thought it was important that we started to look at the issue, so concurrent with the work of this group that was spearheaded through this effort from the governor's office, the budget advisory committee convened a group to work on this and we did many meetings over many months and it culminated ultimately in the April adoption by the council to embark on this change process. Lo and behold, that budget has \$60 million of finally new funding for the trial courts, and many of us thought that it was an acknowledgment of the hard work that the branch had gone through to get to this new method. That is not quite contained -- I think that these are some of the facts, the color of it, really, is important to understand. It took us a while to get to this new methodology. Are there any questions about that historical perspective as where we are in WAFM? Very good. So what is important about the details of WAFM? It is based on filings -- it is filings driven and Deana will go more into it when she talks about RAS. There are so many pieces of information about it, relative funding levels, and we will get to a chart that will show you where everybody stands relative to WAFM funding. What we understand is that WAFM determines the total cost based on these filings of what it costs to run the trial courts, excluding certain issues, but we will not get into the details at this moment. We looked to see what we actually get from the state budget. We all acknowledge that WAFM has a cost greater than our available resources, and the last bullet there, I think it is important to understand, that as of the 2015-2016 fiscal year, the equivalent of funding that we get is about 72% of what we need, based on the method that RAS and WAFM put together for us. So that just shows that there is a huge funding gap. When we advocate for additional resources to the Department of Finance, Governor's Office, and the Legislature, we use that as an indicator of the level of underfunding that the branch has. Prior to WAFM, we did not have that measure, and I think that is important from an advocacy perspective because you do not have a standard methodology, to really point to. When I got here, it was how much do we need? They would ask that you give us \$109 million? \$200 million? What was that buying? WAFM creates an analytically based estimate of what we need, therefore we have something that we can shoot towards and show people progress towards meeting that need, so I think that is an important issue for us to understand, because when we talk about the BCPs tomorrow, we will talk about how much more money we want to move towards that full funding of the WAFM need. I will turn it over to Deana now.

>> All right. WAFM really starts with RAS, the resource assessment study, and what it allows us to do is to estimate sort of the overall staff need based on workload expressed as the number of full-time equivalents. We will go into more how that is estimated. We start with a staffing need,

and then we turn that staff into dollars, using an average salary cost and adjusting for cost-of-labor differentials using the U.S. Bureau of Labor Statistics data. It includes also actual retirement and health costs, so that is a very basic encapsulation of how it works, so we will step through it in more detail. Why do we do the Resource Assessment Study? The workload in the courts has changed over time, as Zlatko mentioned. It changes because the population changes, because of legislative and rule changes, general trends, and the case mix and volume of cases is different across the courts. Again, the courts have different levels of complex cases and different mixes. Just an overall agreement and principle that funding should be related to the workload. So RAS provides an estimate of the need for nonjudicial court staff based on workload using a few different components. We have a three-year average of filings data for 20 different case types. Again, we use sort of a weighted caseload approach, recognizing for example, that an infraction takes less time to process than a felony. We used a three-year average of filings data to help smooth over any fluctuations, any sort of weird spikes or dips that may happen in a period because we would not want to base estimates on any anomalous years. The case weights are based on a staff-time study that measures the amount of time and need for the case processing work. We completed an update of that study in March and are validating the data with the courts that participated, at the moment. We look at other factors, not directly measured by the time study, that evaluate the workload need for managers and supervisors and also sort of the administrative and executive staff. We do make some interim adjustments to the RAS model. For example, we updated the manager and supervisor ratio this year to account for the need for court interpreter supervisors that are not covered by the court interpreter funding, and the current case weights are based on the study that was conducted in 2010, so for this most recent budget year, we had been using the 2010 case weights and the update of the time study is underway. We will have new case weights available for the fiscal year 2017-18 budget allocation. We used a similar model to measure their workload-based need for judicial officers as well. As far as the cost-of-labor adjustment, we used data from the U.S. Bureau of Labor Statistics -- sort of an arm of the U.S. Census -- so their data identifies the labor cost differences between the courts. For example, Central Valley courts and Bay Area courts have very different pay rates. Those adjustments are applied to the estimated salary portion only, so not the benefits. Local government is used as the comparison for most counties, except in counties with a high proportion of state employment, and then it is pegged to the state employment. We use a three-year average to smooth fluctuations similar to what we do with the filings data.

>> Clearly, our costs are staff, and operating expenses and equipment. That is an additional component that we estimate. It is fairly complex. When you have 58 courts varying from Alpine to Los Angeles, how do you create a model that accounts for the variations. We have accounted for small courts getting a supplement to their OED because they are smaller and they don't have the same economies of scale. This shows the convexity of the model and it is part of our ongoing update of the process to see if the model actually bears out. One of the things after our first year that we had to deal with was the fact that there were small courts that had a minimum funding that they could do. We developed a methodology called the funding floor adjustment. You will hear that back in July when we were talking about allocations. There is a funding floor adjustment which says that if the workload doesn't substantiate a \$750,000 budget and you are only at a \$602,000, all the other courts will contribute to get you to that minimum level. That is

important, because you have to provide stable funding for those smallest courts who can have large caseload swings. We are trying to provide a minimum level of operating resources for them. Other things that WAFM has to acknowledge is that the staffing and the workload that is measured doesn't measure all of the activity in the court. There are certain things that are taken out of the model when we look at workload funding. There are some adjustments there so does not capture all of the work. We have done a lot of work on A.B. 1058 grants, dependency counsel, and lots of other resources and programs that are operating that WAFM does not touch because it is not measured as part of the model. We have an annual update to some of the factors that go into the model as approved by the council. It is technical adjustments, staff, or gathering data on salaries and wages and benefits, the actual filing adjustments, not just the case weights and how much work they generate but just the absolute number because another part of how this process is updated.

>> As I've mentioned, there are some programs that are not included. SJO, as an example, interpreters, outside of the model, but it does not mean we are not looking at those needs and how this allocations occur because of you has heard over the last six months, there has been a number of issues that has been brought to your attention as to how to revise the allocation methodologies for those funds. People look to workload-based allocation changes like we did with dependency counsel looking at the actual costs and then seeing how allocations can change and multiyear implantation of changes to those allocations.

>> Folks wonder that we have this structure of positions and we create these ratios of supervisors and managers and all the different components of WAFM. What does that mean to a court? Does a court have to live by the ratios and the staffing that are created in the model? The answer is no. It creates the funding to each court, but it is up to the court as to how they want to deploy those resources. If they require to pay more resources on salaries, then they have fewer positions. It is at the local level, so there is control afforded. The model does not dictate activity at the local level.

>> As you see, this chart explains this five-year path that started in 2013-14. It is a slow, deliberative adjustment to the allocations. What we have is the total pot that existed as of 2013-14. And how it was allocated based on the historical model. How do you transition to a situation where more of that or all of that money is ultimately allocated based on workload? This was the plan that was presented to the Judicial Council in April 2013 as far as the multiyear plan goes. You can see on the last bullet in fiscal year 2017-18, it says we stop at 50%. There has been a lot of discussion about what would be the next plan. We know that that is something that is subject to further discussion and we will be coming back to this council at some point because I know there is definite interest in seeing what that path is forward. I think you will have courts on different sides of the discussion depending on what is happening to their WAFM resources.

>> Next, it is important to understand what it means in terms of allocations for the trial courts. One of the goals in implementing WAFM was to bring equitable funding to all of the trial courts but also to incentivize the budget process to support additional processes with the faith that we are allocating the resources in a way that is equitable. One of the kickers that we included in the model was that, to the extent new money was provided to the trial courts for general operations,

there would be that set-aside 50% that would not be touched for the model would be reallocated. That gets a bit complicated. It is an idea that we will move faster towards equitable funding distributions if you contribute more money to the system. We will have a path to get to 50% absent new funding, but to the extent that you provide more, we will accelerate that. It is an incentivizing to help us move in that direction. Otherwise, we would just be moving our own money and that would have been seen as particularly detrimental to those courts who needed to provide money to the system to enhance those courts that are lesser funded.

>> This next slide shows you what was seen at that time and what was expected to happen. At that time, we had \$1.4 billion defined as the available WAFM resources. We were looking to -- half of that funding would have been reallocated under the WAFM model -- \$750 million. Because of new funding coming in to the system to the tune of \$234 million, we have jumped into that other 50%. As it stands now, we are at 66% of what was viewed then as the resources being reallocated under WAFM. There has been progress towards getting more money distributed per the current workload.

>> Then when you think about where we are now and what percentage of the funding we are, we are now up to \$1.7 billion, given the new resources. You can see the share of the pie as to where we are in terms of overall distribution of resources under the new methodology. I think this next chart is important to understand where we all started, where courts were relative to one another when WAFM started. This just shows where courts would be relative to their need and how far away they are from being fully funded per the WAFM model. You have courts that are at the top. They are relative -- relatively underfunded, except for one court, which actually when it started was getting a little bit more than the model suggested. They really need to come down, whereas there are courts at the very bottom that are only getting 50% of what they needed to do. The goal at this point is to increase overall funding so we do get to the 100% funding, but while we are doing that we are moving everybody towards the middle as to what the actual available resources are. The debate is are we all moving to mediocrity? What are we doing? At this point, this is the plan. This is the goal to get everybody in the same place and then make our case about needing additional resources to get to the level of funding that fully funds the trial courts.

>> I want to stop and take a minute here on this particular issue because that has been the case. You have folks at the bottom who will be moving up to the middle, and then folks at the top moving down. That is where you get the rub between those courts that are benefiting from WAFM and those that are seen as taking a hit under WAFM. It is all part of moving towards everybody being treated equitably and fairly from the available resources even though we are arguing to the administration and Legislature that the branch and the trial courts as a whole are underfunded and need to be augmented.

>> You mentioned that we were 78% funded. What is that dollar amount?

>> It is about \$400 million. That is what it would take to get us 100% funded. When we first started, we were at a \$1 billion gap. There are two factors that have reduced that gap -- number one is new resources and number two is filings have declined. Actual cost of our operations have also declined, narrowing the gap.

>> The Workload Assessment Advisory Committee oversees the workload studies. They started as the S.B. 56 Working Group in 2009. Their initial charge was to adopt and annually report on standards and measures of judicial administration. This eventually evolved into the WAACS area focus per Rule 10.66. They oversee both the judicial and staff workload studies and also look generally at measures to assess the overall health of the branch. It is composed of judicial officers and CEOs. It is staffed by the Office of Court Research. They review and sign off on of the models before they are presented to the council. They have asked us to update the staff and judicial time studies every five years. Previously, when RAS was not a part of the funding model, we had a ten-year gap between updates and the studies. Much more important to have current workload estimates due to its connection to the funding model. For example, since the last time we did the study in 2010, family law case flow management has been implemented. We have Prop. 47. We have areas of new workload that we need to make sure that the model is growing to capture. In addition, the annual updating of just the case weights or the estimates of the time per filing, we do update RAS annually with the new filings data. The judicial needs assessment is updated every two years with new filings data. That is pursuant to a legislative requirement.

>> In terms of the budget side of things, there is the Funding Methodologies Subcommittee of the Trial Court Budget Advisory Committee. What is important to understand here is that when WAFM was finished, there was what was called a parking lot list of items. They became this future workplan of the Budget Advisory Committee and what we call the FMS, in small circles, to continue to work on. This is an entity that continues to look at topics and issues that have arisen over the years of implementation and things we knew we needed to deal with. I won't go through all the items, but as you can see there is still quite a long list of workplan items that need to be completed. As they tackle them, they push off other items that are not capable of being completed in the timeframe because something becomes more difficult than anticipated. It is a living, breathing process. We are hearing from courts and stakeholders, and so I think we have an ongoing workload. It is good because we look to you for guidance when we see something that is of a policy nature that we want to change. There are things on a technical basis that we just manage, and we have a really amazing product for the branch. That concludes our presentation.

>> Any questions or comments for the panel?

>> I am sure there are some from the CEOs at least, that were on it before. Justice Miller has a question.

>> Will we have new RAS figures at the beginning of next year?

>> Correct.

>> I was not going to make a comment but I got a look from Justice Chin. [laughter]

>> There were a lot of us involved. There are at least three of us that are sitting here at the table. One of the things that is really important for us to remember is that this was done in an effort to come up with a best solution we could come up with to make progress towards equity. Progress towards equity means that there might have been lack of equity to begin with. That does not mean it was wrong, it just means we had different levels of funding. The pain we go through now and one of the things that we recognized at the time, was as long as there was funding coming in, some of that pain is lessened because you are still getting money, even if you are subject to a reallocation. This year, we did not get a large chunk of money coming in so that change was more acute and more painful to those courts that are coming down to an average. I think we have to keep that in mind that until we get to that average, the closer we get, the more we start to hear the same stories coming from courts, rather than one court is adding staff because maybe they are being brought up to an average while another court is losing staff because they are being brought down to an average. We will be much closer two years from now than we are today. Our stories will start to sync up a little bit more. There will always be some difference because we will have different priorities in different areas. There are some parking lot items that we are starting to hear as council members in our roles, that are felt by different groups. One that has come up frequently is about the small courts and the funding floor. We did that at a point in time. We did not address inflationary cost increases for those as part of the floor, and that is part of what we hear from smaller courts, that they will always get \$750,000, that is a floor and a ceiling. At some point you have to address the ceiling. The subcommittee does its best to prioritize those and to look at what they can really accomplish in a year. One of the deals that was made was that we want to update it once a year. As court executives and presiding judges, we need to have some expectation of what we will receive. We need to make sure the model does not change throughout the year. I think our goal here is to address questions and move on and acknowledge a model as a model, which means it is imperfect. We had an economist here earlier, which is great, but she was just acknowledging that she can be wrong. Economics is based on the assumptions that you make. Those assumptions prove to be incorrect and you will end up with the same outcome. I thought it was a great presentation.

>> I am following up on the WAFM coming together in a short period of time. It was incredible when it came together. A lot of people thought that no model could come together but it was done. Some of the talk then also was five year implementation. We get to 50%. We then essentially urged by the other two branches to do something. WAFM was done. And urging back was we got to the 50% after five years. We are knocking on the door. What do we do at the end of five years? Are we going back to the Legislature and the executive branch to say we have done a heck of a job? Have you guys forgotten about us? We are now at 50% WAFM and 50% of 1998 funding model in 2017-18. Do we come up with something to do with the last 50% or do we say that you need to help us out?

>> I guess it is appropriate that I am next and I was at the table with the folks, Jake and Rick, when we were building this. This was a bone of contention. This was an issue that was hard-fought. It was realized by a number of the people at the table about how draconian these numbers would be when it was put in place. It was a deal buster. It was the one issue that I think that we spent the most time on. Arguing is an understatement. Because the reality of what WAFM was

going to do for some of these courts. I think it was Beth Friedman who came up with the brilliant idea that here is how we handle this. There is a three-pronged approach. Leg one was a five-year glide path. Two was the new formula be implemented up to 50%, and three that the other 50% needs to be new money. If you do anything different than that, then you will create a problem for these courts of a degree that the rest of us will not appreciate and wouldn't care about. When you look at these numbers, you are talking about six, eight, or \$10 million in one-year hit. I guess what is going on. We treated it, right after WAFM was passed that everybody would be racing to the table looking at every formula that dealt with weighted caseload because it affects funding. Sure enough, it happened. There was a delay. I was surprised. Now, everything is hitting. Child support, everything else. We are all racing to the table. At some point, this will be advanced to advance the WAFM to 100%. It is not on our agenda right now, and this is my last council meeting, so it is my last opportunity to speak to it. It is a grave error to go there. My court is one of the recipient courts. I am a benefactor. From a statewide basis, this is a mistake. To depart from what was agreed to -- because quite frankly, a number of these courts would have never agreed to it and they would have fought tooth and nail from day one, had they known that this is what would happen, that we would change the terms and advance WAFM and the 100% wherever we are apt to the new implementation. I don't think it is appropriate and fair to those courts. Yes, I would love to have more money. There are lots of things Merced could do with that money, but I think it is a mistake to go there, and I don't think it is something that we should do, because it is a net zero sum game. We are shuffling around monies and cannibalizing each other. The problem is there is not enough funding. So, our efforts should be geared towards Sacramento and encouraging more investment in the branch so that we bring that bandwidth up so that everybody is above that floor and we have equal and equitable funding for all the courts. Will that ever be achieved? I don't know. It is a lifelong battle and it goes back to 1928. They were complaining about the same thing. That is why we passed the 1926 Judicial Council etc. because of the funding. We weren't getting enough funding. It is generational. It will happen. This step is a mistake, because I think it will create greater division amongst the courts, and I don't think that is what we need at this point. I think we need to concentrate our efforts on getting the Legislature to invest more money into us so that the WAFM formula will work. In the end, I believe all the parking lot issues will be worked out. Again, we are looking for commonalities in order to equalize funding for the courts. There was a rational basis for every court. We are noting that there are exceptions and BLS was the first to be attacked. It is the appropriate element in using something like that, and then finding in these courts that there are exceptions. Then you carve those exceptions out. I know up north there was an issue. You can carve the exception out recognizing those unique circumstances. I couldn't let that go by. Thank you for teeing that up for me. Hopefully I hit it over the fence. I urge this council to resist changing the existing formula. Thank you.

>> Justice Slough and then Justice So?

>> Coming from a court that truly benefited from WAFM, San Bernardino superior court was months away from not meeting its payroll. WAFM was literally the life raft that was given to us. It came from many of our colleagues from other courts. I can't stress seriously enough how important that was. Equally, I cannot stress how much I agree with Judge McCabe.

>> That is a first [laughter].

>> I knew we would find one point in your last meeting. [laughter]

>> I think that is a charity agreement.

>> It is very true. We cannot charge down the path of redoing WAFM to get to 100% when all we are doing is reshuffling the deck. You can only wear your brother's hand-me-down shoes for so long and pretend that they are new. We need more funding. WAFM needs to get 100% through more funding. Thank you, Brian, for saying that.

>> So today is not the day to talk about the merits of going to 100%, but we are going to have that discussion and Justice Miller will tell us when we will have a discussion.

>> That was a parking lot issue, whether we go to 100% and what the process is. That was presented to me as chair of E & P. I made this comment at the presiding judges meeting to explain it to them last month. Because of the RAS figures that would be coming out in January and the impact they may have on the decision, we did not put it on the agenda and it will be back. RAS is supposed to be presented to us in April and we are looking at whatever meeting after that that we would have that at the very next meeting.

>> Thank you, Ken.

>> Thank you for a very informative panel. It looks like we will have a lot of work to do in the future.

>> We will now proceed to the action item on the agenda. We have a Judicial Branch Court Innovations Grant Program Request for Applications. We welcome back Judge David Rosenberg along with Ms. Jody Patel.

>> You may begin whenever you are ready. We only have to go to an awards ceremony but we have plenty of time.

>> Members of the council, I understand that this is the only thing standing between you and the awards ceremony, so I will make this as rapid as possible.

>> What we are going to present is some good news. As soon as we tee up the PowerPoint, we will proceed. First of all, thank you for your time and the opportunity to provide the report of the Ad Hoc Working Group on Innovations Grants. This working group is going to make a recommendation regarding the request for applications that will be used to request applications for the \$25 million allocation for court innovations specified in the 2016 budget act. Let's move to the next slide. As you are aware, the branch has been committed to the expansion of innovative and efficient services and programs to increase and improve access to justice statewide. The branch has a history of responding to budget reductions through development and innovation of the various short-term services. Although these services and programs have been well received, they lacked any sort of long-term fiscal support for expansion. The legislature and the Governor appropriated \$25 million in one-time funding through the Budget Act. They administer a competitive grant program, require courts to use funds for judicial branch programs

that may include partnerships with other government entities, require funded programs to include measurable results, outcomes or benefits that have demonstrated the impact on the court and the public that it serves, provide an annual report to the Department of Finance and the joint legislative budget committee on the grant program. The \$25 million does have some strings attached, specifically the Budget Act of 2016 requires that the \$25 million be awarded for three separate grant categories. There is \$12 million allocated to collaborative courts, \$8 million has been allocated for self-help, family and juvenile courts, and then the remaining \$5 million for other efficiencies.

>> In response to the legislative requirement that the Judicial Council award funds through a competitive grant program, the Chief Justice appointed an ad hoc working group for innovation grants to specifically review alternatives for competitive awards, develop grant program submission requirements, and develop a timeline and develop information on grant scoring criteria. The working group met on several occasions in July and August. We put ourselves on a fast track. We reviewed a few of the most commonly used solicitation tools utilized by this council or by other executive branch agencies in the past. These included the request for proposal, the invitation for bid, and the request for application processes. We drafted the proposed request for application documents included in your report today. Specifically, the request for applications includes the requirements for the program, identifies the elements that will be scored based on the legislative intent included in the Budget Act, and identifies the associated timeline. I just want to take a moment to thank and recognize the working group members that provided valuable review and input in a very short turnaround time. You see the names of the working group. The Chief appointed a very strong, hard-working and diverse group of judges, justices and executive officers. We had tremendous staff support through Jody and Maureen and Shelley and others. It allowed us to get to this point so quickly. To provide the context for the RFA, I wanted to show you specific language from the budget bill. The Budget Act of 2016 requires, quote, \$25 million shall be used for the establishment, operation, administration, and staffing of the court innovations grant program for trial and appellate court programs and practices that promote innovation, modernization, and efficiency. Given this requirement, you will see that the draft RFA focus is on having grant applicants identify how they will promote the tenets of innovation, modernization and efficiency. Additionally, the legislation mandates that the projects that received grant funding should be sustainable and replicable -- specifically the statute requires, quote, courts participating in the court innovations grant program must describe how funds will be used to support the development of innovative programs and practices that are sustainable after the grant award period and can be adopted and replicated by other courts.

>> Based on the statutory mandates and other elements that the working group felt it important to include, the RFA includes specific requirements for grant applicants. They will need to describe the need for the program, as well as what benefits will be derived from the proposal. Additionally, application criteria and the RFA will be scored on how grant applicants can describe how the proposal promotes accessibility, modernization, replicability, innovation, efficiency, and sustainability. The statute also requires an annual report to the Legislature on the outcomes of the grant programs. In addition to describing how the program supports the tenets

mentioned, the RFA requests that grant applicants include specific information on what outcomes or measurements will be captured for the proposed projects. Our hope is that these programs will show great success in both innovation, efficiency, and access and the ability to quantify these positive outcomes that will be very helpful in reporting to the legislature. As it was developing the RFA, the working group focused on creating grant criteria that are open enough to allow for as much creativity as possible while balancing the requirement that outcomes be measured and quantified. As you can see in the RFA, although words like modernization and innovation may be vague, the working group designed it that way to provide the courts with endless possibilities only constrained by the court's needs and imagination. After the council takes action today and if it approves the draft RFA included in your report, the RFA is tentatively planned to be issued on September 1. The Ad Hoc Working Group for Innovations Grants will then sunset. We will fade away. The newly formed Judicial Branch Budget Committee will take over the responsibility for administering the grant program, including reviewing applications for grant monies with a recommendation on the resulting grant allocation presented to this council at the April 2017 Judicial Council meeting. We have identified some high level key events for you to be aware of going forward. As I indicated, it is anticipated that the final RFA will be issued on September 1. That is right around the corner. To ensure there is an opportunity for questions and answers regarding the grant program, the council will hold a teleconference on September 20 for potential applicants. Applicants will have until October 31 to submit formal applications for grant monies. Once applications are received, the Judicial Branch Budget Committee will review the applications up to March 2017. Then, in April 2017, the proposed allocations will be submitted to this council and it is anticipated that the first date monies will be available would be June 1, 2017. We expect the resulting inter-branch agreements will run from the period for which the applicant applies, but will begin no sooner than June 1, 2017. It will end on or before June 30, 2020. The 2016 budget act requires all monies be encumbered and spent by June 30, 2020. In closing, the Ad Hoc Working Group for Innovations Grants recommends approval of the request to solicit applications from courts interested in receiving court innovations grant monies through a competitive grant award process. Jody, anything you would like to add? Then we are open to questions.

>> I think you covered it all. Thank you.

>> Justice Miller?

>> I just wanted to commend Judge Rosenberg and your committee for how quickly you performed this task. I just wanted to tell everyone that when I called Judge Rosenberg, after the Chief indicated she would like him to chair this committee, the first question he had was, what is the timeframe? I said we can talk about that later. Don't worry about it. I just want to know if you will accept. Then he accepted. I told him he had six weeks.

>> It was not a problem because I thought you were going to tell me four weeks. [laughter]

>> I do want to commend you and your committee because you did a marvelous job and you are here in August, just like we asked, and you should be congratulated for that.

>> Thank you.

>> The second thing is I told Martin that this is the shortest tenure of any committee under his administration, and he should be really proud of that.

>> I will put that on my resume.

>> I will make a motion to make a move to approve as recommended.

>> Did you say second?

>> I had a question. As the incoming chair, I would like to offer a friendly amendment, which is that those dates are flexible, in the sense that if the committee chooses to accelerate some of the dates that we can. They should not be firm and fast dates. They should be a guideline but that the committee would have discretion to adjust those dates to its working ability.

>> I don't know if it comes back to me but I don't have a problem with saying they are flexible but I would want them to come back to the council so we have some way to promote them rather than there being able to be changed unilateral.

>> Could I make a quick inquiry? Is your thought that the time given to your budget committee may be too long?

>> It may or may not be. We don't know yet.

>> The reason I ask that, is if you think we gave you -- we give you five months. If you think you can do it in less time, then I would suggest that you give the applicants a little more time. We gave them until October 31 and you may want to give them a little bit more time.

>> That is a great observation. I think one of the issues is that because this is somewhat new and we don't have a track record, it is hard to say what the subscription rate will be or how the applications come in or what condition they will be in. I think that there is some optimism that there may be an ability for us to move more quickly than what the timeline suggests. That would be a benefit to anybody receiving such a grant. As to Justice Miller's suggestion that we would advertise, or bring it back to the council, I was wondering if maybe I could counter your counter with, if we could -- if the motion would contemplate that if we were to make any changes to the timeline, that either shortened it or we could extend the application range, we would be the -- the committee would go through some process of pushing it out to the branch, that it was not just done and nobody knew about it.

>> I guess I don't have any problem with any of the dates other than the last day to file your application. I would rather see us agree to a date right now so it is a date certain. It could be extended at your discretion. The other dates, that is just workload. That is just getting the workload done. But that one is a key one. If you want to freeze it at October 31, but you have discretion to extend it, I don't have a problem adding that to the motion. The other dates, to me, are ones you can internally deal with.

>> I think you are right. I was focusing more on the post-application-due timeline here, expect you are not concerned about the filing?

>> I think the filing date, if we were going to extend it, but it could not be shortened. I think having that date either be what it is or later is fine. The other dates, we would like some flexibility.

>> I am fine with that.

>> As I understand it, there is a friendly amendment that the filing date will remain fixed but the later dates will be flexible.

>> The filing date will be no earlier than the current date, but it could be extended, and the other dates will be guidelines but flexible to the committee's discretion.

>> The material refers to a notice of intent to apply. I did not see where that was described. What is intended by September 26? Does the court have to give a description of it and then there's an application? What is needed?

>> That was the intent of that, so that if there are courts that need technical assistance, we would have an idea of what kind of assistance they might need until the end of that filing period. Also, for us to gauge, the judicial branch working group, and how many possible proposals are coming in, so they can gauge at that point in time what timeline they might need. That is consistent with Judge Rubin's request for a friendly amendment.

>> I think we need to advise the court of what is expected. A court's decision as to what it is going to ask for is really due at the end of September, not the end of October.

>> It is a very simple description, not with a lot of detail. We were already planning to go into some detail at the teleconference on September 20 on that matter.

>> Still, a court will have to sit down and think of its ideas immediately. It does not have much time. I think that needs to be emphasized. I don't think that courts appreciate that the deadline is critical.

>> Justice Humes?

>> My understanding is that if the council approves this today, a notice will be sent out to everybody within days. The notice will go out saying, we want you to submit your applications and we will market this because we want to get as many applications as we can.

>> I understand.

>> Thank you.

>> Any other questions or comments? Judge Brodie?

>> Just so I am clear, the amendment gives that committee the authority to extend the deadline by which to file applications?

>> Yes.

>> I'm sorry. I thought you said that had to be firm.

- >> They can't move it forward any. It is October 31, but they have discretion to extend it.
- >> The committee cannot make it earlier, but if there is something going on with the applications or with the notifications, the notice of intent to file, and that one has yet to come in, or there is some legitimate difficulty, we can extend it later.
- >> Justice Slough.
- >> Just to clarify on the notice of intent that Judge Buckley raised, a lot of these type of grants, we just merely send an e-mail saying the court X intends to apply, and if there is a category like here, we would say we intend to apply in family law. Cannot that be enough? I think that addresses Judge Buckley's concern. Do you need a description of what the project will look like?
- >> It is a simple summary, judge. It is two sentences. It will be in family law. We think we are focusing on family law. It does not have to go into any detail about, we are thinking of doing X, Y or Z. It does not need to go into that level of detail. From a processing and workload perspective, we would need to have an idea of how many proposals we may be receiving. I think that helps the court's timeline.
- >> I just have a comment that might help the comfort level of the members. This is not a new invention. This is a process that we have gone down before. Many of the courts are familiar with it. It is not a case of first impression. We have been talking about the innovations grant program for the balance of the year. I would like to think that there is a little bit more thinking and a little bit more maturity to it.
- >> Judge McCabe?
- >> Does this apply to projects that courts may have already begun a collaboration and are already working on, an innovative grant, rather than something that needs to be cooked up and started in the future?
- >> We had extensive discussions on that very point. We talked about proposals that can be submitted for the development of a new program or practice, the adoption of an existing program or practice from another court, and then we talked about enhancements, expansions or improvements of existing programs. All of this is within the scope of what you can submit. Ultimately, it is going to be up to Judge Rubin's budget committee to evaluate these different proposals. I hope we get \$100 million worth of proposals. They will have to decide, based on the criteria that we set up, which are the best.
- >> It has been moved and seconded by Justice Miller and Judge McCabe that we adopt the Court Innovations Grant Program request for applications with a friendly amendment that the starting date cannot be shortened but can be extended. And the other dates are flexible. Is there any further discussion? All those in favor say aye. Those opposed? Motion carries.
- >> Thank you. It was a pleasure. The ball has now bounced to you, Judge Rubin.
- >> Thank you, Judge Rosenberg. I am really impressed when any committee wants to be sunsetted. [laughter]

>> We are adjourned. We are on time.

>> The meeting is adjourned.