Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall

Thursday, April 7, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY

Board of State and Community Corrections

1. **Funding Reduction for Standards and Training for Corrections –** The budget proposes a reduction of $489,000 in spending authority from the Corrections Training Fund. The requested reduction is due to lower than anticipated program costs.

California Department of Corrections and Rehabilitation

2. **Sex Offender Management Board –** The proposed budget includes $212,000 General Fund and two permanent analyst positions beginning in 2016-17 due to increased workload for the California Sex Offender Management Board and the State Authorized Risk Assessment Tools for Sex Offenders Task Force, primarily related to an anticipated increase in the need for certified treatment providers and programs as required by Chelsea's Law.

ITEMS TO BE HEARD

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS
0250 JUDICIAL BRANCH

Issue 1: Proposition 47

Governor's Budget. The Governor's budget includes $21.4 million to address increased trial court workload associated with voter approval of Proposition 47 (the Safe Neighborhoods and Schools Act), which reduced many possessory drug offenses and low-value property thefts to misdemeanors (described in detail below). This second year of proposed new funding is $13.8 million more than originally estimated for 2016–2017.

In addition, the budget assumes an initial Proposition 47 savings in 2016-17 of $29.3 million, growing to an annual on-going savings of $57 million per year. Proposition 47 requires the Department of Finance to provide their first official estimate by July 31, 2016, and on July 31 each year thereafter.

Background. In November 2014, the voters approved Proposition 47, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing.

Reduction in Existing Penalties Under Proposition 47

Crime	Description
Drug Possession	Prior to the passage of Proposition 47, possession for personal use of most illegal drugs (such as cocaine or heroin) was a misdemeanor, a wobbler,[1] or a felony-depending on the amount and type of drug. Under current law, such crimes are now misdemeanors. The measure would not change the penalty for possession of marijuana, which was already either an infraction or a misdemeanor.
Grand Theft	Prior to the passage of Proposition 47, theft of property worth $950 or less was often charged as petty theft, which is a misdemeanor or an infraction. However, such crimes could sometimes be charged as grand theft, which is generally a wobbler. For example, a wobbler charge can occur if the crime involves the theft of certain property (such as cars) or if the offender has previously committed certain theft-related crimes. Proposition 47 limited when theft of property of $950 or less could be charged as grand theft. Specifically, such crimes can no longer be charged as grand theft solely because of the type of property involved or because the defendant had previously committed certain theft-related crimes.
Shoplifting	Prior to the passage of Proposition 47, shoplifting property worth $950 or less (a type of petty theft) was often a misdemeanor. However, such crimes could also be charged as burglary, which is a wobbler. Under the new law, shoplifting property worth $950 or less will always be a misdemeanor and cannot be charged as burglary.
Receiving Stolen Property	Prior to the passage of Proposition 47, individuals found with stolen property could be charged with receiving stolen property, which was a wobbler crime. Under current law, receiving stolen property worth $950 or less would always be a misdemeanor.

[1] "A wobbler" refers to a crime that can either be charged as a misdemeanor or a felony.

Writing Bad Checks	Prior to the passage of Proposition 47, writing a bad check was generally a misdemeanor. However, if the check was worth more than $450, or if the offender had previously committed a crime related to forgery, it was a wobbler crime. Under the new law, it is a misdemeanor to write a bad check unless the check is worth more than $950 or the offender had previously committed three forgery-related crimes, in which case they would remain wobbler crimes.
Check Forgery	Prior to the passage of Proposition 47, it was a wobbler crime to forge a check of any amount. Under the new law, forging a check worth $950 or less is always a misdemeanor, except that it remains a wobbler crime if the offender commits identity theft in connection with forging a check.

Source: Legislative Analyst's Office, "Proposition 47 – Criminal Sentences. Misdemeanor Penalties. Initiative Statute." November 4, 2014.

Proposition 47 requires that state savings resulting from the proposition be transferred into a new fund, the Safe Neighborhoods and Schools Fund (SNSF). The new fund will be used to reduce truancy and support drop-out prevention programs in K-12 schools (25 percent of fund revenue), increase funding for trauma recovery centers (10 percent of fund revenue), and support mental health and substance use disorder treatment services and diversion programs for people in the criminal justice system (65 percent of fund revenue).

Role of the Legislature in Determining Proposition 47 Savings. The proposition does not provide for legislative input on the calculation of the savings. The Administration and the State Controller have sole discretion over determining the amount of the state savings. Specifically, the statute requires that Director of Finance, on or before July 31, 2016, and on or before July 31 of each fiscal year thereafter, calculate the state savings for the previous fiscal year compared to 2013-14. Actual data or best estimates are to be used and the calculation is final and must be certified by the State Controller's Office no later than August 1 of each fiscal year. The first transfer of state savings to the Safe Neighborhoods and Schools Fund will occur in 2016-17, after the Department of Finance (DOF) calculates savings pursuant to the proposition.[2]

AB 1056 (Atkins) Chapter 438, Statutes of 2015. AB 1056 was enacted to establish a grant program and process for the Proposition 47 savings – the "Safe Neighborhoods and Schools Fund" – to be allocated by the BSCC. The key features of AB 1056 enumerate a number of prioritized proposal criteria, such as those proposals that include mental health services, substance use disorder treatment services, misdemeanor diversion programs; housing-related assistance that utilizes evidence-based models; other community-based supportive services, such as job skills training, case management, and civil legal services; and proposals that advance principles of restorative justice while demonstrating a capacity to reduce recidivism. In addition, the bill codifies characteristics for the executive steering community (discussed in more detail in the next item).

Legislative Analyst's Office (LAO). The LAO plays a key role in the initiative process. They work with DOF to prepare an impartial assessment of each statewide initiative submitted by the public before it can be circulated for signature gathering. State law requires that this analysis provide an estimate of the measure's impact on state and local government revenues and costs. The analysis typically also includes relevant background information and a summary of the measure's provisions. The LAO does not take a position on proposed initiatives, nor does it advise proponents on what

[2] 2015-16 Governor's Budget Summary

changes they should make during the public review period. The Attorney General incorporates a summary of the fiscal estimate developed jointly by the LAO and DOF into the summary that is included on the petitions circulated by signature gatherers.

LAO Independent Ballot Analysis for Proposition 47. Following is the independent fiscal analysis provided by the LAO for proposition 47:

> *This measure would have a number of fiscal effects on the state and local governments. The size of these effects would depend on several key factors. In particular, it would depend on the way individuals are currently being sentenced for the felony crimes changed by this measure. Currently, there is limited data available on this, particularly at the county level. The fiscal effects would also depend on how certain provisions in the measure are implemented, including how offenders would be sentenced for crimes changed by the measure. For example, it is uncertain whether such offenders would be sentenced to jail or community supervision and for how long. In addition, the fiscal effects would depend heavily on the number of crimes affected by the measure that are committed in the future. Thus, the fiscal effects of the measure described below are subject to significant uncertainty.*
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> ***State Effects of Reduced Penalties***
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> ***The proposed reduction in penalties would affect state prison, parole, and court costs.***
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> ***State Prison and Parole.*** *This measure makes two changes that would reduce the state prison population and associated costs. First, changing future crimes from felonies and wobblers to misdemeanors would make fewer offenders eligible for state prison sentences. We estimate that this could result in an ongoing reduction to the state prison population of several thousand inmates within a few years. Second, the resentencing of inmates currently in state prison could result in the release of several thousand inmates, temporarily reducing the state prison population for a few years after the measure becomes law.*
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> *In addition, the resentencing of individuals currently serving sentences for felonies that are changed to misdemeanors would temporarily increase the state parole population by a couple thousand parolees over a three-year period. The costs associated with this increase in the parole population would temporarily offset a portion of the above prison savings.*
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> ***State Courts.*** *Under the measure, the courts would experience a one-time increase in costs resulting from the resentencing of offenders and from changing the sentences of those who have already completed their sentences. However, the above costs to the courts would be partly offset by savings in other areas. First, because misdemeanors generally take less court time to process than felonies, the proposed reduction in penalties would reduce the amount of resources needed for such cases. Second, the measure would reduce the amount of time offenders spend on county community supervision, resulting in fewer offenders being supervised at any given time. This would likely reduce the number of court hearings for offenders who break the rules that they are required to follow while supervised in the community. Overall, we estimate that the measure could result in a net increase in court costs for a few years with net annual savings thereafter.*

Summary of State Fiscal Effects. *In total, we estimate that the effects described above could eventually result in net state criminal justice system savings in the low hundreds of millions of dollars annually, primarily from an ongoing reduction in the prison population of several thousand inmates. As noted earlier, any state savings would be deposited in the Safe Neighborhoods and Schools Fund to support various purposes.*

County Effects of Reduced Penalties

The proposed reduction in penalties would also affect county jail and community supervision operations, as well as those of various other county agencies (such as public defenders and district attorneys' offices).

County Jail and Community Supervision. *The proposed reduction in penalties would have various effects on the number of individuals in county jails. Most significantly, the measure would reduce the jail population as most offenders whose sentence currently includes a jail term would stay in jail for a shorter time period. In addition, some offenders currently serving sentences in jail for certain felonies could be eligible for release. These reductions would be slightly offset by an increase in the jail population as offenders who would otherwise have been sentenced to state prison would now be placed in jail. On balance, we estimate that the total number of statewide county jail beds freed up by these changes could reach into the low tens of thousands annually within a few years. We note, however, that this would not necessarily result in a reduction in the county jail population of a similar size. This is because many county jails are currently overcrowded and therefore release inmates early. Such jails could use the available jail space created by the measure to reduce such early releases.*

We also estimate that county community supervision populations would decline. This is because offenders would likely spend less time under such supervision if they were sentenced for a misdemeanor instead of a felony. Thus, county probation departments could experience a reduction in their caseloads of tens of thousands of offenders within a few years after the measure becomes law.

Other County Criminal Justice System Effects. *As discussed above, the reduction in penalties would increase workload associated with resentencing in the short run. However, the changes would reduce workload associated with both felony filings and other court hearings (such as for offenders who break the rules of their community supervision) in the long run. As a result, while county district attorneys' and public defenders' offices (who participate in these hearings) and county sheriffs (who provide court security) could experience an increase in workload in the first few years, their workload would be reduced on an ongoing basis in the long run.*

Summary of County Fiscal Effects. *We estimate that the effects described above could result in net criminal justice system savings to the counties of several hundred million dollars annually, primarily from freeing jail capacity.*[3]

[3] Legislative Analyst's Office. *Proposition 47: Criminal Sentences. Misdemeanor Penalties. Initiative Statute.* July 17, 2014. LAO.CA.GOV.

As noted above, currently, the Administration estimates that $29.3 million from the General Fund would be deposited into the SNSF on July 31, 2016 for expenditure in 2016–17, based on its estimates of the savings and costs resulting from the implementation of Proposition 47. This amount is significantly different from the low hundreds of millions noted in the LAO's ballot initiative estimate.

On February 16, 2016, the LAO released a report on the fiscal impact of Proposition 47. Generally, the report found that the Administration significantly underestimated the savings associated with Proposition 47 and overestimated the costs. Specifically, the LAO noted:

> ***How Much Money Should Be Deposited to SNSF in 2016–17.*** Based on its estimates of the savings and costs resulting from the implementation of Proposition 47, the Administration currently estimates that it will deposit $29.3 million from the General Fund into the SNSF for expenditure in 2016–17. The LAO finds that the Administration likely underestimates the savings and overestimates the costs resulting from the measure. For example, the LAO estimates that the actual level of prison savings due to Proposition 47 could be $83 million, higher compared to the Administration's estimate. Overall, the LAO estimates that the SNSF deposit in 2016–17 could be around $100 million higher than the Administration's figure.
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> ***How to Pay for SNSF Deposit in 2016–17.*** The Administration proposes to allow both the state courts and the Department of State Hospitals (DSH) to keep savings they are estimated to realize as a result of Proposition 47. The LAO finds that this would reduce legislative oversight by allowing these agencies to redirect their savings to other programs and services without legislative review or approval. The LAO recommends that the Legislature reduce the budgets for the courts and DSH to account for the savings resulting from this measure.
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> ***Allocation of Funds Deposited Into SNSF.*** Under the measure, funds deposited in the SNSF are required to be annually allocated as follows: (1) 65 percent for the Board of State and Community Corrections (BSCC) to support mental health and substance use services, (2) 25 percent for the California Department of Education (CDE) to support truancy and dropout prevention, and (3) 10 percent for the Victim Compensation and Government Claims Board (VCGCB) for grants to trauma recovery centers (TRCs). The LAO finds that the Administration's proposal to allocate the funds provided to BSCC based on recently passed legislation to be reasonable. In addition, the LAO recommends that the funds provided to CDE be allocated to schools with the highest concentrations of at-risk students and that schools be given flexibility in deciding how to best use the funds. Finally, the LAO also recommends that the VCGCB be given more guidance on how to manage the grants to TRCs. Specifically, the LAO recommends that the Legislature (1) structure the grants to ensure the funds are spent in an effective manner, (2) ensure that the state receives federal reimbursement funds for all eligible services provided by TRCs, (3) expand TRCs to additional regions of the state, and (4) evaluate grant recipients based on outcomes.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Given DOF's role in developing the fiscal estimate for the ballot initiative, it is surprising that the new estimate of savings is significantly different. How do you account for the significant difference between the original estimate and the most recent estimate?

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

Originally, the Board of Corrections (BOC) was established in 1944 as part of the state prison system. Effective July 1, 2005, as part of the corrections agency consolidation, the Corrections Standards Authority (CSA) was created within the California Department of Corrections and Rehabilitation (CDCR) by bringing together the BOC and the Correctional Peace Officers Standards and Training (CPOST) Commission. The reorganization consolidated the duties and functions of the BOC and CPOST and entrusted the CSA with new responsibilities.

Legislation associated with the 2011 budget act abolished the CSA and established the Board of State and Community Corrections (BSCC or board) as an independent entity, effective July 1, 2012. The BSCC absorbed the previous functions of the CSA as well as other public safety programs previously administered by the California Emergency Management Agency (CalEMA). Specific statutory changes included:

- Abolishing the CSA within CDCR and established the BSCC as an independent entity.
- Transferring the powers and duties of the CSA to the BSCC.
- Transferring certain powers and duties from the California Emergency Management Agency (CalEMA) to the BSCC.
- Eliminating the California Council on Criminal Justice and assigning its powers and duties to the board.

Assuming the responsibilities of the CSA, the BSCC works in partnership with city and county officials to develop and maintain standards for the construction and operation of local jails and juvenile detention facilities and for the employment and training of local corrections and probation personnel. The BSCC also inspects local adult and juvenile detention facilities, administers funding programs for local facility construction, administers grant programs that address crime and delinquency, and conducts special studies relative to the public safety of California's communities.

As part of the 2011 budget act legislation, the BSCC was tasked with providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system. Particularly, the BSCC coordinates with, and assists local governments, as they implement the realignment of many adult offenders to local government jurisdictions that began in 2011. The intent is for the BSCC to guide statewide public safety policies and ensure that all available resources are maximized and directed to programs that are proven to reduce crime and recidivism among all offenders.

The BSCC is an entity independent from CDCR. However, although a local law enforcement representative chairs the BSCC, the Secretary of the CDCR serves as its vice chair. The BSCC consists of 13 members, streamlined from both its immediate predecessor (CSA), which had 19 members, and its former predecessor (BOC), which had 15 members. Members reflect state, local, judicial, and public stakeholders. The current members of the BSCC are:

Linda Penner	Chair
Scott Kernan	Secretary of CDCR
Bobby Haase	Director of Adult Parole Operations, CDCR
Dean Growdon	Sheriff of Lassen County
Geoff Dean	Sheriff of Ventura County
Leticia Perez	County Supervisor, Kern County
Michelle Scray Brown	Chief Probation Officer, San Bernardino County
Michael Ertola	Chief Probation Officer, Nevada County
Ramona Garrett	Retired Judge, Solano County
David Bejarano	Chief of Police, City of Chula Vista
Scott Budnick	Founder of the Anti-Recidivism Coalition
David Steinhart	Director of Juvenile Justice Program Commonweal
Mimi H. Silbert	Chief Executive Officer and President of Delancey Street Foundation

The Governor's budget proposes total funding of $417.6 million ($328.7 million General Fund) and 86.5 positions for the BSCC.

(dollars in millions)

	Funding	**Positions**
Administration, Research and Program Support	$ 4.8	24.8
Corrections Planning and Grant Programs	137.5	30.0
Local Facilities Standards, Operations, and Construction	253.9	19.2
Standards and Training for Local Corrections	21.4	13.0
BSCC Total	**$417.6**	**86.5**

Issue 2: BSCC Grant Programs and the Grant Making Process

Governor's Budget. The proposed budget contains multiple items that will require the Board of State and Community Corrections (BSCC) to use their executive steering committee (ESC) process. Among those programs included in the budget are $250 million General Fund for jail construction grants and $6 million General Fund for on-going funding for grants designed to improve the relationship between local law enforcement and the communities they serve.

Background. The BSCC's work involves collaboration with stakeholders, primarily local probation departments, sheriffs, county administrative offices, justice system partners, community-based organizations, and others. The BSCC sets standards and provides training for local adult and juvenile corrections and probation officers. It is also the administering agency for multiple federal and state public safety grants, including the Edward Byrne Memorial Justice Assistance Grants, several juvenile justice grants, Mentally Ill Offender Crime Reduction Grants, and jail construction grants.

Executive Steering Committees (ESC). In 2011, a longstanding practice of the BSCC and its predecessor entities (the Corrections Standards Authority and the Board of Corrections) to seek the input of outside experts and stakeholders through executive steering committees (ESC) was codified. Penal Code section 6024 now provides:

> *The board shall regularly seek advice from a balanced range of stakeholders and subject matter experts on issues pertaining to adult corrections, juvenile justice, and gang problems relevant to its mission. Toward this end, the board shall seek to ensure that its efforts (1) are systematically informed by experts and stakeholders with the most specific knowledge concerning the subject matter, (2) include the participation of those who must implement a board decision and are impacted by a board decision, and (3) promote collaboration and innovative problem solving consistent with the mission of the board. The board may create special committees, with the authority to establish working subgroups as necessary, in furtherance of this subdivision to carry out specified tasks and to submit its findings and recommendations from that effort to the board.*

The BSCC (and its predecessors) has employed this process in numerous contexts, including the promulgation of regulations and the development of requests for proposals for grant programs. In addition, in 2013 AB 1050 (Dickinson; Chapter 2070, Statutes of 2013) was enacted to require the BSCC to develop definitions of certain key terms, including recidivism and, in doing that work, to "consult with" specified stakeholders and experts. (Penal Code Sec. 6027.)

As discussed in the previous item, AB 1056 was enacted to establish a grant program and process for the Proposition 47 savings – the "Safe Neighborhoods and Schools Fund" -- to be allocated by the BSCC. The key features of AB 1056 enumerate a number of prioritized proposal criteria, and codify characteristics for an ESC reflecting a "balanced and diverse membership from relevant state and local government entities, community-based treatment and

service providers, and the formerly incarcerated community." This ESC is tasked by law with developing specified guidelines for the program.

Recently, BSCC staff advised prospective Proposition 47 ESC members that employees of nongovernmental entities or service providers that "might receive Prop 47 funding" are "financially interested" individuals for purposes of Government Code section 1090 and, as a result, are prohibited from participating in the ESC process. In addition, nongovernmental stakeholders were advised that they would be regarded as "financially interested" and ineligible for ESC participation if they "serve with an organization that might make a contribution" to the Proposition 47 fund. Prospective Proposition 47 ESC members were "encouraged to consider these points carefully, and consult with an attorney if necessary."

These limitations have been applied by the BSCC only to persons who are employees of nongovernmental entities. A 2013 trailer bill provision (SB 74 (Committee on Budget and Fiscal Review) Chapter 30, Statutes of 2013)) sought by the Administration expressly provided that for purposes of Government Code section 1090 – the conflict of interest law noted above – "members of a committee created by the board, including a member of the board in his or her capacity as a member of a committee created by the board, have no financial interest in any contract made by the board, including a grant or bond financing transaction, based upon the receipt of compensation for *holding public office or public employment*." (emphasis added.) BSCC has applied these provisions to impose different conflict rules for government employees and nonprofit employees.

In addition to the Proposition 47 ESC, which has yet to be formed, the BSCC recently advised persons already serving on the ESC for the $6 million "Strengthening Law Enforcement and Community Relations" grants, that "the board cannot approve funding to the agencies in which the community-based organizations that participated in drafting the RFP were financially interested." This appears to be a retroactive application of the BSCC's recent conflict determination on an ESC which already has completed some of its recommendations to the board. The BSCC consequently has extended the due date for these applications, although that extension does not appear to affect the application disqualification impact of these recent conflict decisions on persons who served on this ESC.

Current Governor's Budget BSCC Grant Proposals

Strengthening Law Enforcement and Community Relations Grants. The 2015 budget act include a new $6 million grant program designed to provide local law enforcement entities with funding for programs and initiatives intended to strengthen the relationship between law enforcement and the communities they serve. The initiatives could include training for front-line peace officers on issues such as implicit bias; assessing the state of law enforcement-community relations; supporting problem-oriented initiatives such as Operation Ceasefire; and restorative justice programs that address the needs of victims, offenders, and the community. The Legislature proposed the funds following a hearing in early 2015 that was prompted by several controversial officer-involved shootings and other racially charged incidents across the country. The Governor has proposed $6 million in ongoing funding in the Budget Act of 2016, which, if approved, would allow the BSCC to finance additional qualifying proposals.

The request for proposal (RFP) requires that 30 percent of the grant funding must be passed through to the community groups and organizations with which the law enforcement agency is partnering. The BSCC intends to judge and rate the proposals based on the strength of collaborations and how well they meet criteria spelled out in the RFP. The maximum grant for a single law enforcement agency will be $600,000. Joint agency applications are eligible for up to $850,000. A 20 percent match is required. The grants are payable over two years. Law enforcement agencies were required to notify the BSCC of their intent to apply by March 18, 2016. Proposals are due on April 15, 2016.

As mentioned above, after the grant request for proposal had been developed by the ESC, BSCC sent out a notice to their ESC members on March 15th telling them that if they were a nongovernmental agency, they would not be allowed to participate in the grant program as a contract or subcontractor. The same prohibition did not apply the governmental entities participating in the ESC process

Jail Construction Grants. Since 2011 Public Safety Realignment, county jails have been housing some felony offenders. Older jails do not lend themselves to the kinds of treatment and programming space needed to run effective in-custody programs that lead to success once an offender is released. The state has provided $2.2 billion in lease-revenue bond authority for local jail construction over the last several years, with the most recent rounds of funding focused on treatment and programming space and better beds, rather than increased capacity.

In the previous lease-revenue bond programs, counties were designated as large (population greater than 700,000), medium (population 200,001-700,000) or small (population 200,000 or less). Funding was earmarked for each of these categories and counties were able to request a maximum amount of funding based on their size.

- AB 900 (Solorio and Aghazarian) Chapter 7, Statutes of 2007, authorized $1.2 billion in lease-revenue bond funding for local jail construction projects. Under the two phases of the program, 21 counties received awards, of which six were large counties, eight were medium counties, and eight were small counties. Funding went primarily to those counties operating under a court-ordered population cap. When all construction is completed, over 9,000 jail beds will be added.

- SB 1022 (Committee on Budget and Fiscal Review) Chapter 42, Statutes of 2012, authorized $500 million in lease-revenue bond funding and funded 14 county awards, of which three were large counties, five were medium counties, and six were small counties. This funding was primarily available to build better beds and treatment and programming space rather than increasing capacity. The program specified that counties seeking to replace or upgrade outdated facilities and provide alternatives to incarceration, including mental health and substance use disorder treatment, would be considered. The funding provided space for education and substance use disorder classes, day reporting centers and transitional housing.

- SB 863 (Committee on Budget and Fiscal Review) Chapter 37, Statutes of 2014, authorized an additional $500 million in lease-revenue bond financing and funded 15 county awards, of which four were large counties, five were medium counties, and six were small counties. Similar to SB 1022, funding was primarily available for improving existing capacity and treatment and programming space. The awarded projects included reentry programming space, education and vocational classroom space, medical and mental health housing, and dental clinical space.

Questions for the Administration. The Administration should be prepared to address the following:

1. Please tell the committee which of your grant programs currently, or as proposed in the Governor's budget, use the ESC process.

2. Will the recent communications from the BSCC to its ESC members and prospective members have a chilling effect on the willingness of nongovernmental stakeholders and experts to participate on ESCs? Will these recent communications and the approach taken by the BSCC foster trust between the BSCC and its non-governmental community stakeholders?

3. The policy value of the BSCC being informed by advice from a broad range of stakeholders and experts has long been recognized. Providing protections against self-interest or the appearance of self-interest in the decisions of the BSCC is equally important. Is the law as interpreted by the BSCC general counsel – applying different standards to government employees and non-profit employees – the best way to promote these two important values? Recognizing that BSCC staff is following what it believes to be the law on conflicts of interest, is there a way we can fix the law, so that all stakeholders, government and nongovernment alike, can be equally engaged in advising the board without exposing these stakeholders either to real conflicts, or potential appearances of conflict?

4. The Governor's Office of Emergency Services (OES) administers a number of grants, including the recent additional $233 million from the federal Victims of Crime Act (VOCA) Formula Grant Program. In administering these funds, OES has a steering committee comprised of a number of stakeholders, including nonprofits which receive grant awards under this program. Why do the nonprofits which served on the Cal OES VOCA Steering Committee not have the same conflict problems identified by the BSCC for its ESCs? How does OES handle conflict issues? Can the OES approach be used by BSCC?

5. In terms of the request for additional jail construction funding, the Administration has provided no justification. Please explain the need for funding and why this is an appropriate use of one-time General Fund over other state funding priorities.

Legislative Analyst's Office (LAO).

Reject Proposed Jail Funding. The LAO Advises that while it is possible that there may be some need for additional state funding for county jail construction, the Administration has not been able to provide a detailed assessment of the current need. Absent such justification, we recommend that the Legislature reject the Governor's proposal to provide $250 million from the General Fund for jail construction.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

Issue 1: Arts in Corrections Update

Governor's Budget. The budget includes on-going funding of $2 million General Fund for the Arts in Corrections program administered by the California Arts Council.

Background. Prior to the most recent recession, California had pioneered the concept of art-as-rehabilitation. In 1977, artist Eloise Smith, then the director of the California Arts Council, proposed the idea of art in prison as a way to "provide an opportunity where a man can gain the satisfaction of creation rather than destruction." She found private funding to launch an arts program in one prison, and it grew to six prisons. In 1980, California became the first state to fund a professional arts program – named Arts in Corrections – throughout its prison system. "It was recognized as an international model for arts in corrections," says Craig Watson, director of the California Arts Council, which again is administering the program.

In 1983, University of San Francisco professor Larry Brewster performed a financial analysis at four prisons that found benefits from the program was more than double the costs. He also found that inmates in the arts program were 75 percent less likely than others to face disciplinary actions. "It's critically important," Brewster says of the program he's now studied for three decades. He went on to note, "It instills a work ethic and self-confidence. "People in the arts programs don't cause problems because they don't want to lose the privilege of being in the program."

By 2000, state budget cuts began to squeeze prison arts dry. In 2003, the program lost most of its funding, and by 2010 it had lapsed altogether. Some arts programs continued to work with inmates – the Prison Arts Project, the Marin Shakespeare Company and the Actors' Gang – but they were privately funded.[4]

Studies have shown that arts programs in prisons reduce behavioral incidents, improve relationships not only between various populations housed within the prison but with guards and supervisory staff, and reduce recidivism. Specifically, a 1987 state Department of Corrections study showed that recidivism among inmates in the arts programs, two years after their release, dropped by nearly 40 percent. In addition, studies have demonstrated that arts in corrections programs can have a positive impact on inmate behavior, provide incentives for participation in other rehabilitative programs, and increase critical thinking, positive relationship building, and healthy behaviors.

The New Arts in Corrections program. The state's Arts in Corrections program began as a one-time, two-year pilot program in 2014, using $2.5 million unspent CDCR rehabilitation funds and administered by the California Arts Council. The Arts Council worked closely with the Department of General Services to develop an RFP over a very short period of several months. Organizations were then given three weeks in which to draft their proposals and submit them. Under this expedited time frame, the Arts Council, over a three to four month period beginning in February 2014, was able to develop an RFP, solicit applications, review applications, award funding and begin the pilot program

[4] The Orange County Register. "The state is reviving an arts program for inmates. Can it help?" August 17, 2015.

by June 2014. The renewed program offers arts to offenders in many forms such as literacy, visual arts, performing arts, and media arts as well as drawing, painting, and sculpting.

Despite one year remaining in the pilot project, the 2015-16 budget included $2 million General Fund to expand the pilot into an on-going program, which is currently available at 18 institutions. The Arts Council intends to use the $1.5 million in remaining funding to conduct research in the value of arts programs, fund special projects, including arts in corrections pilots, that partner with universities, provide arts programming for inmates with mental illnesses, provide art programming as support for inmates approaching reentry, and provide specialized programing focused on job training.

Current service providers. In partnership with CDCR, the California Arts Council has contracted with the following organizations to provide rehabilitative arts services in state correctional facilities.

Actors' Gang - Los Angeles, CA
Alliance for California Traditional Arts (ACTA) - Fresno, CA
Dance Kaiso - San Francisco, CA
Fresno Arts Council – Fresno, CA
Inside Out Writers – Los Angeles, CA
Marin Shakespeare Company - San Rafael, CA
Muckenthaler Cultural Center - Fullerton, CA
Red Ladder Theatre Company / Silicon Valley Creates - San Jose, CA
Strindberg Laboratory - Los Angeles, CA
William James Association- Santa Cruz, CA

Legislative Analyst's Office (LAO). When the Legislature heard the 2015 May Revise proposal to provide $2 million for an Arts in Corrections program, the LAO noted while such training could have some benefits, based on their review of existing research, they found little evidence to suggest that it is the most cost-effective approach to reducing recidivism. As such, the LAO recommended that the Legislature instead allocate these funds to support the expansion of existing programs that have been demonstrated through research to be cost-effective at reducing recidivism, such as cognitive behavioral therapy or correctional education programs.

Issue 2: Educational Opportunities Update

Governor's Budget. The proposed budget includes a total of $186 million ($180 million GF/Prop 98) for the current year and $197 million ($190 million GF/Prop 98) for 2016-17 for education programming.

The budget includes $480,000 General Fund for increased security staff in order to allow community college courses to be taught in the evenings in prison.

Background. Inmate Education, both academic and career technical education, are key to giving inmates the skills and social support they need in finding employment upon release from prison. While some higher education and community organizations have traditionally provided career skills development opportunities to inmates, until recently, few collaborations had resulted in the hands-on sequences of courses leading to industry or state certifications known to be key in seeking subsequent employment. As discussed in more detail below, the passage of SB 1391 (Hancock) Chapter 695, Statutes of 2014, has allowed CDCR to expand their voluntary education programs to include in-person community college courses for inmates, thus allowing CDCR to expand their range of educational programs.

As part of CDCR's Division of Rehabilitative Programs, the Office of Correctional Education (OCE) offers various academic and education programs at each of California's adult state prisons. The goal of OCE is to provide offenders with needed education and career training as part of a broader CDCR effort to increase public safety and reduce recidivism. CDCR currently gives priority to those inmates with a criminogenic need for education. The department's main academic focus is on increasing an inmate's reading ability to at least a ninth-grade level.

All adult schools in the CDCR prisons are fully accredited by the Western Association of Schools and Colleges (WASC) to ensure the highest level of education, and some Career Technical Education programs offer industry standard certification.

The Office of Correctional Education focuses on the following programs:

- ***Adult Basic Education (ABE) I, II, and III.*** The Office of Correctional Education (OCE) manages Educational Programs for inmates/students. Inmates/students with reading skills below the ninth grade level may attend Adult Basic Education. Adult Basic Education (ABE) is divided into class levels I, II, and III. These ABE programs are targeted to serve the academic needs of the inmate/student population. ABE provides opportunities for acquiring academic skills through an emphasis on language arts and mathematics. The Test of Adult Basic Education (TABE) assessment is used to determine the initial placement of each inmate/student into an appropriate ABE level.

  ABE I includes inmates/students who have scored between 0.0 and 3.9 on the reading portion of the TABE assessment. ABE II includes inmates/students with a reading score between 4.0 and 6.9. ABE III includes inmates/students with reading scores between 7.0 and 8.9. To advance or promote from one level to the next, inmates/students must show curriculum competence, completion or

achieve a higher TABE score through the TABE matrix testing process. As inmates/students progress through the ABE program levels, increasingly difficult language and mathematical concepts are introduced.

The ABE classes are designed to prepare the inmates/students for entry into a high school equivalency program or a high school diploma program, if certain criteria are met. ABE programs are available to all populations through class assignments and as a voluntary education program that may include tutorial support.

- ***Career Technical Education (CTE) Programs.*** CTE training is provided in six different career sectors that include the building trade and construction sector, the energy and utilities sector, the finance and business sector, the public service sector, manufacturing and product development sector, and the transportation sector.

  Each of the 19 CTE programs is aligned with a positive employment outlook within the State of California, providing an employment pathway to a livable wage. Each of the CTE programs is also aligned to industry recognized certification.

- ***General Education Development (GED).*** The General Education Development (GED) program is offered to inmates/students who possess neither a high school diploma nor a high school equivalency certificate. Inmates/students receive instruction in language arts, mathematical reasoning, science, and social studies. To achieve the GED certificate, inmates/students must achieve a minimum score of 150 in each section and a total score of 600. Inmates/students must meet test requirements based upon their Tests of Adult Basic Education (TABE) results.

  In January 2015, all CDCR institutions began delivering the GED 2014 test. Currently that test is computer-based. Due to custody constraints, some inmates may be allowed to take a paper and pencil version, on a case-by-case determination. The GED 2014 test is taken on a computer which delivers test data directly to the scoring site. The test is scored and results are returned immediately. A passing score on the GED 2014 test ensures that an adult's high school equivalency credential signifies he or she has the skills and knowledge necessary to take the next critical steps, whether entering the job market or obtaining additional education.

  Inmates/students are placed into the GED program after completing Adult Basic Education (ABE) III or achieving the required TABE score and do not possess a high school diploma or a high school equivalency certificate. Inmates/students who are accepted into the GED program are provided educational support in completing the specific subject matter that will allow them to successfully pass the GED 2014 exam.

- ***High School Diploma (HD) Program.*** To be eligible for the HD program, designated Office of Correctional Education (OCE) staff review high school transcript information from the last high school the inmate/student attended. Based upon an analysis of the transcript, the inmate/student receives instruction in the areas needed for graduation.

  Areas of high school instruction include life science, economics, U.S. history, U.S. government, English, and math. After completing instruction and successfully passing each required course and

exit examination, inmates/students may receive a high school diploma. For placement purposes, inmates/students need to be able to function at a high school grade level (9-12).

Inmates/students accepted into the HD program are provided support in completing targeted subject matter that will allow them to fulfill their graduation requirements.

- ***Voluntary Education Program (VEP).*** The purpose of the VEP is to offer inmates access to educational programming when an educational assignment is not available and/or to supplement traditional educational programming with opportunities for improvement in literacy and academic skills. Inmates are not assigned, but rather enrolled, and have no assigned hourly attendance requirements. The program is open entry/open exit.

  The VEP includes literacy, adult secondary education, and/or college services. It offers participants the opportunity to continue progressing toward academic advancement and the attainment of a General Educational Development (GED) certificate, high school diploma, or college degree.

  The program is designed to provide inmates/students support, as needed, in order for them to able to succeed in their academic program. This support may begin at the very basic level for some inmates/students and may last throughout their academic program, while other inmates/students may enroll in VEP for assistance in a college course and only use the program for a very short time.

- ***Voluntary Education Program (VEP) – College.*** Access to college courses is available to inmates/students through the VEP. Senate Bill 1391 (discussed below) will have significant impact on incarcerated students, allowing colleges to offer classes inside prisons. Currently CDCR works with 27 different college institutions, teaching close to 7,000 inmates. This bill will allow California Department of Corrections and Rehabilitation's Office of Correctional Education (OCE) to expand college programs.

  OCE is currently working with the leaders of our existing college partners to create a list of minimum standards, as well as proper training for new colleges. Training will include topics as follows: safety/security, working with custody, the criminal personality, academic rigor, and providing degrees with transferable credits.

  Inmates/students who participate in college courses through VEP receive academic support as needed. This support includes teacher-assisted tutoring, peer tutoring at some institutions, test-proctoring, and limited access to used textbooks in some institutions. Inmate/student progress is monitored, and course completions are verified and reported. Inmates may earn milestone credits for college course participation.

- ***Library Services.*** Law and recreational Library Services are offered at all institutions, providing inmates with an extensive collection of recreational fiction and non-fiction books, as well as reference reading materials; e.g. selected periodicals, encyclopedias, selected Career Technical Education and college level textbooks, and basic literacy materials recommended by the American Library Association and the American Correctional Association. Additionally, the legal research materials in all of the libraries are offered in digital format and provide meaningful access to the

courts in accord with all current court requirements. The libraries also offer materials to support inmate rehabilitation, and include resources on employment, community reentry, and life skills.

- ***Institutional Television Services (ITVS).*** Television programming is provided to inmates at all CDCR institutions. Each institution has a television specialist and television communication center that produces, schedules, and delivers a mixture of television network programming, movies, and a compliment of rehabilitation television programs. ITVS interactive television programming also supports a variety of educational programming from basic literacy to GED preparation courses, as well as pre-recorded college courses.

  Infrastructure improvement through Internet Protocol Television Integration (IPTV) is underway. It will provide central streaming, centralized programming content, improved delivery of content, create the ability to add channel capacity, provide television transmissions to all institutions, increase the number of areas served in the institutions, update the technology and improve the reliability of Institutional Programming.

- ***Recreation.*** The Recreation Program offers various activities for the inmate population. Activities include intramural leagues and tournaments in both team and individual sports, board games, courses on personal fitness, and a selection of institutional movies.

  Approximately 45,000 inmates participate in recreation-sponsored tournaments and activities on a monthly basis.

The department notes that, in order to continue improving education in prison, additional issues need to be addressed such as providing individually tailored education programming, reducing interruptions in learning due to movement between facilities, and improving offenders' familiarity with computer technology.

Retention and Recruitment of Teachers and Librarians. CDCR has been successful over the last two years in hiring approximately 160 additional academic teachers to expand CDCR's educational services in prison. However, in several key areas, CDCR continues to struggle with filling vacant teaching and librarian positions. Based on recent data provided by the department, as of January, CDCR had a vacancy rate of 33.3 percent for science teachers, 28.2 percent for math teachers, and 24.1 percent for librarians. In addition, unlike public school systems that can access a pool of substitute teachers to fill interim vacancies or teach during the absence of a permanent teacher, prisons generally cannot hold classes or provide access to the libraries unless the teacher or librarian is present. Therefore, having a successful strategy for recruiting and retaining skilled educators who are willing to work in a prison setting is critical to meeting the educational needs of inmates.

SB 1391 (Hancock) Chapter 695, Statutes of 2014. College-level academics have been shown to have positive impacts on recidivism and improve offender reentry. However, until the passage of SB 1391, state law prevented community colleges from receiving payment for any courses not available to the general public, including for incarcerated individuals. Specifically, SB 1391 allowed community colleges to receive payment for courses offered in prisons. After its passage, CDCR entered into an agreement with the California Community College Chancellor's Office to develop four pilot programs to provide inmate access to community college courses that lead to either careers or transfer to a four-year university.

The pilot districts of Antelope Valley, Chaffey, Los Rios, and Lassen were awarded $2 million to develop their inmate education programs with an emphasis on face-to-face instruction. Classes in these pilot districts began in late January 2016, and will each serve 21 to 30 inmates per semester. Business and business entrepreneurship programs will be offered at Lancaster State Prison, California Institution for Women, Folsom's Women's Facility, and High Desert State Prison.

In addition to the pilot colleges, the change in state law made it easier for other local colleges to offer courses for inmates. Currently, 14 community colleges offer inmate courses to approximately 7,500 inmates throughout the state. These programs, including distance learning, offer inmates a variety of programs including general education, humanities, psychology, and business.

To further expand course offerings to inmates throughout the state, the California Community College Chancellor's Office hosted an Inmate and Reentry Education Summit in December 2015 in Northern California. Over 245 participants from non-profit organizations, community colleges and the California Department of Corrections and Rehabilitation attended the event. The Chancellor's Office reports that 10 to 12 additional colleges are interested in creating inmate education programs. The summit provided interested colleges with inmate education program best practices and planning information. Additionally, the summit included information to improve college services for recently released individuals on their campuses. The Chancellor's Office plans to host another summit in Southern California this spring.

To help provide access to these new community college programs, the budget includes $480,000 for custody staff to oversee evening college courses offered in prisons, similar to the security provided in other educational and career technical education programs. This augmentation will improve the safety of inmates and volunteer professors that provide instruction for in-prison college courses.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Did the shift from written to computerized GED testing result in a reduction in the number of inmates obtaining their certificates? If so, how does the department intend to better prepare students to take a computerized test?

2. Please provide information on any department efforts to recruit and retain teachers and librarians.

3. As the department expands inmate's access to college courses, have you considered any strategies for expanding staff's, especially correctional staff's, access to college courses and degree or certificate programs?

Issue 3: Innovative Programming Grants Update

Governor's Budget. The budget does not contain any funding to continue the innovative programming grants.

Background. In 2014, the Legislature created the innovative programming grants program using the Recidivism Reduction Fund. The program was designed to provide volunteer programming that focuses on offender responsibility and restorative justice principles at underserved, remote prisons. In addition, the program required that the funding be provided to not-for-profit organizations wishing to expand programs that they are currently providing in other California state prisons. Finally, the program required that priority be given to level IV institutions.

Over the last two years, CDCR has awarded approximately $5.5 million in innovative programming grants to non-profit organizations or individuals to increase the volunteer base at underserved institutions. This funding included $2.5 million in grants funded from fiscal year 2014-15, and an additional $3 million awarded in fiscal year 2015-16.

During the last two years, over 80 grants of varying sizes have been provided to non-profit organizations providing volunteer program's in the state prisons. Through these grants, innovative programming has been significantly expanded at 17 underserved institutions. Among the institutions that have benefited from these programs are Pelican Bay State Prison, High Desert State Prison, Chuckawalla Valley State Prison, and Ironwood State Prison, which are among the state's most geographically-remote institutions.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Given the Administration's finding that the innovative grants have successfully expanding programming to underserved prisons, why didn't the budget include funding to continue the program?

2. Every prison has a community resource manager (CRM) who serves as a liaison with the community and plans and directs major programs. As part of their role, they facilitate volunteer programs within the prisons, including those organizations that receive innovative programming grants. Concern has been raised that, at some institutions, the CRMs have either not been supportive of the innovative programs or have been unable to assist with their implementation due to other priorities. How does the department ensure that the grant recipients are adequately supported in their efforts to expand their programs to institutions that have not traditionally worked with outside, volunteer organizations? Was any training or guidance specifically provided to the CRMs to help them understand their role in facilitating the programs?

Issue 4: Expansion of Programs and Services for Lifer Population

Governor's Budget. The budget proposes an increase of $10.5 million General Fund for the expansion of several programs for life-term and long-term offenders. The budget proposes using the funds toward increasing services, as follows:

- $3.1 million for 136 additional beds in Parolee Service Center Program.
- $3.4 million to expand the In-Prison Longer-Term Offender Program to level III and IV facilities, increasing the number of program slots by 1,700.
- $3.1 million to expand the Pre-Employment Transitions Program to all prisons. In addition, the Governor proposes discontinuing the use of contractors for the program and instead hiring teachers. The program will serve approximately 23,000 inmates per year.
- $423,000 to expand the Offender Mentor Certification Program which trains long-term and life-term inmates to become drug and alcohol counseling mentors. Once the mentors obtain 4,000 hours of work experience in treatment programs, they will be eligible to obtain a substance abuse counselor certification. This expansion will train an additional 64 inmates annually.
- $480,000 for increased custody staff to oversee evening college courses offered in prisons.

Background. Long-term offenders are individuals who have been sentenced to a life term in prison with the possibility of parole, with the Board of Parole Hearings (BPH) making the determination whether parole is ultimately granted. In part due to significant changes in state law regarding inmates serving life sentences who are now eligible for parole, there has been an increase in the rate at which BPH grants parole in recent years, the number of long–term offenders granted parole increased from 541 in 2009 to 902 in 2014.

SB 260 and SB 261. As required by SB 260 (Hancock)Chapter 312, Statutes of 2013, the Board of Parole Hearings implemented the Youth Offender Parole Program, which provides youth offender parole hearings for specified offenders who were convicted of a crime prior to their 18th birthday and sentenced to state prison. This program was further expanded by SB 261 (Hancock) Chapter 471, Statutes of 2015, by increasing eligibility to those convicted of a crime committed before the age of 23. An inmate is eligible for a youth offender parole hearing during the 15th year of their sentence if they received a determinate sentence; 20th year if their controlling offense was less than 25 years to life; and during the 25th year if their controlling offense was 25 years to life. Inmates who were immediately eligible for a youth offender hearing when SB 260 took effect on January 1, 2014, were required to have their hearing by July 1, 2015. Those with an indeterminate sentence who were immediately eligible for a youth offender parole hearing on January 1, 2016, as a result of SB 261, are required to have their hearing completed by January 1, 2018. Determinately-sentenced offenders immediately eligible as a result of SB 261 are required to have their hearing before December 31, 2021.

Elderly Parole. The three-judge court order established the elderly parole program which allows inmates who are age 60 or older and who have served 25 years of continuous incarceration to be

considered for parole at a parole suitability hearing. Offenders who are eligible for elderly parole are eligible for parole consideration regardless of whether they are serving an indeterminate or determinate sentence. The number of inmates who will be eligible for a hearing under the elderly parole program will increase significantly over the next ten years.

In 2015, BPH scheduled 5,300 hearings, 959 of which were for youthful offenders and 1,012 were for inmates eligible for elderly parole. Offenders sentenced to life without the possibility of parole or condemned inmates are not eligible to apply for youthful offender or elderly parole.

Passage of Proposition 36. The passage of Proposition 36 in 2012 resulted in reduced prison sentences served under the three strikes law for certain third strikers whose current offenses were non-serious, non-violent felonies. The measure also allowed resentencing of certain third strikers who were serving life sentences for specified non-serious, non-violent felonies. The measure, however, provides for some exceptions to these shorter sentences. Specifically, the measure required that if the offender has committed certain new or prior offenses, including some drug, sex, and gun-related felonies, he or she would still be subject to a life sentence under the three strikes law.

According to the Governor's budget, it is estimated that approximately 2,800 inmates will be eligible for resentencing under Proposition 36. The most recent Three-Judge Panel status report on the reduction of the prison population shows that as of December 23, 2015, 2,168 of those eligible have been resentenced and released from prison.

SB 230 (Hancock) Chapter 470, Statutes of 2015. On October 3, 2015, the state also enacted SB 230, which requires that once a person is found suitable for parole he or she be released, rather than being given a future parole date. Prior to the passage of SB 230, a person could be found suitable for parole by BPH and still not be released for years because of the various enhancements that have be added to the person's term.

Rehabilitation for Long-Term Offenders. All of the recent changes discussed above have provided inmates serving life sentences, who previously may not have had an opportunity to leave prison, with an opportunity to leave and return to their communities, if BPH determines that it is safe for them to do so. According to the department, due to the nature of their commitment offenses, long-term offenders spend a significant amount of time in prison and thus may have challenges adjusting to life outside of prison. In order to alleviate these challenges, CDCR has established rehabilitative programs that specifically target long-term offenders:

> ***Long–Term Offender Program (LTOP).*** The LTOP provides rehabilitative programming (such as substance use disorder treatment, anger management, and employment readiness) on a voluntary basis to long-term offenders at three state prisons—Central California Women's Facility in Chowchilla, California Men's Colony in San Luis Obispo, and California State Prison, Solano.
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> ***Offender Mentorship Certification Program (OMCP).*** The OMCP trains long-term offenders as substance use disorder counselors while they are incarcerated. Upon graduation from the training program, participants are employed by CDCR to deliver counseling services to their fellow inmates. There are currently two sessions offered annually, allowing up to 64 offenders to be certified as mentors each year.

In addition, CDCR offers various other rehabilitative programs that are generally available to inmates and parolees, including long–term offenders. However, those programs are not necessarily widely available to all inmates at all prisons and may have long waiting lists, at those prisons where they are offered.

Legislative Analyst's Office (LAO).

Approve Proposed Expansion of Programming for Higher–Risk Offenders. The LAO recommends that the Legislature approve the portion of the proposal—totaling $4 million—that would expand rehabilitative programming opportunities for higher–risk offenders that are consistent with programs shown to be cost–effective methods for reducing recidivism. Specifically, the LAO recommends providing the requested funding to support (1) the expansion of the OMCP, (2) the expansion and modification of the Transitions Program, and (3) custody overtime needed to operate community college programs.

Reject Remainder of Proposal. The LAO recommends that the Legislature reject the remainder of the Governor's proposal to expand programs for long–term offenders. While they acknowledge that these programs may provide some benefit to long–term offenders, research suggests that the department could achieve greater benefits to public safety by instead targeting higher–risk offenders. To the extent that the Legislature is interested in further expanding rehabilitative programming, the LAO recommends that it direct the department to come back with a proposal that targets higher–risk offenders and reduces the number of such offenders who are released from prison without receiving any programming targeted toward their identified needs.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. The LAO has noted that as high as 40 percent of high-risk offenders are being released without being provided any rehabilitative programming. Do you agree with that estimate? In addition, please provide the committee with the department's plan for expanding the availability of programming to include the majority of, if not all, high-risk offenders to ensure that they are adequate prepared to leave prison and return to their communities?

2. Given the studies that show that maintaining strong family relationships help to significantly reduce the likelihood of an individual returning to jail or prison once they are released, has the department considered revising its family visit policy to allow inmates serving longer terms or life terms to receive extended family visits as a way of helping them prepare for their return to their families and communities upon their release?

3. Given the demonstrated success of restorative justice programs in reducing recidivism, especially for those inmates serving long terms, has the department considered contracting with non-profit organizations currently providing those programs as volunteers to allow them to expand to become a formal part of your long-term offender programming?

Issue 5: Enhanced Drug and Contraband Interdiction

Governor's Budget. The budget proposes $7.9 million General Fund to continue the existing 11 institution pilot program and expand the enhanced efforts at three intensive institutions.

The Governor's budget for 2016–17 requests $7.9 million in one–time funding from the General Fund and 51 positions to extend the enhanced drug interdiction pilot program for an additional year, as well as expand the level of services provided through the pilot program. According to CDCR, the continuation of the existing pilot program for one more year would allow the department to collect additional data to analyze its effectiveness. In addition, CDCR intends to expand certain interdiction efforts to (1) increase the frequency of random screening of staff and visitors at intensive interdiction prisons and (2) lease three additional full body X–ray machines to screen visitors. The department states that these additional resources are necessary to assess the efficacy of increased screening.

The department has indicated that it intends to issue a preliminary evaluation report on the pilot program but has not provided an estimate of when that report will be released. In addition, the department intends to issue a final evaluation report in the spring of 2017.

Background. Data provided by CDCR indicate that drug use is prevalent in prison. For example, in June 2013, 23 percent of randomly selected inmates tested positive for drug use. In addition, another 30 percent refused to submit to testing, which suggests that the actual percentage of inmates using drugs is likely considerable.

Drug use in prison is problematic for several reasons. For example, according to the department, the prison drug trade strengthens prison gangs and leads to disputes among inmates that can escalate into violence. Such violence often leads to security lock-downs which interfere with rehabilitation by restricting inmate access to programming. In addition, the presence of drugs in prison allows inmates to continue using them, thereby reducing the effectiveness of drug treatment programs.

The Legislature provided CDCR with $5.2 million (General Fund) in both 2014–15 and 2015–16 to implement a two–year pilot program intended to reduce the amount of drugs and contraband in state prisons. Of this amount, $750,000 annually was used for random drug testing of 10 percent of inmates per month at all 34 state prisons and the California City prison, which are all operated by CDCR. In addition, CDCR had redirected resources in 2013–14 to begin random drug testing 10 percent of the inmate population each month beginning January 2014. The remaining amount was used to implement enhanced interdiction strategies at 11 institutions, with eight prisons receiving a "moderate" level of interdiction and three prisons receiving an "intensive" level.

According to CDCR, each of the moderate institutions received the following: (1) at least two (and in some cases three) canine drug detection teams; (2) two ion scanners to detect drugs possessed by inmates, staff, or visitors; (3) X–ray machines for scanning inmate mail, packages, and property as well as the property of staff and visitors entering the prison; and (4) one drug interdiction officer. In addition to the above resources, each of the intensive institutions received: (1) one additional canine team, (2) one additional ion scanner, (3) one full body scanner at each entrance and one full body X–ray scanner for inmates, and (4) video cameras to surveil inmate visiting rooms. In 2015, the

Legislature passed legislation requiring the department to evaluate the pilot drug testing and interdiction program within two years of its implementation.

Legislative Analyst's Office (LAO).

Approve Temporary Extension of Drug Testing. The LAO recommends that the Legislature approve the portion of this request—$750,000 from the General Fund—associated with continuing the random drug testing for one additional year. The drug testing program appears to have increased the rate at which CDCR is identifying inmates who use illegal drugs. In addition, the collection of additional drug test results should help the department to assess whether the removal of drug interdiction resources, as recommended below, affects the rate of drug use in prisons. Based on the result of the department's final evaluation, the Legislature could determine whether to permanently extend the drug testing program.

Reject Remainder of Proposal to Extend Drug Interdiction Pilot Program. The LAO recommends that the Legislature reject the remainder of the Governor's proposal to extend and expand the drug interdiction pilot program. Extending the program now would be premature given that (1) preliminary data suggest that it is not achieving its intended outcomes and (2) CDCR has not yet fully evaluated its effectiveness. The LAO also recommends that the Legislature direct the department to accelerate its timeline for evaluating the program so that it is completed in time to inform legislative deliberations on the 2017–18 budget, such as whether any of the interdiction strategies should be permanently adopted.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Please provide the most recent data on how much contraband has been seized specifically as a result of the pilot and who was found with the contraband (i.e. visitors, staff, inmates).

2. In exchange for approving the enhanced drug interdiction pilot, including increased drug testing, the Administration assured the Legislature that those individuals testing positive for illegal substances would receive treatment, rather than punishment. Given the very limited availability of treatment, have you been able to keep that agreement?

3. Please provide updated data on the number of inmates testing positive for illegal substances, how many received treatment, and how many received a rules violation.

Issue 6: Substance Use Disorder Treatment Expansion

Governor's Budget. The budget proposes $15.2 million General Fund and 51.6 additional positions to continue the expansion of substance abuse treatment programs to the 11 remaining adult institutions. Of the requested positions, 15.6 are correctional officers, 11 are parole services associates, 11 are correctional counselor III positions, and 11 are office technicians.

In addition, the budget includes $70 million General Fund in the current year and $68 million General Fund in 2016-17 for funding substance use disorder treatment for parolees through the Specialized Treatment for Optimized Programming (STOP) program.

Background. Providing offenders with access to substance use disorder treatment has a meaningful impact on reducing recidivism, and is a critical aspect of an inmate's rehabilitation. Without addressing this need, all other aspects of the inmate's rehabilitation are impacted. According to the 2014 Outcome Evaluation Report by CDCR's Office of Research, offenders who were assigned to an in-prison substance use disorder treatment and completed treatment while in the community had a recidivism rate of 20.9 percent compared to 55.6 percent for those who did not receive any substance use disorder treatment. The department currently offers evidence-based substance use disorder treatment programs for inmates as part of their reentry programing. Currently, treatment is offered in the 13 reentry hubs, four in-state contract facilities, the California City Correctional Facility and in 10 non-reentry institutions. The treatment programs are generally 150 days in length.

CDCR Automated Risk and Needs Assessment Tool data demonstrates that approximately 70 percent of the inmate population has a moderate to high criminogenic need for substance use disorder treatment. There are currently approximately 117,000 inmates in the state's institutions. Based on CDCR's data, over 80,000 of them need some level of treatment. Currently, CDCR provides some level of treatment at 23 prisons (the 13 reentry hubs and 10 additional prisons), generally at the end of an inmate's term. Despite the significant need and the proven value of treatment in reducing recidivism, CDCR currently only has the capacity to treat less than 2,500 inmates per year. The proposed expansion will result in a total capacity of 3,168 treatment slots.

Office of the Inspector General. According to the Inspector General's *California Rehabilitation Oversight Board Annual Report* from September 2015, as of June 30, 2015, the capacity for substance abuse treatment (SAT) programming is 3,036, not including 88 enhanced outpatient program slots. This is an increase of 1,218 from June 30, 2014, where the SAT capacity was 1,818. Although the department's contracted capacity is 3,036, the department reports it currently has an operational capacity of 1,374 programming slots with an annual capacity of 2,748. The department reports that the difference in contracted capacity and operational capacity is due to space limitations pending the arrival of program modular buildings, construction, and space repurposing to accommodate the contracted capacity.

Specialized Treatment for Optimized Programming (STOP). STOP contractors provide comprehensive, evidence-based programming and services to parolees during their transition into the community. Priority is given to parolees who are within their first year of release and who have demonstrated a moderate to high risk to reoffend, as identified by the California Static Risk Assessment (CSRA), and have a medium to high need, as identified by the Correctional Offender

Management Profiling for Alternative Sanctions (COMPAS) reentry assessment tool. STOP services include (but are not limited to):

- Substance Use Disorder Treatment
- Detoxification Services
- Preventive and Primary Health Care Services
- General Health Education Services
- Motivational Incentives
- Anger Management
- Criminal Thinking
- Life Skills Programs
- Community and Family Reunification Services
- Employment and Educational Services
- and Referrals
- Individual, Family and Group Counseling
- Sober Living Housing
- Faith-Based Services

Medication-Assisted Substance Use Disorder Treatment. Generally, CDCR does not provide medication-assisted treatment in their institutions. Medication-assisted treatment (MAT), including opioid treatment programs (OTPs), combines behavioral therapy and medications to treat substance use disorders. Generally, MAT includes the use of buprenorphine, methadone, naltrexone and naloxone (for opioid overdose). According to a report from the federal Substance Abuse and Mental Health Services Administration (SAMHSA):

> *Medication-assisted treatment is treatment for addiction that includes the use of medication along with counseling and other support. Treatment that includes medication is often the best choice for opioid addiction. If a person is addicted, medication allows him or her to regain a normal state of mind, free of drug-induced highs and lows. It frees the person from thinking all the time about the drug. It can reduce problems of withdrawal and craving. These changes can give the person the chance to focus on the lifestyle changes that lead back to healthy living.*
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> *Taking medication for opioid addiction is like taking medication to control heart disease or diabetes. It is NOT the same as substituting one addictive drug for another. Used properly, the medication does NOT create a new addiction. It helps people manage their addiction so that the benefits of recovery can be maintained. There are three main choices for medication.*
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> *The most common medications used in treatment of opioid addiction are methadone and buprenorphine. Sometimes another medication, called naltrexone, is used. Cost varies for the different medications. This may need to be taken into account when considering treatment options. Methadone and buprenorphine trick the brain into thinking it is still getting the problem opioid. The person taking the medication feels normal, not high, and withdrawal does not occur. Methadone and buprenorphine also reduce cravings. Naltrexone helps overcome addiction in a different way. It blocks the effect of opioid drugs. This takes away the feeling of getting high if the problem drug is used again. This feature makes naltrexone a good choice to*

> *prevent relapse (falling back into problem drug use). All of these medications have the same positive effect: they reduce problem addiction behavior.*[5]

Since December 2014, naltrexone has been made available in California through an expedited process to all alcohol or opioid dependent patients who are Medi-Call beneficiaries with a felony or misdemeanor charge or conviction wo are under subversion by the county or state. In 2015, San Mateo provided $2 million in funding to create naltrexone programs in in emergency rooms and clinics.

Other States' Medication Assisted Treatment Programs. Several states have begun expanding their in-prison treatment to provide medication-assisted treatment when appropriate. For example, in 2015 Pennsylvania expanded their treatment to include naltrexone as part of their reentry program at eight of their correctional institutions for inmates with opioid and alcohol dependence. The state of Colorado provides comprehensive treatment, including naltrexone, to parolees. Finally, Massachusetts has implemented a statewide prison reentry program that includes the use of naltrexone for people with alcohol and opioid dependence. Kentucky, as well, provides naltrexone to treat opioid dependence. In addition to those states, Florida, Illinois, Indiana, Maryland, Missouri, New Jersey, Ohio, Tennessee, Utah, West Virginia, and Wisconsin have all begun using a medication assisted treatment model for individuals involved in the criminal justice system as a way of treating opioid dependence.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Under what circumstances, if any, does CDCR use medication-assisted treatment? If none, why not?

2. Given the large number of inmates needing treatment, why is the Administration only proposing 3,000 additional treatment slots?

3. Providers for the STOP program recently submitted a letter stating that they believe the program has a funding shortfall of over $8 million in the current year and that the problem will increase to over $13 million in 2016-17. Has the Administration reviewed their claims and do you agree that there is a shortfall? If not, please explain why not. If you agree that the caseload projections have resulted in a funding shortfall, what is the Administration's plan for providing adequate funding for parolees in need of substance use disorder treatment?

[5] United State Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *Medication Assisted Treatment for Opioid Addiction: Facts for Families and Friends*, 2011.